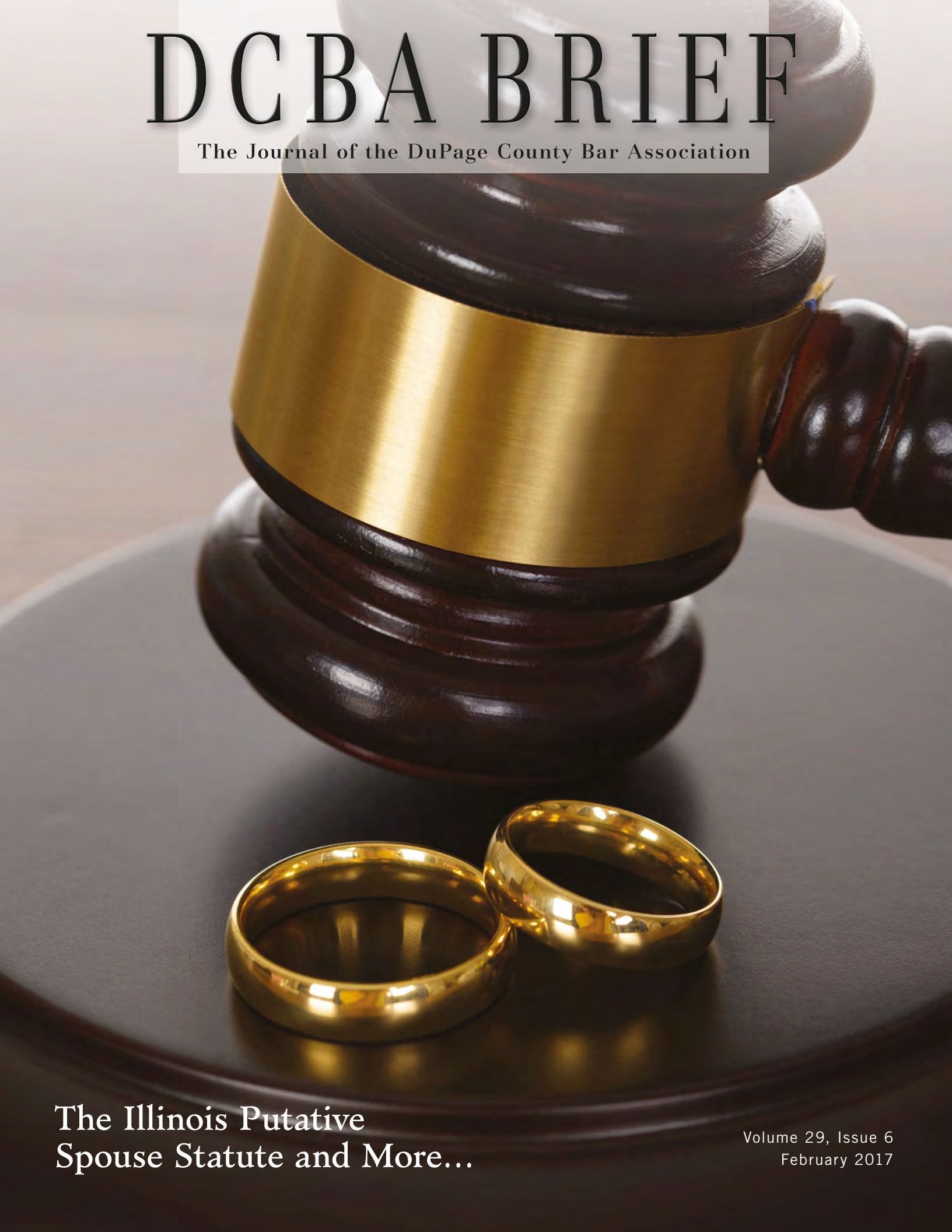
DCBA BRIEF

The Journal of the DuPage County Bar Association



The Illinois Putative Spouse Statute and More...

Volume 29, Issue 6
February 2017

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From the Editor

We All "Win" When We Work Together

By James L. Ryan

Jim Ryan is an associate at the law firm of Roberts & Caruso in Wheaton. He focuses his practice primarily on contested probate, business litigation, and construction law. Jim serves as a member of the DuPage County Bar Association's Civil Law & Practice Committee, Business Law Committee and Estate Planning Committee. He is also a member of the federal trial bar.

Recently, I read a blog article by a Washington DC lawyer which began "Collaboration as applied to lawyers is like "student athlete" to big-time college football and basketball players: more feel-good myth than reality. Because lawyers – like elite athletes – have been taught that competition yields winners and losers; theirs is a zero sum game. Yes, there are teams/firms, and one is encouraged to be a good teammate/colleague, but star ballers become pros just as top lawyers are paid like them." This lawyer had excellent credentials with stints as a federal prosecutor, partner at a large law firm, and in-house counsel at a major company, but his observations about the legal practice astounded me in its cynicism.

My experience practicing mainly in DuPage County has not been that way. I don't think that the practice of law is a zero-sum game with only winners and losers. We are fortunate at the DCBA to have members who believe in collaboration and in working together. President Kennedy often remarked that a rising tide lifts all boats. As the editor of this magazine, I am consistently amazed at our membership's efforts to collaborate with each other and to "raise the tide" on the delivery of legal services to our community.

This collaborative spirit is on full display in this issue. It begins with a wonderful letter that I received from **Grant Eckhoff** memorializing the late **Terry Mullen**. Although Terry passed away a few years ago, his legacy of professionalism, collegiality, and cooperation continues to permeate throughout our bar association and our culture. Our President's Page contains a guest column from **Patricia Lee Refo**, the Immediate Past Chair of the American Bar Association's House of Delegates showing the ways the DCBA collaborates with the broader legal community. We continue our efforts to highlight the collaboration DCBA enjoys with our area's law schools by including a piece on DePaul's Public Service Program. Just as we collaborate with those outside our ranks, we also collaborate within our ranks. This month, we introduce a new 101 Series aimed at providing new members with an opportunity to "learn the ropes" of various practice areas and we also introduce one of our newest judges, the Hon. **Bryan S. Chapman**, with a biographical profile.

On the articles side, we showcase the excellent collaboration our editorial board has with the substantive law sections within the DCBA. **Jane Nagle** served as our articles editor for this issue and gave the articles a family law theme. **Lisa Demonte** provided us a summary of the Illinois putative spouse statute. **Megan Harris** gave us her thoughts on Motions to Strike directed against claims for dissipation. **Andrea Kmak** went through the latest revisions to the Illinois Child Support statute and explored the meaning of "income for child support purposes". Lastly, **Danya Gruynk** and her excellent team at the Gruynk Family Law firm served as editors for the case law updates. Special thanks to Jane and her excellent authors for their contributions!

We also have a new member to the editorial board team to introduce to you. **Joe Nichele** joins us from the Broida-Nichele law firm in Naperville and concentrates his practice in family law, employment litigation, and commercial litigation. He is a 2005 graduate of Valparaiso Law School where he was associate editor of the Valparaiso Law Review. This past September, Joe won the Lincoln Award from the Illinois Bar Journal with his piece "The Shield Turned Into a Sword: A Plaintiff's Perspective of Negligent Spoilation of Evidence Claims After Martin v. Keeley & Sons, Inc." We look forward to adding Joe to our excellent team. *(Continued on page 6)*

Letter to the Editor

A man respected and liked by all he met. Not an easy feat in any place but particularly hard in a courthouse. This is one of the many great feats that **Terry Mullen** accomplished in his thirty-three years of practicing law in DuPage County.

I met Terry in 1981 while I was a clerk in the courtroom. At that time, Terry was a first-year attorney. Terry and I and a few other courtroom clerks used to socialize after work. He was part of the reason I decided to go to law school in the fall of 1982.

In 1985, after I passed the bar exam, the very next day I went to the DuPage Bar Association to sign up and become a member. I joined the bar association because I wanted to be a part of an organization that Terry believed was an outstanding organization for attorneys.

As a new member, it was important to learn the tools of the trade. So I attended a "New Lawyer" seminar. What do you know, Terry was speaking on "How to make the Judge happy to hear your case". I will always remember his advice: show up on time and be respectful to the Judge, opposing counsel, all the litigants, and the court personnel. Wow, "Civility in the courtroom 101". A lesson in common sense from Terry.

Terry practiced what he preached every day of his life, inside and outside the courtroom. He was a classy gentleman. Terry grew up in Villa Park. He graduated from Willowbrook High School in 1973, University of Wisconsin-Whitewater with honors in 1977, and Drake Law School in 1981. Terry was an excellent athlete – he excelled in high school wrestling, which no doubt built his character traits of honor and trustworthiness.

Over the years, Terry and I stayed friends. When I became involved in politics, Terry and I volunteered to help campaign for judicial candidates. So again, we had something more than law and baseball in common. Terry asked me to help put up 4x4 signs for campaigns over the years. The last campaign was in 2014. Putting up the signs involved driving around to multiple locations throughout the county on the weekend during the campaign season and taking them down after the campaign. The sign process involved a lot of hours and was hard work. Somehow working with Terry always eased the pain of a tough job.

Terry was a joy to be around. Terry's positive attitude toward life helped me look on the bright side of life. We would talk about his family that he loved so much (Nada and his children, Shannon, Willie, and Sean), the Cubs and Sox, our cases, all of our fellow DuPage attorneys, the Judges, and life in general. Terry loved the law and the practice of law. I feel blessed having been able to spend so much time with a man that I had come to love, respect, and admire.

During our last campaign together in 2014, we experienced temperatures below zero. Terry and I worked together as a team to place campaign signs in the ground. Through the bitter cold of February, Terry always came through to help on a campaign.

After the last primary, I heard the sad news of Terry's illness. Although Terry got sick, he still had things to teach us. During that time, Terry always remained positive. Never a negative word. I saw Terry on a constant basis in 2014 until the time he passed. One evening I saw Terry at John's Buffet with Nada and friends just a week before his death. I was so absorbed with my little problems I didn't even ask Terry how he was doing. He listened without saying a word and offered his advice. He acted like he didn't have a care in the world about his own situation.

I don't think we will ever see his kind again but we are all better for having been with him, watching how he practiced law, and lived life. I will keep trying to emulate him; however, I suspect I will continue to fail. But like Terry, and because I learned from Terry, I won't stop trying to strive to do better and take on life's challenges in a positive way. Terry would be proud. Even two years after his death, Terry Mullen remains an inspiration to myself and anyone fortunate enough to have known him.

- Grant Eckhoff

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Guest Columnist

DuPage Bar Plays Vital Role in ABA House of Delegates

By Guest Columnist Patricia Lee Refo

The author is the Immediate Past Chair of the ABA House of Delegates. She is a member of the bars of Arizona and Illinois, and is a partner at Snell & Wilmer in Phoenix, Arizona.

Note from the DCBA President: *If there is any topic I wanted to see covered in the DCBA Brief this month, that topic must be our role in the American Bar Association House of Delegates. Our president-elect serves as the DCBA's delegate in the house, after all, a position I was proud to have the opportunity to hold last year and which* ***Gerry Cassioppi*** *has the honor of holding this year. The mid-year meeting he will attend as our representative is scheduled for the first week of February. As he prepares for that meeting, I am constantly reminded of both how much I enjoyed my stint in that position and how close we came to losing it just two years ago when the criteria for local bar representation was revisited by the full House. I remain convinced that we have the Chair of the House at that time, Patricia Lee Refo, to thank for our continued involvement in the House as she personally undertook the work of ensuring our questions were answered and our interests considered. When our Executive Director,* ***Robert Rupp****, told me that she was willing to write a guest column on the subject for this issue, accordingly, I was glad to hear it but maybe not as surprised as he thought I would be. Chairwoman Refo's commitment to the legal community is, in my view, exemplary and I am grateful beyond measure for her stepping in here. But I do also believe, as she long ago convinced me she believes, that the DuPage County Bar Association has an important role to play in the legal community and that…well, perhaps it's best I let her take it from there.* – Ted Donner

The American Bar Association House of Delegates, I was told by the senior delegate who welcomed me into the House for my first meeting, is the "second finest deliberative body in the world." Hyperbole? For sure. But the relevance and importance of the work of the House has never been clearer.

The House is the policy making arm of the ABA. The ABA President cannot speak on any issue unless the House has first adopted a policy. The same is true for the ABA's lobbyists in Washington – they cannot lobby on any issue unless and until the House has adopted a policy.

If we know our legal history, we remember that the American Bar Association is a creature of the state and local bars of the United States, formed in 1878 to be a national voice for the legal profession. The House was formed in 1936, and was designed to be – and remains – a body controlled by the state and local bars. Of its 589 delegates, 331 are selected by state or local bar associations. In short, nothing passes the House unless the state and local bars are supportive in large numbers.

The DuPage County Bar Association has had a delegate in the House since 1997, with that role being filled each year by the President Elect. DuPage County delegates have served with distinction, sitting with the Illinois delegation, and have played a vital role in the work of the House.

Why does any of this matter to you? Because the work of the House, and the positions it takes on behalf of the lawyers of America, affect each one of you. As but one example, the House adopts and amends the Model Rules of Professional Conduct, which have been adopted across the country as the foundation of lawyers' ethical duties. In 2004, the House adopted (and has since amended and updated) Principles for Juries and Jury Trials, defending the sanctity of the unanimous jury and setting out best practices for enhancing juror comprehension, especially in long or complex cases. *(Continued on page 6)*

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Please send any Letters to the Editor to the attention of James Ryan, at email@dcbabrief.org

Editor's Message *(Continued from page 2)*

Perhaps it is our culture that encourages collaboration as opposed to one that views the world as a competition with only winners and losers. We have all been involved in matters in which there were no "winners", and we have also all been involved in matters in which everyone "won" something and felt at the end that justice had been done. Regardless, I think we are at our best when we encourage each other, educate one another, and "win" together.

