

DCBA BRIEF

The Journal of the DuPage County Bar Association

Two brothers walk
into a bar association....

An interview with
**Justice Robert Thomas &
Professor Rick Thomas**

Professionalism, communication, one brother's days with the Chicago Bears, and why DCBA is spending an evening at the other brother's alma mater, The Second City in Chicago

Volume 29, Issue 2
October 2016

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The Journal of the DuPage County Bar Association
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From the Editor

Sweet Home Chicago

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.

This year's President's Trip will take place on October 20-21, 2016, in downtown Chicago, and will feature events at the Seventh Circuit Court of Appeals, the Second City Mainstage, and the famed blues hall Kingston Mines. A preview of the trip and a Schedule of Events are included in this issue.

On the cover of this month's issue, we celebrate two DuPage County brothers, Professor **Rick Thomas** and Justice **Robert Thomas**, and the contributions that each has made to the great cultural institutions of Chicago - Rick Thomas as an actor at the Second City Theatre and Robert Thomas as a kicker for the Chicago Bears - before launching their careers in public service. Inside, we feature a conversation with DCBA President **Ted Donner** and the Thomas brothers covering a wide range of topics.

Chicago's most famous nickname may very well be "The Windy City." I've lost count on the number of times I've heard out-of-towners and even some locals insist that Chicago was nicknamed The Windy City because of the chilly breeze off Lake Michigan that seemingly catches the entire city by surprise every winter. Not so. According to the Chicago Historical Society, the phrase "Windy City" was first used to describe Chicago by columnist **Charles Dana** from the New York Sun. In an editorial advocating for New York's bid for the 1893 World's Columbian Exposition, Mr. Dana complained about the promises made by Chicago politicians in Chicago's bid for the exposition. Mr. Dana concluded his editorial by imploring the exposition authorities not to get fooled by the

"nonsensical claims of that windy city." Mr. Dana's name for Chicago stuck, but his point didn't. Chicago was awarded the Columbian Exposition.

I'm reminded of Mr. Dana's words because election season has arrived and all of the promises that come with it. This year, we've seen many great people run for elective office, and we've heard a great many opinions about those running for elective office as well. It seems like every election cycle, I am asked by friends and family about the local Judge's races. Perhaps, it is because they recognize that lawyers have the unique ability to evaluate candidates to the judiciary. DCBA evaluates candidates through its judiciary committee and through a joint poll that the DCBA conducts with the ISBA. The results of the joint ISBA/DCBA poll of judicial candidates will be available on the DCBA website once completed.

The DCBA President's Trip begins with a CLE event at the Seventh Circuit, during which the Seventh Circuit Justices will hear arguments on pending cases and then deliberate in the presence of the attendees. To help familiarize those of us who are not accustomed to practicing before the Seventh Circuit, **Ron Menna** leads off the Articles section with an excellent piece on Motions for Summary Affirmance in the Seventh Circuit. We also have articles by **Daniel Fabbri** covering the assignment of insurance claims and **Christine McTigue** covering jurisdictional issues in family courts. **Brian Dougherty** edited our monthly case law updates and gave them an employment law theme. Please enjoy! □

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The Role of the Bar in Ensuring the Election of a Qualified and Independent Judiciary

By Ted A. Donner



Ted A. Donner is the President of the DuPage County Bar Association. The owner of Donner & Company Law Offices LLC in Wheaton, Illinois, his practice is concentrated in commercial litigation and transactional work for small business. Recognized as DCBA's Lawyer of the Year in 2011, he has been AV-Rated and recognized by Super Lawyers in each of the last ten years. He is an Adjunct Professor with Loyola University Chicago School of Law and the author of two treatises for Thomson Reuters (West), including *Jury Selection: Strategy & Science* and *Attorneys Practice Guide to Negotiations*.

Candidates for judge are subject to electoral whim far more often than they should be.¹ In an election year marked by as much voter apathy as this one appears to promise, however, things could get even worse.² What should be a carefully reasoned decision by the electorate could prove something of a crap shoot, which makes it particularly important that those who do vote have at least some understanding about who they are voting for.

More informed voters are more likely to actually vote, after all. As the Pew Research Center concluded in 2006, “[p]olitical knowledge is key. Six-in-ten ‘intermittent’ voters say they sometimes don’t know enough about candidates to vote compared with 44% of ‘regular’ voters, the single most important attitudinal difference between ‘intermittent’ and ‘regular’ voters identified in the survey.”³ People are simply more likely to vote if they have at least some working knowledge of what they’re doing. That makes those who can help them gain such an understanding, like lawyers in judicial elections, particularly important in elections like this one.

Lawyers don’t just compare notes with each other, after all. We are asked by our families, our friends, our neighbors and our clients, who to vote for. We are asked because of an obvious and pervasive expectation that, because we work alongside those running for judge,

we must have at least some insight into who among them would be best suited for the job.⁴

Not to cue “Old Glory” too early in this column, but that is an expectation we should try to live up to. It’s been said, repeatedly, after all that, “[a]s members of the legal profession, we serve as the guardians and caretakers of the American justice system. Our responsibilities include improving public understanding of the justice system and sustaining public confidence in it.”⁵

As a profession, we have sought to satisfy that responsibility through the creation of such groups as the American Judicature Society (which studied the ways in which judges were elected or selected for over 100 years)⁶ and the Informed Voters Project (which encourages members of “voluntary bar organizations to become involved as... educators regarding our courts”).⁷ Here in DuPage County, our bar has sought to improve public understanding through the work of our Public Interest and Education Commission (a topic for another day) and the work of our Judiciary Committee.

Our Judiciary Committee is composed of lawyers dedicated to providing appropriate and informative rankings for judicial candidates to the court and to the public, after exhaustively interviewing references, reviewing credentials, (*Continued on page 6*)

1. See, e.g. Stewart, O'Reilly? Irish Name Continues in Cook County Judicial Elections, Chicago Daily Observer (December 17, 2015) (“It is correct, quite literally, that many Cook County judges are conceived, not made or elected. The path to the bench begins in the womb, when the XX chromosomes prevail over the XY chromosomes, and a female baby is born. The journey continues, provided the mother (or the parental unit) has an Irish-surname...”).

2. Timm, Donald Trump Is Down-Ballot Republicans' Biggest Risk, NBC News (June 17, 2016) (“Trump, 2016’s polarizing presumptive Republican nominee, could have an unusually large role in affecting down-ballot races”). See also Dizikes, Record Low Voter Turnout in Cook, DuPage Counties, Chicago Tribune (March 19, 2014) (“DuPage County... posted an 18.9 percent voter turnout, or about 109,000 people”).

3. Who Votes, Who Doesn't and Why, Pew Research Center (October 18, 2006).

4. See, e.g. Illinois State Bar Association, Judicial Evaluations: How It Works, www.isba.org/judicialevaluations (last reviewed August 9, 2016) (“The lawyers who practice alongside candidates and judges are in a unique position to assess the professional qualities that are necessary for good judges”).

5. Tanenbaum, Educating the Public About the Law, ABA Division for Public Education (2001).

6. *But see* Weiss, American Judicature Society is Dissolving, Problems With 'Membership Model Cited, ABA Journal (October 1, 2014).

7. Leali, The Informed Voters Project, 50 Florida Bar Journal 1, 22 (May 2016).

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 DuPage County Bar Association
 126 South County Farm Road
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DCBA Brief welcomes members' feedback.

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

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President's Message *(Continued from page 5)*

and studying the biographies of those candidates. It is chaired this year by **James Laraia** and its membership also includes **Susan Alvarado, Joshua Bedwell, Robert Berlin, Lynn Cavallo, Michael Cetina, Dion Davi, Kimberly Davis, Hon. Ted Duncan (ret.), Mark Farrow, Dennis Harrison, Patrick Hurley, Angela Iaria, Jonathan Linnemeyer, Jeffrey Muntz, Kristen Nevdal, Donald Ramsell, Chuck Roberts, and Steven Ruffalo.** What this committee does, like others studying judicial performance and potential, is both remarkable and important. It helps the court, it helps the electorate in DuPage County, and it helps our members get a better understanding of how to answer the questions they're constantly getting from their neighbors down the street.

It is fairly well established that "the opinions of attorneys are the backbone of all [Judicial Performance Evaluation] programs."⁸ It is likewise true that judicial evaluation programs are important to the electorate. Indeed, one study found that as many as 82% of voters who were provided with judicial evaluations found that information helpful in deciding how to vote.⁹ So, as lawyers, we owe it to ourselves and to our community to ensure we know who the candidates are, what their experiences have been, and what they stand for. We need to familiarize ourselves with the work of the DCBA Judiciary Committee and the ISBA/DCBA Judicial Candidate Survey and we need to be sure we've done enough independent research so that we can confidently speak to the issues. We're going to be asked, we need to have answers. □

8. Brody, Judicial Performance Evaluations by State Governments: Informing the Public While Avoiding the Pitfalls, 21 The Justice System Journal 333, 338 (2000).

9. See, e.g. Esterling, Judicial Accountability the Right Way, 82 Judicature 206, 209-10 (March-April 1999).

JUDICIAL CANDIDATE REVIEWS FROM 2016 PRIMARY ELECTION

Candidate	DCBA Judiciary Committee Rating*	ISBA/DCBA Judicial Advisory Poll**
Liam C. Brennan	Highly Recommended	Recommended (95.63%)
Paul M. Fullerton	Highly Recommended	Recommended (97.89%)
Brian F. Telander	Not Reviewed	Recommended (96.59%)
Jennifer S. Wiesner	Recommended	Not Reviewed

* DCBA's Judiciary Committee considers applicants who submit requests for review according to established guidelines. Ratings are given according to scores realized from a multi-factor review. A candidate may be "Highly Recommended," "Recommended" or "Not Presently Recommended."

** The ISBA/DCBA Judicial Advisory Poll gathers opinions from lawyers who chose to respond from within the county. The opinions expressed are thus compiled from those of responding lawyers and not those of the Illinois State Bar Association or the DuPage County Bar Association.

Articles

Articles Editor



Chris Maurer

Christopher J. Maurer is an attorney with the law firm of Anderson & Associates, P.C., where he has concentrated his practice in family law for over a decade in DuPage, Cook, Kane, Will and Kendall Counties. He is a trained Guardian ad Litem and certified Mediator for the 18th Judicial Circuit. Chris received his Juris Doctorate from Loyola University School of Law in 1997.



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Motions for Summary Affirmance in the Seventh Circuit

By Ronald D. Menna, Jr.

If you represent an Appellee before the Seventh Circuit and the Appellant's Brief is so deficient that no appealable issue has been raised, do you have to wait to raise the issue in the Appellee's Brief? Simply put, no. The Seventh Circuit allows an Appellee to move simplify the appeal process by allowing a summary affirmance. Thus, in the right case, an Appellee can achieve an affirmance without having to file a full Brief or having the need for oral argument.

The Federal Rules of Appellate Procedure ("FRAP") do not specifically provide for a summary affirmance. Generally the power to decide these motions is found in the statutory authority to decide appeals¹, the FRAP's provisions allowing the Court to be flexible and to decide motions.² The Seventh Circuit's Practitioner's Handbook for Appeals also notes that motions for summary affirmance may be granted.³

Summary proceedings are an exception to the normal course of considering an appeal and, in any situation, ought to be employed only when the appropriateness of such a course is clear and only with great solicitude for the substantial rights of the parties.⁴ "A party seeking summary disposition bears the heavy burden of establishing that the merits of his case are so clear that expedited action is justified. To summarily affirm an order of the district court, this court must conclude that no benefit will be gained from further briefing and argument of the issues presented."⁵ However, summary disposition is appropriate, "when the position of one party is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists."⁶ That is, "Motions papers, in con-

1. 28 U.S.C. § 2106 (giving federal appellate courts the broad authority to "affirm ... any judgment, decree, or order of a court lawfully brought before it for review ... as may be just under the circumstances").

2. Fed. R. App. P. 2 (permitting an appellate court to "suspend" its rules for "good cause," and to "order proceedings as it directs"); 7th Cir. R. 2 (same); Fed. R. App. P. 27 (motion practice); see also, *Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994) (citing Fed. R. App. P. 2 as a basis for the Court's authority to decide motions for summary disposition).

