THE DOCKET

The Offic e County Ba ociation • 14

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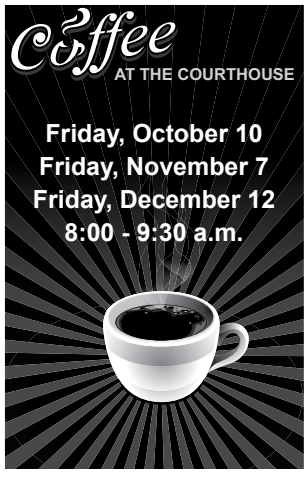
Free Coffee
There's No Catch

In the Director's Chair

BY CHRISTOPHER BOADT

Hopefully you have seen the advertisements in The Docket, the e-news and the signs in the Courthouse. Free coffee before court. Six times a year, three in the Spring and three in the Fall, the Lake County Bar Foundation hosts these events featuring no speeches, no sales pitches and no agenda; just a good opportunity to mix and mingle before court with your fellow practitioners and judges.

These events are held in the jury assembly room and the turn-out to date has been "okay." I know it can be better. If you have attended one of these Coffee in the Courthouse events, I invite you back and encourage you to bring along one friend... LCBA member or not. No need to stay for the entire time, stop in for five minutes or so and say hi to your colleagues.



These events provide an opportunity to build camaraderie for the following reasons:

SIZE MATTERS

Our membership is relatively small in comparison to some other organizations you may belong to. These events provide a strong sense of connection to your fellow LCBA members. The participation of our judiciary at these events is much appreciated and valued by our attendees.

DISTINCTIVENESS OF OUR ASSOCIATION

Our members tend to feel a sense pride when our association is compared with other bar associations of similar size. I enjoy the chance to hear the stories of the unique experiences of different members within the LCBA during these gatherings.

SHARED SUCCESSES OF LCBA MEMBERS

Our members enjoy the opportunity to feel a connection and commitment to their peers when they have faced a common challenge. Sharing stories about individual successes during these casual gatherings is a great way to teach and mentor newer lawyers how to overcome obstacles.

ATTENTION YOUNG/ NEW LAWYERS

Don't miss these opportunities to network with more senior practitioners and judges, and it's FREE!

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Capture the Present as the History for Tomorrow

The President's Page

BY KEITH C. GRANT

Last year, while I was researching the history of the Public Defender Movement, I received a phone call out of the blue from an elderly gentleman who said he was Paul Kaiser, a former Public Defender. He wanted to know if I had any information about the famous jailbreak that took place in Waukegan in the sixties. He said that he had been a public defender then and that the escapee had waived a pistol in his face. Asking around, no one had ever heard of such a thing and many suggested it was a joke. Finally, a call to the Lake County Historical Museum brought me a Tribune Article from 1964, detailing how LCJ Inmates Seney and Davidovic (who were being held on the second floor of the old, old courthouse) produced a pistol and forced a jailer and Kaiser into their cell. They sprinted through the courthouse past Public Defender Richard Christian, who was on the phone (the only phone in the building) with Assistant State's Attorney Jack Hoogasian. Young Jack alerted the Waukegan Police and after the briefest of chases, the two were returned to their cell (only shortly after Kaiser was let out).

When I called Mr. Kaiser back to tell him what I had found (some two weeks after our prior call), I was informed he had passed away. While his passing is sad, I like to think that this one exciting story of Lake County Law lives on because Mr. Kaiser shared it with me and now I share it with you. This instance of recollection very nearly lost got me thinking about history. Not D-Day or the Titanic, rather our own history, about the history of our Association, of the people in it, and how that history is daily at risk when we fail to capture and record our present against its loss in the future.

When we don't preserve our present, what is remembered of the past becomes questionable. You see, I thought I was the first modern member of my family to practice law. I also believed that I was the 102nd President of the LCBA, which was founded in 1912 and lead by first president John D. Pope. Turns out, these things are both true and untrue. I've found documents that prove and disprove each.

Regarding my own history, my mother gave me some of my grandfather's papers. Among them was his admission to the ISBA. In October of 1899, my 23 year old grandfather, George Collins (with nothing more than a high school education), paid his $5 admission fee and $5 annual dues and was admitted to the 22-year-old Illinois State Bar Association. This was only two years after the ISBA had spearheaded the creation of the Illinois Board of Bar Examiners and required at least a high school education as a prerequisite to admission. Illinois' unified court system, all falling under a single Supreme Court located in Springfield was less than 30 years old. U of I's law school was in its infancy, only two years old. Chicago Law School and Kent Law School (each initially formed some 10 years earlier as little more than bar exam study groups) were in the process of merging. Northwestern had been operating Illinois' oldest law school for nearly 30 years but was located above a YMCA in Chicago (and only became part of N.U. eight years earlier).[1] The University Of Chicago College Of Law wouldn't open its doors for three more years.

While I have my grandfather's admission paperwork, I have yet to locate

1 History of Northwestern Law: 1800's (www.law.northwestern.edu/about/history)

Attorney

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Clark & Steiner, LTD

Vincent Stavros
Lake County State's Attorney

Cynthia Sutherin
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Paralegal Student

Liz Glazer
Paralegal Student

Mike Amrozowicz
Edward Jones Investments

Steve Kopala
Northwestern Mutual

any proof of his actual practice of law in Illinois. But he may not have stayed in Illinois long enough to practice (he enlisted in the Army and was shot in the wrist during the Philippine-American War around 1900). He was licensed to practice in an era when legal training was almost purely "technical" and usually obtained via apprenticeship, when the job of modern law schools (training attorneys) was more often undertaken by Bar Associations, and other private groups. As I noted, our own LCBA probably didn't even exist at the time.

Had my grandfather begun his turn-of-the-century practice in Lake County, he would have found a lovely Victorian style courthouse at the corner of County and Washington streets. It was our second. The first, a Doric building, finished in 1844 in the town of Little Fort, but burned down in 1875 in the town of Waukegan ("Waukegan" is allegedly an Indian word for "Little Fort;" town leaders adopted the current name in 1849, when the town was deemed too big to be called "Little").

A 1977 ISBA history paper notes that "the Lake County Bar Association was organized in 1912 and Attorney John Pope was the first president. It existed as an unincorporated association until its incorporation...on Jan. 9, 1960."[2] Pope was an attorney, train magnate[3] and political activist.[4] While this is an origin story for the LCBA, the ISBA also published quite contradictory evidence. At the end of the 19th Century, the ISBA regularly published detailed records of every annual meeting they held; this included a listing of attending County Bar leaders. According to the ISBA, Pope was preceded in office by 1911 Lake County Bar President, Edward J. Heydecker of Waukegan.[5] The 56-year-old Heydecker was a principal in the firm of Heydecker and Parmalee and had recently been appointed Lake County's Master of Chancery.[6] His family was a powerful one in the Waukegan legal community, Edward having run for Circuit Judge in 1906[7] while his brother, C.T., served as State's Attorney.[8]

At the 1910 ISBA meeting, the report of proceedings indicates that our LCBA was represented by President William L. Upton and Secretary Clarence Diver. The Diver name is likely familiar to most of us today, and the Uptons were another very active legal family. The 1909 LCBA President E.L. Upton was the brother of William and he also served with Secretary Clarence Diver.[9] E.L. Upton was perhaps the more prominent Upton member of Waukegan society, an officer at the Waukegan Country Club,[10] whose grand Victorian cottage, "Larchmere" is now known as the Douglas House in Upton Park, Waukegan. Their father, Clark W. Upton was a Lake County Circuit Judge from 1877 to 1897 and passed in 1906.

In 1908, our Association was led by President D.L. Jones and Secretary Charles E. Lauder.[11] Jones was also a Circuit Court Judge,[12] and would later become an officer at Waukegan's Security Savings Bank;[13] Lauder, another prominent attorney, was a Deacon in the Zion Tabernacle (Zion having been founded only 7 years earlier as a religious enclave).[14] Laudner would move on to serve as State's Attorney for Monmouth, Illinois[15] and would become First-Vice President of the Illinois State's Attorneys' Association.