Guest Columnist *(Continued from page 5)*

The House has consistently stood up for the attorney-client privilege in the face of attempts by the government to limit the privilege or reduce its client protections.

The House has adopted specific resolutions on access to justice issues. After the House adopted a resolution urging the states to address access to justice issues in rural America – where some counties have no lawyer at all – programs like South Dakota's "Project Rural Practice" went to work to bring lawyers to rural communities, where legal needs often go unmet. The House also has a long history of support for the Legal Services Corporation, which provides civil legal services to qualified persons who would otherwise be without legal assistance at all.

Why should you care about the actions of the ABA House of Delegates? Because its policy positions, taken by representatives of the state and local bars of our country, impact literally every aspect of the legal profession. Any state bar or local bar can bring a resolution to the House and argue that it be adopted as the policy of the ABA. So bring your work from DuPage County to the floor of the House. Let the ABA be your megaphone.

Articles

Articles Editor

Jane E. Nagle

Jane E. Nagle is an associate at Kollias & Giese, P.C. with a concentration in divorce and family law as well as bankruptcy in DuPage and surrounding counties. Jane is a trained Guardian ad Litem and serves on the Standing Committee on the Illinois Bar Journal Editorial Board.

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Preserving the Integrity of Marriage: Putative Spousal Status in Illinois

By Elizabeth (Lisa) Demonte[1]

While our concept of marriage as a society has transformed drastically over the years, it remains unchanged that marriage is a union between spouses which establishes the rights and obligations between the spouses. The societal notion that a marriage is recognized with a ceremony and witnesses dates back to ancient times. That same concept of recognizing a marriage is incorporated into our existing law in the State of Illinois and remains the custom in our society. The applicable Illinois statute provides that a marriage may be solemnized by a judge, a retired judge, a county clerk, a public official whose powers include solemnization of marriage, or in accordance with the prescriptions of any religious denomination, Indian Nation or Tribe or Native Group, provided that when such prescriptions require an officiant, the officiant be in good standing with his or her religious denomination, Indian Nation or Tribe or Native Group.[2] The statute further sets forth that the marriage certificate form shall be completed and forwarded to the county clerk within 10 days after such marriage is solemnized.[3] The license to marry becomes effective in the county where it was issued one day after the date of issuance, unless the court orders that the license is effective when issued, and expires 60 days after it becomes effective.[4]

In a religious context, the union between spouses is considered sacred and is based upon the laws and teachings of a particular religion. In such a case, there may be a circumstance where couple did not strictly comply with the procedures set forth in the statute for registering a marriage, but they participated in a ceremony and solemnized their union in the good faith belief that they were united as spouses, and with the understanding that they were accepting the rights and obligations that are afforded to spouses in a valid marriage relationship. How the Illinois legislature and courts will treat such a couple is based

1. The author gives special thanks to Emily C. Bitzer for her help with research.
2. 750 ILCS 5/209.
3. 750 ILCS 5/209.
4. 750 ILCS 5/207.

upon the public policy of the State of Illinois and more specifically, an application of the Illinois Putative spouse statute to the facts and circumstances of that particular couple's conduct and relationship.[5]

One of the enumerated purposes of the Illinois Marriage and Dissolution of Marriage Act (hereinafter "the Act" or "the IMDMA"), 750 ILCS 5/101 *et. seq.*, among others, is to strengthen and preserve the integrity of marriage and safeguard family relationships.[6] The Act is to be liberally construed and applied to promote its underlying purposes.[7] To that end, the Illinois Putative spouse statute provides a way for a person who, having gone through a marriage ceremony, and having cohabited with another to whom he or she is not legally married, in the good faith belief that he or she was married to that person, is a putative spouse.[8] That person's putative spousal status is terminated when he or she acquires knowledge of the fact that he is not legally married.[9] An individual who is found to be a putative spouse acquires the rights conferred upon a legal spouse, including the right to maintenance following termination of his status, whether or not the marriage is expressly prohibited or declared invalid by statute.[10]

The decisions of Illinois courts, in applying 750 ILCS 5/305, are clear that just because a couple held themselves out as married, but they knew they were not legally married, they will not be permitted to reap the benefits and protections of a spouse without having formally solemnized the relationship as either a civil or religious marriage.[11] The distinction lies in the fact the Putative spouse statute is not another way to recognize a common-law marriage.[12] Common-law marriage is a marriage that takes legal effect, without license or ceremony, when two people capable of marrying live together as husband and wife, intend to be married, and hold themselves out to others as a married couple.[13] Common law marriage was abolished in 1905 in Illinois, and also can no longer be contracted in the majority of states, except for the District of Columbia and eleven other states.[14]

When the Supreme Court of Illinois decided *Hewitt v. Hewitt* in 1979, it reaffirmed that common law marriages cannot be recognized, and that the rights and privileges afforded to legal spouses cannot be granted to cohabitants.[15] In *Hewitt*, a female petitioner filed a complaint seeking an equal share of the properties and profits accumulated by her partner, with whom she had an unmarried, family-like relationship and during which three children were born to the parties.[16] The facts of the case would, if proved, have established a common law marriage under Illinois law prior to 1905.[17] The Supreme Court of Illinois held that the appellate court's decision, that the petitioner's complaint stated a cause of action, was erroneous because its practical effect was to reinstate common law marriage.[18] The Court based its reasoning on the Illinois Putative spouse statute, which was adopted by the legislature for the first time in 1977 when the IMDMA was enacted.[19] The Act has since been rewritten by Public Act 99-0090, effective January 1, 2016, but Section 305, which establishes the rights of a putative spouse, remains unchanged from its prior version.[20]

In deciding *Hewitt*, the Court explained that the enactment of Section 305 of the IMDMA is proof that the Illinois legislature did not intend to grant rights to unmarried cohabitants that, for all intents and purposes, held themselves out as husband and wife while knowingly not having solemnized their relationship as a marriage.[21] By enacting Section 305, the legislature extended legal recognition to a class of non-marital

5. 750 ILCS 5/305.
6. 750 ILCS 5/102.
7. 750 ILCS 5/102.
8. 750 ILCS 5/305.
9. 750 ILCS 5/305.
10. 750 ILCS 5/305.
11. *See Hewitt v. Hewitt*, 77 Ill.2d 49, 394 N.E.2d 1204 (Ill. 1979); *Ayala v. Fox*, 206 Ill.App.3d 538, 564 N.E.2d 920 (2nd Dist. 1990).
12. *See Hewitt*, 77 Ill.2d 49, 66.
13. Black's Law Dictionary 10th Ed. 2014.
14. Black's Law Dictionary 10th Ed. 2014.
15. *Hewitt*, 77 Ill.2d 49, 66.
16. *Hewitt*, 77 Ill.2d 49, 52.
17. *Hewitt*, 77 Ill.2d 49, 63.
18. *Hewitt*, 77 Ill.2d 49, 65.
19. 750 ILCS 5/305.
20. 750 ILCS 5/305.
21. *Hewitt*, 77 Ill.2d 49, 64.

About the Author

Elizabeth (Lisa) Demonte received her Juris Doctorate from Loyola University Chicago School of Law with a Certificate in Child and Family Law in 2011. She practices exclusively in family law at Griffin McCarthy & Rice LLP and handles cases in Cook, DuPage, and Lake Counties. Elizabeth's experience in family law includes resolving numerous parenting disputes and complex financial matters.

relationships, but only to the extent of a party's good faith belief in the existence of a valid marriage.[22] The Court reasoned that it was unmistakable that the legislature disfavored granting marital property rights to knowingly unmarried cohabitants, and that the public policy of the State of Illinois clearly was to not recognize private contractual alternatives to a marriage relationship.[23]

The Second District Appellate Court followed the reasoning of *Hewitt* in 1990 when it held, in *Ayala v. Fox*, that an unmarried woman who cohabited with her male partner could not avail herself of the property rights of a spouse when she knew they were not married.[24] To do so would grant an unmarried cohabitant the rights that married persons enjoy, in direct contravention of the public policy of the State of Illinois.[25] Again, as recently as August of 2016, in *Blumenthal v. Brewer*, the Supreme Court of Illinois held that *Hewitt* remains good law in the context of whether or not unmarried cohabitants can exercise the rights to property that are afforded to a party to a marriage.[26] The Court pointed to the policy reasons behind the Act, which gives the state a strong and continuing interest in the institution of marriage and the ability to prevent marriage from becoming a private contract, terminable at will, by disfavoring the grant of mutually enforceable property rights to knowingly unmarried cohabitants.[27]

The First District Appellate Court has unequivocally interpreted Section 305 of the Act to mean that a putative spouse must be under the good faith belief that he or she is lawfully married in order to acquire putative spousal status; otherwise, he or she will not be granted such status.[28] In *Hall*, a same sex couple held a private marriage ceremony and exchanged vows and wedding bands.[29] They did not apply for a marriage license, as it would have been futile because at the time, same sex marriage was not legal.[30] The couple considered themselves married in all respects, held themselves out to the world as married partners, and commingled their finances.[31] Although their relationship exhibited all of the attributes of a marriage relationship, the fact that the Petitioner knew that she was not lawfully married precluded her from seeking and obtaining putative spousal status.[32] Similarly, in *Sostock v. Reiss*, an engaged couple sought to recover loss of consortium damages as a result of injuries sustained to the wife prior to the marriage.[33] The engaged couple did not have a legal marital relationship at that time and they knew they did not; therefore, they could not recover under a putative spouse theory.[34]

> **"Even after the Putative spouse statute went into effect in 1977, Illinois courts emphasized that its policy is to recgonize marriages where a license cannot be located or there is a defect in the license...**

Prior to the enactment of the Putative Spouse statute in 1977, the Supreme Court of Illinois had already set a precedent that a marriage may be shown by reputation, the testimony of witnesses, or by circumstances, even in the absence of an appropriate marriage license.[35] In *Spencer v. Burns*, the Court found that there was sufficient evidence that the parties lived together as husband and wife and that their reputation in the community was that of a married couple, even though the surviving husband could not produce a marriage certificate, and no witness testified as to having seen the ceremony.[36] In that case, it was suggested that the marriage certificate which was located for the husband was the correct certificate but contained a clerical error in the wife's name.[37] The Court held that the lower court did not err in awarding the husband one half of the wife's real estate as her surviving spouse.[38]

22. *Hewitt*, 77 Ill.2d 49, 64.
23. *Hewitt*, 77 Ill.2d 49, 64.
24. *Ayala*, 206 Ill.App.3d 538, 542.
25. *Ayala*, 206 Ill.App.3d 538, 542.
26. *Blumenthal v. Brewer*, 2016 IL 118781 (Ill. 2016).
27. *Blumenthal*, 2016 IL 118781, ¶81,
28. *See In re Estate of Hall*, 302 Ill.App.3d 829, 707 N.E.2d 201 (1st Dist. 1998); *Sostock v. Reiss*, 92 Ill. App.3d 200, 415 N.E.2d 1094 (1st Dist. 1980).
29. *Hall*, 302 Ill.App.3d 829, 831.
30. *Hall*, 302 Ill.App.3d 829, 831.
31. *Hall*, 302 Ill.App.3d 829, 832.
32. *Hall*, 302 Ill.App.3d 829, 835.
33. *Sostock v. Reiss*, 92 Ill.App.3d 200, 201.
34. *Sostock*, 92 Ill.App.3d 200, 207.
35. *Spencer v. Burns*, 413 Ill. 240, 108 N.E.2d 413 (Ill. 1952).
36. *Spencer*, 413 Ill. 240, 250.
37. *Spencer*, 413 Ill. 240, 250.
38. *Spencer*, 413 Ill. 240, 251.

Even after the Putative spouse statute went into effect in 1977, Illinois courts emphasized that its policy is to recognize marriages where a license cannot be located or there is a defect in the license, without specifically applying Section 305 of the Act.[39] In *Patek v. Peick*, the wife sought pension benefits from her deceased husband's record; however, she could not locate a marriage license, only other legal documents which referred to the parties as husband and wife.[40] The First District Appellate Court relied on Section 409 of the Act, which provides that a marriage which may have been celebrated in a foreign state or country may be proven by acknowledgment of the parties, their cohabitation, and other circumstantial testimony; as such, it held that the certificate was not necessary in order for the marriage to be deemed valid for purposes of obtaining pension benefits as a surviving spouse.[41]

In the *Matter of Bailey's Estate*, the Fifth District Appellate Court found that the acknowledgment of the parties was sufficient evidence of a marriage, and held that Illinois recognizes the validity of a ceremonial marriage even though no license has been obtained.[42] In that case, the alleged wife of the decedent sought to act as administrator and to establish heirship to her husband's estate.[43] The parties had been married in Arkansas, but the wife could not remember the name of the ceremony officiant, nor could she locate the marriage license, which she believed was lost in the couple's subsequent move to Illinois.[44] At trial, witnesses testified that the couple held themselves out as a married couple, referred to each other as husband and wife, filed joint tax returns, and held joint bank accounts and life insurance policies.[45] The Court held that the decision of the trial court that there was insufficient evidence of a ceremonial marriage was against the manifest weight of the evidence; therefore, the marriage was valid and the wife was able to act as administrator of the estate and establish her heirship.[46]

Also in the matter of *In re Driskell*, it was held that where a purported marriage is shown, a strong presumption of its validity exists, even though the parties did not follow the procedural requirements of the statute for registering the marriage.[47] In that case, the marriage was performed on the same day as the license was issued.[48] The Fourth District Appellate court ruled that any failure to comply with the one-day waiting period after issuance of the marriage license, as set forth in Section 207 of the Act, did not invalidate the marriage.[49] The Court reasoned that the then-existing version of the Act which described the requirements for registering a marriage in Illinois did not state those requirements in mandatory language; instead, the language was directory, which meant that failure to follow the statutory licensing requirements does not render a marriage void unless the statute so provides.[50] The court deemed the Supreme Court of Illinois' decision in *Haderaski* to be controlling on this issue.[51]