3. Seventh Circuit Practitioner's Handbook for Appeals, IX. Motions and Docket Control, p. 73 (2014 Ed.) ("On occasion, when the motion papers, in conjunction with the record and the district court's opinion, show the appropriate disposition of the appeal with sufficient clarity that a call for briefs would be nothing but an invitation for the parties to waste their money and the court's time, the court on its own initiative, and with the agreement of the entire motions panel, may summarily affirm (or reverse) the district court's judgment even though the motion does not ask for such relief.") (Found at, <http://www.ca7.uscourts.gov/forms/Handbook.pdf>, last visited August 9, 2016.)

4. *Williams v. Chrans*, 42 F.3d 1137, 1139 (7th Cir. 1994) (Citation omitted).

5. See, *Taxpayers Watchdog, Inc. v. Stanley*, 819 F.2d 294, 297-98 (D.C. Cir. 1987); see also, Seventh Circuit Practitioner's Handbook for Appeals, IX. Motions and Docket Control, p. 73 (2014 Ed.) ("summary disposition will be granted when the "briefs would be nothing but an invitation for the parties to waste their money and the court's time") (Found at, <http://www.ca7.uscourts.gov/forms/Handbook.pdf>, last visited August 9, 2016.)

6. *Joshua v. United States*, 17 F.3d 378, 380 (Fed. Cir. 1994).

junction with the record and the district court's opinion, may show the appropriate disposition with sufficient clarity that a call for briefs would be nothing but an invitation for the parties to waste their money and the court's time."⁷

The Seventh Circuit's standard was set forth in *United States v. Fortner*,⁸ where the Court held:

"Motions for summary affirmance generally should be confined to certain limited circumstances. Summary disposition is appropriate in an emergency, when time is of the essence and the court cannot wait for full briefing and must decide a matter on motion papers alone. Summary affirmance may also be in order when the arguments in the opening brief are incomprehensible or completely insubstantial. Finally, summary affirmance may be appropriate when a recent appellate decision directly resolves the appeal. When a motion for summary affirmance is appropriate, it should be filed earlier rather than later – not right before the merits brief is due.

"Short of the foregoing (or substantially similar) situations, the government and other appellees should follow the usual process: file a merits brief and argue the case in the ordinary course. This appeal may be straightforward, but we are not convinced that it is so insubstantial that full briefing would not assist the merits panel that decides it."

Other Circuits have held that the motion is appropriate where there is no "substantial" question for the Court to decide.⁹

7. *Mather v. Mundelein*, 869 F.2d 356, 357 (7th Cir. 1989).

8. *United States v. Fortner*, 455 F.3d 752, 754 (7th Cir. 2006) (citations omitted).

9. See, *Joshua*, 17 F.3d at 380 (summary disposition is proper "when the position of one party is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists"); *Sills v. Bureau of Prisons*, 761 F.2d 792 (D.C. Cir. 1985) (granting a motion for summary reversal because the merits of the appeal were "clear"); *Groendyke Transp., Inc. v. Davis*, 406 F.2d 1158 (5th Cir. 1969) (summary disposition is appropriate where "the position of one of the parties is clearly right as a matter of law so that there can be no substantial question as to the outcome of the case," or where "the appeal is frivolous") (citations omitted).

10. See, *Collins v. Illinois*, 554 F.3d 693, 696 (7th Cir. 2009) (Appellant's "brief, however, substantially complies with Rule 28, [citation omitted], and the content of the brief is enough to satisfy us that summary affirmance is not appropriate in this case."); compare, *In re Leventhal*, 2013 U.S. App. LEXIS 4767, *1-2 (7th Cir. February 6, 2013) ("This court has, however, carefully reviewed the orders of the district court and the bankruptcy court, and the appellant's brief. Based on this review, the court has determined that further briefing would not be helpful. . . . The appellant's brief does not present any substantial reason to doubt the soundness of the opinions written by the district and bankruptcy judge.").

11. See, D.C. Circuit Handbook of Practice and Internal Procedures, VII. Motions Practice, p. 28 (as Amended through March 1, 2016) (dispositive motions must be filed within 45 days from docketing) (Found at [https://www.cadc.uscourts.gov/internet/home.nsf/Content/VL%20-%20RPP%20-%20Handbook%202006%20Rev%202007/\\$FILE/HandbookMarch2016Final.pdf](https://www.cadc.uscourts.gov/internet/home.nsf/Content/VL%20-%20RPP%20-%20Handbook%202006%20Rev%202007/$FILE/HandbookMarch2016Final.pdf), last visited August 9, 2016); 3rd Cir. R. 27.4(b) (motion for summary action should be filed before the appellant's brief is due); 4th Cir. R. 27(f) ("Motions for summary disposition should be made only after briefs are filed."); 9th Cir. R. 3-6 (the motion for summary disposition can be filed "At any time before the completion of briefing"); 10th Cir. R. 27.2(A)(3)(a) (motions must be filed within 14 days of the filing of the notice of appeal, unless good cause is shown).

12. *Ramos v. Ashcroft*, 371 F.3d 948, 949-50 (7th Cir. 2004) (emphasis in original).

Motions for summary affirmance based upon a deficient Appellant's Brief are rarely granted.¹⁰

Unlike other Circuits, the Seventh Circuit does not have any local rule regarding when a motion for summary affirmance can or must be filed.¹¹ In the usual case the motion should be filed well in advance of the Appellee's Brief due date. In *Ramos v. Ashcroft*,¹² the Court denied a motion for summary affirmance that was filed the day the Appellee's Brief was due, holding:

"Filing motions in lieu of briefs, a form of self-help extension, has become increasingly common but is not authorized by any rule, either national or local. It is fine to file a motion to affirm, to dismiss for want of jurisdiction, to transfer to another circuit, and so on; the problem lies in the belief that any motion automatically defers the deadline for filing the brief. A brief must be tendered when due. If a party needs more time, a request for an extension must be filed in advance of the due date. If extra time has not been granted in advance, then the litigant must file its brief as scheduled..If events justify a last-minute motion concerning jurisdiction, venue, sanctions, or any other subject, then that motion may accompany the brief; a motion is not a substitute for a brief."

The *Fortner* Court, which denied a motion filed five days before the merits brief was due, also held that if the basis for a summary affirmance is discovered shortly before the Appellee's brief is due, then "a last-minute motion, if necessary, should be

About the Author



Ronald D. Menna, Jr. is a principal in the Chicago law firm of Fischel & Kahn, Ltd., with a focus on civil appeals, and chancery and commercial litigation. He is the Chair of the DCBA Appellate Law and Practice Section. He earned his B.A. in Political Science and Economics from the University of the South and his juris doctor from the University Of Illinois College Of Law.



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filed along with a timely brief, not in place of it.”¹³ However, in *Dupuy v. McEwen*,¹⁴ the Court explained that *Fortner* Court was concerned about the last minute nature of the motion then before it. It also noted that, as quoted above, *Fortner* provides three examples in which a last minute motion is proper.¹⁵

Finally, as a practical matter, these motions should not be filed lightly. The Seventh Circuit has repeatedly held that if the correct circumstances are not present, they are a waste of the Court’s time and resources.¹⁶ Thus, motions for summary affirmance can be a useful tool in quickly and efficiently resolving an appeal where the Appellant is clearly entitled to relief and the Court can decide the issue on the papers and record. If successful, you will be able to obtain an affirmance without having to file a full brief on the merits or attend oral argument. □

13. *United States v. Fortner*, 455 F.3d 752, 754 (7th Cir. 2006).

14. *Dupuy v. McEwen*, 495 F.3d 807, 808 (7th Cir. 2007).

15. *Id.*; see also, Seventh Circuit Practitioner’s Handbook for Appeals, IX. Motions and Docket Control, p. 73 (2014 Ed.) (“Counsel are reminded that a brief must be filed with due. If events justify a last-minute motion concerning jurisdiction, venue, sanctions, or any other subject, that motion may accompany the brief; a motion is not a substitute for a brief. *Ramos v. Ashcroft*, 371 F.3d 948 (7th Cir. 2004).” (Underline in original.)) (Found at, <http://www.ca7.uscourts.gov/forms/Handbook.pdf>, last visited August 9, 2016.)

16. *United States v. Lloyd*, 398 F.3d 978, 980 (7th Cir. 2005) (Appellant’s motion to dismiss “also creates busywork for the court and its staff. . . . By then seven appellate judges (plus two or three staff attorneys) could have become involved in three waves of motions and briefs. And for what? Just because one attorney let an appeal get too close to a briefing deadline and decided to file a three-page motion in lieu of a ten-page brief?”); *Fortner*, 455 F.3d at 754 (motions for summary affirmance are disfavored in part because, if denied, they may increase from three to six the number of judges who must consider the merits); *Custom Vehicles, Inc. v. Forest River, Inc.*, 464 F.3d 725, 728 (7th Cir. 2006 (same)).

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Post Loss Assignment Of Insurance Claims: A Misunderstood Practice Gaining Traction In Illinois

By Daniel C. Fabbri

With recent economic issues in Illinois, those doing repair work for property damage caused by weather have sought ways to ensure they will be paid for the work they do. This has resulted in a large uptick in the use of assignments of claims by property owners seeking to assign the benefits of their insurance coverage to others (their contractors) in order to have repair work completed. The use of these assignments, however, has outpaced the dissemination of the rules applicable to them. As a result, there is confusion in Illinois as to just what effect these assignments have on those involved in the process. This article aims to clear up any possible confusion for those who may come across situations where an assignment of claim is employed.

Some attorneys are familiar with the assignment of a claim in a litigation context where, through settlement, the claim of one party is assigned to another. This has been fairly common in Illinois for some time, and is a well-recognized practice. In other parts of the country, however, various other types of claims, specifically property damage insurance claims, are often assigned by an insured to another party where litigation is nowhere on the horizon. While that practice has been recognized in Illinois for many years, it was not something that was often employed. The practice has, however, been common in areas on the Gulf coast for decades in connection with storm damage claims. The practice is moving north, and as a result, the use of assignments of benefits or claims is growing in Illinois, and creating difficulties for many involved who are unfamiliar with the practice, including both seasoned attorneys and major insurers.

Background Law

The current keystone case on the issue of post loss assignments of insurance claims in Illinois is *Illinois Tool Works, Inc. v. Commerce And Industry Insurance Co.*¹ That 1st District case essentially held that a post loss assignment by an insured is valid.² The Court further found that such assignments are valid even if the relevant insurance policy contains a clause requiring insurer consent to assignment, and the insured does not seek the insurer's consent before assigning the claim.³ The issue in that case was the defense of a third party environmental contamination suit in which, through a purchase of assets, the original policyholder transferred the rights to the defense to the purchasing party without the consent of the insurer (and long after the underlying contamination at issue had taken place).⁴ "Because the contamination existed well before the sale of Binks' assets in 1998, any chose in action, *i.e.*, any future claim by Binks for its agreed-to defense and indemnification necessitated by that contamination, was assignable in 1998."⁵ The court made this determination while holding that even if the final dollar amount of the defense or liability was in question, the underlying risk was the same. Thus, no consent to the assignment was needed from the insurance company who wrote the coverage.⁶ The court in *Illinois Tool Works* expanded the first district appellate court holding in *Loyola University Medical Center v. Med Care HMO*, where that earlier case found, in a similar fashion, that post loss health insurance benefits can be assigned without advanced permission of the insurer.⁷ However, the holding in *Illinois Tool Works* was nothing new, as the validity of a post loss assignment of a policy of insurance for property loss without notice or consent to the insurer is something that was set forth by the Illinois Supreme Court in *Ginsburg v. Bull*

1. *Illinois Tool Works, Inc. v. Commerce And Industry Insurance Co.*, 2011 IL App (1st) 093084.

2. *Id.* at ¶ 47.

3. *Id.* at ¶¶ 35-38.

4. *Id.* at ¶¶ 10-12.

5. *Id.* at ¶ 44.

6. *Id.* at ¶¶ 37-38.

7. *Loyola University Medical Center v. Med Care HMO*, 180 Ill. App. 3d 471 (1st Dist. 1989).

Dog Auto Fire Ins. Ass'n Of Chicago in the 1920s.⁸ The *Illinois Tool Works* decision relies heavily on *Ginsburg* as both involved underlying claims and coverage for property loss or damage.