In 1907, our Association was helmed by President C.T. Heydecker (Edward's aforementioned brother) and Secretary James Van Duesen. Van Duesen appears to have served Waukegan as Justice of the Peace in 1904.[16] They were preceded by

2 *Brief Histories of Some County Bars and Other Legal Organizations in Illinois: Lake County Bar*, Minard E. Hulse, Harry P. Breger & John F. Williams. Illinois State Bar Association Publications, January 1977

3 "Electric Waukegan to Belvidere" *The True Republican*, January 27, 1909 (noting Pope as one of 5 incorporators and Director of a Waukegan based train line)

4 *Antioch News*, 4/18/1912, Pope listed on a Republican congressional nominating committee

5 *Proceedings of the Illinois State Bar Association, Semi-Annual Meeting, February 16, 1911*. Chicago Legal News Co.

6 *Antioch News*, 10/06/1910.

7 *Antioch News*, 03/29/1906. Heydecker's notice of announcement as a candidate, no record of outcome.

8 *Antioch News*, 11/23/1911.

9 *Illinois Bar Association, Thirty-Third Annual Meeting*, 1909.

10 Harpers Official Golf Guide, 1901

11 *Illinois State Bar Association, Thirty-Second Annual Meeting*, 1908, and the *Report of the Thirty-First Annual Meeting of the American Bar Association*, 1908

12 John Marshall Day Proceedings of the Chicago Bar (noting the presence of judges from other jurisdictions, D.L. Jones among them).

13 Rand-McNally Bankers' Directory

14 Leaves of Healing, 10/22/1904 (the daily paper of the Zion Tabernacle)

15 *The Institution Quarterly*, 1920 (Official Organ of the Public Welfare Services of Illinois)

16 Biennial Report of the State Treasurer, 1904 (reporting receipt of fines levied in hunting cases by various Justices of the Peace).

1906 President Charles H. Whitney and Secretary Ben Parmalee. Whitney was very active in the legal and political world of Lake County. From 1876 to 1887 he served as State's Attorney, also serving as Mayor of Waukegan in 1886 – 87. In 1901, he was appointed to the Circuit Court, a position he held until his death in 1914. His impressive home, built during his time on the bench, still stands at 414 Julian in Waukegan.[17]

Right about now both readers who've gotten this far are wondering, "Who cares about this boring dusty history?" And that's just it, nobody really cares and so we end up with alternative histories. In one, our Association forms in 1912, while in another the LCBA is formally attending annual ISBA meetings before 1906 (I have chosen to stop my narrative with President / Circuit Judge Whitney in 1906 mostly out of space considerations). Some would argue this is nothing more than trivial irrelevant facts. But I believe that these men are our history and our past, and that we are informed and instructed by who they were and what they achieved.

Our history fades and is lost unless we take active steps to record and remember it. This idea of remembrance was sufficiently strong in the attorneys of that bygone era that the ISBA annually received and recorded the "Report of the Necrologist," who would note the passing of members and detail their accomplishments (in much the same way our own Bernie Wysocki annually oversees our Memorial Service).

Other than the name "Diver" I had never heard of the men listed above, yet they are my predecessors and holders of an office now well into its second century of existence. I believe it is important not only to record their names, but to remember who they were. I wish I knew more about them. I believe that to better recall the past, we must adequately record the present. Through oral histories, photographs of our practices, or even just a collection of attorney advertisement pens, we can begin to capture the present as the history for tomorrow. Someday, a photograph of me at my desk, tapping away at a laptop with an iPhone beside me will seem as anachronistic as a black and white photo of some pre-madmen era executive with his rotary-dial phone and dictation mic.

Over the next few months, we'll re-energize our history preservation efforts. When you see those opportunities, think about adding your voice to the record of our times.

Oh, and a question: do we need to change our logo? Let me know what you think.

17 *Proceedings of the Illinois State Bar Association* 1906 and the Waukegan Historical Society Walking Tour of Historic Homes.

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Leaving a Mark

BY CHIEF JUDGE
JOHN T. PHILLIPS

Like most of us, I receive a lot of emails every day. Sometimes the writer will end the message with a quotation in the form of a motto or a slogan. Most of the time, though, you see a quotation at the end of an email inserted after the sender's "e-signature" which is there to perhaps inspire or lead you to contemplate the idea expressed by the phrase. Someone sent me an email a few weeks back that had such a quotation as part of their formatted email signature. The quote was:

> Funny how life goes on but leaves those marks on our lives.
>
> This time of reflection certainly brings the happiest memories with a dash of sadness.

I cannot recall what the email concerned but I do recall re-reading the quote and having one of those "huh?" moments. Right around the same time there were several "real life" events that came to my attention. The results of our Circuit Judges' recent election of a new Associate Judge had just been announced and Assistant State's Attorney Dan Jasica was going to be wrapping up his distinguished career with the Lake County State's Attorney's Office to begin his new career as a judge; Illinois State Representative JoAnn Osmond had retired from the Illinois General Assembly and I had just received an invitation to attend a celebration to honor her service; I had just read an obituary about the death of Gene Snarski, a long-time Lake County attorney that many of us had known and respected since the day we first walked into a Lake County Courtroom; and, I had just heard of the passing of Bob Neal who was a legend in Lake County public service and politics. Those seemingly unrelated events brought me back to those thoughts and words about "life." When I first saw the quotation the "huh?" went pretty quickly to an "Okay," but when I was thinking about the deaths of Gene and Bob, about JoAnn no longer being a voice for the judiciary and the legal community in Springfield, and about the start of Dan's judicial career, for reasons that only a psychiatrist would understand, the quotation from the end of that forgotten email popped into my head. I then looked for the original email to re-visit the quotation (which wasn't that difficult because I usually only delete emails when my in-box is at its limit) and when I found it again much deeper in my in-box I was no longer certain that I understood what the source of those words meant by the term "marks on our lives." Since the email did not provide the source of the quotation I put the quote in a few search engines to see if I could identify an author and perhaps discover the context or original writing that might be the source of the quote. I was immediately successful in finding one or two sources that attributed the quotation to a person named Tammi Post. Other than finding a whole bunch of other quotations attributed to "Tammi Post" I was totally unsuccessful in finding out who "Tammi Post" is, where she is from, what she does, or what was meant in the quotation that I was trying to track down. I found a physician and motivational speaker from Arkansas named "Tammy" Post but I had no luck on finding "Tammi" Post or a context for the quotes. This "end of the day" effort was the final task on my office desktop computer before deleting a lot of emails because of the "your mailbox is full" notification which replaced the "your mailbox is almost full" notification

The Calendar of Events

October 10
Coffee In The Courthouse
Jury Assembly Room

October 11
Adopt A Highway

October 13
Debtor/Creditor Seminar & Golf
Vernon Hills

October 22
Membership Luncheon
Waukegan City Hall Chamber

October 23
Risk Management Seminar
Knollwood Country Club
Lake Forest

October 29
Brown Bag CLE
LCBA

November 7
Coffee In The Courthouse
Jury Assembly Room

November 13
Brown Bag CLE
LCBA

November 14
Trusts and Estates Seminar
Knollwood Country Club
Lake Forest

November 19
Membership Luncheon:
ARDC Update
Greenbelt Cultural Center

November 21
LCBA Gala Dinner and Dance
Cuneo Museum, Vernon Hills

December 5
Holiday Party
Lake Forest Club, Lake Forest

December 11
Brown Bag CLE
LCBA

December 12
Coffee In The Courthouse

Register for these events on-line at: **www.lakebar.org**

that I receive a few times each week. While sitting at my desk the next day when I thought to make another search effort, I realized that my search was at a total dead end because I had now deleted the original email and could not remember who had sent me the email that ended with that quotation. There was no one to ask where they found the words in the first place. There was not going to be an easy right or a wrong answer I could get from anyone else so I looked again at the quotation that I had quickly scrawled on a piece of scratch paper the day before, while typing the first part of the phrase into a "google," "yahoo," and "bing" search.