In *Haderaski*, which was decided in 1953, prior to the Illinois putative spouse statute going into effect, the wife sought a dissolution of marriage and the husband claimed that there was no legal marriage between the parties.[52] No marriage license had ever issued, but the parties went through a proper church ceremony by a duly ordained priest and a certificate memorializing the marriage had been executed by the priest and two witnesses.[53] The Supreme Court of Illinois held that the failure to follow the statutory licensing requirements does not render a marriage void.[54] In so holding, the Court said that has long been the general rule in Illinois that, unless the statute expressly declares that a marriage contracted without the specific requirements of the statute is invalid, such statutes will be constructed to be directory, so that the marriage will be held valid, although the disobedience of the statute may entail penalties on the licensing or officiating authorities.[55] When *Hall* was decided in 1998, the Court distinguished the facts and clarified that in *Haderaski*, the parties believed in good faith that they were lawfully married; whereas in *Hall*, the parties knew they were not married because same sex marriage was expressly prohibited at the time.[56] The Supreme Court of Illinois had ruled similarly in 1909, when it permitted the wife to be awarded alimony where there was a marriage ceremony but the legality of the marriage was in question

39. *See Patek v. Peick*, 74 Ill.App.3d 714, 393 N.E.2d 569 (1st Dist. 1979); *In the Matter of Bailey's Estate*, 97. Ill.App.3d 781, 423 N.E.2d 488 (5th Dist. 1981).
40. *Patek*, 74 Ill.App.3d 714, 716.
41. *Patek*, 74 Ill.App.3d 714, 719; 750 ILCS 5/409.
42. *Bailey*, 97 Ill.App.3d 781, 786.
43. *Bailey*, 97 Ill.App.3d 781, 781.
44. *Bailey*, 97 Ill.App.3d 781, 782.
45. *Bailey*, 97 Ill.App.3d 781, 785.
46. *Bailey*, 97 Ill.App.3d 781, 786.
47. *In re Driskell*, 197 Ill.App.3d 836, 555 N.E.2d 428 (4th Dist. 1990), judgment aff'd in part, rev'd in part on other grounds, *Pape v. Byrd*, 145 Ill.2d 13, 582 N.E.2d 164 (Ill. 1991).
48. *Driskell*, 197 Ill.App.3d 836, 841.
49. *Driskell*, 197 Ill.App.3d 836, 842.
50. *Driskell*, 197 Ill.App.3d 836, 842.
51. *Driskell*, 197 Ill.App.3d 836, 842.
52. *Haderaski v. Haderaski*, 415 Ill. 118, 112 N.E.2d 714 (Ill. 1953).
53. *Haderaski*, 415 Ill. 118, 120.
54. *Haderaski*, 415 Ill. 118, 121.
55. *Haderaski*, 415 Ill. 118, 121.
56. *Hall*, 302 Ill.App.3d 829, 835.

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because the parties did not properly comply with the statutory licensing requirements.[57] The Court relied on the language of the statute, which was directory only; therefore, the marriage was valid despite not having a proper marriage license.[58]

Although *Haderaski* was decided before the IMDMA was first enacted in 1977, the legislature wrote Sections 207 and 209 knowing that the *Haderaski* decision was in place, and it did not include an express provision that failure to adhere to the statutory licensing requirements would void the marriage.[59] The statute in its current form continues to be directory, not mandatory, and thus, it follows that a marriage should be held valid even if the parties do not comply with the strict requirements of the statute.[60] This line of case law lends credence to the Illinois legislature's overarching policy considerations in recognizing marriages which the parties intended to be valid and legal, and which are in fact legitimate marriages, but for a procedural defect in the licensing and registration process.[61]

A recent decision of the U.S. District Court for the Southern District of Illinois touches on the question of the validity of a marriage which is not registered, but where the couple participated in two separate religious marriage ceremonies with witnesses present, and produced Islamic marriage certificates for those marriage ceremonies.[62] In this case, prisoners who claimed to be husband and wife brought suit against the prison officials for failing to acknowledge the validity of their marriage.[63] Their petition was ultimately denied because the wife could not show that she was divorced from a different prior spouse.[64] In its analysis, the Court acknowledged that spousal status is conferred even when one of the statutory or directory requirements are not met, and it referenced Section 305 of the Act in which a putative spouse can acquire the rights of a legal spouse.[65] This case reaffirms Illinois public policy that there is a strong presumption of the validity of a marriage, and the burden is on the party challenging the validity of the marriage to prove its invalidity.[66]

An analysis of the applicable law indicates that while some facets of Illinois law have evolved over time to comport with our societal concept of what it means to be a family, some of the more traditional notions of marriage have not changed. The policy of the State of Illinois is clear that marital rights are not to be granted to unmarried cohabitants.[67] On the other hand, there is a strong presumption of the validity of a marriage contracted in Illinois, and the failure to strictly comply with the statutory requirements may not render a marriage void.[68] However, in order for an individual to avail oneself of the benefits and protections of a spouse, the party seeking putative spousal status must be under the good faith belief that he or she was married.[69] Section 305 of the Act appears to be reserved for a very narrow set of factual circumstances where a couple should be granted the rights and protections of a legal spouse when they intended a legal marriage and actually believed they had a legal marriage, despite there being a defect in the licensing and registration of the marriage. Perhaps this narrow set of circumstances is one in which an individual participates in a religious marriage ceremony in good faith and produces a religious marriage certificate, but did not register a marriage license, and in those circumstances, it would be inequitable not to grant such an individual the rights and benefits that are granted to legally married spouses in the State of Illinois.

57. *Reifschneider v. Reifschneider*, 241 Ill. 92, 89 N.E. 255 (Ill. 1909).
58. *Reifschneider*, 241 Ill. 92, 98.
59. 750 ILCS 5/207; 750 ILCS 5/209.
60. 750 ILCS 5/207; 750 ILCS 5/209.
61. *See Bailey*, 97 Ill.App.3d 781; *Driskell*, 197 Ill.App.3d 836; *Haderaski*, 415 Ill. 118; *Reifschneider*, 241 Ill. 92.
62. *Doss v. Gilkey*, 649 F.Supp.2d 905 (S.D. Ill. 2009).
63. *Doss*, 649 F.Supp.2d 905, 908.
64. *Doss*, 649 F.Supp.2d 905, 916.
65. *Doss*, 649 F.Supp.2d 905, 911.
66. *Doss*, 649 F.Supp.2d 905, 911.
67. *Hewitt*, 77 Ill.2d 49; *Ayala*, 206 Ill.App.3d 538; *Hall*, 302 Ill.App.3d 829.
68. *Bailey*, 97 Ill.App.3d 781; *Driskell*, 197 Ill.App.3d 836; Haderaski, 415 Ill. 118; *Reifschneider,* 241 Ill. 92.
69. 750 ILCS 5/305.

An Overview of the Current Meaning of "Income for Child Support Purposes"

By Andrea L. Kmak

Governor Rauner recently signed House Bill 3982, which completely revamps Illinois' system for calculating child support in domestic relations cases. The new "income shares" model for calculating child support will become effective July 1, 2017. It will take the place of what is currently Section 505 of the Illinois Marriage and Dissolution of Marriage Act.[1] With the enactment of Public Act 099-0764, Illinois completely abolishes its previous method for calculating child support under Section 505, which calculated child support as a certain percentage of the payor's net income.

According to Public Act 099-0764, gross income is defined as the "total of all income from all sources."[2] Certain sources of income are not included in gross income. Public Act 099-0764 does not include benefits from certain public assistance programs and child support received for other children in the household as gross income.[3] Additionally, pursuant to the new income share model for calculating support, both parties' incomes are relevant and are offset against each other in determining a monthly child support obligation.

Under the new statute, net income is defined as "gross income minus either the standardized tax amount calculated pursuant to paragraph (C) of this paragraph (3), or the individualized tax amount calculated pursuant to subparagraph (D) of this paragraph (3), and minus any adjustments pursuant to subparagraph (F) of this paragraph (3)."[4] The standardized tax amount referenced above is the total of federal and state income taxes, one personal exemption, the applicable amount of dependency exemptions, and Social Security and Medicaid taxes or mandatory retirement contributions.[5] This is the default rule in Illinois. In the absence of other applicable tax deductions, these amounts are deducted from the party's gross incomes to determine net income, from which child support is calculated.

The alternative method of calculating child support is using the parties' individualized net incomes. This is utilized in situations where there is an agreement of the parties or a court order.[6] Parties will consider the following in calculating the individualized net income: filing status, dependency exemptions, itemized deductions, FICA, Medicare or mandatory retirement contributions, and other relevant credits or deductions.

The new statute is clear in setting forth the rules of calculating net income for child support purposes based on the parties' standard deductions. However, parties have often disputed whether certain sources of income should be considered income for child support purposes. Over the years, Illinois courts have considered whether some of these sources should constitute income for child support purposes. The new statute also defines certain sources of income, and addresses whether they should be considered income for child support purposes. With the enactment of Public Act 099-0764, it is important to consider how these new definitions may impact prior Illinois case law, and what will be controlling when the new statute is in effect.

Business Income

The new statute specifically defines "business income" for

1. 750 ILCS 5/505.
2. H.B. 3982, 99th Gen. Assemb., Reg. Sess. (Ill. 2016).
3. *Id.*
4. *Id.*
5. *Id.*
6. *Id.*

purposes of calculating child support as: "Net business income from the operation of a business means gross receipts minus ordinary and necessary expenses required to carry on the trade or business."[7] While this is not a new concept for the calculation of child support, it was never specifically defined by Illinois law. The new statute also specifies what it means to be a "business" and also clarifies what expenses may and may not be considered "necessary expenses required to carry on the trade or business."

However, the new statute does not address the issue of retained business earnings. Parties often dispute whether a portion of retained business earnings should constitute income for support purposes. A party could reason that retained business earnings are income that a child support payor could recognize as personal income, but has chosen to keep as business funds instead in an effort to avoid a support obligation. The new statute does not address this issue, so Illinois case law still controls. In determining whether retained earnings of a corporation should be imputed as income for a sole or majority shareholder for child support purposes, courts are to consider "(1) the extent of the obligor's ownership share in the corporation, (2) the obligor's ability to decide whether corporate earnings should be retained or distributed, (3) the corporation's history of retained earnings and distribution, in comparison to post-divorce corporation activities, (4) whether the retained earnings are excessive, and (5) whether there is evidence that income is actually being manipulated."[8]

Employer Reimbursements

Notably, the new statute provides that if a parent that owns a business is reimbursed by the business for a company car or for meals, for example, and said funds are not otherwise included in the parent's gross income, then this reimbursement constitutes income for support purposes. How does this compare against existing Illinois case law? In *In re Marriage of Worrall*, the Second District held that a truck driver's per diem allowance for meals and lodging, less amounts that the driver could prove that he actually used for legitimate travel expenses, constitutes income for child support purposes.[9] In reaching its decision, the court reasoned that the driver could technically use the funds for anything he desired, however, to the extent that it was actually used for legitimate travel and work expenses, it should not be considered income for support purposes.[10] Similarly, in *In re Marriage of Shores*, the Second District court found that an employer's reimbursements of an employee's relocation expenses should be included in net income for the calculation of child support.[11]

Retirement Benefits

As mentioned above, the statute provides that gross income means "the total of all income from all sources."[12] This provision is noticeably broad. With respect to income from retirement and pension benefits, the new statute does not specifically address to what extent these benefits are considered income for child support purposes, although it does state that mandatory retirement contributions required by law or condition of employment are deducted from one's income before calculating support.[13] Additionally, disability and retirement "benefits paid for the benefit of the subject child must be included in the disabled or retired parent's gross income for purposes of calculating the parent's child support obligation…"[14]

Illinois courts have broadly interpreted what constitutes income for support purposes.[15] For instance, in *In re Marriage of Dodds*, the Second District held that a one-time worker's compensation settlement was income for child support purposes.[16] However, an entire personal injury settlement cannot be considered income for purposes of calculating child support, and only the portion replacing past and future lost earnings can be considered as income.[17] Pension benefits are included in income as well, upon payment to the recipient.[18]

7. *Id.*
8. *In re Marriage of Moorthy and Arjuna*, 2015 IL App (1st) 132077, ¶64, 29 N.E.3d 604 (1st Dist. 2015).
9. *In re Marriage of Worrall*, 334 Ill. App. 3d 550, 555, 778 N.E.2d 397 (2d Dist. 2002).
10. *Id.* at 555.
11. *In re Marriage of Shores*, 2014 IL App (2d) 130151, ¶46, 11 N.E.3d 35 (2d Dist. 2014) (reasoning that although the employee eventually repaid said relocation reimbursement funds to employer, there was no obligation to repay the funds until he voluntary resigned, and the employee reaped the economic benefits of the funds during the period in question).
12. H.B. 3982, 99th Gen. Assemb., Reg. Sess. (Ill. 2016).
13. *Id.*
14. *Id.*
15. *In re Marriage of Dodds*, 222 Ill. App. 3d 99, 103, 583 N.E.2d 608 (2d Dist. 1991).
16. *Id.* at 104.
17. *Villanueva v. O'Gara*, 282 Ill. App. 3d 147, 156, 668 N.E.2d 589 (2d Dist. 1996).
18. *In re Marriage of Klomps*, 286 Ill. App. 3d 710, 711, 676 N.E.2d 686 (5th Dist. 1997).