Practical Application And Problems

Despite the long lineage of Illinois cases establishing that a post loss assignment of an insurance policy or claim is valid, many still wrongly believe that if an insurance policy contains language requiring insurer approval for assignment, that even if the assignment happens post loss, the assignment is not valid unless agreed to by the insurer in advance. This confusion stems in part from a lack of statutory authority on the practice, making it a nebulous concept for those outside of the legal profession. The logic employed by many is that an insurance policy is a contract, and that since that contract is with the original policyholder, all that matters is the language of the contract as between those two parties. Thus, the insurer sometimes believes it is only required to deal with the party with whom they contracted no matter what. It was clear in language quoted in *Ginsburg*, “An assignment after loss does not violate the clause in the policy forbidding a transfer even if the clause reads before or after a loss.”⁹ *Ginsburg* rationalized this by saying:

“After the contract has been fully executed and nothing remains to be done except to pay the money, a different rule applies. The element of the personal character, credit, and substance of the party with whom the contract is made is no longer material, because the contract has been completed and all that remains to be done is to pay the amount due. The claim becomes a chose in action, which is assignable and enforceable...”¹⁰

Thus, it is incontrovertible that if an insured executes an assignment of a policy or claim post loss, the insurer is obligated to honor that assignment, as, to whom the insurance proceeds are paid is not a concern of the insurer as it is not impacted by that issue. Disregarding a proper assignment post loss is itself improper, as an assignment of a property damage claim, post-loss, is entirely valid, based on the language of cases such as *Ginsburg* and *Illinois Tool Works*. This is the case even when the policy at issue contains language requiring approval by the insurer for the claim to be assigned, and the original policy holder never asks permission.

That is the biggest sticking point in the current era: not the assignment itself, but insured’s assigning their claims or rights to payment to third parties without first asking for the insurer’s approval. Once again, Illinois courts have viewed this as an issue of assumed risk: when the claim is assigned after the loss has been incurred, the insurer is not taking on any additional risk through the assignment, as, at that point, all that is left to determine is the amount of damages and pay the claim. That is why it is treated as a “chose in action.” Who is getting paid for those damages is irrelevant to the reasoning, and thus, the courts have repeatedly found that there is no reason for insurers to restrict the assignment since the assignment has no effect on the position of the insurer.

It is not just insurers that do not understand this process. Attorneys too are not always clear on the validity of a post loss assignments, feeling that the policy language controls, as they are not familiar with the case law with respect to post-loss assignments, and property damage insurance policies often seem clear on the issue. Those involved in situations where post loss assignments have been or could be used need to understand the playing field based on the law in Illinois. This includes those to whom the claims can be assigned.

The use of assignments of claims and/or benefits is becoming more and more common in situations where third-parties are going to do repair or restoration work related to the loss at issue, and want to be assured of payment. They are the ones to whom these claims are often being assigned. For example, property restoration after a catastrophic loss is a growing area where this is coming to the forefront in Illinois. This stems from the use of such assignments in areas of the country such as the Gulf coast region, where storm damage covered by insurance claims is a regular occurrence. However, in those

About the Author



Daniel Fabbri obtained a B.S. in finance from the University of Illinois Urbana-Champaign. Subsequently, Mr. Fabbri graduated from DePaul University with a joint JD/MBA degree. He is the founder of Fabbri Law Offices, P.C. in Wheaton, which focuses on representing small businesses, as well as handling litigation in both commercial disputes and personal injury cases. Mr. Fabbri can be reached at: dfabbri@fabbrilawoffices.com.

8. *Ginsburg v. Bull Dog Auto Fire Ins. Ass'n Of Chicago*, 328 Ill. 571 (1928).

9. *Id.* at 574.

10. *Id.*

“ Thus, it is incontrovertible that if an insured executes an assignment of a policy or claim post loss, the insurer is obligated to honor that assignment, as, to whom the insurance proceeds are paid is not a concern of the insurer as it is not impacted by that issue.

areas of the country (such as, Florida) the body of law on the use of post loss assignments, and the insurance code under which insurers operate, is much more developed for those types of claims, making the rules as to how and when these assignments can be used much better delineated.

In Illinois, statutory law governing storm repair work covered by insurance is slowly but surely developing and catching up with the times. For example, the Home Repair and Remodeling Act was recently amended to include specific provisions and required disclosures in contracts related to work to be done due to damaging weather, where that work will be paid for through insurance proceeds.¹¹ This new language became effective in 2012.¹² The amendment, however, still has not codified the issue as to the enforceability of assignments of claims in these situations, and there is not a statutory framework in place in Illinois guiding the process of assigning these types of claims to those doing the work for which the insurance was designed to pay. At present, the case law described above sets forth the guidelines for practitioners.

Assignment of all policy rights by an insured post loss, as discussed in *Illinois Tool Works*, can lead to further disputes between insurers and those to whom the insureds assign their rights. While the cases heretofore have indicated that once a loss has been incurred all that is left to do is pay the dam-

ages, in practical application, the situation is not always that simple. When the amount of the loss is not clear, or is disputed, further complexity can surface. For example, the process of “appraisal” that is being invoked more and more often by both insurers and insureds is frequently brought into play, and that process itself can become a disputed component of the claim assignment.

“Appraisal” is a dispute resolution process (similar to arbitration) that occurs between an insurer and insured, based on provisions contained in insurance policies. It is considered an efficient method to resolve disputes as to the value of a claim or loss.¹³ The process generally works with each side retaining an independent appraiser to value a claim, and if those two individuals do not agree on the value of the damage or cost to repair the damage, then a third, neutral appraiser (known as an “umpire”) is enlisted to decide the discrepancies. Illinois treats appraisal clauses similar to arbitration clauses, and enforces them.¹⁴ When applicable under the policy language, the appraisal process is favored by courts as an efficient method of resolving disputes outside of a courtroom, as informal methods of dispute resolution like appraisal are the preferred method of resolution, over litigation.¹⁵ It has been the case in Illinois for many years that informal procedures to resolve disputes are preferred over formal litigation.¹⁶ In fact, Illinois so strongly favors appraisal to resolve disputes as to the value of a claim that, pursuant to statute, when an insured requests appraisal under a fire and extended coverage insurance policy, and the full amount of the appraised loss is upheld by agreement of the appraisers or umpire, the appraisal and umpire fees “shall be paid by the insurer.”¹⁷

Appraisal poses a unique wrinkle with respect to the assignments of insurance claims or benefits. Beyond the issue of whether the claim can be assigned at all, many insurers dispute third party assignees of claims having the right to invoke appraisal, believing that is a contractual right of the policy holder that cannot be assigned. The situation becomes even more complicated when, if after a claim is assigned, the question evolves into not just the amount of the covered loss, but if some or all of the loss is covered by the policy at all. Most

13. See, e.g., *Lytle v. Country Mutual Insurance Company*, 2015 IL App (1st) 142169.

14. *Beard v. Mount Carroll Mut. Fire Ins. Co.*, 203 Ill. App. 3d 724, (5th Dist., 1990).

15. *Hobbs v. State Farm Mutual Automobile Ins. Co.*, No. 5-01-0427, 335 Ill. App. 3d 1219 (5th Dist. 2003).

16. *FTI Intern., Inc. v. Cincinnati Ins. Co.*, 339 Ill. App. 3d 258 (2nd Dist. 2003), citing *Reed v. Doctor's Associates, Inc.*, 331 Ill. App. 3d 618 (5th Dist. 2002).

17. 215 ILCS 5/397.05.

11. 815 ILCS 513/18

12. *Id.*

typical appraisal provisions make reference to the amount of a loss being subject to appraisal, and not whether a loss is covered in the first place being an appraisable matter.¹⁸ Even when the issue is simply one of the value of the claim, disputes can arise between insurers and those to whom the claims have been assigned regarding whether the assignee of the claim has the right to invoke appraisal under the policy, despite the fact that the law in Illinois is clear as to the ability to assign *all* rights under the policy, as set forth in *Illinois Tool Works*. This creates the troublesome scenario where one party refuses to honor the appraisal provision, based on an assignment of some or all of an insured's rights, and the only recourse would seem to be to turn to the courts – the very scenario the appraisal provision in the policy was intended to prevent.

18. *Lytle*, 2015 IL App (1st) 142169, ¶ 26.

Conclusion

Illinois law continues to evolve on this up and coming issue; however, many of the claims involving assignments are smaller in size, resulting in limited litigation and thus, limited appellate decision-making that would clarify how and when the practice is proper. As the practice of claims assignment continues to grow in Illinois, the author hopes that the body of law on the matter will also grow, leading to clarity for contractors, attorneys, and insurers as to what is recognized in Illinois as a proper assignment of claim, as well as what the scope of rights are that can be assigned by an insured to a third party. □



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If the (International) Shoe Fits – Jurisdiction Issues in Family Law Cases

By Christine Olson McTigue¹

Introduction

We live in a mobile society. People move from state to state, and even from country to country. What happens in a case when a party does not live in the forum state or has moved from the state where the original order was entered? Jurisdiction issues often arise. These issues can be governed by the common law or statute. While a discussion of all possible jurisdiction issues is beyond the scope of any one article, this article will address some issues involving personal and subject matter jurisdiction that routinely arise in family law cases.

Principles of Personal Jurisdiction

In a dissolution of marriage action, the circuit court has in rem jurisdiction over the parties' marital status pursuant to the Illinois Marriage and Dissolution of Marriage Act ("IMDMA").²

In personam jurisdiction, or jurisdiction over the person, is required to determine property and financial issues, including child support and maintenance.³ A determination of personal jurisdiction involves an analysis of the due process safeguards set forth by the United States Supreme Court in *International Shoe Co. v. State of Washington*,⁴ that a defendant must have certain minimum contacts with the state such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice.

Minimum contacts must be based on some act by which the defendant purposefully avails himself of the privilege of conducting activities in the state, thus invoking the benefits and protections of its laws.⁵ Federal due process analysis considers whether: (1) the nonresident defendant had minimum contacts with the forum state such that there was fair warning that he may be haled into court there; (2) the action arose from, or is related to, the defendant's contacts with that state; and (3) it is reasonable to require the defendant to litigate there.⁶

In *Kulko v. Superior Court of California*,⁷ the Supreme Court addressed due process in the context of a family law case. The Kulkos were married in New York. They had two children. Sharon Kulko obtained a divorce in Haiti and then moved to

1. The author wishes to thank Elizabeth Krueger for the idea for this article, and William Scott for suggesting the title.

2. *In re Marriage of Hoover*, 314 Ill.App.3d 707, 709 (4th Dist. 2000).

3. *Gleiser v. Gleiser*, 402 Ill. 343, 345 (1949).

4. 326 U.S. 310 (1948).

5. *Graver v. Pinecrest Volunteer Fire Department*, 2014 IL App (1st) 123006 ¶ 14.

6. *Graver* at ¶15.

7. 436 U.S. 84 (1978).

California. The children remained with their father, Ezra, in New York, until the daughter asked to move to California. Ezra agreed. The son later joined his mother and sister in California. Sharon filed an action in California to recognize the Haitian divorce, obtain custody, and increase child support. Ezra was served and moved to quash summons on the grounds that he was not a resident of California and lacked sufficient minimum contacts with that state.

The Supreme Court agreed. The Court stated that the unilateral act of a person who claims some relationship with the nonresident defendant cannot satisfy jurisdiction requirements since it is essential that there is some act by which the defendant availed himself of the privilege of conducting activities in the forum state. Ezra's consent to his daughter moving to California did not establish minimum contacts because he did not purposefully avail himself of the benefits and protections of California law. In addition, the Court concluded that basic considerations of fairness pointed to New York as being the proper state to adjudicate the dispute since Ezra merely acquiesced in his daughter's wish to move.

Methods to Acquire Personal Jurisdiction

Jurisdiction over a nonresident can generally be acquired two ways. The first way is to personally serve the nonresident with process in this state.⁸ In *Burnham v. Superior Court of California*,⁹ the Supreme Court upheld this basis to obtain jurisdiction over a nonresident as it comports with traditional notions of fair play and substantial justice, noting that it was firmly established in our jurisprudence that state courts have personal jurisdiction over nonresidents physically present in the state.