Many of us met and worked with JoAnn Osmond when she was the Executive Secretary of the Lake County Bar Association. She was kind to all of us in the legal community and shepherded her officers and directors of a then much smaller LCBA through some challenging times. I will never understand how she was able to cast and then convince a large group of male lawyers to don tights and tutus and dance "daintily" as daffodils in a nicely choreographed skit in the 1977-78 Gridiron show. You may want to ask Skip Tonigan, Bernie Wysocki, or Mike Henrick about that as they certainly proved themselves to be ballet artists to some degree while dancing to Tchaikovsky's "Waltz of the Flowers." When JoAnn left the Bar Association she worked as legislative assistant to attorney-legislators Bob Churchill and then Syd Mathias. She married Tim Osmond, a dear friend of many of us, and after Tim's very untimely death, and a lot of convincing by friends, constituents, and legislators from both political parties, she successfully ran and was elected to Tim's seat in the General Assembly, where she served for over twelve years. As part of the House leadership JoAnn was one of those legislators who cared, who did the right thing regardless of political risk, and who truly represented her constituents. She was a friend of the judiciary and the Bar, always championing our causes. With her retirement we in the legal community will be without the loyal and reasoned voice that issues affecting us always had in the Committees and on floor of the House when JoAnn was either sponsoring or supporting the bill. She was liked and respected by, and always had the attention of, her fellow legislators without regard to party affiliation.

Gene Snarski practiced law in Lake County for 50 years following his service in the U.S. Army from June of 1945 through October of 1946. During his long career as an attorney he worked with many of the "giants" in our Bar Association's history, among them Jim Herman, Charlie May, and Murray Conzelman. He was a partner in Conzelman, Schultz, O'Meara, and Snarski and served as City Attorney for Park City, Round Lake, and Kildeer, as well as serving as the Assistant City Attorney for Waukegan. Gene also served our Lake County Bar Association as its Treasurer for 5 years. He was an advocate and a gentleman.

Bob Neal was a lifelong resident of Wadsworth. He served on active and reserve duty with the U.S. Navy from 1957 until his retirement from the reserves in 1999. As a local business man, he started Able Electronics and operated that business for over 25 years in Waukegan. Bob was active in more community organizations and groups than I could list and truly cared about the Lake County Community. He was a Village of Wadsworth Trustee, the Newport Township Supervisor, and 12-year Commissioner on the Lake County Board. He was VERY active in Lake County politics. He was also a volunteer fireman and a tireless supporter of our youth. Being an Eagle Scout himself, he was particularly supportive of boy-scouting. Bob also worked for the Illinois Department of Natural Resources and later for a corporation called Wetlands Research, Inc. As president of this company he led the development of the Wetlands Demonstration Project in Wadsworth and Gurnee. Neal Marsh was named after him to honor him for his work on these projects.

As Chief Deputy of the Civil Division of the Lake County State's Attorney's Office, Dan Jasica won the respect and admiration of the many county officers and officials that he has represented in administrative matters and in state and federal court for the last 17 years. As the super-

visor of the State's Attorney's civil trial and child support divisions he has mentored, assisted, and inspired other members of our legal community. He was universally admired by advocates representing the "other side" in litigation. He was endorsed as "highly recommended" by the LCBA Judicial Selection and Retention Committee after their careful look at his qualifications. His loss to the State's Attorney's office is probably only comforted by the gain that those who appear before him as a judge will receive because of the experience, professionalism, and temperament that were key in his selection to serve as our Circuit's newest Associate Judge.

In what Bob Neal and Gene Snarski did during their remarkable lives and careers, in what JoAnn Osmond accomplished for our Bar Association, for our Lake County Community; and for the State of Illinois in her very distinguished career, and in how Dan Jasica was able to represent "the people" of Lake County and the State of Illinois during the first part of his career, I came to understand the meaning of the quotation that began this column. These four fine people clearly left "marks on our lives." But, for those of us who knew Bob and Gene during their lifetimes, who came to rely on JoAnn as the caring and responsive legislator that she was, and who perhaps relied on Dan for his calm and knowledgeable advice and counsel, the "time of reflection" will bring the happiest of memories but most probably a lot more than "a dash" of sadness.

Three Presidents, One Office, and a Shared Vision

LCBA: The A's Not for App, But it's Still a Lake County Lawyer's Best Social Network

BY STEPHEN J. RICE

When God created Scott Gibson, He thought to himself: "Whoa, I need a counterweight in the universe to this one!" and so He created Steve McCollum. Then He created Marjorie Sher and threw His hands up, knowing that no possible counterweight could be devised for her!

The Lake County Bar Association has been led in succession by these three diverse individuals: Gibson served as President in 2009–10, Sher in 2012–13, and McCollum in 2013–14. But that's not the only aspect of life that connects them: for many years, they have shared an office across from the Waukegan courthouse. It's unlikely that God considered this a possibility!

Outwardly, Scott, Steve, and Marjorie exude very different personalities, but a common, inner passion animates all three. This commonality emerges when you discuss the Lake County legal community and our Bar Association with them, as I did on a still-wintry day this past March at the Deer Path Inn.

The early careers of both Scott and Steve intersected in the Lake County State's Attorney's Office. Scott departed to private practice in 1987, moving into the building that older practitioners call "the old Sears Building" in 1992 (the U.S. Postal Service calls it 415 West Washington Street). He remains there today, having outlasted many other law offices whose names still grace various parts of the building's winding halls.

In 1995, Steve left the State's Attorney's Office and assumed the criminal law practice that Richard Kopsick had started. Richard, in turn, joined with Scott to practice personal injury (incidentally, Richard was the first suitemate to become LCBA President). Fast forward to 2009 and Marjorie Sher, who practices family law, joined Steve and Scott and created the current configuration, which is a veritable one-stop-shop for dealing with a person's troubles,

Stephen J. Rice is an Assistant State's Attorney in the Civil Division of the Lake County State's Attorney's Office.

pain, and misery. (That is not their marketing tagline, by the way.)

"Friends and business" is how Scott describes the concept of a shared suite of diverse practitioners: it works because they're able to share space as friends, but also share business because their practices do not overlap. Each of them has a small staff of their own assistants, forming an annual Christmas party of about ten people. They don't necessarily see each other on a daily basis—they keep different office schedules based on the dictates of their law practices—but when they discuss things like their Christmas party or Super Bowl gathering, one understands that these are not just three ships passing in the night.

With all three having recently served as LCBA president, I asked the group what they would do if the presidency wasn't one year long, but rather 10. "Find a place to throw the rope to hang myself!" exclaimed one of the gentlemen. Humor aside, that is certainly a reflection of how demanding the year-long presidency is. While leading a Bar Association may not seem like a terrible burden to those unfamiliar with the LCBA's inner workings, bar presidents do not get to set aside their law practices during the year. On the contrary, being bar president can be good for business, which means that instead of an additional ball in the air, you have several. A bar president never lacks for events to attend or issues to address—some esoteric (e.g. how should the bar communicate to the supreme court about the court's proposed rule change?), others less so (a luncheon with protesters and media trucks).

Ropes and balls aside, my 10-year question actually elicited a corrective response. Marjorie pointed out that by the time you become President, you've already been on the LCBA's executive board for several years, such that a bar presidency is not as short-term as it appears. Particularly in the run-up year when you are First Vice President, your presidency has really already begun. In any case, you're part of the decision making and policy development for the LCBA long before your 12-month presidency.

In many ways, these past presidents define the value of the century-old LCBA in a very contemporary manner: it's the social network of the Lake County legal community. The analogy to a social network like Facebook or LinkedIn is apt: one needn't be part of these networks to be a successful person, but a good social network can inure greatly to one's benefit. Such a network can promote pocketbook growth, on the one hand. But as importantly in a profession known for its unhappy practitioners, it also promotes the collegiality that makes law practice tolerable. If you don't derive some enjoyment from practicing law in Lake County, Illinois, then you probably aren't a member of the bar association. All three agreed that the social aspect of the LCBA must remain a priority.

> "For Scott, Steve, and Marjorie, the answer has been clear: the LCBA has been their personal and professional network."