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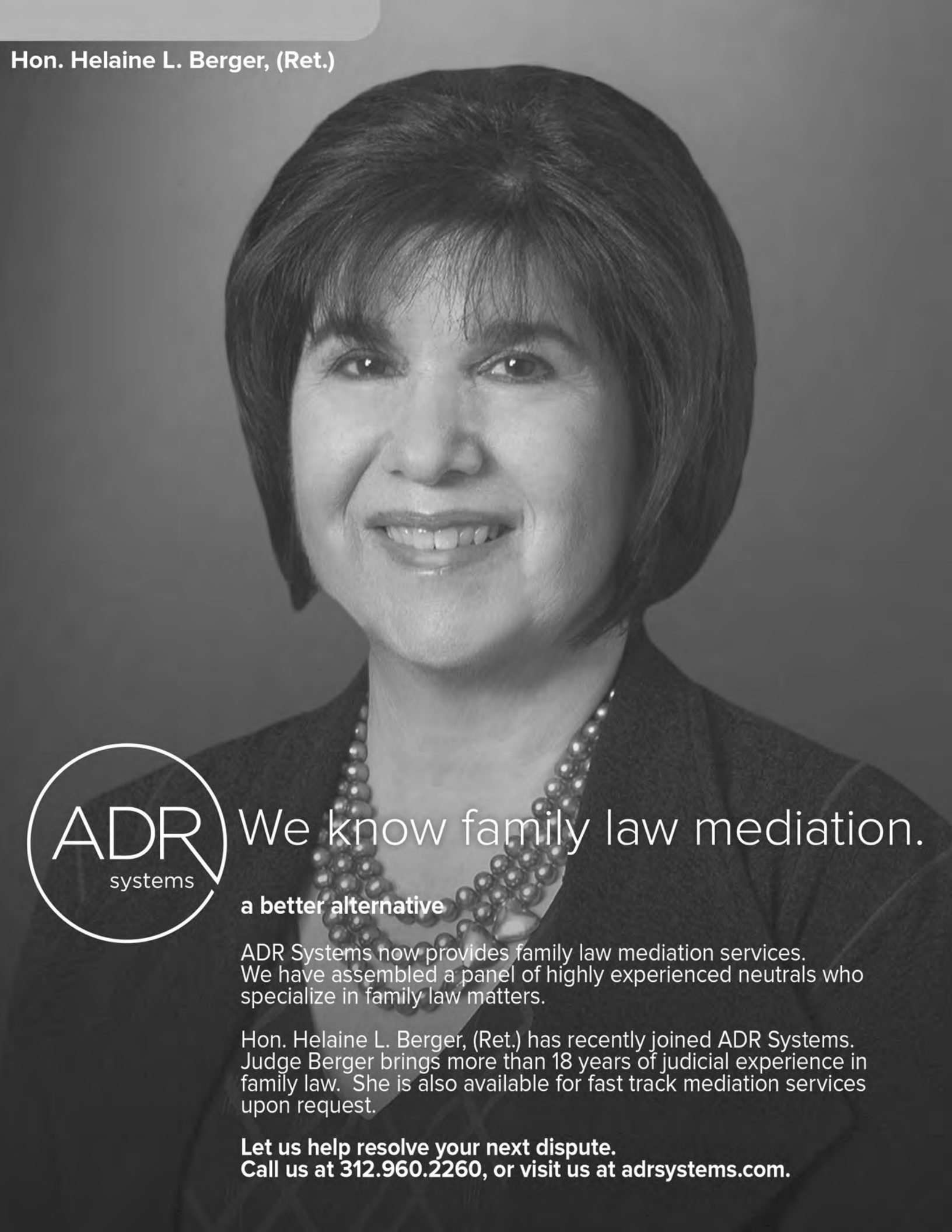
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"In *Lindman*, the Second District found that IRA disbursements are income for the purposes of calculating net income under Section 505."

But what if a parent makes a withdrawal from a retirement benefit, such as an IRA? The new statute does not address the issue directly, and there is also a split in the Illinois courts as to whether an IRA withdrawal constitutes income for child support purposes. The controlling case in the Second District is *In re Marriage of Lindman*. In *Lindman*, the Second District found that IRA disbursements are income for the purposes of calculating net income under Section 505.[19] In doing so, it reasoned that IRA disbursements are a "gain" that is measured in monetary form.[20] The First District also agrees with this notion.[21] The Fourth District, however, disagrees. In *In re marriage of O'Daniel,* the Fourth District held that an IRA withdrawal did not constitute income for child support purposes, and reasoned that IRA's are typically self-funded and are "basically no different than a savings account," but with different risks.[22]

Savings Account Withdrawals

Interestingly, the Illinois Supreme Court has ruled on the issue of whether savings account withdrawals constitute income for child support purposes. In *In re Marriage of McGrath*, the Court found that the parent's regular withdrawals from a savings account to support himself during a period of unemployment were not income for purposes of calculating child support.[23] In doing so, the Illinois Supreme Court reasoned that money that is withdrawn from a savings account "already belongs to the account's owner," and simply withdrawing it from the account "does not represent a gain or benefit to the owner."[24]

Stock Distributions

Stock distributions may or may not be considered income for child support purposes, depending on the facts surrounding the situation. For instance, in the situation in which unvested stock options that are allocated to a party as marital property become vested subsequent to the dissolution of marriage, and are also exercised subsequent to the dissolution, said funds constitute income for support purposes.[25] A party's post-decree sale of stocks awarded in the judgment of dissolution, however, does not constitute income because the stock is a "liquid asset and simply converted into cash."[26]

Other Sources of Income

Other common sources of funds that Illinois courts have assessed in determining what constitutes income for support purposes include gifts, trust disbursements, and tax returns. Regular gifts constitute income for child support purposes.[27] Similarly, trust distributions constitute income for child support purposes notwithstanding the fact that they may cease in the future, and despite spendthrift provisions stating that distributions are not subject to support obligations.[28] Additionally, the Third District has recently held that a child support payor's tax return does not constitute income for support purposes even when he or she intentionally withholds more from his or her paycheck in taxes than necessary so that he or she will receive a tax refund.[29] [3] None of the above sources of income are specifically addressed in the new statute, so Illinois case law still controls in determining whether they constitute income for support purposes.

Conclusion

Although Illinois' new child support legislation has some significant changes with respect to the method of calculation of child support, it is important to consider what sources of income will constitute income for support purposes. While the new statute addresses some sources of income specifically, it leaves Illinois courts the responsibility of determining others. It is essential that practitioners understand the sources of funds that constitute income and keep up with Illinois case law to ensure the proper calculation of support for their clients.

19. *In re Marriage of Lindman*, 356 Ill. App. 3d 462, 471, 824 N.E.2d 1219 (2d Dist. 2005).
20. *Id.* at 466.
21. *In re Marriage of Eberhardt*, 387 Ill. App. 3d 226, 900 N.E.2d 319 (1st Dist. 2008).
22. *In re Marriage of O'Daniel*, 382 Ill. App. 3d 845, 850, 889 N.E.2d 254 (4th Dist. 2008).
23. *In re Marriage of McGrath*, 2012 IL 112792, 970 N.E.2d 12 (2012).
24. *Id.* at ¶ 14.
25. *In re Marriage of Colangelo and Sebela*, 355 Ill. App. 3d 383, 822 N.E.2d 571 (2d Dist. 2005).
26. *In re Marriage of Marsh*, 2013 IL App (2d) 130423, 3 N.E.3d 389 (2d Dist. 2013).
27. *In re Marriage of Rogers*, 213 Ill. 2d 129, 820 N.E.2d 386 (2004).
28. *In re Marriage of Sharp*, 369 Ill. App. 3d 271, 281, 860 N.E.2d 539 (2d Dist. 2006).
29. *In re Marriage of Eastburg ex rel. Condreay*, 2016 IL App (3d) 150710.

Beyond the Motion to Strike: Defending Against and Defeating a Notice of Intent to Claim Dissipation

By Megan C. Harris

Claims of dissipation are rampant in divorce litigation, whether warranted or not. A notice of intent to claim dissipation, however, is a unique device in the divorce context: it is not a formal pleading, but it is not a temporary, interlocutory, or pre-trial request; it has only a few simple requirements, but with its filing, a massive burden shifts to the defending party; and it requests an extremely fact-dependent determination that depends entirely on the circumstances of the individual case. It is often in the best interest of the defending party to resolve any deficiencies of a notice for dissipation prior to the time of trial, as defending against the claim requires substantial discovery and preparation. The easiest and perhaps most common approach for responding to a dissipation claim pre-trial is the filing of a motion to strike; this may not be the appropriate procedure, however, and practitioners may be well served to explore other options for defeating a notice of dissipation before the trial even begins.

Impropriety of Motions to Strike

Section 503 of the Illinois Marriage and Dissolution of Marriage Act ("the Act") addresses dissipation as a factor for courts to consider in allocating property and sets forth the requirements for filing a claim, but it provides little guidance on what constitutes dissipation or even what its definition is.[1] However, most family law practitioners can recite a definition of dissipation by heart: the use of marital income or property for a purpose unrelated to the marriage at a time when the marriage is undergoing an irretrievable breakdown.[2] Recently, however, this definition was reduced to exclude property that cannot be dissipated. As of January 1, 2016, dissipation can no longer occur with respect to non-marital property and is limited only to marital property.[3]

A common method for responding to a properly-filed dissipation claim is to file a motion to strike or dismiss the claim pursuant to 735 ILCS 5/2-615 or 2-619. Motions to strike or dismiss under these sections, however, are only appropriately lodged against a "pleading."[4] A pleading contains a party's formal, factual allegations in a cause of action or a response thereto (including the cause of action itself, counterclaims, defenses, and replies); whereas a motion asks for a particular ruling or order in a pending case.[5] The Act further clarifies the definition of "pleadings" in the family law context as "any petition or motion filed in the dissolution of marriage case which, if independently filed, would constitute a separate cause of action. . . . Actions under this subsection are subject to motions filed pursuant to Sections 2-615 and 2-619 of the Code of Civil Procedure."[6] A notice of intent to claim dissipation thus cannot be classified as a "pleading," and therefore is not appropriately attacked through a 2-615 or 2-619 motion to strike or dismiss, as it does not stand on its own as a cause of action outside of the divorce proceeding. So what is a diligent family law practitioner and follower of the Illinois Code of Civil Procedure to do? The answer likely depends on the basis for attacking the claim.

Requirements for a Dissipation Claim and Bases for Attacking the Claim

Although it declined to define dissipation, with Public Act 97-941, the Illinois legislature clarified the requirements for a claim.[7] A notice of intent to claim dissipation must be served on the other party; it must be given no later than sixty (60) days before trial commences or thirty (30) days after the close of discovery (whichever is *later*); and it must set forth the period of time when the marriage began to undergo an irretrievable breakdown, the identity of the property alleged to have been dissipated, and the date or period of time when the dissipation occurred.[8] The statute also sets forth that dissipation cannot occur prior to five (5) years before the divorce petition was

1. 750 ILCS 5/503(d)(2).
2. *See, e.g., In re Marriage of O'Neill*, 138 Ill. 2d 487, 496-97, 563 N.E.2d 494, 498 (1990).
3. See 750 ILCS 5/503(d)(2).
4. 735 ILCS 5/2-615 (titled "Motion with respect to pleadings"); 735 ILCS 5/2-619(a)("If the grounds do not appear on the face of the pleading attacked…").
5. *See* 735 ILCS 5/2-603; *In re Marriage of Wolf*, 355 Ill. App. 3d 403, 407, 822 N.E.2d 596, 601— 02 (2d Dist. 2005).
6. 750 ILCS 5/105(d).
7. Pub. Act 097-0941 (eff. Jan. 1, 2013) (amending 750 ILCS 5/503(d)(2)).

filed or prior to three (3) years after the claiming party knew or should have known of the dissipation.[9] As mentioned previously, dissipation can only apply to marital property.

Thus, multiple potential bases for attacking a notice of intent to claim dissipation exist, which go beyond a simple, general denial of the claim. For example, the notice may not have been filed in the required timeframe. It may not properly identify the property dissipated or the date of the dissipation. It may identify non-marital property. The notice might inaccurately set forth the date the marriage began to irretrievably breakdown. Or it might claim dissipation during a period of time when the legislature has determined no dissipation may occur.

A simple denial ("That ATM withdrawal was for living expenses!" for example) is likely most appropriately addressed at trial as it is a factual issue in dispute. These other potential responses to a dissipation claim, however, may be better addressed prior to trial in order to avoid unnecessary discovery, delay at trial, or to clarify and simplify what the responding party must actually defend against. This is because once the claimant has set forth a *prima facie* case of dissipation, the burden shifts to the responding party to prove, by clear and convincing evidence, that the dissipation did not occur.[10] This is a higher burden than preponderance of the evidence, and the diligent practitioner will want to appropriately prepare to defend against the allegations using all means necessary to meet this burden, including issuing discovery, taking depositions, and preparing meticulous exhibits (if such exhibits even exist and can be properly authenticated and entered). Particularly when evidentiary proof to rebut the dissipation claim does not exist or when one's client may not testify credibly, it may be clear that the chances of successfully defeating the claim at trial are low. By limiting or clarifying the dissipation issues through specific (and perhaps unconventional) pre-trial litigation tactics, the discovery, evidentiary, and trial issues and burdens associated with defending against dissipation may potentially be avoided.

Declaratory Judgment

With a motion for declaratory judgment, "in cases of actual controversy," the petitioner seeks an order or judgment declaring certain rights of the parties.[11] Such relief can only be sought if it would "terminate the controversy or some part thereof, giving rise to the proceeding."[12] The Illinois Marriage and Dissolution of Marriage Act expressly acknowledges, in Section 105, the potential for declaratory judgment actions in dissolution proceedings.[13] Further, a declaratory judgment can adjudicate issues of fact, similar to a 735 ILCS 5/2-619 motion to dismiss. So long as some part of the dissolution controversy would be resolved – in this case, a dissipation claim – theoretically a motion for declaratory relief could appropriately be filed in response to a notice of intent to claim dissipation. Particularly when a claim for dissipation alleges substantial loss of money or property, a significant portion of the divorce trial could be spent on this part of the "controversy," and thus might be well suited to declaratory relief.