The second way to obtain jurisdiction if service is made out of state is under the Illinois long-arm statute, found in the Code of Civil Procedure.¹⁰ Relevant to a dissolution of marriage case, section 2-209(a)(5) of the long-arm statute provides:

With respect to actions of dissolution of marriage, declaration of invalidity of marriage and legal separation, the maintenance in this State of a matrimonial domicile

at the time this cause of action arose or the commission in this State of any act giving rise to the cause of action.¹¹

The terms of the long-arm statute must be considered in light of the federal due process requirement of minimum contacts.¹² Due process requirements are the outer boundaries of a state's authority to proceed against a defendant.¹³

Support Obligations

The Uniform Interstate Family Support Act ("UIFSA") governs both child support and spousal support orders.¹⁴ Section 201(a) of the UIFSA provides for jurisdiction as follows:

- (a) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:
- (1) the individual is personally served with notice within this State;
 - (2) the individual submits to the jurisdiction of this State by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
 - (3) the individual resided with the child in this State;
 - (4) the individual resided in this State and provided prenatal expenses or support for the child;
 - (5) the child resides in this State as a result of the acts or directives of the individual;
 - (6) the individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse;

About the Author



Christine McTigue has her office in Wheaton, Illinois where she concentrates her practice in civil appellate law and insurance coverage matters. She is on the panel of neutral commercial arbitrators for the American Arbitration Association and is a court-certified mediator for DuPage and Cook Counties. She received her J.D. from Loyola University of Chicago.

8. 735 ILCS 5/2-209(b)(1).

9. 495 U.S. 604 (1990).

10. 735 ILCS 5/2-209.

11. The IMDMA incorporates the Code of Civil Procedure. 750 ILCS 5/105(a).

12. *Russell v. SWFA*, 2013 IL 113909 ¶134.

13. *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 923 (2011).

14. 750 ILCS 22/101, et seq.

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- (7) the individual asserted parentage of a child in the putative father registry maintained in this State by the Illinois Department of Children and Family Services; or
- (8) there is any other basis consistent with the constitutions of this State and the United States for the exercise of personal jurisdiction.¹⁵

The official comment to section 201 provides that a determination of jurisdiction over a nonresident must be examined in a case-by-case, fact based manner, taking into account due process considerations.¹⁶ Under section 201(b), the above bases for personal jurisdiction may not be used to acquire personal jurisdiction to modify another state's child support order, unless the requirements of section 611 are met, or in the case of a foreign support order, the requirements of section 615 are met.¹⁷

As discussed above, personal service on a nonresident is usually sufficient to confer jurisdiction. Such is not the case, however, in an action to modify a child support obligation from another state. In *Vailas v. Vailas*,¹⁸ Anastasia and George Vailas obtained a divorce in Texas. The divorce decree included a child support order. Anastasia and her son moved to Illinois. George remained in Texas. Anastasia filed a petition in Cook County to modify the child support order; she personally served George with her petition while he was in Illinois. George moved to dismiss the petition on the basis of lack of jurisdiction.

The appellate court held that even though personal service was obtained and met the requirement of section 201(a)(1), the requirements of section 611 still had to be met. Under section 611, a support order may be modified only if, after notice and hearing, the circuit court finds that one of two sets of conditions are met. First, the order may be modified if: (a) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state; (b) a petitioner who is a nonresident of this state seeks modification; and (c) the respondent is subject to the personal jurisdiction of the tribunal of this state. Alternatively, the order may be modified if Illinois is the state of residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state

to modify the support order and assume continuing, exclusive jurisdiction.¹⁹

The *Vailas* court noted that the drafters of the UIFSA were aware of the reach of the decision in *Burnham*, codifying its holding as one of the bases for jurisdiction when establishing or enforcing an order of support, as found at 750 ILCS 22/201(a)(1). However, the drafters specifically elected to limit personal and subject matter jurisdiction in modification cases to something less than what is allowed under the due process clause.

One further point is worth noting. The Illinois Appellate Court, Second District, recently addressed the trial court's powers under the UIFSA in *The Department of Healthcare and Family Services v. Arevalo*.²⁰ The court noted the distinction between the trial court's subject matter jurisdiction under the Illinois Constitution, which grants circuit courts the power to hear and determine issues pertaining to the UIFSA, versus the trial court's lack of authority to decide certain issues under the UIFSA, such as custody.

Child Custody Matters

The Uniform Child-Custody Jurisdiction and Enforcement Act ("UCCJEA")²¹ has its own provisions regarding both subject matter and personal jurisdiction. Considerations of personal jurisdiction are not at issue under the UCCJEA since physical presence of, or personal jurisdiction over a party or a child, is not necessary or sufficient to make a child custody determination.²²

The jurisdictional issue that arises under the UCCJEA, therefore, is that of subject matter jurisdiction, whether the circuit court had the power to decide the dispute. Pursuant to Article VI, Section 9 of the Illinois Constitution, the jurisdiction of the circuit courts extends to all "justiciable matters except when the Supreme Court has original and exclusive jurisdiction relating to redistricting of the General Assembly and to the ability of the Governor to serve or resume office."²³

The UCCJEA provides a method to resolve jurisdictional questions that arise in interstate child custody disputes; the statute gives priority to the child's "home state."²⁴ Section 201

15. 750 ILCS 22/201(a).

16. *In re W.J.B.*, 2014 IL App (2d) 140361-U ¶30.

17. 750 ILCS 22/201(b).

18. 406 Ill.App.3d 32 (1st Dist. 2010).

19. 750 ILCS 22/611(a).

20. 2016 IL App (2d) 150504 (petition for rehearing filed on July 21, 2016)

21. 750 ILCS 36/101, *et seq.*

22. 750 ILCS 36/201; *In re Marriage of Mobley*, 210 Ill.App.3d 936 (5th Dist. 1991).

23. *McCormick v. Robertson*, 2015 IL 118230 ¶20.

24. *Fleckles v. Diamond*, 2015 IL App (2d) 141229 ¶32.

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of the UCCJEA provides for initial child custody jurisdiction in Illinois if this state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state.²⁵

The Illinois Supreme Court addressed subject matter jurisdiction under the UCCJEA in *McCormick v. Robertson*.²⁶ Josh McCormick resided in Champaign; Alexis Robertson lived in Missouri. Their child, L.M., was born in Missouri in 2009. Josh filed a complaint in Champaign County pursuant to the Parentage Act of 1984 to establish a parent child relationship and obtain joint custody over L.M. Josh and Alexis signed a joint parenting agreement and in 2010, the trial court entered its judgment of parentage, custody and related matters.

In 2012, Alexis moved with L.M. to Nevada. Josh filed a motion in Champaign County to terminate Alexis' parental rights and obtain sole custody over L.M. Alexis filed an action in Nevada, asserting that the 2010 Champaign County judgment was void due to lack of UCCJA jurisdiction. She also filed a motion in Champaign County seeking the same relief. The courts in both Nevada and Illinois held that the 2010 judgment was void due to lack of subject matter jurisdiction under the UCCJEA.

The Illinois Supreme Court disagreed. The court began with a discussion of subject matter jurisdiction. So long as a matter brought before the circuit court is justiciable, and not within the original and exclusive jurisdiction of the supreme court, the circuit court has subject matter jurisdiction to consider the matter. Regarding section 201 of the UCCJEA, the court held that the word "jurisdiction" used in the statute is a procedural limit on when a court may hear initial custody matters, not a precondition to the exercise of the court's inherent authority. The supreme court concluded that the court in Champaign County had subject matter jurisdiction to enter the 2010 judgment and erred when it vacated that judgment on the ground that it was void.

The Appellate Court, Second District followed up on subject matter jurisdiction in *Fleckles v. Diamond*.²⁷ In that case, James Fleckles filed a petition in DuPage County under the Parentage Act of 1984 to establish paternity, joint custody and visitation of his unborn child. Danielle Diamond moved to dismiss. Danielle argued that DuPage County lacked subject matter jurisdiction under the UCCJEA because since she and the child lived in Colorado, Colorado was the child's home state.

“ Under the common law, divorce decrees issued in foreign countries are not, in general, entitled to full, faith and credit.

The appellate court held that the circuit court had subject matter jurisdiction since James' petition contained justiciable claims. Even if a petition defectively states the claim, the trial court is not deprived of subject matter jurisdiction. However, the appellate court held that the claim should be bifurcated and the child custody determination (which was deferred until the child's birth) should be made in Colorado, the child's home state.

How is the concept of a child's home state determined, and what if there is no home state? Section 201 provides for jurisdiction where the child does not have a home state when:

(2) a court of another state does not have jurisdiction under

25. 750 ILCS 36/201(a).
26. 2015 IL 118230.

27. 2015 IL App (2d) 141229.

paragraph (1), or a court of the home state of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate forum under Section 207 or 208, and:

- (A) the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this State other than mere physical presence; and
 - (B) substantial evidence is available in this State concerning the child's care, protection, training, and personal relationships;
- (3) all courts having jurisdiction under paragraph (1) or (2) have declined to exercise jurisdiction on the ground that a court of this State is the more appropriate forum to determine the custody of the child under Section 207 or 208; or
- (4) no court of any other state would have jurisdiction under the criteria specified in paragraph (1), (2), or (3).
- (b) Subsection (a) is the exclusive jurisdictional basis for making a child-custody determination by a court of this State.²⁸

In *In re D.S.*,²⁹ Iva Hollis was a resident of Hoopeston, Illinois. Two of Iva's children lived with their father in Tennessee; her remaining six children were wards of the State of Illinois. Iva was afraid that DCFS would take custody of her unborn child, so she took steps to move to Tennessee. Iva only made it to Indiana, where D.S. was born. The next day, the State of Illinois filed a petition for adjudication of wardship over D.S. Iva argued that Indiana was D.S.'s home state.

The supreme court disagreed and held that Indiana was not the home state of D.S., since a temporary hospital stay was insufficient to confer home state jurisdiction under the UCCJEA. Instead, the court held that Illinois had jurisdiction under section 201(a)(2) since D.S. had significant connections with Illinois and all evidence of D.S.'s care, protection, training and personal relationships are in Illinois.

Foreign Decrees

The UIFSA contains provisions regarding enforcement and modification of foreign decrees. For example, a tribunal of this state may not modify a spousal support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.³⁰ Section 615 governs the situation where foreign country lacks or refuses to exercise jurisdiction to modify its child-support order pursuant to its laws.³¹

Under the common law, divorce decrees issued in foreign countries are not, in general, entitled to full faith and credit.³² However, parties often seek to enforce provisions of foreign decrees. What happens in the situation where the foreign country lacked jurisdiction over one of the parties? The answer is, it depends on the type of obligation and statute involved.

In *In re Marriage of Lasota and Luterek*,³³ Janusz Luterek obtained a judgment of dissolution in Poland against Elzbieta Luterek. She was not served in the Polish action and did not enter a general appearance. The judgment was registered in Illinois and Elzbieta sought her share of the marital property. The appellate court held that the trial court had jurisdiction to hear the dispute pursuant to section 5/503(d) of the IMDMA, which allows the court to make a determination of property in a proceeding for disposition of property following dissolution of marriage by a court that lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property.

In cases involving enforcement of child support orders entered in foreign countries, courts in this state look to whether the foreign court had personal jurisdiction over the obligor. Section 607 of the UIFSA³⁴ allows a party to contest the validity or registration of a registered support order on the basis that the issuing tribunal lacked personal jurisdiction over the contesting party. In *Dept. of Healthcare and Family Services v. Heard*,³⁵ the Department sought to register a child support order, which was entered in Germany, against Kevin Heard. Kevin objected on the basis that the German court lacked personal jurisdiction over him. Kevin met Sandra when he was stationed in Germany. They married in Denmark. Their son was born in New York.

30. 750 ILCS 22/211(b).

31. 750 ILCS 22/615.

32. *In re Marriage of Muragesh*, 2013 IL App (3d) 110228 ¶123.

33. 2014 IL App (1st) 132009.

34. 750 ILCS 22/607.

35. 394 Ill.App.3d 740 (3d Dist. 2009).

28. 750 ILCS 36/201.

29. 217 Ill.2d 306 (2005).