As an organization that is over 100 years old, it's clear that the LCBA has staying power. But the organization continues to have an impermanence about it because it does not have a fixed location. Also, as with any long-established organization, the presidents spoke of the LCBA growing its revenue sources—and these ideas are connected. All three presidents foresee a time in the near future when the Bar Association and its Foundation will own a building instead of renting space. Revenue to the LCBA would come in the form of the Foundation—but perhaps other organizations too, depending on the space—renting parts of the building from the LCBA. With Lake County's upcoming investment in a new courts complex, these past presidents believe that it makes sense for the Bar Association to be permanently located in what will continue to be the legal epicenter of Lake County.

Revenue for a bar association can be a function of several things. Membership dues are obviously the primary funding mechanism. Next, since their inception, CLE requirements have provided bar associations a method of generating non-dues revenue. Then there are associations that provide fee-based services that generate revenue. For example, the DuPage County

Bar Association runs the "Driver Improvement School," which according to its website conducts the "only classes officially approved to meet court supervision requirements for the . . . 18th Judicial Circuit."

Stable revenue and growing membership can underpin a healthy bar association, but ultimately, the presidents-emeriti agree that the association must be relevant to its members' lives to thrive. Put more directly: people must be able to answer the question, "What does the LCBA do for me?"

For Scott, Steve, and Marjorie, the answer has been clear: the LCBA has been their personal and professional network. It has provided them both a social outlet, but also the professional connections that every lawyer needs to grow his or her own practice. Their shared office illustrates this principle writ small; their participation in the bar leadership structure—both the Bar Association's and the Foundation's—exemplifies this in the larger sense.

With regard to social networks, the new association website, which was recently launched under Steve's leadership, is a significant step for the LCBA. More than just what a user sees on the front end, the new website incorporates a lot of back-end functionality for the office staff. That aspect of the website should make the organization more efficient and better able to communicate with its membership, but also vice versa. If you've already booked a seminar or RSVP'd through the website, then you've already been a part of that functionality.

What does the LCBA do for me? No one answer will resonate with a group as diverse as the LCBA's membership. The diversity is illustrated by these three past presidents, with their unique personalities and law practices. Setting "relevance" as a LCBA goal is simple to formulate but difficult to execute. In addition to stable funding, a fixed location, and membership growth, all three presidents talked of smaller efforts that bring value. One is fostering the judges' participation in the bar association. Contact with the judiciary outside the formal confines of the courtroom builds community and ensures that communication crosses the bar-bench divide.

Whatever else the future brings, one thing remains clear: a certain path to the presidency appears to run through a shared suite at the old Sears building.

SAVE THE DATE

December 3, 2014 @ 5:30PM

AWALC
HOLIDAY PARTY

(Location & Charities Information to Come)

COMBAT VETERANS

World War II, Korea & Vietnam WE WANT YOU!

Participate in the
2014 Veteran's History Project on Veterans Day
Tuesday, November 11, 2014
Lake County Courthouse, Waukegan, IL

On Veterans Day morning, Tuesday, November 11, 2014, World War II, Korean War and Vietnam veterans are invited to come to the Lake County courthouse in Waukegan to meet with volunteer lawyers and have their oral histories recorded by official court reporters who will produce transcripts of their interviews for the Library of Congress. The keynote speaker of the event is anticipated to be **Al Lynch, Medal of Honor recipient from the Vietnam War**. The typed transcripts will be archived at the Library of Congress. The Library of Congress sponsored project collects first-hand accounts of veterans from the wars as well as personal items such as photographs, diaries, letters, etc. of the veterans, if they so choose.

Not only veterans, civilians who were actively involved in supporting war efforts (war industry workers, such as "Rosie the Riveter," USO workers, civilian flight instructors and pilots, medical personnel, etc.) are also invited to share their valuable stories.

To Volunteer or Attend: Carol Cord, a member of the Court's Administration Office who can be reached at 847-377-3771, will be the main contact for this effort. She is the mother of two war veterans of the recent conflicts in the Middle East. She will be coordinating the volunteers, the veterans and courthouse personnel. Any veteran interested in being interviewed or anyone interested in volunteering to assist in this project should contact Ms. Cord at their convenience. Approximately only 25 veterans will be able to be interviewed at this year's event, so please contact Ms. Cord at your earliest convenience. 2014 Veterans Project, Tuesday November 11, 2014.

Conflict, What Conflict?

The Illinois Supreme Court Recently Held in a Groundbreaking Decision that Federal Predictions of State Law are Insufficient to Create a Conflict of Law

BY JEFFREY BERMAN AND DAVID OPPENHEIM

"When I use a word," Humpty Dumpty said, in rather a scornful tone, "it means just what I choose it to mean —neither more nor less." "The question is," said Alice, "whether you can make words mean so many different things." — Lewis Carroll, Through the Looking Glass (1872).

Yes, of course you can, Alice. And that is especially true if you work for an insurance company, or practice in the area of insurance coverage litigation.[1]

Jeffrey Berman, of the law firm of Anderson+Wanca, has extensive experience in complex commercial litigation, insurance and insurance coverage litigation matters in state and federal courts across the country. He presently serves as a member of the Docket *Committee.*

David Oppenheim, of the law firm of Anderson + Wanca, has extensive experience in both class action litigation and insurance coverage litigation matters in state and federal courts across the country.

For many practitioners, the words "choice of law" conjure up long-ago, horrifying moments in civil procedure class where the wily professor invoked an obscure case reference to initiate a Socratic exchange on some arcane aspect of the law that was prompt-

1 Humpty Dumpty's aphorism has been quoted by courts in numerous decisions, including by the United States Supreme Court, and many of those courts have done so in the context of insurance coverage disputes. *Tennessee Valley Auth. v. Hill*, 437 U.S. 153 (1978); *Zschernig v. Miller*, 389 U.S. 429 (1968); see, e.g., *Taylor Morrison Services, Inc. v. HDI-Gerling America Ins. Co.*, 293 Ga. 456, 460, n.7 (Ga. 2013); *County of Sacramento v. Scottsdale Ins. Co.*, 2003 WL 21246688, *14, n.86 (Cal. App. May 30, 2003); *Garden State Indem. Co. v. Miller & Pincus*, 773 A.2d 1204, 1208 (N.J. Super. 2001); *Barga v. Indiana Farmers Mut. Ins. Group, Inc.*, 687 N.E.2d 575, 578, n.3 (Ind. App. 1997); *ACL Technologies, Inc. v. Northbrook Prop. & Cas. Ins. Co.*, 17 Cal.App.4th 1773, 1794, n.50 (Cal. App. 1993); *Brooklyn Bridge, Inc. v. South Carolina Ins. Co.*, 420 S.E.2d 511, 512 n.1 (S.C. App. 1992); *Fowler v. Canal Ins. Co.*, 300 S.C. 420, 422-23, n.4 (S.C. App. 1990); *Brown v. Int'l Service Ins. Co.*, 449 S.W.2d 491, 496, n.3 (Tex. App. 1969); *Blue Cross Blue Shield of Mass., Inc. v. BCS Ins. Co.*, 671 F.3d 635, 637 (7th Cir. 2011); *Roberts v. Universal Underwriters Ins. Co.*, 334 F.3d 505, 513 (6th Cir. 2003) (concurrence); *Continental Western Ins. Co. v. Pimentel & Sons Guitar Makers, Inc.*, 2006 WL 6335399, *3 (D. N.M. June 16, 2006); *Voluntary Hospitals of America, Inc. v. National Union Fire Ins. Co. of Pittsburgh, PA*, 859 F. Supp. 260, 263 (N.D. Tex. 1993). See also *Larson v. R.W. Borrowdale Co.*, 53 Ill.App.2d 104, 113 (1st Dist. 1964).

ly forgotten—or at least after the Bar Exam. It may be time to brush up on those rules, particularly if you are a litigator who deals with insurance coverage issues. Courts of different states routinely come to substantially inconsistent conclusions about how to interpret the exact same language in a standard-form insurance policy. In fact, you can almost pick any word or provision from a standard insurance policy and find at least two courts, somewhere, that have reached diametrically opposite conclusions as to what it means. That is why a conflict of law battle between a policyholder and insurer can be so critical in insurance coverage litigation. The choice of which state's law is to be applied to a particular issue in an insurance coverage dispute can be determinative of the ultimate outcome of the case.