A declaratory judgment could be requested on a variety of potential dissipation notice issues. For example, if a notice alleges dissipation of property that the responding party believes is non-marital, a declaratory judgment could be entered which determines the nature of the property at issue. If a notice alleges dissipation outside of the time frame set by the legislature (e.g. from more than five (5) years before the divorce was filed or more than three (3) years after the complaining party knew or should have known of the dissipation), a declaratory judgment could be entered which defines the appropriate time-period for the particular dissipation claim at issue. Similarly, if a responding party disagrees as to the timeframe for when the marriage began undergoing an irretrievable breakdown, a declaratory order could set that timeframe. If a

8. 750 ILCS 5/503(d)(2).
9. *Id.*
10. *See, e.g., In re Marriage of Toole*, 273 Ill. App. 3d 607, 615, 653 N.E.2d 456, 462 (2d Dist. 1995); *In re Marriage of Sanfratello*, 393 Ill. App. 3d 641, 653, 913 N.E.2d 1077, 1088 (1st Dist. 2009).
11. 735 ILCS 5/2-701.
12. *Id.*
13. 750 ILCS 5/105.

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> **"A payout on a dissipation claim could potentially be used to influence other areas of property settlement or support.**

defending party argues the allegedly dissipating actions were "related to the marriage," a declaratory judgment could be sought on that issue. If a defending party rightly believes the allegedly dissipating actions did not even occur at all (e.g. a check written to a medical provider was for necessary medical treatment as opposed to a cosmetic procedure), a declaratory judgment might be appropriate.

The potential benefits of requesting declaratory relief in the dissolution context might be outweighed by the drawbacks. Specifically, the potential need to present significant evidence on the factual and legal questions raised may require preparation and litigation well in advance of trial. Under those circumstances, a responding party might be better served by gathering evidence and presenting arguments at the time of trial. However, if enough of the dissipation-related issues can be addressed ahead of time such that the burden, at time of trial, is reduced or the scope of the dissipation is limited, then declaratory relief may be a worthwhile pre-trial effort.

Summary Judgment

Unlike declaratory judgments, motions for summary judgment cannot be utilized when there are factual disputes between the parties. Summary judgment on legal questions is proper when there is no genuine issue of material fact, after construing all pleadings, depositions, admissions, and affidavits against the movant.[14] In the context of dissipation, there are a few reasons why a dissipation claim might be defeated even if the underlying facts of the transactions are not in dispute.

For example, if a responding party acknowledges and agrees with the claimant as to all facts regarding the breakdown of the marriage, the timing of the dissipating acts, and the actual transactions themselves, he or she may be able to seek summary judgment if the notice is not filed within the required timeframe. Additionally, if the factual bases for the characterization of property are not disputed and the responding party argues the allegedly dissipated property was non-marital, summary judgment may be appropriate. In certain circumstances, a responding party may not dispute the allegedly dissipating transactions, but may argue the claimant acquiesced in the transactions (or did not object after knowing of same; a "course of conduct" argument).[15] Again, under such circumstances, summary judgment in favor of the responding party may be appropriate.

As a request for summary judgment requires an acknowledgment of certain facts, a responding party may not wish to admit such facts and risk the future ramifications of such admissions at trial if a request for summary judgment is unsuccessful. If such facts cannot be honestly disputed or argued, however, summary judgment may help reduce the issues the trial court must hear evidence on and rule upon. If summary judgment might be appropriate, a responding party should consider serving a request to admit facts upon the claimant in order to ensure any needed admissions and solidify the factual bases for a summary judgment.

Bifurcated Judgment

In the event a responding party cannot attack a notice of intent to claim dissipation prior to trial, he or she may seek to buy some additional time in the divorce trial by requesting a bifurcated judgment. Such a request may be helpful when the responding party needs additional time to adequately investigate and present a defense on the dissipation issues (for example when a notice of intent to claim dissipation is technically filed within the proper timeframe but without enough time to secure needed discovery or evidence on the dissipation issues).

Bifurcation of a divorce trial is rarely sought or granted. This is because the court must find "appropriate circumstances exist" for reserving any issues of a divorce, including disposition of property.[16] A responding party must therefore be able to

14. 735 ILCS 5/2-1005; *In re Marriage of Dann*, 2012 IL App (2d) 100343, ¶ 62, 973 N.E.2d 498, 513—14.

15. *See, e.g., In re Marriage of Stuhr*, 2016 IL App (1st) 152370, ¶¶ 66—69, 56 N.E. 3d 525, 542—43).

convince a court that the need for additional discovery or exploration of the dissipation issue is appropriate to allow the court to adequately address the dissipation question. If granted, bifurcation could allow the responding party to more diligently defend against dissipation. One additional advantage, however, might be that in the interim, between the commencement of the main divorce proceeding and the bifurcated hearing on dissipation, the parties may opt to settle all property issues, including dissipation.

Directed Finding

Although a request for a directed finding would not resolve or narrow dissipation issues pre-trial, a successful directed finding could avoid the necessity of having to present defensive evidence during the trial (a significant benefit if documentary evidence is unavailable, the client or witness would not be credible, or the defense would require voluminous and time-consuming evidence or testimony). Such a directed finding (i.e. that dissipation has not occurred) can only be requested after the claiming party presents his or her case in chief, including presenting all evidence to establish a *prima facie* case of dissipation.[17] Because the requirements for establishing a *prima facie* case of dissipation are relatively minimal, directed findings in the context of dissipation may be infrequently warranted. Under the right circumstances, for example where the notice of intent to claim dissipation is adequate but the claimant is unable to back up his or her allegations with admissible or credible evidence or testimony, a request for directed finding limited to the issue of dissipation could be effective.

Pre-Trial Settlement

Although matrimonial attorneys are often tasked with fighting fundamental battles for their clients, and oftentimes litigants fight based on principles or emotions alone, dissipation is one area where emotions may more easily be put aside. When it comes down to dollars and cents, even if we believe our clients when they ardently disavow a dissipation claim, we should always consider the potential for advising our clients to settle these issues. If the claimed dissipation is not substantial, a cost-benefit analysis might show that contesting the claim is not worth simply agreeing to it (and/or perhaps agreeing to it at a lower amount). A payout on a dissipation claim could potentially be used to influence other areas of property settlement or support (for example, if the dissipation occurred with respect to a retirement asset, an agreed payout in cash could provide liquidity the claiming spouse may not otherwise have). Very few clients have the time or the money to fight every battle, and dissipation may be one area where clients are better served through negotiation and settlement than litigation.

There are certain things all practitioners should take heed of when it comes to dissipation. This includes the baseline requirements for a notice of intent to claim dissipation (paying particular attention to the timeframe for filing the notice, which may influence when attorneys and courts set trial dates and discovery cutoff dates); evidentiary rules and requirements with respect to proving dissipation and, then, properly defending against it in the trial context; and proper preparation of exhibits and witnesses (including ensuring the client is credible on the stand). But rather than attempting to respond to a notice of dissipation with a knee-jerk 2-615 or 2-619 motion to strike or dismiss, the careful practitioner should explore whether there are better or more appropriate options for addressing the notice – and perhaps for narrowing down or eliminating the overall dissipation issues at time of trial – through alternative and less frequently-explored requests for relief.

16. *See* 750 ILCS 5/401(b).
17. 735 ILCS 5/2-1102.

Illinois Law Update

Editors Grunyk Family Law, P.C.

Family Law

McClure v. Haisha, 2016 IL App (2d) 150291

Custodial Father appealed the trial court's decision reducing his child support obligation to non-custodial Mother from $5,000 per month to $4,000 per month and for failing to grant a request for child support from Mother to Father. The appellate court affirmed the trial court's decision, finding the trial court did not err or abuse its discretion in not imposing a child support obligation from the noncustodial parent to the custodial parent, and modified the trial court's decision as to the child support amount, ultimately offsetting Father's child support payment to Mother by $10 per month.

Father had a majority of parenting time after being awarded sole custody of the child and earned an annual gross income of approximately $933,000 (which had decreased to about $600,000 at the time he requested a modification or termination of child support), while Mother earned an annual gross income of only $9,500. After Father was awarded sole custody of the child in July 2014, he sought to terminate his child support obligation and requested $10 per month in child support from Mother based upon section 14 of the Parentage Act, which sets forth a statutory minimum payment from a noncustodial parent to a custodial parent of no less than $10 per month.

The appellate court found the case *In re Marriage of Turk*, 2014 WL 116730, directly on point because the custodial parent earned significantly more than the noncustodial parent and the parties had similar amounts of parenting time with the child. As a result, the appellate court found that the trial court was authorized to order the custodial parent to pay child support to the noncustodial parent. The appellate court further rejected Father's argument the trial court exceeded its judicial authority by awarding child support from him to Mother because Mother never filed a petition requesting such relief. The appellate court found the trial court had previously entered a court order for child support from Father to Mother for $5,000 per month, and he bore the legal burden of proving why a modification or termination of the previously entered child support order was appropriate. Last, the appellate court rejected Father's argument that Mother would receive a windfall if she received child support payments of $4,000 per month. The appellate court stated that the trial court's ruling was not an abuse of discretion and was appropriate after review of the facts, credibility findings at hearing and the statutory guidelines.

The appellate court next addressed Father's argument that Mother should pay $10 per month in child support, which is the statutory minimum set forth in the Parentage Act for noncustodial parents to custodial parents. The appellate court found Father had properly requested child support from Mother in the title and body of his petition to modify child support, and, despite confusion as to the attorney's arguments before the trial court, the appellate court granted Father's request for Mother to pay the statutory minimum of $10 per month. Ultimately, the appellate court ordered an offset of the $10 per month to be paid by Mother to Father against Father's child support obligation of $4,000 per month, which resulted in $3,990 per month as Father's child support obligation to Mother.

In re Marriage of Van Ert, 2016 IL App (3d) 150433

Wife appealed the trial court's dismissal of her section 2-1401 petition to vacate the parties' judgment for dissolution of marriage. Husband filed for divorce in 2005, but two days before filing he received an offer of $16 million to purchase his stock units in a certain company. However, Wife was never aware of this offer and Husband never tendered the mandatory financial disclosure statement to Wife. The parties entered into a marital settlement agreement where Husband received all of the stock and Wife received a house in Hawaii. The marital settlement agreement stated that each of the parties had been fully informed of the wealth of the other and that each party made a full and complete disclosure of their respective financial

condition. However, less than two hours after the judgment for dissolution of marriage, Husband sold his stock for $16 million. Wife never knew about this sale or the fact that the stock was valued at this amount, and there was no valuation of the stock during the dissolution. At prove up, Husband's attorney represented to the court that Husband's worth would be $1.2 million, while Wife's would be $2.8 million after the divorce.

In 2007, the parties remarried and they signed a premarital agreement five days before the second marriage. This time, Husband disclosed his total net worth to be approximately $7,000,000. In 2011, Husband again filed for divorce and this time both parties conducted discovery, including depositions. From this financial disclosure, Wife filed a section 2-1401 petition to vacate the 2005 dissolution based on Husband's fraudulent concealment of his financial situation during the first dissolution. Husband filed a motion to dismiss, which the trial court granted on the grounds that Wife failed to allege that she exercised due diligence in bringing her 2-1401 petition. Specifically, the trial court found that Wife should have known at the time she signed the premarital agreement that Husband came out of the first dissolution with more assets than she was led to believe.

The appellate court found that Wife did, in fact, allege sufficient facts that the first judgment for dissolution of marriage was unconscionable where Husband fraudulently concealed the sale and value of his stocks, and the premarital agreement did not put Wife on notice of such fraud. The appellate court noted that Husband's assets could have increased during the year and a half during the first dissolution and the signing of the premarital agreement. Therefore, without more, the premarital agreement did not act to put Wife on notice of Husband's fraudulent concealment. Since Wife was never knew of Husband's intention or interest in the purchase of this stocks, Wife was entitled to proceed on her 2-1401 petition to vacate. Accordingly, the trial court's dismissal of Wife's petition to vacate was reversed and remanded for further proceedings.

Altman v. Block, 2016 IL App (1st) 143076

Appellate court agreed with the trial court's conclusion that a spouse cannot be required to access a non-marital retirement account to pay interim fees. However, the court reversed the holding that sums paid to a law firm for services already rendered are "available" to be allocated. Therefore, the order holding Husband's former attorney in contempt for failing to comply with an order directing him to disgorge sums paid to him by Husband was reversed.

Throughout the course of the dissolution, the parties were represented by counsel. Husband was on his second attorney and Wife had one attorney. During the course of the proceedings, Husband was ordered to liquidate a marital retirement account and the funds were placed in escrow. Husband had been using the funds to pay his attorney fees. During litigation, it was disclosed that Wife had $100,000 in non-marital retirement. The court found that both parties lacked sufficient access to assets or income to pay reasonable attorney fees. Since Husband had paid his attorneys a total of $66,500 and Wife paid her attorney $9,500, the court ordered that $25,000 in the escrow account go to Wife's attorney and $8,284 go to the child's representative. In addition, the court ordered Husband's attorney disgorge $16,000 in fees paid for services already rendered and ordered this amount to be paid to Wife's attorney. When Husband's attorney refused, he was held in contempt, and this appeal followed.

On appeal, Husband's attorney argued that the court should have considered Wife's retirement account as an asset available to her. The court found that Wife's retirement account was a non-marital asset that would not be distributed between the parties in the final property disposition. Further, there was

About the Editors

Grunyk Family Law, P.C. concentrates exclusively on all aspects of family law, providing litigation, collaborative and cooperative law, Guardian ad litem and mediation services. Each month the firm prepares and presents family law case updates to family law practitioners in several counties. Authors: Attorneys Leah D. Setzen (presenter), Danya A. Grunyk, Hilary A. Sefton, Vicki C. Kelly, Katie C. VanDeusen and Heather White. Grunyk Family Law is located in Naperville and serves clients in DuPage, Cook, Will, Kane and Kendall counties.

no evidence that Wife accessed the account for any purpose related to the litigation or that she had any ability to do so. The difference between this retirement account and the account that the court ordered to be liquidated and held in escrow is that Husband elected to access the asset, and the trial court rightly exercised control over the proceeds to level the playing field. Therefore, Wife did not have access to assets that would have enabled her to pay attorney fees.