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



The family moved to Illinois when Sandra returned to Germany with their son. The court agreed that jurisdiction was lacking and following the holding in *Kulko v. Superior Court of California*, held that Kevin lacked minimum contacts with Germany.

Parentage Actions

The Illinois Parentage Act of 2015 provides that its provisions apply if parentage is at issue. The Parentage Act requires that an individual may not be adjudicated to be a parent unless the court has personal jurisdiction over the individual.³⁶ The statute further provides:

(c) A court of this State having jurisdiction to adjudicate parentage may exercise personal jurisdiction over a non-resident individual, or the guardian or conservator of the individual, if the conditions prescribed in Section 201 of the Uniform Interstate Family Support Act are fulfilled.

36. 750 ILCS 46/603(b).

(d) Lack of jurisdiction over one individual does not preclude the court from making an adjudication of parentage binding on another individual over whom the court has personal jurisdiction.³⁷

Personal jurisdiction is also established for the Parentage Acts of 1984 and 2015 with the performance of an act of sexual intercourse within the state during the possible period of conception.³⁸ This basis for jurisdiction was found sufficient under the 1984 Act to meet due process requirements.³⁹

Conclusion

Issues of both personal and subject matter jurisdiction can arise in different types of family law disputes. It is important to check the applicable statute to determine if jurisdictional requirements have been met. In addition, in any analysis of whether the court has personal jurisdiction over a defendant, principles of due process must always be considered. □

37. 750 ILCS 46/603(c), (d).

38. 735 ILCS 5/2-209(a)(6).

39. *People ex rel. Black v. Neby*, 265 Ill.App.3d 203, 204 (4th Dist. 1994).

Illinois Law Update

Author Brian Dougherty

Employment Law

Unauthorized Computer Access

U.S. v. David Nosal, 14-10037, 14-10275, (9th Cir. July 5, 2016)

David Nosal (“Nosal”) was employed at Korn/Ferry International (“Korn/Ferry”), an executive search firm. After Nosal became a contractor for Korn/Ferry, it revoked his access to Korn/Ferry’s computer system, although it permitted him to ask current employees for help on remaining open assignments. However, on three occasions, using two other former Korn/Ferry employees, those two employees borrowed credentials from a current Korn/Ferry employee to obtain Korn/Ferry information that Nosal was going to use in a competing business. Nosal’s access was not permissible under his contractor agreement with Korn/Ferry.

Nosal was indicted under the Computer Fraud and Abuse Act (“CFAA”), 18 U.S.C. § 1030. The CFAA imposes criminal penalties on whoever “knowingly and with intent to defraud, accesses a protected computer *without authorization, or exceeds authorized access*, and by means of such conduct furthers the intended fraud and obtains anything of value ...” 18 U.S.C. § 1030(a)(4) (emphasis added). The issue before the court was whether the “without authorization” prohibition of the CFAA extends to a former employee whose computer access has been revoked, but who accesses the computer through other means.

The court found that the phrase “without authorization” in the CFAA was unambiguous. Implicit in the definition is the idea that an entity can grant and revoke permission, and here, Korn/Ferry revoked Nosal’s permission and never granted any other employee authority to give former employees, including Nosal, access to Korn/Ferry’s computer system.

The court debunked the idea that CFAA liability would expand to simple password sharing among family and friends,

because this case was about a former employee whose computer access was revoked and who, through an intermediary, obtained computer access through a current employee using false pretenses in order to gain a financial benefit.

Constructive Discharge

Green v. Brennan, 578 U.S. ____ (2016)

The issue before the United States Supreme Court was the commencement of the Title VII of the Civil Rights Act of 1964 limitations’ period for a federal employee who resigns claiming a constructive discharge. A constructive discharge occurs when the employer creates intolerable working conditions which forces an employee to quit. The Court found that an employee’s actual resignation is part of the complete and present cause of action for a constructive discharge claim that commences the beginning of any limitations period; the federal regulation at issue (29 C.F.R. § 1614.105(a)(1)) did not displace the common rule for the commencement of the limitations period, which is when the claim accrues; and practical considerations dictated the result.

A constructive discharge is no different than an actual discharge based on discrimination where the employee must establish the discriminatory treatment and the actual termination. Practically speaking, starting the limitations period before the employee actually resigns also does not further Title VII’s remedial structure. An employee would otherwise be faced with filing two complaints: one for discrimination and then later amend the complaint to allege constructive discharge. Such a process places too many burdens on the layperson.

Further, if the employee gives notice of his termination (e.g. two-week’s notice), the limitations period begins when the

employee notifies his employer of the resignation, not on the last day actually worked. This is similar to a wrongful discharge claim which accrues when the employer notifies the employee that he is fired, as opposed to the last day worked.

Use of Arrest Record

Murillo v. City of Chicago, 2016 IL App (1st) 143002

In *Murillo*, the appellate court considered 775 ILCS 5/2-103(A) and (B) of the Illinois Human Rights Act. Section 2-103(A) prohibits an employer from “[using] the fact of an arrest as a basis to discriminate in employment and Section 2-103(B) allows employers to use “other information which indicates that a person actually engaged in conduct for which he or she was arrested.”

Murillo was arrested on controlled substance charges and the charges were dismissed for lack of probable cause. She subsequently became employed by the City as a janitor at a Chicago police station. The City subsequently contracted with Triad for janitorial services and Triad ran a criminal background check on Murillo, finding her arrest. The City said that Murillo could no longer work at the police station and she was terminated.

The appellate court affirmed partial summary judgment in favor of Murillo. The court found that the City’s reliance on the arrest reports as a basis to terminate Murillo was not “other information” under Section 2-103(B) because those reports did not “indicate” that Murillo committed any crime. The report merely stated that drugs were located at the bar where Murillo was bartending. The court stated that an arrest report could qualify under Section 2-103(B) if, for example, the report included the accused’s confession, statements from witnesses implicating the accused, or a police officer’s eyewitness testimony of the criminal conduct. An employer could even

gather enough information that the employee committed a crime without formal charges being brought. However, the appellate court found that the trial court did not err in finding that the City’s reliance on the arrest report, which contained minimal information, was prohibited under Section 2-103(A). his disclaimer. □

About the Author



Brian M. Dougherty is a senior associate in the litigation group at Goldstine, Skrodzki, Russian, Nemecek and Hoff, Ltd. His practice area includes representing employees and employers in employment disputes arising under state and federal law, commercial landlord-tenant matters and business torts. Brian is a member of the DCBA Editorial Board.



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Administer Justice is an outstanding non-profit charitable legal organization which serves low-income and no-income individuals, putting into practice the biblical words from Zechariah 7:9, "Administer true Justice; show mercy and compassion to one another."

Law ElderLaw associate attorney Faviola Carmona has been volunteering with Administer Justice since 2011, assisting with foreclosure, family law, and other miscellaneous matters, as well as guardianship pro-bono cases. Faviola volunteers at the Administer Justice Legal Clinic held at Christ Community Church. Partner Diana M. Law, Kane County Public Guardian & Administrator, has been actively involved with providing substantial service to those who would otherwise have no advocate.

We strongly encourage our fellow attorneys to volunteer their services in helping Administer Justice to provide legal advice; pro se coaching; pro bono representation; and legal information educational services.

Serving Seniors



DuPage Bar Foundation

Supporting Justice in Our Community

Annual Report 2015/16

Letter from the President

The DuPage Bar Foundation may have a new name and a new logo, but our vision remains the same. The Foundation has spent the last few years staunchly planning on how to build a stronger organization in order to be able to meet our vision in broader and more meaningful monetary ways. To that end, we have continued to serve our mission by awarding scholarships to deserving law school students with a strong connection to our DuPage community, as well as continuing to gift grants to those organizations in need of our support. We understand, however, that the need in our own community here in DuPage is much bigger than we have been able to meet. To that end, we are committed to grow the Foundation to be able to assist and serve our community in ways that would substantially make a difference to our future lawyers and to those organizations who offer assistance to those who would not otherwise have access to our justice system.



This year we are calling out to you to get to know us and pledge to stand with us as a Board to commit to building a Foundation that makes a difference in the DuPage community. We are proud to say that we have a solid beginning. While making sound investments and taking a conservative approach to gifting in order to allow DBF to have a long-term vision of growth, the Foundation was still able to award \$10,000.00 in scholarships last year, as well as award \$5,500.00 in grants to local non-profits.

As I begin my year as President of the Foundation, I am excited at the prospects of what we, as a Foundation, can achieve here in DuPage County. We are asking you to get to know us, learn what the Foundation is and what we do, and pledge to stand with us to make this Foundation an organization that truly makes a meaningful impact to serve justice here in our own community of DuPage County.

Sincerely,



History:

DuPage Bar Foundation was established in 1997 as the charitable 501(c)(3) arm of the DuPage County Bar Association. Governed by a Board of Directors of up to nineteen distinguished DCBA members.

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.

Who do we help?

This past year \$10,000 was awarded in scholarships!

William J. Bauer Scholarship: Winners of this scholarship embody the qualities of Hon. William J. Bauer, Judge of the United States Court of Appeals for the Seventh Circuit. These qualities include unquestioned integrity; a passion for finding legal solutions to human problems which are fair and just; and a profound understanding of the need for professional civility.



Hon. Ted Duncan, Rikkelee Moser & Hon. William Bauer.

Ambassador Scholarship: Winners show a financial need, academic achievement and have a connection to DuPage County and completed one full semester of law school.



David Handley, Anna Schiefelbein, Zach Vojslavek and Clarissa Myers (DBF President 2015/16)

Hosted Scholarship—Woodruff, Johnson & Palermo



hosted a scholarship in their name. Through a donation to DBF they were able to award a scholarship in their name, receive recognition at the Installation Dinner and promote their scholarship through their marketing.

Julia Duquett (wife of winner Matthew Duquett), Dexter Evans, Partner at Woodruff, Johnson & Palermo

What is a Hosted Scholarship?

Since DuPage Bar Foundation is a 501(c)(3) organization providing educational scholarships, we can assist DCBA members in setting up a scholarship in memory or honor of an individual or firm. As the sponsor of the scholarship you can provide some direction as to what kind of student(s) you would like to recognize and the DBF takes it from there. Hosted Scholarships can be a way for your firm to give back as well as increase your visibility in the community.

Scholarship availability is communicated to local law schools and DCBA student members. Applications are collected, interviews scheduled and a recipient is selected. Scholarship winners are recognized each year at the DCBA Installation Dinner which means your firm or loved one would be recognized there as well.

\$5,500 was awarded to local non-profits in grants!



Court Appointed Special Advocates for Children, CASA received \$2,000 to underwrite the expenses for CASA's semi-annual Advocate Pre-service Training.



National Alliance of Mental Illness, NAMI received \$2,000 for education and supportive service program to individuals and families dealing with mental illness.



Family Shelter Service received \$2,000 to support the 1000 clients, and 5000 non-client victims. FSS provides support and encouragement to make informed decisions and explains their legal options which they are often fearful or unaware of.



Naper Settlement received \$500 to preserve a historic legal pamphlet dated 1860.

How do we Fundraise?

Holiday Breakfast—Raised \$12,736. New this year was the opportunity to be recognized for your donation by a star on the wall. Additionally a raffle for gift card wreath donated by the Board was held.

Human Race—Raised \$3,122. The third year participating in the Human Race, a 5k run/walk hosted by Giving DuPage who provides the administrative tasks of the race for a small fee. DBF recruits its own runners and donors to participate. This past year we had 26 runners and walkers participate in the race.

Golf Outing Raffle—Raised \$1,220. At the annual DuPage County Bar Association's Golf Outing, DBF holds a raffle over dinner. Prizes are donated by the board and local community businesses.



DCBA Member Contributions—Raised \$9,337 through DCBA membership renewal contributions. Each member is asked to donate \$5 during their renewal. Thank you to all our generous members donating through DCBA's membership renewal process.

How we manage the funds entrusted to us.