Whenever a potentially covered event occurs in a state other than the one where the policyholder resides or where, for example, the policy was purchased and delivered, it potentially sets up a need to decide which of those two (or more) states has the most significant relationship to the subject matter of the contract, such that the law of one state should apply instead of the others. In all such cases, however, the first question a court must ask before it even engages in a choice-of-law analysis, is whether there is an actual, outcome-determinative conflict between or among the laws of the potentially applicable states. If the answer to that question is "no," then the court will simply apply the law of its own state — that is, the law of the state where the action is pending.[2]

> "The first question a court must ask before it even engages in a choice-of-law analysis, is whether there is an actual, outcome-determinative conflict."

But, what happens when there are no state court cases on a specific coverage issue and the only law that the parties can find is the decision of a federal court predicting what the state's courts would do with the issue? That was the question the Illinois Supreme Court answered as a matter of first impression on May 22, 2014 in *Bridgeview Health Care Center, Ltd. v. State Farm Fire & Cas. Co.*, 2014 IL 116389.

Bridgeview arose out of an underlying class action lawsuit filed against Jerry Clark, an Illinois resident, who operated a sole proprietorship dealing in the sale and repair of hearing aids out of Terre Haute, Indiana.[3] The underlying class action alleged that Clark had sent unsolicited faxes to Bridgeview and a nationwide Class in violation of Telephone Consumer Protection Act of 1991 ("TCPA")[4] and state law.[5]

State Farm issued a comprehensive general liability (CGL) policy to Clark through an agent in Indiana.[6] Although Clark was an Illinois resident, his business address on the policy was listed as Terre Haute, Indiana.[7] Clark tendered the underlying class action to State Farm for coverage. State Farm accepted his defense subject to a reservation of its rights.[8] State Farm took the position that the underlying class action did not implicate either the policy's "advertising injury" coverage or "property damage" coverage.[9]

Bridgeview thereafter filed a declaratory judgment action in the Circuit Court of Cook County seeking a declaration that State Farm had a duty to defend and indemnify Clark in connection with the underlying class action.[10] State Farm, in turn, filed a counterclaim seeking a declaration that it had no duty to defend or indemnify Clark for the underlying class action.[11]

Although all three of Bridgeview, Clark, and State Farm, were residents of Illinois, Clark maintained his business in Indiana and had purchased the State Farm insurance policies through an agency there. Since Illinois law is favorable to policyholders on the question of coverage for TCPA claims,[12] State Farm naturally argued that the law of some state other

2 Under Illinois law, courts do not conduct a choice-of-law analysis unless it is shown that an outcome-determinative conflict exists between the laws of the potentially applicable jurisdictions. *Townsend v. Sears, Roebuck & Co.*, 227 Ill.2d 147, 155 (2007); *Barbara's Sales, Inc. v. Intel Corp.*, 227 Ill.2d 45, 59 (2007); *Chicago Board Options Exchange, Inc. v. International Securities Exchange, L.L.C.*, 2012 IL App (1st) 102228, ¶ 44.

3 *Bridgeview*, 2014 IL 116389 at ¶ 3.

4 47 U.S.C. §227, et seq. The TCPA is a federal law that, *inter alia*, prevents telemarketers from sending unsolicited advertisements by fax, which intrude upon the seclusion of the recipients, and cause them damage through the unauthorized use of paper and toner.

5 *Bridgeview*, 2014 IL 116389 at ¶ 3.

6 *Id.* at ¶ 4.

7 *Id.*

8 *Id.* at ¶ 5.

9 *Id.* at ¶¶ 5, 7.

10 *Id.* at ¶ 6.

11 *Id.*

12 As the Supreme Court confirmed in *Bridgeview*, under Illinois law, an insurer like State Farm has a duty to defend junk fax claims pursuant to a standard insurance policy's "advertising injury" and "property damage" coverages. *Id.* at ¶ 13, citing *Valley Forge Ins. Co. v. Swiderski Electronics, Inc.*, 223 Ill.2d 352 (2006) (coverage provided under the advertising injury provision); *Ins. Corp. of Hanover v. Shelborne Associates*, 389 Ill.App.3d 795 (1st Dist. 2009) (coverage provided under the property damage provision); see also *Landmark American Ins. Co. v. NIP Group, Inc.*, 2011 IL App (1st) 101155; *Standard Mut. Ins. Co. v. Lay*, 2014 IL App (4th) 110527-B; *Pekin Ins. Co. v. XData Solutions, Inc.*, 2011 IL App (1st) 102769.

than Illinois should apply.[13] The only other potentially applicable law in the case was that of Indiana.

Bridgeview and State Farm each filed motions for partial summary judgment on the question of whether State Farm had a duty to defend.[14] In its motion, State Farm acknowledged that under Illinois law coverage was provided, but argued that Illinois law conflicts with Indiana law.[15] There are no decisions — published or unpublished — from Indiana state courts that resolve whether such claims are covered by CGL policies.[16] State Farm instead relied on two unreported federal district court decisions from the Southern District of Indiana which predicted, under the *Erie* Doctrine,[17] that the Indiana Supreme Court would hold that there was no coverage.[18] State Farm thus hung its figurative hat on those unreported federal court predictions, arguing that these *Erie* guesses were sufficient to create a conflict with Illinois law and thus require a choice of law analysis.[19]

> "Because a federal district court's Erie prediction is not state law, such a prediction could not, by itself, establish a conflict between state laws."

This gave rise to the central question in the case, which the Illinois Supreme Court ultimately expressed as: "When a federal district court sitting in a sister state makes a prediction under *Erie R.R. Co. v. Tompkins*, 304 U.S. 64 (1938), that the supreme court of that state would resolve a legal issue in a way that is at odds with Illinois law, does that prediction, in itself, establish an actual conflict between the two states' laws for purposes of a choice-of-law analysis?"[20] In other words, the issue was whether a federal court's prediction about state law actually constitutes state law.

Bridgeview argued in its motion that there was no conflict between Indiana and Illinois law.[21] Bridgeview relied on a then-recent appellate court decision in *Pekin Ins. Co. v. XData Solutions, Inc.*,[22] which held that a federal district court decision which merely predicts what state law would be does not, in itself, constitute "state law," and, further, when there is no state case law on a question, there can be no conflict.[23]

The Circuit Court granted Bridgeview's motion for partial summary judgment. In doing so, the Circuit Court followed *XData* and agreed with Bridgeview that because there was no Indiana state court decision on point there was no conflict between Illinois and Indiana law and, thus, there was no need to conduct a choice-of-law analysis.[24]

State Farm appealed and the Appellate Court reversed, holding that a conflict of law can arise even if the courts of one state have never addressed the issue in dispute.[25] The Appellate Court concluded that *XData* conflicted with the purpose of the choice-of-law doctrine and chose not to follow that decision.[26] Instead, the Appellate Court held that the federal decisions cited by State Farm were sufficient to raise the possibility of a conflict between Illinois and Indiana law.[27] The Appellate Court explained as the rationale for its decision that "the potential for conflict between Indiana law and Illinois law requires the trial court to engage in a choice-of-law analysis for the case."[28] In doing so, the Appellate Court