The court next addressed whether funds paid to an attorney for past services rendered are "available" within the meaning of the Act so that a court may order a law firm to disgorge not only unearned funds held in a client trust or an advance payment retainer, but also funds that the firm has already earned and deposited into its operating account or paid to third parties. The court noted that amicus contends that no reasonable reading of the statute permits a court to order an attorney to disgorge funds earned, received, taxed, and spent and direct him to pay those funds to "legal strangers." The appellate court agreed. The court specifically said, "We respect our colleague's decision in Squire and the dissent's adoption of its reasoning, and, if 'leveling the playing field' was the sole consideration in deciding this issue, we would come to the same conclusion. But the legislature chose the word 'available' to define those funds, whether in the form of a retainer or interim payments, that could be subject to disgorgement…But it seems to us a tortured reading of the statute to say that even though the firm has earned the fees, paid itself (as it was entitled to do), and used that income to pay salaries, overhead and cost of litigation expenses for items such as experts and court reporters, it can nonetheless be required to refund those fees, not to its client, but to a third party." In this case, Wife's attorney waited nine months to file for disgorgement. The court found that where the petitioning law firm delays filing an interim fee petition, the financial risk disgorgement poses for the Respondent's attorney increases correspondingly. The court also noted that to enforce the disgorgement provisions of section 501(c-1)(3) only on the current lawyer could encourage "churning" by the first lawyer. The court went on to note that it would be an anomaly that a lawyer who has been out of the case could be called upon months or years later to write a check to the opposing party's counsel.

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InBrief

By Terrence Benshoof

After a warm November, winter has been on a nostalgia trip, with plenty of heavy snows and frigid temperatures. Many of our DCBA colleagues will snowbird on out of here for a touch of warmth, and still others will venture out on skates, toboggans, sleds, and skis for winter adventure. For those who do none of the above, the DCBA presents plenty of warm, indoor activity, in the form of MCLE classes (complete with pizza), and, of course, Judges' Nite.

The Holiday Party was a big success, with DCBA President **Ted Donner** hosting a large crowd at Meson Sabika in Naperville. The parking lot was jammed, and the membership gathered to enjoy each other's company, along with a jazz trio playing, and excellent food being served up. A big "thank you" to all our sponsors for the truly great time, which put everyone in the holiday spirit.

This year's Mega Meeting included loads of interesting topics, and the State of the Courthouse address, as has been the practice for many years. New to the docket is the reception for the judiciary, old and new (expanded from last year), and a legislative lunch meeting with Federal, State and County law makers, along with the DCBA Board of Directors, to discuss matters of interest to the legal system. The Mega Meeting has become an annual highlight for the membership, and for our affiliates and vendors.

In the Courts

The year 2016 was a busy one for the 18th Circuit. Many judges retired from the bench, and were replaced by new associate judges. New Circuit judges were elected, and then the judiciary assignments saw a rotation of courtrooms. *InBrief* is still trying to catch up on where everyone is located.

Chief Judge **Kathryn Creswell** has announced the relocation of the Glendale Heights traffic court to the Wheaton courthouse courtroom 1003, effective February 1.

People, Places

InBrief continues to scour the media for news about our members.

The migration back to the big City continues, with **Mike Biederstadt** opening his solo practice in Chicago.

The Coman Law Group has merged five of its lawyers into the DuPage office of Ice Miller, with **Dan Coman** coming in as a partner, and **Maureen Maffei** and **Jeffrey Platt** of counsel.

Brian Nigohosian and **Michelle Dahlquist** have joined forces and opened their new firm, Nigohosian & Dahlquist, PC in Wheaton.

We also note, in the longevity department, that **John Pcolinski** has completed 29 years of practice with Guerard, Kalina & Butkus.

Momkus McCluskey Roberts LLC named **Jennifer Friedland**, Managing Partner.

Meanwhile, *InBrief* is going to go gas up the snow blower and get ready for the next round of winter.

Welcome

Welcome to our new DCBA Members.

Attorneys: Elizabeth J. Andonova, Criminal Defense Group, LLP; Rachel A Boehm, Weiss-Kunz & Oliver, LLC; Victoria E Cundari, Christopher H Johnson, Mulherin, Rehfeldt & Varchetto PC; Justin J. Kaszuba, Skawski Law Offices, LLC; Robert F. Kramer; Ryan Patrick McGovern; Kelli Marie Mentgen; Gregory A. Patricoski, Mark G. Patricoski, PC; Nicholas Peluso, Criminal Defense Group, LLP; John P. M. Peskind, Peskind Law Firm; Michael R Psolla; Nicole L Simmons, Momkus McCluskey Roberts, LLC; Marc Trent, Law Office Trent & Butcher; Ryan W. Wallenstein; Paula R. Willuweit.

New Affiliate Member: James E. Thompson, Lawyer Marketing Resource.

Student Members: Philip M Denys, Elizabeth V. Carter, PinJu Chiu.

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CLASS ACTION LITIGATION

In our prosecution and defense of class actions throughout the United States in Federal and State Courts, we are proud of our recent accomplishments, which include the following:

RECENT CLASS ACTIONS

Breach of Warranty Claims for Consumer Products
We have obtained class certification or are pursuing class actions in numerous state and national product defect cases involving products such as automobiles, facets, infant car seats, laptops, and windows. We achieved trial, appellate and state Supreme Court victories in some of these cases affirming class certification and have entered in settlements in a number of these cases that benefitted class members.

Data Breach and Privacy Violation Cases
We are currently representing consumers in class action claims involving data breach and privacy violation cases affecting tens of million if not hundreds of millions of consumers.

Junk Text Messages, Autodial Voicemail Solicitations
Represented a national settlement class of consumers who received alleged junk text messages from various national chains or corporations such as Domino's Pizza, Cox Media, Burger King and Mattel. Each class member who made a claim to receive $105 or their pro rata share of the fund if there were not sufficient funds to pay $105. The total settlement fund was $16,000,000.

Overcharges in Consumer Invoices Such as Phony Tax Charges
Court certified a class of all customers of a national hotel chain's large hotel. Following successful interlocutory appeal, judgment in favor of the class for millions of dollars in damages, prejudgment interest and all attorneys' fees. Affirmed on appeal. Class received in excess of 90% of overcharges with monies being mailed to each class member following win on appeal. Settled identical cases on a class-wide basis against numerous other national hotel chains.

Vocational School Failing to Follow Illinois law Requiring Accurate Disclosure of Employment Statistics for Obtaining Jobs Following Graduation
Court certified class seeking millions of dollars in refunds and other damages for all students who took a medical sonography course but did not obtain jobs in the field. The class claimed that Defendant violated the Consumer Fraud Act's provision for vocational schools by failing to disclose that very few graduates obtained jobs. Appellate and Supreme Case refused to hear an appeal of class certification order.

Breach of Contract and Gift Card Cases
Representing national class of consumers that received a $25 purchase reward card that allegedly did not contain an expiration date but which defendant claims should have contained an expiration date and will no longer honor. Class action certified by District Court and 7th Circuit denied request for interlocutory appeal of class certification. In separate state court suit class certification approved by New Jersey appellate court.

Shareholder Derivative Lawsuits
We have or are representing shareholders of various corporations in shareholder derivative lawsuits involving claims against management including cases against DeVry, Cole Taylor Bank, and Nalco.

Unpaid Overtime Class Actions
Representing putative class members in a number of cases against employers seeking repayment of alleged unpaid overtime or for other wage and hour violations such as failure to pay minimum wages. We have obtained favorable class wide settlements in wage and hour and overtime cases.

Auto Repossessions
Class certification order affirmed by the Appellate Court. 365 Ill.App.3d 664. Represented class with co-counsel in claims involving alleged violations of Illinois automobile repossession laws. Case settled with each of the over 7,600 class members able to claim up to $2000. In addition to the damages payment, debt totaling $6.5 million was forgiven as to all class members as part of the settlement.

Hidden Voice-Mail Charges in Telephone Bills
Court certified consumer fraud claims for failure to disclose hidden voicemail charges. In 2005, Crain's Chicago Business listed the settlement as the third highest settlement/verdict in Illinois.

Class Action Defense
Defended national marketing company in four Fair Credit Reporting Act class claims seeking over $100,000,000 brought in federal courts in Chicago and Maryland. Defended national residential mobile home rental chain in consumer fraud claims. Defend a number of large to mid-size companies in class claims throughout the country including defending a landlord in class claims alleging violations of Illinois security deposit laws, a municipality in claims involving alleged illegal fines, and a medical services finance company regarding alleged illegal loans for plastic surgery procedures. Also act as advisors and co-counsel with attorneys who have asked us to assist them in defending their clients in class claims.

We enter into referral and co-counsel agreements with attorneys who assist us in prosecuting class action or whistle blower claims.

We are also investigating the following Potential Claims:

Violations of Federal and state Wage claim laws by failing to pay overtime to salaried employees, forcing employees to work off the clock or failing to pay minimum wages.

Whistle Blower claims involving fraud on the government or securities purchasers.

Manufacturers, retailers and advertisers who materially misrepresent how a product works or performs or who knowingly sell a materially defective product.

Junk text messages received from national or well established companies.

Areas of Interest:

Wage & Hour Overtime and Minimum Wage Violations
Whistle Blower (Qui Tam) Claims
Unfair Check Overdraft Fees
Healthcare Product Fraud
Defective Car & Vehicle Products
Insurance Fraud
Fair Credit Reporting Act – FCRA
Fair Debt Collection Practices Act – FDCPA
Privacy Violations
Violation of Car Repossession Statutes
Vocational School Deception
Excessive Late Charges
Infomercials & Deceptive Advertising

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Bryan S. Chapman

Judicial Profile

By James L. Ryan

This past July, the Circuit Court of the Eighteenth Judicial Circuit appointed **Bryan S. Chapman** as an associate judge to fill the vacancy created by the retirement of Judge **Jane Mitton**. Judge Chapman is currently assigned to the Downers Grove field court where he presides over traffic and local ordinance matters.

Judge Chapman's interest in the judicial process began as a high school student in Olathe, Kansas, just outside of Kansas City. During high school, Judge Chapman participated as a student attorney and later student judge in "Olathe Youth Court" a diversion program sponsored by the Olathe School District and Johnson County District Attorney's Office. This experience allowed Judge Chapman to see close-up the interplay between statutes, facts and the goals of the justice system.

Judge Chapman graduated from Anderson University in Indiana and the University of Missouri-Columbia law school. While in law school, Judge Chapman was a summer associate at Clausen Miller. He spent his first two years after law school working for Clausen Miller as an associate handling mostly insurance coverage litigation and business tort matters. After Clausen Miller, Judge Chapman worked in the Chicago office of the California based Sedgwick LLP, where he handled insurance related litigation, such as extra-contractual liability, as well as business torts across the country. Prior to assuming the bench, Judge Chapman maintained a similar practice at the Chicago law firm of Hinkhouse Williams Walsh LLP.

While Judge Chapman grew up in the Kansas City area, DuPage County served as a "home away from home" throughout his childhood. Judge Chapman affectionately recalled spending summers and holidays with his maternal grandparents and extended family in Glen Ellyn. Whether it was playing baseball on the fields behind Ben Franklin Elementary, 4th of July parades, or visiting "Perry" the mastodon at Wheaton College, many of Judge Chapman's best childhood memories took place in DuPage County. As a result, upon graduation from law school Judge Chapman permanently relocated to DuPage County where he eventually met his wife, and now has a family of four, soon to be five!

Judge Chapman believes that his role as a judge is to faithfully apply the law in a manner that helps parties navigate the legal system. To Judge Chapman, this means giving parties an opportunity to be heard, and making decisions that are clear and understandable. When asked about his biggest challenge in transitioning from an advocate to a jurist, Judge Chapman said the biggest adjustment is, not surprisingly, being "the decider," as opposed to the advocate. He described the transition as "learning to get comfortable in one's own skin" as a judge. Recognizing that many of those who currently appear before him will have minimal to no additional exposure to the court system, Judge Chapman views his role as a traffic court judge as a unique opportunity to provide the DuPage County community with confidence and trust in the judicial system. *(Continued on page 30)*

(Continued from page 29)

For those attorneys who may find themselves in front of Judge Chapman in the future, he encourages attorneys to "keep the main thing the main thing," and to be prepared on contested motions as well as provide courtesy copies in advance. Judge Chapman noted that as a practitioner, he always appreciated "the judge who was well-versed in the parties' arguments as well as the legal authority relied upon during oral argument." For younger lawyers, Judge Chapman encourages them to immerse themselves in the work, and to volunteer for tasks that may seem a little bit above your level at first. Additionally, Judge Chapman noted that "the young lawyer should always ask a more senior lawyer how any particular assignment fits into the larger strategy of a case. It is good for the younger lawyer to learn about the bigger picture and why a seemingly remote task can be crucially important to a case, and it is good for the senior lawyer who could probably also benefit from a conversation that requires putting the pieces of the puzzle together."

Judge Chapman is active in local church, enjoys reading, road biking, and is an avid baseball fan.

New "Courthouse 101" Series

Features Judges Panel for Lawyers New to DuPage County

Whether you're a new lawyer, new to DuPage County, or someone who has just never ventured into the courtrooms in a given division, it can be difficult to anticipate protocol or navigate the local rules and standing orders. So, the DuPage County Bar Association has introduced a new program this year, a "101 Series" that brings together all of the judges from the different divisions for hour long CLE sessions which cover the basics. The full name of the series is Life and Practice in the 18th Judicial Circuit.