Assets:

Cash	\$43,467.12
Investments	\$50,012.14
Total	\$93,479.26

Liabilities & Equity:

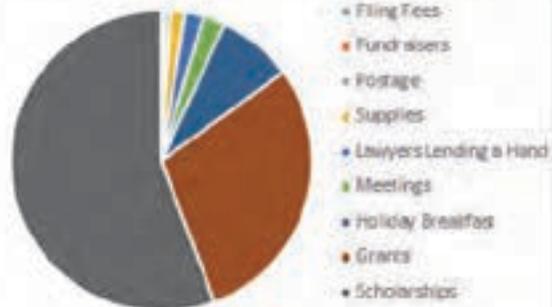
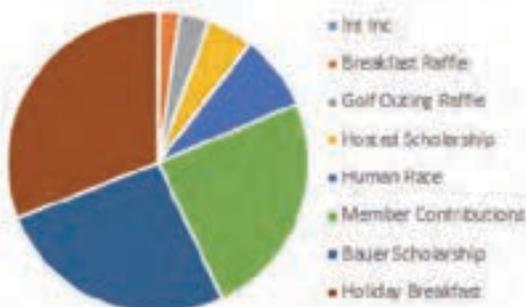
Accounts Payable	\$25.18
Other	1255.00
Equity	92,199.08
Total	93,479.265

Revenue:

Golf Outing Raffle	\$1,220.00
Breakfast Raffle	\$856.00
Holiday Breakfast	\$11,880.00
Human Race	\$3,122.50
Int Inc	\$53.15
Member Contributions	\$9,337.80
Hosted Scholarship	\$1,900.00
Bauer Scholarship	\$10,000.00
Total	\$38,369.45

Expenses:

Holiday Breakfast	\$1,453.08
Fundraisers	\$50.00
Scholarships	\$10,000.00
Grants	\$5,250
Meetings	427.68
Filing Fees	\$25.00
Lawyers Lending a Hand	347.34
Postage	\$95.99
Supplies	\$291.16
Total	\$17,940.25



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If you are interested please contact Cindy Allston, callston@dcba.org.

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Hon. Helaine L. Berger, (Ret.)



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InBrief

By Terrence Benshoof

InBrief continued his ecological approach to golf at the DCBA outing at Cantigny in August, by rarely ever touching the greens. He enjoyed the beautiful forested course by spending a great deal of time in the woods and native prairie grasses.

Life Mirrors...the Grief?

In news from the offices of the Secretary of State, a controversy arose this summer over the head covering that might be worn by an Illinoisan for the photo on the state-issued driver's license. As one might expect, the controversy was based on "religious belief," as the applicant, a young woman, insisted that the head covering was required by her religion. For those of you readers guessing it involved a *hijab*, or some similar garment...wrong! The applicant claimed to be a Pastafarian (pay close attention, **Jay Laraia**), and the "garment" sought to be worn...a colander! *InBrief* will be following this one closely, as it is virtually certain to be granted *certiorari* by the U.S. Supreme Court sometime next session.

In the Courts

The November general election will see three Circuit Court seats on the ballot, one of which is contested. For the legal system, and for those who practice in it, elections to full circuit positions are of great importance. And, this being a Presidential election year, with races on for an Illinois Senate seat, and all Representative districts as well, *InBrief* cannot

stress enough the importance of getting out and voting. It's your right, and duty, and everyone is urged to get to the polling places. Early voting for the election will begin in October. Watch for a link to the joint ISBA/DCBA judicial poll results on the DCBA website for election information.

Please note the following correction. Judge **Karen Wilson** has been elevated to Circuit Judge following the retirement of Judge **Blanche Fawell**. It was incorrectly reported in the September issue that **Bryan Chapman** replaced Judge Fawell. Judge Chapman was elected to the Associate Judge position that resulted from the retirement of Judge **Jane Mitton**. We apologize for the error.

People, Places

Mike Drabant has merged his practice into Wilson & Wilson, in LaGrange. He'll continue to maintain an office for his estate and general practice in Warrenville.

Mia McPherson and **Kathryn Harry** have merged their practices under the name McPherson Harry, and will continue operations at offices in Oak Brook.

Tony Mankus is our novelist-in-residence, having recently released a legal-political novella, *Chicago Tango*. It's Tony's second book, having previously published *Where Do I Belong: An Immigrant's Quest for Identity*. □

Welcome

Welcome to our new DCBA Members.

Attorneys: Richard L. Elsliger, Mevorah Law Offices LLC; Karl N. Klockars, Swedberg & Hodgkinson; David M. Jenkins, The Jenkins Law Group, P.C.; Elizabeth Rebecca Bacon, Brooks, Tarulis & Tibble, LLC; Mark R. Valley, Mark R. Valley Law Firm, LLC; John A. Benson, Jr., Huck Bouma, PC; Jeffrey Scott Burns, Haskin Corrigan Tabis & Parravano PC; Peter G. Hawkins, Akerman LLP; Joshua J. Dieden, Richard Kayne & Associates, L.L.C.; Quinton M. Osborne, Osborne Employment Law; John E. Brennock, Alicja M. Sroka & Associates, PC; Colin P. Leicht; John C. Kunze, The Fish Law Firm, PC; Aamir H. Razvi; Mubarak Malik; Danielle A. Bello; Andrea Karle.

Student: Joellen M. Leavy

Two Brothers Walk into the Bar Association: An Interview with Justice Robert Thomas and Professor Rick Thomas

By Ted A. Donner



Second City cast members, L to R, Isabella Hoffman, Richard Kind, Rick Thomas, John Kapelos, Meagan Fay, Michael Hagerty

On Thursday, October 20, 2016, members of the DuPage County Bar Association will be gathering with friends and colleagues from around the community for an evening at The Second City. The centerpiece of this year's President's Trip to Chicago, the evening is intended to give people a chance to unwind and enjoy some of the best of what the city has to offer. The Second City is known for the great many famous alumni who have worked there. From **Alan Arkin, Joan Rivers, Paul Sills and Elaine May** to **John and Jim Belushi, Michael Gellman and Gilda Radner** to **Tina Fey, Tim Meadows, Keegan-Michael**

Key and Steven Colbert, each generation has boasted a number of talented actors, comedians, writers and teachers.

Many of The Second City's alumni have taken the improvisational skills they learned there into other vocations and, largely through them, the value that improvisation can have for professionals has become increasingly more obvious in recent years. In just this last year, the American Bar Association, the Illinois State Bar Association and the Chicago Bar Association have all offered classes in improvisation to their members. Here in DuPage, we held a workshop for bar

leadership in July that was hosted by **Diana Martinez**, former President of The Second City (and now Director of the MAC Theater at College of DuPage). This next spring, we're hosting a three-week workshop with another former member of The Second City mainstage cast, Professor **Rick Thomas**.

Professor Thomas works as a Master Teaching Scholar at UIC's College of Business Administration. He is in a unique position to provide training for lawyers in that he is himself a lawyer who worked as a litigator with ARDC for a few years prior to joining UIC. Professor

Thomas graduated law school before he first joined The Second City but it was not until 2006, when he started to see ways that his background in improvisation and the law had symmetry, when he sat for the bar. He was sworn in by his brother, Illinois Supreme Court Justice **Robert Thomas**.

Justice Thomas served as Acting Chief Judge for the Eighteenth Judicial Circuit from 1989 to 1994, when he was elected to the Appellate Court Second District. He was sworn in as an Illinois Supreme Court Justice in 2005 and served as Chief Justice until September, 2008. He is still perhaps better known, however, for the career he held before joining the law. While his brother was creating improvisational comedy at The Second City, Justice Thomas was working as a placekicker for the Chicago Bears.

Professor Thomas and Justice Thomas both got their JDs from Loyola University Chicago School of Law, one of many places their often diverging paths came together over the years. “When I graduated from Notre Dame, I was a government major,” Justice Thomas recalled, thinking back to when he had played for the university as a kicker, “and, like Rick, I always thought that probably the next step in my education would be law school. I had said that I’d go to law school in whatever city I ended up playing in, and it ended up that I was with the Bears, but then I procrastinated for a while. I was 22 years old and enjoying professional football so, for three years, I didn’t go to law school. Then Rick got out of Notre Dame and he went to law school at Loyola. The Dean at the time was **Charles “Bud” Murdock**. Rick gave me a call and he said, ‘Hey, the Dean

wants to talk to you, he wants to have breakfast with you.’ So I went down to this little joint across the street from the school and met him for breakfast. He said



Chicago Bears placekicker, Robert Thomas in action

he had been reading about my interest in law school and he asked me ‘when do you want to start?’ I enrolled that next semester. I took as few as five hours and as many as ten during the season and then went full time days during the off season. I graduated in four years. I remember, I went to **Jim Finks**, who was the Bears’ General Manager, and asked him if it would be okay and he said, for kickers, he thought it was a good idea. I don’t know that he would have said yes to a field player, but he said yes to me.”

The Thomas brothers’ tenure at Loyola overlapped for a time. “I think we took a couple classes together,” Justice Thomas recalled, “I know we were at least in a study group together.”

“We were in a study group together,” Professor Thomas noted. “It was ‘The Banana Splits Go to Law School.’”

“That’s right, that’s what we called ourselves. That study group...”

“We would sit down and all hum [the ‘Banana Splits’ theme song] before we studied.”

As closely as they worked together during school, when the Thomas brothers graduated, they went in very different directions. Justice Thomas worked as an associate on a part-time basis until, when he retired from the Bears, he moved to Kemper Sports Management and then into private practice full time. He was 36 years old when he was first elected as a Circuit Judge.

“I went to law school as well,” Professor Thomas pointed out, “but it was only later that I discovered the utility of being a lawyer and having that education. When I went, it was more or less because I thought it was the thing to do. There was no way I wanted to go into practice then. I thought maybe I did, I was conflicted about it for a while, but everything about improvisation and about the theater had a strong pull for me. It just spoke to me.”

Professor Thomas worked in improvisation for many years after law school, first with The Second City and then through workshops and other programs in New York, Chicago and elsewhere. “Improvisation is a way to teach, it’s a way to think, and it’s a way to approach life,” he pointed out, “and it’s accessible. I’ll never forget one thing that **Paul Sills**¹ said to me. He said ‘I have no regard for the *avant garde*.’ Improvisation is beautiful because it’s very simple but it’s very accessible to people, and I think the law should be like that too. It involves an approach to things, you know. It started

1. Paul Sills was the son of Viola Spolin, the author of *Improvisation for the Theater* and the woman many consider the founder of the art form. Sills established himself as a pioneer in improvisation when he joined with others at the University of Chicago to form the Compass Theater and later The Second City.



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“**If the work both Thomas brothers chose has anything in common, it is in the importance of communication.**

at Hull House with **Viola Spolin** and **Neva Boyd**, who were social scientists, and who used improvisation to help immigrant children assimilate into American culture, and it uses some very simple ideas, like “say yes,” and “explore, heighten and transform.” Those are very basic ideas, but then, what’s tremendous is what people do with those ideas. People have famously done a lot with comedy using improvisation, but it has some very powerful potential. You really have to work with it. It’s about the relationship between you and me, your relationship with yourself, and the relationship that you have with the world.”

The Thomas brothers both remember their parents as having an important influence on what they chose to do with their lives. “One interesting thing about my parents,” Professor Thomas said, “is that both of them, my father maybe more clearly, but both of them found ways to make a difference. Our father touched a lot of lives. He was a soccer coach and he coached football kicking camps. He was

an Italian immigrant and he helped this whole, slightly younger group of Italian immigrants assimilate with a soccer team, the Italian American Sports Club. He kept some of these kids out of trouble and he, well both my father and my mother, touched a lot of people’s lives. My mother was like that with family. It was never a chore for them, they were having fun. They did it and they were into it.”

“Our dad was more the conciliator,” Justice Thomas added, “and probably who you’d call the funny one, and our mom was the one that was really driven. I think we got something from each of them, it just happened that we gravitated into different arenas. My area was sports and then the law, working as a judge. When I think about what I’ve done in conflict resolution, whether it’s working out an opinion in the court of review or during my six years in the trial court with pre-trials, trying to be right at the forefront of handling a dispute, outside of even the litigation realm, what we got from our parents is a large part of what prompted us to hopefully succeed in the professions that we’ve chosen to work in.”

If the work both Thomas brothers chose has anything in common, it is in the importance of communication, something both of them acknowledged they learned from their mother and father. “I think that comes from our parents,” Professor Thomas said. “It’s part of what led me to where I am. When I’m writing or

speaking or performing or whatever, I’m basically an acting teacher, teaching people how to act, teaching people that they can create who they are in the world.”