13 *Bridgeview*, 2014 IL 116389 at ¶ 13.
14 *Id.* at ¶ 7.
15 *Id.*
16 *Id.*
17 *Erie R.R. Co. v. Tompkins*, 304 U.S. 64 (1938). Whenever a federal court must resolve a question of state law for which the courts of the state have given no guidance, the *Erie* Doctrine requires the federal court to predict what the state courts would do with the question and to rule on the case according to that prediction. In *Bridgeview*, the Illinois Supreme Court called this an "*Erie* guess." The term "guess" seems particularly apropos in this context. The United States Court of Appeals for the Seventh Circuit had, in 2004, predicted that the Illinois Supreme Court would find that CGL policies do not provide coverage for TCPA liabilities. *American States Ins. Co. v. Capital Associates of Jackson County, Inc.*, 392 F.3d 939 (7th Cir. 2004). That prediction turned out to be wrong, and the Illinois Supreme Court's 2006 decision in *Valley Forge* corrected it. See *Bridgeview*, 2014 IL 116389 at ¶ 15.
18 *Bridgeview*, 2014 IL 116389 at ¶ 7. See *Ace Mortgage Funding, Inc. v. Travelers Indem. Co. of America*, 2008 WL 686953 (S.D. Ind. Mar. 10, 2008) and *Erie Ins. Exchange v. Kevin T. Watts, Inc.*, 2006 WL 1547109 (S.D. Ind. May 30, 2006).
19 *Bridgeview*, 2014 IL 116389 at ¶ 7.
20 *Bridgeview*, 2014 IL 116389 at ¶ 1.
21 *Id.* at ¶ 8.
22 *Pekin Ins. Co. v. XData Solutions, Inc.*, 2011 IL App (1st) 102769 (concluding that to determine the law of a sister state for the purpose of determining whether a conflict exists, a court could not consider federal court decisions because such decisions "only attempt to 'predict' [the state's] law").
23 *Id.* at ¶¶ 21-23.
24 *Bridgeview*, 2014 IL 116389 at ¶ 1.
25 *Bridgeview Health Care Ctr., Ltd. v. State Farm Fire & Cas. Co.*, 2013 IL App (1st) 121920.
26 *Id.* at ¶ 22.
27 *Id.*
28 *Id.*

expressly refused to follow the holding of *XData*, a decision directly on point rendered by another panel of the same court a mere twenty-one months earlier.[29]

Bridgeview filed a Petition For Leave To Appeal, which the Illinois Supreme Court granted.[30]The Illinois Supreme Court resolved the conflict between the appellate court decisions in *XData* and *Bridgeview* in favor of *XData*. The Court reconfirmed that a choice-of-law determination is required only when a difference in law will make a difference in the outcome.[31] The Supreme Court then held, and quite emphatically so, that a federal court's prediction of how a state court would rule does not constitute state law.[32] The Court further stated that "even if the rule in question is embraced by the state's highest court at a later date it remains true that the rule applied in federal court did not in fact constitute a sovereign command of the state."[33]

As the first definitive holding by a state supreme court on this specific conflict-of-law issue, the Court then concluded that because a federal district court's *Erie* prediction is not state law, such a prediction could not, by itself, establish a conflict between state laws.[34] In doing so, the Court categorically rejected the rationale of the appellate court, and held instead that "a mere possibility of a conflict of laws" does not require a choice-of-law analysis.[35] Instead of a potential conflict between states' laws, the court held, there must be an actual conflict, stating:

> There is always a 'potential' for differences to arise on state-law questions, even on matters that have previously been addressed. A 'potential' conflict standard would appear to create substantial uncertainty in deciding what law to apply. We adhere to settled law: a choice-of-law determination is required only when the moving party has established an actual conflict between state laws.[36]

As such the absence of Indiana state court precedent on the issue was not sufficient to require a choice of law analysis.[37] Thus, the two decisions from the U.S. District Court for the Southern District of Indiana which predicted that the Supreme Court of Indiana would reach a result at odds with Illinois law did not create an actual conflict with Illinois law such that a choice of law analysis was warranted.[38]

A conflict did not exist in the *Bridgeview* case because State Farm did not, and could not identify any conflicting Indiana state court decisions on point.[39] As a result, the Court held that no conflict-of-law analysis was required because State Farm had failed to meet its burden of "demonstrating an actual conflict exists between Illinois and Indiana law."[40]

The upshot of the Supreme Court's decision in *Bridgeview* was that, in the absence of a true, outcome-determinative conflict between the laws of the state of Illinois and another state on the question of coverage for TCPA claims, Illinois law would apply.[41] The Court thus reversed the judgment of the Appellate Court, affirmed the judgment of the Circuit Court, and concluded that State Farm had a duty to defend its insured for the underlying class action under applicable Illinois law.[42] In short, the words of the policy meant what the Illinois Supreme Court said they meant, and not what the Indiana federal courts predicted that they would mean, or what State Farm hoped they would mean or ... or what Humpty Dumpty would later claim they mean.[43]

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29 *Id.*
30 See *Bridgeview*, 2014 IL 116389 at ¶ 10.
31 *Id.* at 14, citing *Townsend v. Sears, Roebuck & Co.*, 227 Ill.2d 147, 155 (2007); *Barbara's Sales, Inc. v. Intel Corp.*, 227 Ill.2d 45, 59 (2007); and *Chicago Board Options Exchange, Inc. v. International Securities Exchange, L.L.C.*, 2012 IL App (1st) 102228, ¶ 44.
32 *Bridgeview*, 2014 IL 116389 at ¶ 16.
33 *Id.*
34 *Id.* The *Bridgeview* Court noted that under *Erie*, a federal district court in a diversity action must apply the law of the state in which the court sits with respect to substantive matters. In the absence of prevailing authority from the state's highest court, the district court "must make a predictive judgment as to how the supreme court of the state would decide the matter if it were presented presently to that tribunal." *Id.* However, a predictive judgment is not, in fact, state law; it is an "*Erie* guess" as to what state law would be. *Id.*, citing *Allstate Ins. Co. v. Menards, Inc.*, 285 F.3d 630, 638 (7th Cir. 2002).
35 *Bridgeview*, 2014 IL 116389 at ¶¶ 23-25.
36 *Id.* at ¶ 25.
37 *Id.* at ¶ 26.
38 *Id.*
39 *Id.*
40 *Id.*
41 Essentially the identical issue arose again in *G.M. Sign, Inc. v. Pennswood Partners, Inc.*, 2014 IL App (2d) 121276, where the Appellate Court concluded that a conflict of law existed based on federal court predictions of Pennsylvania law, following the analysis of the Appellate Court decision in *Bridgeview*, rather than *XData*. The decision in *G.M. Sign* was issued two months before the Supreme Court's opinion in *Bridgeview*. On August 22, 2014, the Illinois Supreme Court issued an Order, in the exercise of the Court's supervisory authority, directing the Second District to vacate its earlier opinion and judgment, and to reconsider the case in light of the decision in *Bridgeview*.
42 *Id.* at ¶¶ 28-30.
43 "Insurance policies are written by insurance companies. Like Humpty Dumpty, they have the rare privilege of choosing what their words mean. But, unlike Humpty Dumpty, they should say what they mean in advance, not after the fact." *Fowler*, 300 S.C. at 423.

2014 Debtor/Creditor Rights Seminar & Golf Outing

3.0 CLE HOURS

Monday, October 13

White Deer Run Golf Club • 250 W. Gregg's Parkway, Vernon Hills

Schedule		Member Tuition
8:00-8:30 a.m.	Registration and Coffee	Seminar including luncheon.....$75
8:30-11:45 a.m.	Seminar (3.0 CLE Hours)	Golf $65
11:45 a.m.	Lunch	*Stay and play golf after the morning seminar*
12:30 p.m.	Tee Off	*at this premier Lake County golf destination.*

Topics and Speakers

Assignments for the Benefit of Creditors and State and Federal Receiverships
Alex Moglia of Moglia Advisors

Fundamentals of Illinois Fraudulent Conveyance Law
David J. Schwab and Sharanya Gururajan of Ralph, Schwab & Schiever, Chtd.

Financing Properties Held in Illinois Land Trusts: The Collateral Assignment of Beneficial Interest
David Lanciotti of Chicago Title Land Trust Company

Cancellation of Debt Income and Other Strategic Considerations Related to Bankruptcy and Workout of Troubled Loans
Vasili D. Russis of Kelleher & Buckley, LLC and David J. Schwab of Ralph, Schwab & Schiever, Chtd.

The Lake County Foreclosure Mediation Program: An Update
Lori Cunningham of Newland & Newland LLP.