Program chair, **Jennifer Friedland**, introduced the first such session on November 29, 2016. Focusing on family law practice, the session was moderated by **Chuck Roberts** and featured Hon. **Robert J. Anderson**, Hon. **Neal W. Cerne**, Hon. **Robert E. Douglas**, Hon. **Linda E. Davenport**, Hon. **Elizabeth W. Sexton**, Hon. **John W. Demling**, Hon. **Karen M. Wilson**, and Hon. **Timothy J. McJoynt**. 154 attendees registered for the event as the judges explained procedural concerns unique to their courtrooms, pointed out issues that tend to arise and how they deal with them, and answered questions from the audience.

Additional sessions scheduled for the Courthouse 101 Series include one with judges from the Chancery Division on January 11, 2017 and another with judges from the Felony Division on February 6, 2017. Sessions focused on the Law Division, Arbitration, Traffic and Misdemeanor Division are also planned. "What's been impressive for me has been how supportive the judges have been," said Friedland. "They've all got busy schedules but have been a great help putting these events together."

DuPage Bar Foundation Holiday Breakfast a Success

By Clarissa Myers

Attorneys enjoying great food and networking at the DBF Holiday Breakfast fundraiser

The raucous laughter and the cacophony of voices raised in bidding that emanated from the Attorney Resource Center signaled the most successful Holiday Breakfast for the DuPage Bar Foundation (DBF) yet.

Established in 1997, the DBF is the charitable 501(c)(3) arm of the DuPage County Bar Association. The Holiday Breakfast raises money for law school scholarships, which is in line with the DBF's mission statement to support justice in our DuPage community by maintaining the integrity of the legal profession, contributing to the education of future lawyers, and improving the facilitation of justice through charitable acts.

This year, lawyers had the opportunity to donate money, win multiple raffle prizes, and participate in a live auction for Cubs' tickets and a party bus, all raising money to fund DBF law school scholarships. Lawyers gave from their hearts and their pocketbooks this year to raise an astounding total of more than $13,000 including direct donations, auction proceeds and raffle ticket purchases. The DBF also took this opportunity to present checks to this year's grant winners, CASA DuPage, Family Shelter Service, and NAMI.

"This Holiday Breakfast's success is directly related to the generosity of our fellow lawyers and the hard work of the staff and DBF Board Members. Together, we will be able to fund scholarships for law students who will be the next generation of DuPage lawyers," said **Rebecca Laho**, President of the DuPage Bar Foundation. President Laho's continuing efforts to raise funding and awareness for the Foundation included a recent television appearance, along with Board Member, **Raleigh Kalbfleisch**, on the NCTV *Spotlight Show*, which aired on Channel 17.

We want to thank our generous Holiday Breakfast donors:

Mirabella Kincaid Frederick & Mirabella Law, LLC, Sullivan Taylor & Gumina, P.C., Vinkler Law Offices, Ltd., Donner & Company Law Offices LLC, Beck & Houlihan, PC, Corrigan, Tabis & Parravano P.C, Davi Law Group, LLC., Edgerton & Edgerton, Kollias & Giese, P.C., Huck Bouma PC, Kenny & Kenny, Lyons Law Group, LLC, Marquardt & Belmonte P.C., The Law Office of Robert McDonough, Law Offices of Colleen McLaughlin, Clingen, Callow & McLean, LLC, Mulyk, Laho & Mack, LLC,Ramsell & Associates, LLC,Theisen & Roche, Ltd, Faermark & Williams LLC, Law Offices of David J. Winthers, PC, Woodruff Johnson & Palermo, Tameling & Associates, P.C., Anthony Abear, Hon. Robert J. Anderson, William J. Arendt, Hon. C. Stanley Austin, Hon. George Bakalis, Terrence J. Benshoof, Thomas T. Boundas, Scott D. Bromann, Donna Craft Cain, Lynn C. Cavallo, Harold W. Conick, Hon. Linda E. Davenport, Brigid A. Duffield, Hon. Edward R. Duncan, Hon. Rodney W. Equi, Joseph R. Fortunato, Kent A. Gaertner, Connie R. Gessner, Richard Guerard, Scott M. Hardek, Kathryn L. Harry, Canella E. Henrichs, Raleigh D. Kalbfleisch, John B. Kincaid, Timothy J. Klein, Lynne C. Kristufek, Timothy P. Martin, Christopher J. Maurer, Sean M, McCumber, Hon. Brian R. McKillip, Mary E. McSwain, Christine Olson McTigue, John P. McTigue, Ronald D. Menna, Steven H. Mevorah, Clarissa R.E. Myers, Myers Law LLC, Thomas M. Newman, Lisa M. Nyuli, John J. Pcolinski, Elizabeth A. Pope, Hon. Richard D. Russo, Michael J. Scalzo, David B. Sosin, Hon. Bonnie M. Wheaton, Timothy Whelan, Robert H. Wier, Robert H. Wier, Jeffrey R. York, Jeffrey N. Kowalkowski, Elizabeth L. Krueger, Paul Lanphier, Thomas E. Vega.

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2017 Tax Law Crystal Ball

The surprising presidential election outcome has sent us tax lawyers scrambling to catch up. Here are some of the probable proposals you might expect to see:

- A Reaganesque tax simplification goal similar to the sweeping changes of the Tax Reform Act of 1986.
- Reduction of income tax rates—but cutting and capping income tax deductions.
- Elimination of the "marriage penalty"; the Alternative Minimum Tax (AMT); and the Net Investment Income Tax (NIIT) surcharge.
- Elimination of the "death tax"—but creation of an onerous capital gains tax for appreciated assets within estates over $10,000,000.
- Elimination of the "stretch rules" for IRAs inherited by children and grandchildren.

In the world of politics, anything can happen! For families doing estate planning in 2017 and beyond, it will be critically important to seek proactive legal tax counsel. The estate planning of today and tomorrow is becoming ever more entwined with income tax and capital gains tax.

Diana Law, Rick Law & Zach Hesselbaum

Even if there is no estate tax for a period of years, it would be irresponsible for any family with substantial assets to take the risk that there will not be an estate tax—or other replacement tax—at the time of their death.

We are proud to provide tax-wise counsel for families in the areas of retirement, estate, business, and asset protection.

Rick L. Law, Esq.

Serving Seniors

To Mentor or Not to Mentor That is a Question

By Jay Reese

When I completed my law school education in January 1975, the hurdle of the Bar Exam loomed intimidatingly on the horizon. The Bar Review Course instructor told us, in an attempt to alleviate our angst, that we should go down to the intersection of Washington and LaSalle Streets in the Chicago Loop and start counting the passersby. He said that every fifth person would be a lawyer. Then he said if they could do it, so could we.

Several weeks and practice exams later, for me, the Bar Exam was gloriously passed. What's a new lawyer to do," hang out their shingle"? Unlike some professions, there is, as the reader knows, no formal apprenticeship or clinical training program for new law school grads. Furthermore, many new lawyers have no realistic understanding of the day to day workings of our profession, and may have formed their understanding of practicing law from depictions from television, literature and Cinema offerings.

In 1996 the United States Conference of Chief Justices, the National Center for State Courts and other interested organizations set out to assess the needs of all segments of the profession with respect to the implementation of the National Action Plan. This led to the development of the Implementation Plan that was adopted by the Conference of Chief Justices on August 2, 2001.

In 2005, Supreme Court Rule 799 established the Supreme Court Commission on Professionalism. Its mission was "…to promote among the lawyers and judges of Illinois principles of integrity, professionalism and civility; to foster commitment to the elimination of bias and divisiveness within the legal and judicial systems; and to ensure that those systems provide equitable, effective and efficient resolution of problems and disputes for the people of Illinois.

The Commission on its website further identified the problems sought to be addressed by stating that, "…members of the public looking at the legal and judicial systems from the outside are disinclined to trust that the system is fair and impartial when it doesn't mirror the general populace."

Mentoring programs, particularly for those new to the practice of law, help demonstrate the need for professionalism as well as to teach the basics of practicing law. As shown on the Illinois Supreme Court Commission on Professionalism website, today there are over 75 organizations statewide including our own DCBA which have initiated Mentoring programs. They include law schools, Bar Associations, private practice firms and government lawyer employers. A listing by each of five (5) Judicial districts provides the names and contact information for each sponsored program. These year-long programs pair a new attorney with an experienced attorney.

These mentoring programs provide a win-win opportunity for not only lawyers and the judicial system, but also for society at large and can fulfill the new admittee requirement for mentoring and/or basic skills education.

Both Mentor and Mentee participants in the program receive at least 6 hours of Professional Responsibility CLE, and participants in the DCBA program have related positive and uplifting experiences from their involvement.

The DCBA begins a new session of its program with a mandatory orientation program on February 17 at the Attorney Resource Center. Members interested in the program, whether as mentor or mentee, can find information on the dcba.org website or by contacting **Janine Komornick** at jkomornick@dcba.org. We encourage you to participate in this very worthwhile program.

Just two caveats – Client confidentiality is imperative and the program should be utilized to inspire and educate the Mentees and help them to transition from their academics to engagement in what will hopefully be a noble profession.

New Lawyer Qualifications

- Admitted to practice in IL no more than two years
- Registered as active on the IL ARDC Master Roll
- Practicing or intending to practice law in IL
- Program completion within first three years of practice

Mentor Qualifications

- Admitted to practice law in IL not less than six years
- Active and in good standing on the IL ARDC Master Roll
- Never suspended or disbarred in any jurisdiction
- No formal disciplinary complaint pending

DCBA Update

Complete, Complimentary (mostly) Competence

By Robert T. Rupp

1.1.8 Maintaining Competence
To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

Illinois Rules of Professional Conduct, 2010 as amended 2015.

Mandatory Continuing Legal Education (MCLE) is a part of every DCBA lawyer member's life. Whether received through DCBA programs, from a firm or vendor, or from any of the hundreds of for-profit and non-profit providers of legal education and training, the process of maintaining MCLE compliance can be hugely valuable, hugely expensive, or in rare unfortunate cases, hugely ineffective. The DCBA puts significant resources toward ensuring its members receive high quality CLE at significant value in programs that truly improve the practice of law in DuPage County. Over 150 hours of programming are presented through live, in-person offerings that allow DCBA members to learn and grow together. Additionally, 40 hours of programming are available through the DCBA website. By attending programs or presenting as speakers or panelists, DCBA members collectively earn over 7,000 MCLE credit hours through DCBA programming each year.

Hopefully many of you reading this just attended the 2017 DCBA Mega Meeting. This exceptional program provided 27 hours of MCLE across a variety of practice areas. The two-day program also will have/had nearly five hours of time for networking and socializing with fellow members. If you could not attend in 2017, it's not too early to consider attending or presenting on the 2018 program. The 2018 Mega Meeting call for presentations will be issued in August and all are encouraged to submit as an individual or through a DCBA Section.

A unique and highly interactive program kicks off February 25th as the Keith E. Roberts, Sr. Civil Law Trial Advocacy Program begins the first of its four Saturdays of programming providing 16 hours of MCLE Credit. This intensive program features instructors with extensive litigation and trial experience teaching and assisting a vast array of students from all different levels of experience and practice areas. This workshop provides a great primer for the inexperienced rookie nervous about jumping into trial by fire to the wily veteran simply looking to polish his/her skills. The class offers real life scenarios involving almost everything an attorney can expect during the trial involving many different types of cases. Attendees will participate in every aspect of a trial concluding with a mock trial on March 18th.

The most visible and familiar DCBA CLE offerings are the lunchtime MCLE meetings of DCBA Sections and Division which occur at least once and usually 3-4 times weekly in the Attorney Resource Center on the third floor in the Courthouse or in the classroom facilities at the Bar Center (126 S. County Farm Road). These impressive sessions, nearly always complimentary for DCBA members, provide a chance to get quick

About the Author

Robert Rupp is the Executive Director of the DuPage County Bar Association. He has worked in professional association management since 1994, serving a variety of national and international medical and legal associations, including the American Bar Association.

training, superb networking, and, of course, lunch. They are convenient and accessible, often being recorded for playback after the program with the materials posted on the hosting Sections' pages on www.dcba.org. All sessions are posted at least three weeks in advance on the DCBA calendar. You can review upcoming topics on the website or in the weekly listing included in The Docket e-mail newsletter. Quick and easy registration is through the website. Finally, in order to assist in controlling the expenses related to these sessions and to open valuable space to those unable to register for more popular sessions that fill up, anyone who registers who cannot attend is asked to cancel their reservation within 24 hours of the program by contacting the DCBA office at (630) 653- 7779.

The MCLE commitment of the DCBA to its members is a centerpiece of the value provided through DCBA membership. If you ever have ideas on how to improve our MCLE offerings, or if you would like to learn more about how you can participate as an attendee or speaker, I welcome you to call.

LRS Stats

11/1/2016 - 11/30/2016

The Lawyer Referral & Mediation Service received a total of 576 referrals, including 21 in Spanish (398 by telephone, 7 walk-in, and 171 online referrals) for the month of November.

If you have questions regarding the service, attorneys please call Cynthia Garcia at (630) 653-7779 or email cgarcia@dcba.org. Please refer clients to call (630) 653-9109 or request a referral through the website at www.dcba.org.

Administrative	1
Appeals	0
Bankruptcy	21
Business Law	6
Civil Rights	1
Collection	37
Consumer Protection	0
Contract Law	0
Criminal	130
Elder Law	5
Employment Law	49
Estate Law	27
Family Law	128
Federal Court	0
Government Benefits	2
Health Care Law	0
Immigration	4
Insurance	14
Intellectual Property	1
Mediation	0
Mental Health	0
Military Law	0
Personal Injury	52
Real Estate	85
School Law	1
Social Security	7
Tax Law	0
Workers' Compensation	5

Lawyers Lending a Hand Records Another Successful Toy Drive

Table of toys collected at the holiday party

The LLH December project was its annual toy drive collecting new, unwrapped toys for various DuPage County organizations. The drive was in full force at the DCBA Holiday party where the majority of the toys were collected from the party-goers, while others dropped their donations off directly at the Bar Center. On December 15, LLH volunteers sorted through the toys and packed them for the organizations that were able to make more children's holidays happy thanks to the generosity of DCBA members. Around 200 toys were collected for distribution.