“Regardless of what path was going to be chosen by either of us,” Justice Thomas added, “there was an assumption that we were going to make a difference. It sounds kind of trite, and you hear it a lot, but I really want to make a difference. Our parents instilled that in us, they gave us the tools, the primary one being an ability to communicate. Whether it’s working with lawyers and trying to settle a case, or serving as liaison to the Professionalism Commission as I’m doing now, whether it’s teaching like Rick is doing, with improvisers or lawyers or business students, communication is really key to making a difference.”

“I don’t remember the specifics of it,” Professor Thomas responded, “but I remember when you had that initiative as a Justice relating to civility and continuing education. When you’re looking for commonalities, that’s a real strong commonality for us.”

“Everybody has their pet projects,” said Justice Thomas. “For me, when I was Chief, it was starting this committee that turned into the Professionalism Commission. I remember being asked why I chose something that was going to put the spotlight on a perceived deficiency in the profession, on the idea that lawyers are not as civil or professional as they maybe should be. I remember talking to the press and to my colleagues about it and I said that it’s because the idea is to make a difference. I wasn’t putting this out just so everybody could say ‘atta boy’



Rick Thomas, Bob Thomas and Ted Donner

and pat me on the back. It was to try and make a difference in the profession. Obviously it's been certainly aspirational in a sense, it's tough to come up with data to see how things have really changed in the profession because of the Professionalism Commission, but we are trying to do it. It's something I wanted to do to try and make a difference and it's something in which, again, communication has been really very important."

"My strongest attraction to improvisation was very much about my interest in how individuals communicate within the community," Professor Thomas added. "Everybody has a way to behave, an authentic way to behave. That's my belief that's backed up by nothing except that it's my belief. I was at the ARDC for four or five years and a lot of the problems that the lawyers had weren't because they were bad people, it was that they didn't know how to act. They had a complaint that they weren't communicating with their clients because they were being arrogant with their clients, they didn't even know that they were doing it. And it wasn't really who they were, they were just trapped in these roles they had made for themselves. In improvisation, you wear a character like

you wear a hat or coat. You have your character, your role to play, but you do it as you. When we talk about Bob being funny as a Judge sometimes, it's because he's human and that's part of who he is."

Justice Thomas looked over with a grin on his face. "We'll find out if I'm really funny when I stop being a judge, right?"

Everyone laughed at that but Professor Thomas, who looked over to his brother, offered a polite grin and continued. "My real ambition for the workshop we want to do with DCBA starts out with improvisation, and that involves people just finding their voice – not their teacher voice or their lawyer voice but their professional voice which really is just their human voice within the roles that they have to play in the world. I'm not making a claim that people are going to come in here and improvise for three hours and then suddenly just find their voice, it's something that happens within people experientially, but finding your voice is where we start. Then, we focus on this idea of leadership, because everybody has to lead. We look at some people in YouTube clips, maybe **Douglas MacArthur** or **Richard Pryor**, it doesn't really matter who it is, we watch some

videos and we talk about how people are communicating and how they're influencing each other. Then we actually do some work in public speaking and teaching and presenting and that's that. We experience, observe and reflect, and then do some exercises and see where we are."

Justice Thomas responded, "Listening to you say that, Rick, I think what you're talking about fits in very nicely with what we've been doing with professionalism. When I think about some of the things we've been trying to do and have been doing for years, going into the law schools, talking to first year lawyers about the profession and professionalism, the mentoring program...The whole mentoring program was intended so that there is someone there, someone to work alongside with for some of these new lawyers, to help them learn things so they don't end up at a point where there are ARDC complaints against them. So what you're saying does fit in very well with what's going on with professionalism. We're always looking at ways people can hopefully find their own voice and feel secure enough in that voice that they engage in ethical conduct rather than 'win-at-all-costs' types of conduct."

If one thing came through during our interview with the Thomas brothers, it was the admiration they seem to have for each other. Some of that was clear in the look on Professor Thomas' face, when he decided to take the bar at the age of 50 and was sworn in by his brother as a new member of the profession in 2006. It is also clear from the way Justice Thomas remembers his brother's influence on the Fighting Irish, back when he was playing for that team. "When I was playing at Notre Dame," Justice Thomas recalled, "**Ara Parseghian** used to have this

tradition. At the end of the day, the offense and the defense and the special teams did poems, and then the poems would be rated by Ara. He'd point to the offense and then the defense, and then announce the winner. It was a big deal, what he did with those poems, so we took it to a new level with songs set to commercials. **Brian Doherty** was the punter and I was the kicker, and we would go in with these songs. Sometimes we would make them up ourselves but the real good ones came from Rick, who was our ghost writer. With what he did, we really should have won every week. And we would have except that, every once in a while, Ara'd throw a bone to somebody else. Ours were always the best because Rick was in the background as our ghostwriter. Ara actually credits

that as part of the reason why we won the national championship in 1973, because of the *esprit de corps* that was developed and how we took that to a new level."

"I've been watching Rick perform since back in high school," he recalled, "Rick did some plays and maybe it was improv he was doing in college, he had a character named Rocky Knute..."

"That was high school," Professor Thomas confirmed.

"Was that high school? Right, right. So this was a character he had and I remember then I asked him to come in, when I was playing for The Bears, to do that character and to improvise."

Professor Thomas laughed at that memory, "Boy was that fun. That was fun."

"It was," Justice Thomas continued. "I used to sit with the defense during their meetings, mainly because **Buddy Ryan's** meetings were shorter than the offensive coordinator's and Buddy was a fun guy, and I told him about Rick and then Rick actually came in and did an improv about trying to make the playoffs. That was a really fun moment with The Bears, when Rick came in with Buddy, he had the team in stitches. That was fun."

"Greatest audience in the world," Professor Thomas noted with a grin. □

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The Keith E. Roberts, Sr. Trial Advocacy Program Is Back

By Dexter J. Evans

The DCBA Trial Advocacy Program is back again and will have instructors with extensive litigation and trial experience teaching and assisting a vast array of students from all different levels of experience and practice areas. Having been both a teacher and student with the program, I personally can attest that the experience is invaluable. The quality of the teachers is excellent and the workshop provides a great primer for both the inexperienced rookie nervous about jumping into trial by fire and 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. A 4-week program which runs every Saturday

morning beginning October 29, students can expect to participate in every aspect of a trial culminating with a mock trial on November 19. From *voir dire* to closing argument, participants will have each part of the trial broken down with hands-on training in small groups which will assuredly make any attorney much better prepared and ready for their next (or very first) trial.

Don't just take it from me...

"The DCBA Keith Roberts Trial Advocacy Program is a unique opportunity for lawyers of all skill levels to build and sharpen their trial techniques while appearing before sitting DuPage County Judges and under the guidance of experienced trial lawyers."

- Bradley N. Pollock (instructor), partner with Walsh, Knippen, Pollock & Cetina.

"I truly looked forward to every session. The students were so enthusiastic and eager to learn. It was both rewarding and entertaining watching them slowly come out of their shell and grasp the concepts. In addition, it never hurts an experienced attorney to revisit the fundamentals."

- Mario C. Palermo (instructor), partner with Woodruff Johnson & Palermo Injury Law.

The cost is \$425 for DCBA members and \$475 for non-members. Space is limited as there are only 48 seats available. If you are interested in more information or participating in this extraordinary program, please contact Janine Komornick at jkomornick@dcba.org. □

DCBA to Celebrate Volunteer Week

For some years now, the legal community in the United States has been recognizing the idea of a "day of service" in October. This year, DCBA is joining other associations, including the ABA and the ISBA, in encouraging lawyers and others in the legal community to participate in Volunteer Week, now calendared for October 24-28, 2016.

In 2014 (the most recent year reported), attorneys in Illinois provided over 2,030,000 hours of *pro bono* legal services and donated \$14,270,521 to *pro bono* legal service organizations. DCBA's goals for Volunteer Week are modest by comparison. We hope to get 100 lawyers volunteering and raise funds both for DuPage Legal Aid and for law school clinic programs. There are a number of

ways you can join DCBA in celebrating Volunteer Week.

DuPage Legal Assistance Foundation.

Founded by members of the DCBA over 40 years ago, DuPage Bar Legal Aid provides free legal services to hundreds of families every year. Visit dupagelegalaid.org to volunteer for a case or to make a monetary contribution.

Lawyers Lending a Hand.

LLH heads out to a different location each month where members of the legal community provide assistance that doesn't involve practicing law. On October 27, LLH will be at Feed My Starving Children in Aurora Illinois, hand packing meals to be sent to children in need. Call Eddie Wollenberg at (630) 668-2415 for details.

Pro Bono Reception in Chicago.

Those participating in the President's Trip to Chicago (October 20-21, 2016) are invited to attend a reception Friday afternoon where you will learn about *pro bono* clinics in area law schools, a new program being developed by Illinois Legal Aid Online to provide *pro bono* services online, and other volunteer opportunities.

DCBA hopes members will take this opportunity to participate in these or other programs during Volunteer Week, adding to the community's effort nationwide. Whatever you do, we also hope you'll share your story with others on social media ([#dcbavolunteerweek](https://twitter.com/dcbavolunteerweek)) or by writing to the editors here at the *DCBA Brief*. □

DCBA Update



Who is Watching Your Data If You Aren't?

By Robert Rupp

The answer to that question of course is not a good one. Every day's news is filled with stories of hacked e-mails, stolen data, and the huge cost paid by individuals and organizations whose digital life-blood is compromised. If stories like Sony, Target, the Democratic National Committee don't seem relevant, perhaps a story closer to home will capture your interest. In at least one known instance, a DuPage County firm's data was attacked by an outside party rendering *ALL of their data completely and permanently inaccessible to them*. Imagine what that might feel like. You walk in the office with your morning coffee, turn on the lights, jiggle the mouse and then...I will leave the rest to you.

The law firm is a great target for cyber criminals. The data kept on clients and their matters is valuable. The security in place to protect that data is often lax. ABA Model Rule 1.6.c and numerous state opinions leave little question around the lawyer's responsibility to protect digital client data. Beyond this ethical imperative though, data security is just a critical component for the firm as a business. No data or compromised data can and will shut you down. So what to do?

DCBA member **Keith Chval** at Protek offers the easiest advice to soften the blow of a theft of your data or a ransomware attack where your data has been taken hostage. "Back up all firm data and store off-line. Subsequently implement an appropriate process to create and store timely data back-ups. With Ransomware, rather than focusing on obtaining the critical data itself, this latest ploy of cyber criminals preys upon the firms' recognition of its operational and reputation risks from having its stored client data surreptitiously encrypted and COMPLETELY inaccessible and demands a ransom of the firm for the 'release' of the encrypted data (One firm's story: <http://bit.ly/2a6E0y4>). As would be expected, the data is not always released upon ransom payment."

Another simple and effective piece of advice is for you and your employees to be vigilant in establishing and maintaining passwords. RPost, an encrypted e-mail service provider, provides 10 solid things you can do in this regard.¹

1. Do not use passwords based upon personal details that can be easily discovered, such as birthdate, social security number, phone number, or a family member's name.

2. Do not use words that can be found in the dictionary. Password-cracking tools routinely use dictionary lists to try to crack passwords.
3. Do not use the word "password" as your password. (Many still do!)
4. Try not to use "!", "1" or "9" when required to add a symbol or digit, as these are easily guessed by hackers.
5. Create unique passwords that use a combination of words, numbers, symbols, and both upper and lower-case letters.
6. Avoid using adjacent characters on a keyboard. For example, "qwerty", "asdxc", and "123456" are very easy to crack. (*Continued on page 42*)

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.

(Continued from page 41)

- 7. Length is key. These days, it's very affordable to build powerful and fast password cracking tools that can try tens of millions of password combinations per second. Each character you add to a password makes it an order of magnitude more difficult to crack via brute force methods.
- 8. Avoid using the same password at multiple websites. It's generally safe to use the same password at sites that do not store sensitive information about you.
- 9. Do not use your email account password at any online site. If that site is compromised, your email account will also be compromised.

10. Do not store your password list on your computer in plain text. Either write your passwords down (and keep them out of view) or use a local password storage program, which can protect all your passwords with a single master password.