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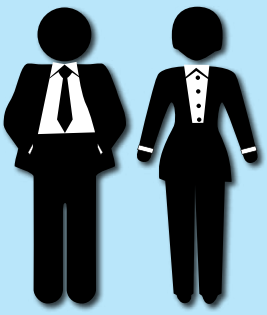
FALL ACTIVITIES

Coffee
AT THE COURTHOUSE

Friday, October 10
Friday, November 7
Friday, December 12
8:00 - 9:30 a.m.

ADOPT-A-HIGHWAY
SATURDAY
OCTOBER 11, 2014



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CLOTHING DRIVE
Monday, November 3 to
Friday, November 7, 2014

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November/ December 2014 Holiday Gift Drive

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Lake Forest Club
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September 11-12, 2014

Child Representative Training

College of Lake County Grayslake

September 24, 2014

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Wayne Flanigan Award: **Robert O. Ackley**

Volunteer Lawyer Awards: **Carrie A. Zuniga & David R. Ganfield**

Presented by The CLE Committee

2014 Risk Management Seminar

3.0 ETHICS CREDITS

Thursday, October 23

Knollwood Country Club* • 1890 Knollwood Road, Lake Forest

Schedule		Tuition
11:00 a.m.-12:30 p.m.	Registration and Lunch	**$75**
12:30-3:45 p.m.	Seminar (3.0 CLE Ethics Hours)	

Topics and Speakers

The One Thing a Solo/Small Firm Practitioner Can Do to Reduce Their Risk of Becoming the Subject of a Disciplinary or Malpractice Claim

Are you a Solo/Small Firm Practitioner? Did you know that you have the highest risk of being the subject of a disciplinary or malpractice claim? Want to find out why and learn how you can reduce your risk?

Presented by Allison L. Wood, Principal of Legal Ethics Consulting, P.C. Ms. Wood is a former Hearing Board Chair and a former Litigation Counsel with the ARDC, and she will share her unique insights into the disciplinary process and the one thing you can do to reduce your disciplinary and malpractice risk.

Getting Yourself out of Hot Water: Trends, Getting to Closure, and the Interrelationship with the Malpractice Claim

What should you do when a client believes you have failed to follow ethical or proper procedures and files a disciplinary grievance or malpractice complaint? This presentation will discuss what's new in attorney discipline and provide practical points on how to survive an unhappy client. It will give you some glimpse of strategies used to successfully conclude disciplinary investigations and explain how discipline and malpractice operate in tandem.

Presented by Thomas P. McGarry, Hinshaw & Culbertson, LLP, a veteran trial lawyer. His civil litigation practice emphasizes the defense of professionals in federal and state courts and disciplinary agencies. For more than 30 years, Mr. McGarry has focused on representing lawyers and lawyers' professional liability insurers. During that period he has represented and counseled hundreds of lawyers and law firms in actions for civil liability, in professional ethics and responsibility, and in risk management. He has also counseled professional liability carriers on lawyers' malpractice insurance coverage and has acted as national claims counsel overseeing defense activities nationwide. His extensive experience as a trial lawyer combined with his concentration in the law governing the liabilities and responsibilities of lawyers has enabled him to both counsel and protect his lawyer clients in the challenging environment of legal practice.

The Infectious Client in the World of Client Mobility – Whose Problem is it Anyway?

Your best client today could be your worst enemy tomorrow. Learn how to protect your practice in the revolving door of client and lawyer mobility. Sometimes we are intrepid and are tempted to take on new clients with baggage that suggests "lawyer problems". This presentation will examine the risks of new client screening and the increased hazards which accompany clients who seek your advice after having been represented or potentially wronged by acts or advice of other lawyers. It will also identify the risks of affiliation with other lawyers who introduce similarly troubled clients into your practice. It will examine how the sins of other lawyers can become your problems to solve and introduce practical and ethical strategies to avoid becoming the unhappy client's next target. Finally, it will discuss practical tips for ending a relationship in a professional, ethical and safe way.

Presented by Thomas P. McGarry (biography above) and Stacey L. Seneczko of Hinshaw Culbertson LLP. Stacey L. Seneczko is an experienced litigator. She represents various types of professionals against claims of negligence, including lawyers, realtors, architects, engineers, physicians and hospitals. Ms. Seneczko has also successfully defended local units of government in personal injury cases, malicious prosecution, excessive force, police pursuits and complex commercial disputes. Ms. Seneczko represents large and small corporations, as well as solo practitioners, in various types of cases and matters, including contractual disputes, claims arising from construction, and professional liability. Additionally, she has handled thousands of toxic tort and environmental cases involving claims of asbestos exposure.

**Knollwood Club policy prohibits t-shirts or jeans and cell phone usage is only permissible in designated areas.*

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A Primer on the New Maintenance Statute

What's Changed, What Remains, and Why You Should Pay Attention

BY SADE OJEDIRAN

Governor Pat Quinn recently signed into law a drastic revamp of Illinois' current maintenance statute. The ISBA Family Law Section sponsored the bill, which is set to take effect on January 1, 2015, and seeks to eliminate inconsistencies by employing fixed formulas to calculate the amount and duration of maintenance for couples with a combined income of less than $250,000.

Under the former maintenance statute, 750 ILCS 5/504, Illinois courts determined the amount and duration of maintenance by balancing various statutory factors, including the income, property, needs, age, education, and employment of each spouse, as well as the duration of the marriage, agreements of the parties, and other relevant factors. Although the balancing approach enabled courts to adapt to the specific contours of each case, this flexibility caused a lack of uniformity and an unpredictability of maintenance awards. ISBA Director of Legislative Affairs Jim Covington, in a letter sent to Governor Quinn prior to the new statute's enactment, stated that awards of maintenance have become "increasingly and disturbingly inconsistent," and because of the lack of clear-cut guidelines, "judges, lawyers, and clients are routinely forced to reinvent the wheel with each and every case." In an effort to eliminate this problem, while preserving the beneficial attributes of the Section 504, P.A. 98-0961 was crafted, taking its cues from Illinois' current approach to the calculation of child support.

Sade Ojediran recently joined Schlesinger & Strauss, LLC following graduation from the University of Illinois in May 2014. Sade has extensive experience in the areas of matrimonial and child law.

The revised statute requires that the court first determine whether a spouse is entitled to maintenance, by taking into consideration the same relevant factors found in the former statute. After a determination of entitlement is made, the court must then use separate formulas to calculate the amount and duration of the maintenance award.

For a couple with a combined gross income of $250,000 or less, the amount of maintenance is calculated by simply subtracting 20 percent of the payee's gross income from 30 percent of the payor's gross income.

However, the resulting amount, when added to the payee's income, cannot equal more than 40% of the parties' combined gross income.

Take Mary and Jim, for example. Mary earns $90,000 annually while Jim earns $40,000 per year. If the court finds Mary has an obligation to pay maintenance to Jim, the maintenance amount will be determined by taking thirty percent of Mary's income ($27,000) and subtracting twenty percent of Jim's income ($8,000). The total maintenance award would be $19,000 annually, before adjustment. However, under the maintenance guidelines this award will have to be reduced, as it equals more than forty percent of the combined gross when added to Jim's income. The maintenance award would be reduced to $12,000, which when combined with Jim's income is equal to forty percent of the parties' combined gross income.

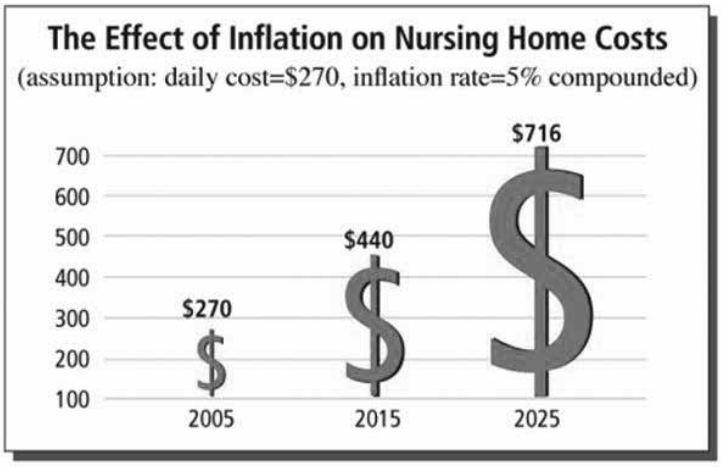
The duration of the maintenance award is then determined based on the length of the marriage. For a couple married for 0 to 5 years, the duration is calculated by multiplying the length of the marriage by (.20); 5 to 10 years by (.40); 10 to 15 years by (.60); and 15 to 20 years by (.80). For marriages that exceed 20 years, the court has the discretion to order permanent maintenance, or maintenance for a period equal to the duration of the marriage. Using the previous example, assume now that Mary and Jim have been married for eight years. The maintenance award to Jim will last for a duration of about three years and two months.