Law School Volunteer Projects, 2nd in the Series:
DePaul University College of Law's Legacy of Public Service

By Jordan Sartell

From program to students to alumni that continue to serve the public through *pro bono* activities and volunteer work, DePaul's legacy of public service is a long and remarkable one.

For students interested in public interest lawyering, DePaul offers a wide range of academic and professional development opportunities through its Center for Public Interest Law that supports both the academic and co-curricular aspects of the public interest law program at DePaul. The center hosts an array of educational events that focus on social justice issues, professional development, and mentoring. Public interest coursework and specialized legal writing sections provide tangible opportunities for students to get hands-on experience in public interest lawyering. The DePaul Journal for Social Justice promotes the discussion of social justice policy issues offering students opportunities to build writing and leadership skills in public interest law.

Numerous *pro bono* and volunteer opportunities for students and alumni exist, including the Pro Bono & Community Service Initiative, through which DePaul students reported more than 15,000 hours of service in 2015-2016. The Neighborhood Legal Assistance Project aims to meet some of the most pressing legal needs of DePaul's neighbors in Chicago's South Loop. With the guidance of a supervising attorney, trained law student volunteers work directly with clients to assist them with sealing and expunging their criminal records and obtaining state identification cards. Through the Domestic Violence Legal Clinic's self-represented assistance project, DePaul students help *pro se* litigants file for orders of protection.

Closer to home, one opportunity of which DCBA members can avail themselves to provide *pro bono* legal consultations and referral services is the Willow Creek Legal Aid Ministry. Started in 2009 by a DePaul alumna, **Kellye Fabian**, the Legal Aid Ministry has grown from a pair of lawyers fielding first-come, first-served questions from guests of a suburban food pantry to a team of 20 volunteer attorneys, 4 paralegals, 7 translators, 5 administrative assistants, and 3 follow up volunteers. Now in its seventh year, the Legal Aid Ministry sees hundreds of clients each year and provides consultations, guidance, and referrals in 30 minute client appointments at the Willow Creek Care Center at the South Barrington campus of Willow Creek Community Church. The Ministry has assisted 619 unique clients to date in 2016 through 912 volunteered attorney hours. Significant need exists for family law practitioners to provide consultations and direction for individuals dealing with marital dissolution and child support matters. For more information on how to volunteer, contact **Ann Rand** at arand@willowcreek.org.

Legal Aid Update

Two New Programs to Assist Veterans with Legal Issues

By Cecilia Najera

Our veterans and their families have often made large personal sacrifices for the good of our country. Many veterans come back from active duty and find themselves needing legal assistance. Because the DCBA has a longstanding tradition of service, we hope to give back to those that have served our country. DCBA and Legal Aid will be working together to establish a new program to help our Veterans.

First, **Tim Whelan** and **Terry Benshoof** have coordinated efforts with the John Marshall School of Law's Veteran's Legal Support Center and Clinic to find volunteer attorneys in DuPage County willing to help Veterans with their VA benefits issues. John Marshall will complete screenings, and a student will complete a legal memo and track the file throughout the case. If the Veteran is a DuPage resident, they will be referred to Legal Aid to assign the case to a DuPage attorney. In order to help with this program, attorneys must be accredited for VA representation. To do so, you must first, file a VA Form 21a Application for Accreditation (available online); complete a 3 hour CLE seminar within a year of filing the 21a Application; and complete an additional 3 hours of program-related CLE within 3 years of accreditation. If you are interested in volunteering your assistance with this program, please visit www.jmls.edu/veterans for more information. Also, if DuPage interest is high, Legal Aid will be coordinating an in person class that will comply with the 3 hour CLE you must complete within a year of submitting the 21a Application. Please contact me if you are interested in attending.

Additionally, in conjunction with the DCBA's efforts, Legal Aid will be conducting intake/screenings for Veterans who require help with civil law issues (mainly foreclosure, family law, and for clinics where an individual may need to talk to an attorney with knowledge of how certain legal cases may affect veterans' military standing).

Legal Aid will determine whether the Applicant Veteran will be a *Pro Bono*, Modest Means, or a No Retainer assignment. Legal Aid hopes to match attorneys with knowledge of military benefits, pensions, and foreclosure issues to the appropriate cases. So, familiarity with these issues will be very helpful to the program. Currently, the program is in its infancy stages. The first Veteran's case that Legal Aid screened came to us in December as a referral from Judge **Robert Rohm's** courtroom. It was a foreclosure issue regarding a Veteran's reverse mortgage. Our office was lucky enough to get in touch with **Steven Bashaw** who agreed to take on the matter *pro bono*. Two of his own children are currently serving.

Right now, our biggest need is to find attorneys with military benefits knowledge. We would like to build a bank of attorneys that would be willing to help our Veterans with cases that may have some issues concerning their benefits, dependent benefits, and their military standing. If you are interested in helping with this program, please call me at 630-653-6212.

About the Author

A Wheaton native, Cecilia "Cee-Cee" Najera is a graduate of the University of Iowa and received her J.D. from Southern Illinois University. She served as the DCBA New Lawyer Director from 2004 to 2009 and is currently the Director of DuPage Bar Legal Aid Service.

ISBA Update

Significant Proposals Approved at the Mid-Year Meeting

By Kent A. Gaertner

The ISBA Mid-Year Meeting took place December 8th through 10th, 2016. This annual event provides an opportunity for the various committees and section councils to meet and do their work reflecting each respective area of law practice or committee function. It also provides excellent opportunities for continuing legal education courses and an opportunity to hear dynamic speakers. Of course there were also numerous networking opportunities culminating in the Supreme Court Dinner on Friday night December 9th. Chief Justice **Lloyd Karmier** was the keynote speaker for the evening.

Also on the Saturday morning of both the Mid-Year Meeting and the Annual Meeting in June, the ISBA Assembly meets to consider resolutions brought before the Assembly by the various section councils and the Board of Governors. The meeting on December 10th was particularly important as a number of very important questions were being put to the Assembly for consideration.

Perhaps the most important resolution before the Assembly was the approval of the report by the ISBA Task Force on the Future of Legal Services. The report is forty-four pages long, but it is something every attorney in Illinois should read and is available on the ISBA website. The report looks at where the practice has historically been and how new market forces and technology are totally reshaping what law practice is going to look like in twenty years. It discusses future technology likely to impact the profession in a huge way and discusses the ever-increasing impact of non-lawyer legal service providers and why that business model is growing at a very rapid rate. Lastly, it discusses public attitudes toward lawyers and the perceptions of the public for what kind of legal services it wants.

The Assembly adopted the resolution approving the report and asked the Task Force to move forward with specific ideas and programs to implement its suggestions. This will be an ongoing project for the foreseeable future.

Another important resolution adopted by the Assembly was the approval of Illinois becoming one of the states adopting the Uniform Bar Exam (UBE). This will now be sent to the Illinois Supreme Court for its consideration. If Illinois becomes a UBE state, test takers' scores can be submitted to other UBE states in lieu of taking a separate bar exam in that state. This should make it easier for new attorneys to find employment. It will also make it easier for attorneys in western and southern Illinois to practice in Missouri and Iowa, both UBE states. It should be noted that just because you pass the bar in Illinois does not necessarily mean your score will be a passing score in another UBE state. Each state sets its own passing score. Each state may also add its own requirements such as specialized state law CLE classes to the process of bar admission.

About the Author

Kent is the Eighteenth Judicial Circuit's representative on the ISBA Board of Governors. He is the principal of Kent A. Gaertner P.C. and "Of Counsel" to Springer Brown, LLC. where he concentrates his practice in bankruptcy and workouts. He was president of the DCBA in 2009/2010.

The Assembly was also asked to review the new ABA Rule 8.4(g) which was a change to the Model Rules of Professional Conduct adopted by the ABA in August 2016. This modified rule expanded the rule against attorney harassment or discrimination in any area connected with the practice of law. The proposal was reviewed and rejected by twenty-one of the ISBA section councils and supported by only three. The rest took no position. It was noted that Illinois already has a similar rule in its Rules of Professional Conduct. However the ABA modification expanded the existing rule greatly. ISBA leadership felt that the current rule was adequate to protect the public and profession. It felt the modified Rule was over broad and vague and left serious questions on how such conduct is defined and how it could be enforced. Therefore the Assembly voted to not approve adoption of the ABA modified rule.

Other business items included a review of the current annual audit of the ISBA finances and a review of the financial statements of the Association. The ISBA financials are on solid ground and look good for the foreseeable future.

If you have any questions about any proposal before the assembly or have any concerns about ISBA related matters, please let me know. Also, at the risk of being repetitive – please go on the ISBA website and read the report by the Task Force on the Future of Legal Services. It is really a fascinating and totally relevant report. Congratulations to the members of the Task Force on a job well done.

March 31, 2017 Deadline to File Petitions for Election of Officers and Directors

Any DCBA member who is interested in running for election for the office of Third Vice President or for the office of Director of the Association, should file his or her nominating petition along with other requirements, with the Executive Director of the DCBA ***not earlier than March 1 and not later than 5:00 p.m. March 31***, for the upcoming 2017 elections.

Petitions must include signatures from at least *20 Voting Members* of DCBA. The "Board of Directors Duties and Expectations" statement must also be signed and returned with the petitions along with a *photo and short (100 words or less) biographic paragraph.*

Petition forms will be available from the DCBA Executive Director no sooner than the first Monday in February (6th). Members are also referred to DCBA Bylaws, particularly Section 8 pertaining to the form of the petition and the method of voting. In particular, Section 8 provides:

Any active Member in good standing and otherwise eligible to run for a position on the Board of Directors may file his or her Nominating Petition for the office of Third Vice President or Director. The Nominating Petition shall be in writing in the form approved by the Executive Director and contain the signatures of twenty (20) or more Members eligible to vote for a candidate for the office of Third Vice President or Director. The Nominating Petition shall be made available to candidates on the first Monday in February. Completed petitions shall be filed in the office of the Association not earlier than March 1, nor later than 5:00 p.m. on the last business day of March preceding the commencement of the term of office.

There will be one (1) Third Vice President and three (3) Board of Directors members elected in the upcoming 2017 election. Directors are elected for a 3-year term.

Electronic voting will begin by April 10 and must be completed no later than the first Monday in May (1st), with election results announced by May 8. **If you require a paper ballot, please contact Robert Rupp at rrupp@dcba.org**.

This year, a Candidate Meet and Greet will be held at the Attorney Resource Center on the morning of Thursday, April 6, giving all candidates an opportunity to introduce themselves to members.

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- The Partners of Taxman, Pollock, Murray & Bekkerman have collectively tried over 100 cases to verdict in front of juries throughout Illinois and the U.S.
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The 2016 DCBA Holiday Party – A Festive Success

By Chris Maurer

'Twas the 7th of December
And at Meson Sabika
Not a lawyer was billing
And no speeches…Eureka!

The 2016 DCBA Holiday Party was held on December 7th at Meson Sabika in Naperville. We had record attendance of over 250 people, and Lawyer's Lending a Hand's annual toy drive received a record number of toy donations. The appetizers, buffet and open bar made for a delicious and festive night – the bacon wrapped dates and the tiger shrimp apps were fantastic. Guests were relaxing and mingling to live jazz and holiday music played by the *Standing Room Only Orchestra*. Desserts were provided by the folks at Nothing Bundt Cakes and Fannie May. The Holiday Party was a fun and informal way for us to wrap up 2016 in the company of our friends, colleagues, and fellow member of the DuPage Bar.

A crowd of over 250 enjoy the food, music and camaraderie at Meson Sabika

Rina Infelise and Adam Gynac enjoying the holiday party

*Trio from **Standing Room Only Orchestra** entertaining the crowd*

Your Office

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Professional Offices for Rent On 22nd in Oakbrook Terrace

1-3 furnished or unfurnished offices & 1-2 support staff cubicles are now available in newly remodeled and expanded 4th floor suite in The Oakbrook Terrace Atrium office building at 17W220 22nd Street in Oakbrook Terrace. The Atrium is near Oakbrook Shopping Center, I-88, I-294 and about 2 miles from I-355. Lower garage (covered) and upper parking is provided at no expense. Tenant and guest access to 2 conference rooms, reception area, kitchen/cafe, outdoor balcony/patio and wired phone/data jacks are all provided at no expense. Internet connection and 3 copy machines are available. **Inquiries: email Laura Koran at lkoran@ditommaso-law.com or call (331) 225-2121.**

Where to Be

In February

Keith E. Roberts, Sr. Civil Trial Advocacy Workshop

Saturday Mornings; February 25, March 4, 11, 18

- **Learn trial techniques from experienced attorneys and sitting judges**
- **Professional trial consultants include Dr. Daniel Wolfe and others from the firm, DecisionQuest**
- **4 hours of CLE each week... 16 total credits upon program completion**
- **$425 for members; $475 for non-members (half the price of other Trial Ad programs)**
- **Limited registration available**
- **NO WALK-INS ALLOWED**

Go to www.dcba.org to register


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Reputation Management

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Review Buttons

Visual buttons that when clicked, feed positive reviews to review sites and negative reviews to a private capture page for your follow up.

Online Review Feed

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Social Media Feed

Positive reviews of 4 and 5 stars are posted weekly to your Facebook page and other social media along with eye pleasing graphics.

Quarterly Reputation Reports

Monitor your average star rating, top positive reviews and most popular review sites and plan your strategy accordingly.

Boost Positive Ratings

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