Everything you do to secure your data is a step in the right direction. Take a step today, any step, to learn more about cybersecurity issues, put that knowledge to work in your firm, and make you (and your client's) world a little more secure. □

1. "Ten Tips for Email Passwords" was originally published in RPost's *Tech Essentials for Lawyers*, a weekly e-brief series that covers legal-related tech news and trends around cybersecurity, workplace productivity, and legal compliance. Subscriptions are available at www.rmail.com/legal-tech-essentials.

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Legal Aid Update



A Little History Lesson

By Cecilia Najera

Despite the legal system's faults, I am still an idealist that thinks our legal system upholds justice and does some really great things. You may be cynical about our legal system, but cynics and idealists are really the same at heart. As **George Carlin** said, "Inside every cynical person, there is a disappointed idealist." The legal community has long had a role in American society to ignite social change and to serve justice. The legal community that understands it has a duty to serve is a stronger one, and it's this attitude that makes me love practicing law in DuPage County. Our legal community and the DCBA has a longstanding tradition and desire to educate the community, protect the vulnerable, and to level the playing field. DuPage Bar Legal Aid Service ("Legal Aid") is the product of the DCBA's devotion to this mission.

Over 20 years ago, **Brenda Carroll** wrote about the history of Legal Aid in DuPage County in a two part Brief Article. Before Legal Aid was in existence, individuals were appointed legal counsel in family law cases according to the informal process of "your number's up." More specifically, a request for a pro bono attorney was made. Then the presiding judge looked around the courtroom, and the judge appointed an unsuspecting attorney to help. Even then "From all reports, these requests were

rarely rejected by attorneys."¹ As the demand for legal aid became greater, the DCBA created a Legal Aid Committee in the 1950's, and its members screened requests and applicants, in person, and assigned *pro bono* attorneys on a rotating basis. When the Legal Services Corporation Act was passed by Congress in 1974, **Keith Roberts, Sr.** envisioned a funded program to provide legal aid to the needy. He was the first President of the DuPage County Legal Assistance Foundation, incorporated in 1975, now known as the DuPage Legal Assistance Foundation which oversees Legal Aid. In 1982, **Michael Galasso** assumed leadership of the foundation and a \$10,000.00 grant was made by the DCBA to pay for a legal aid secretary and for other office expenses.² DCBA also began to solicit funding from members of the DCBA through a dues check off. During that time, the DCBA staff handled telephone screening, but the members of the Legal Aid Committee still reviewed the applications. It was not until 1983 that a full time attorney was hired to address the ever growing demand for legal aid.

In 1996, with the help of former DCBA President, now Honorable **William Ferguson**, then Illinois Senate Majority Leader, **James "Pate" Philip**, and then Illinois Senator **Beverly Fawell**, 705 ILCS 130 was passed. That piece of

legislation allowed Legal Aid to apply for and receive the Civil Filing Fee Grant that is accumulated from \$8.00 of each civil filing fee that is paid to the Circuit Clerk of DuPage County. This grant still makes up over half of the Legal Aid budget. These funds allow us, along with the DCBA membership's commitment to Legal Aid to take cases, to provide nearly 10,000 hours of pro bono legal services every year. In 2004, Legal Aid was fortunate enough to receive a cy pres award in the amount of \$216,139.00 from **DiTommasso** and **Lubin**. Legal Aid continued to receive amounts from that award well into 2007. Legal Aid also received another cy pres award in the amount of \$4,319.25 from **Colleen McLaughlin** in 2013. Additionally, in 2014, during then DCBA President, **Pat Hurley's** term, the DCBA Board of Directors voted to raise the amount solicited from members through the dues check off. (*Continued on page 44*)

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.

1. See Brenda Carroll, Legal Aid Update, 8 DCBA Brief 5, 24 (1996).

2. See Brenda Carroll, Legal Aid Update, 8 DCBA Brief 6, 16 (1996).

News & Events

(Continued from page 43)

This year, we are expanding our financial eligibility guidelines to match other legal services in our county and ensure there are fewer gaps in services. This is a work in progress so please do not hesitate to contact me should you have any questions about eligibility or the application process. Also, our office wants to pass along a few reminders that may help you get credit for cases you are doing on a pro bono basis:

- 1) Please remember to contact our office if you are assigned as a *pro bono* GAL in a domestic relations or probate case. The hours you serve in these cases are counted for our grant purposes.
- 2) If you want to take on a case *pro bono*, but would also like Legal Aid to receive credit for it, you should call our office to let us know the name of the individual you are helping, and then have the individual call our office

to begin the application process. They should meet asset and financial eligibility guidelines for Legal Aid to get credit for the hours.

- 3) Sometimes we assign cases to private attorneys where it is uncertain, but very possible, there could be an asset or the opposing party has a very substantial income. If you find out there are major assets or income, please call our office or fill out your final report to close the matter as a *pro bono* case. You may file a fee petition. You will be given credit for the pro bono hours you worked until that time. If you are so inclined, you may even donate a portion of the fees you recover to Legal Aid.

Thank you to the thousands of you that have helped Legal Aid and the needy in DuPage County throughout the years! Without the DCBA, Legal Aid could not operate in the capacity it does today. □

LRS Stats

7/1/2016 - 7/31/2016

The Lawyer Referral & Mediation Service received a total of 499 referrals, including 15 in Spanish (405 by telephone, 10 walk-in, and 84 online referrals) for the month of July.

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.

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Criminal	113
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Estate Law	29
Family Law	101
Federal Court	0
Government Benefits	4
Health Care Law	0
Immigration	6
Insurance	8
Intellectual Property	1
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Mental Health	0
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ISBA Update



Addressing Implicit Bias

By Kent A. Gaertner

As I write this for the October issue of the DCBA Brief, it is still early August with a high temperature and an even higher temperature index. Makes one look forward to the cooler beautiful autumn days coming (which are now here when you read this). Summer is traditionally a slower time for bar associations and the ISBA is no different.

At a very successful and well attended ISBA annual meeting in June, fellow DCBA member **Vince Cornelius** was installed as the first African-American president of the ISBA. One of Vince's initiatives this coming year is to address the issue of implicit bias in all of us. Implicit bias is the bias that is ingrained in everybody as a result of our upbringing. We are all, to some extent, products of our environment at an early age. This is not just home environment but the environment of our community, nation and the world as we pass through our early developmental years. This is not to say that we are all racists. It's only to say the attitudes and perspectives we grow up with are still within us all in our later years. Recognizing this and dealing

with this helps us understand each other and helps us move forward to continue the hard work of eliminating racism and other types of bias in our society and in our profession. Count on seeing more on this subject in the form of CLE over the coming year. Implicit bias training is now used by the justice department for federal prosecutors and agents. It is also being used in the Circuit Court of Cook County for judges.

The ISBA also took a stand this summer before the Illinois Supreme Court Rules Committee against the shackling of juveniles in delinquency proceedings under the Juvenile Court act. Half of all the states have now changed their rules to eliminate this practice.

On July 28th, the Illinois Bar Foundation held an event honoring outgoing ISBA President **Umberto Davi** at Maggiano's Naperville. Umberto was "roasted" by some of his closest friends and fellow ISBA officers. The event was very well attended. A nice amount of money was raised for the Illinois Bar Foundation and a good time was had by all.

Lastly, the Senior Lawyer Section Counsel of the ISBA and the Senior Lawyers Division of the DCBA are co-hosting a seminar on October 14th regarding basic computer training for senior lawyers. This will be held at the College of DuPage. Details will be released about the same time as this issue of the *DCBA Brief* hits your desk.

As always, if you have any issues, comments, concerns or ideas regarding ISBA that you want to discuss, please do not hesitate to contact me. I can be reached at kgaertner@springerbrown.com.

□

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.

Classifieds

Professional Offices For Rent On 22nd in Oakbrook Terrace

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Where to Be

In October

President's Trip Gusts into the Windy City on October 20 & 21

By Sean McCumber



President **Ted Donner** has brought the President's Trip to Chicago beginning Thursday, October 20, 2016 for a two-day extravaganza ending on Friday October, 21, 2016. This program ties into this year's Bar Association Volunteer Week, which occurs October 24-28, 2016.

Recent graduates, new lawyers, and experienced lawyers are encouraged to sign up for this once-in-a-lifetime program. Guests will begin this program at the Seventh Circuit Court of Appeals, where the sitting Judges, court personnel, and lawyers will provide opportunities for learning the ins and outs of court practice and procedural issues, while watching lawyers argue live cases before the Court. The remainder of Thursday evening shall include socializing and comedy.

After Advocacy at the Seventh Circuit (or before heading over to The Second City), guests may head to the ISBA Mutual offices for a light, Oktoberfest-themed dinner buffet, as well as beer and wine, with colleagues and friends. After the reception, a special private performance starts at 6:30 p.m. for lawyers and law students to have some laughs at the Second City Mainstage.

On Friday, October 21, 2016, guests can breeze in for a not too-early morning improv session – an introductory class in improvisation and communication skills for the Courtroom with the folks from CSZ Chicago. At 11:30, guests can enjoy a box luncheon with keynote speakers, Illinois Appellate Court Justice Ann Jorgensen and ISBA President **Vincent Cornelius**, who will speak on the Future of Legal Practice and the Role of Bar Associations in that Future. After lunch, **Jeena Cho**, author of *The Anxious Lawyer*, will present *Lawyer Wellness Through Mindfulness*, which provides a straightforward, introductory program on meditation and mindfulness, created by lawyers, for lawyers. The program draws on examples from Cho's professional and personal life to create an accessible and enjoyable entry into practices that can reduce anxiety, improve focus and clarity, and enrich the quality of life.

After the wellness program, guests may choose one afternoon CLE program from three choices:

Life After Law School

A workshop for law students and new lawyers focusing on financing law school debt and how to find and secure that first elusive job as an attorney.

Law and Technology

We take a look at the ways in which technology is affecting the practice of law, discussing the good and the bad, opportunities and hurdles (1.5 hours PRMCLE).

Mentoring

An introduction to mentoring for those who have found or are interested in volunteering to partner up for the Illinois mentoring program. *(Continued on page 48)*

Where to Be Continued...

In October

The trip concludes Friday afternoon with Cirque du Pro Bono. The DCBA celebrates the launch of this year's Bar Association Volunteer Week (October 24-28, 2016) with an open bar reception and "Cirque du Pro Bono." Grab a drink, learn what other lawyers and students are doing in public service, and find out how you can help! Meet some of the faculty from various law school legal clinics. Learn about Lawyers Lending a Hand. Join the Mentor Program of the Illinois Supreme Court. Later, guests can blow over to a DCBA members only night at Kingston Mines, where they will enjoy some blues and some BBQ.

A la carte and package pricing is available. Go to www.dcba.org to check prices and register today. New lawyers may use this program to fulfill their 6-hour Basic Skills program requirement. For those who decide to make this trip a mini-vacation or want the convenience of nearby accommodations, DCBA has negotiated reduced rate lodging at the newly remodeled Hotel Lincoln in Old Town (1816 North Clark Street – convenient to Second City and Kingston Mines). Please call 312-254-4700 for reservations, requesting "DCBA" rate when booking (\$229 per night single/double plus tax). □

Friday Events

Comedy Sportz Improv Class
10:00 a.m. – 11:30 a.m.

DCBA Luncheon
11:30 a.m. – 12:30 p.m.
(Illinois Appellate Justice Ann Jorgensen and ISBA President Vincent Cornelius are the keynote speakers)

Wellness Session and Afternoon Workshops
12:30 p.m. – 4:00 p.m.
(Start with a program in wellness and then choose from three separate tracks: After Law School, Law & Technology, or Mentoring)

Cirque du Pro Bono
4:30 p.m. – 6:00 p.m.

Kingston Mines
8:00 p.m. – Your bedtime
(Please RSVP for this DCBA Members Only event)

#dcbainchicago



Thursday Events

Advocacy at the 7th Circuit Court of Appeals
1:30 p.m. – 4:00 p.m.

Reception and Buffet at ISBA Mutual
4:15 p.m. – 6:00 p.m.

The Second City Mainstage
6:30 p.m. – 10:30 p.m.
(Enjoy an evening of improv and laughs! Separate Tickets required)

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