Under the revised statute, courts are now required to make specific factual findings pointing to the relevant factors that influenced their decision to award or disallow maintenance. Courts must also specifically state their reasoning if they deviate from these new maintenance guidelines.

The new statute made the important change of prohibiting judges from ordering unallocated support, absent an agreement by the parties in a final judgment or post-decree proceeding. The court can, however, order unallocated support in pre-decree matters. Another important change to note is that judges are now able to permanently terminate maintenance after a fixed period for marriages of 10 years or less. A final key modification of the statute is that child support obligors are now entitled to deduct court-ordered maintenance payments from their income when calculating child support obligations.

> "Governor Pat Quinn recently signed into law a drastic revamp of Illinois' current maintenance law."

The prospect of this new law has sent waves throughout the family law bar across the state. Now that the law is a reality, it is crucial for the attorneys and judges to prepare for the change prior to its effective date. It is important to keep in mind that although the change to the maintenance statute is somewhat drastic, the primary determination of whether maintenance should be awarded has not changed. The goals of the new legislation are to streamline maintenance calculations and to make the entire process more efficient and predictable. Although many uncertainties have been resolved with this new revision, the question of how this new law will affect prior maintenance orders still remains. Only time will tell whether this new law will accomplish its lofty goals, but it can already be seen as a step in the right direction.



Long-Term Care and Asset Protection

Medicare, Medicaid and Private Insurance

BY DAVID J. GORDON AND KIRSTEN H. GORDON

Soaring costs and longer life expectancies pit the quality of care against the need to preserve wealth for future needs and goals. Conflicts can develop between healthy or surviving family members, and those in need of costly care. Non-terminal care recipients can find their health restored, but their financial goals decimated. Advance planning may help maintain lifestyles and conserve assets for future needs. This article examines the availability, impact and interplay of the three primary planning strategies.

According to a report by the American Association for Long-Term Care Insurance in 2011, almost 70 percent of people over the age of 65 will require some type of long-term care (LTC) service during their life. Taking this statistic further, 29 percent will require services for fewer than two years, 20 percent will require service between two and five years, and another 20 percent will need care for over five years. The study also concludes that women run a higher risk than men of needing nursing home care – about three times the risk.

Long-term care refers to a wide range of health and supporting services for persons who have lost some or all the capacity for self-care. The goal is to allow individuals to enhance the quality of life – for those who can afford it. The MetLife 2012 Market Survey of Long-Term Care Costs found the average nursing home private room costs $248 per day (a semi-private room is $222) up from $239 (and $214 respectively) in 2011, and the average cost per month for an assisted living community was $3,550, up from $3, in 2011. These costs represent prior year increases of 3.8 percent and 3.7 percent for private rooms and semi-private rooms respectively, and 2.1 percent increase for assisted living community monthly costs, not including in-home care and adult day care.[1]

David J. Gordon, CFP®, CIMA® is a Financial Advisor-Executive Director and Senior Portfolio Manager with his wife, Kirsten Gordon, CFP® is also a Financial Advisor. They can be reached at (855) 310-9090 or TheGordon Financial Group.com.

1 2012 MetLife Market Survey of Nursing Home, Assisted Living, Adult Day Services, and Home Care Costs, The MetLife Mature Market Institute November 2012; https://www.metlife.com/assets/cao/mmi/publications/studies/2012/studies/mmi-2012-market-survey-long-term-care-costs.pdf

Nationally, about 48.5% of today's long-term care costs are paid for by Medicaid. Although the figure is growing quickly, at present, only about 6.6% is paid by private insurance. This leaves nearly 40% of the population faced with soaring out-of-pocket payments for long-term care costs.[2]

MEDICAID VS. MEDICARE

Medicare and Medicaid are two distinct programs. Medicaid was developed as a safety net for the indigent and the impoverished. It is the only program which offers long-term nursing home or at-home community care for the needy. Unlike Medicare, which has uniform federal guidelines and only provides 100 days of long-term care coverage, Medicaid is state administered with considerable variance in programs across the country.

Medicaid eligibility provides skilled care based on financial need. On the other hand, eligibility for Medicare merely requires previous payment into the Social Security system or two years receipt of Social Security Income (SSI) disability payments. Medicare only provides five months of "skilled" (versus "custodial") nursing home coverage and requires a substantial co-payment after the first 100 days of care. Although the Medicaid safety net pays 100 percent of covered costs without time limitations, people with Alzheimer's, Parkinson's and many other debilitating afflictions do not always require skilled care and may not qualify for Medicaid, absent other complications.

Medicaid's financial qualification criteria generally limit non-exempt asset ownership to $2,000 ($3,000 total, if married) per recipient. Exempt assets include a primary residence of any value, if the recipient's spouse or another dependent relative lives there. If there is no such relative, the maximum value of a recipient's home is $536,000, although states have the option to increase that limit to $802,000 if the Medicaid recipient either lives there or there is "reasonable evidence" that he or she will return to it. After six months of hospital stay, a physician's statement may be required to stay a state lien on the home. Exceptions to the requirement of "reasonable return" include a spouse or disabled child living in the residence.

An exception also exists for siblings who are part owners or non-disabled children, living in the residence for a two year period prior to the nursing home or hospital stay. In this case, the state presumes that the cohabitation involved caring for the recipient and delayed entry into the outside facility, thereby reducing the overall drain on Medicaid funding.

Regardless of the residence exceptions, many states will attach liens which become enforceable at the death of the individual giving rise to the exemption or failure of the reasonable evidence standard. Under the "responsible relative" doctrine, the federal Omnibus Budget Reconciliation Act (OBRA) of 1993 regulations require a lien for later (at death) recovery even if there is an at-home spouse. Note that even creditor protection trusts are not exempt and even prenuptial agreements may fail against these liens.

> "National average nursing home stays exceed $200/day, while assisted living communities run over $3,400 per month."

Also exempt are modest personal property accumulations of the recipient ($2,000), one car of any value, a burial plot and pre-paid funeral expenses in an irrevocable funeral trust. While most states exempt heirloom jewelry, some recognize only wedding and engagement rings. Medical necessities and medical appliances are also exempt, as are trade tools and insurance policies with a cash value under $1,500.

SPOUSAL IMPOVERISHMENT ACT

The term "spousal impoverishment" includes the standards for the Community Spouse Resource Allowance (CSRA) and the Community Spouse Maintenance Needs Allowance (CSMNA).[3]

When a couple is involved, the specter of state legislation leaving a healthy spouse at home with only the above exempt assets has been addressed as part of the federal Medicaid Catastrophic Coverage Act (MCCA) of 1988.[4] This protection is determined by Medicaid which provides upper and lower limits within which the states must operate. It allows the non-Medicaid spouse to retain half of the jointly held non-exempt assets or assets in his or her name alone up to a 2013 maximum upper limit of $115,920 (subject to state-by-state reductions) which may be annually adjusted for cost of living increases. The 2013 lower limit is $23,184.

This provides a valuable planning opportunity. For example, if the at-home spouse has $250,000 in joint assets, a "spend down" to the maximum state $231,840

2 "Long-Term Care (LTC): Financing Overview and Issues for Congress, Congressional Research Service, Julie Stone, February 1, 2010; http://assets.opencrs.com/rpts/R40718_20100201.pdf

3 http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Eligibility/Spousal-Impoverishment-Page.html

4 42 U.S.C. section 1396r-5

level will provide the full ceiling benefit (one-half) of $115,920. Expenditures for home repair, auto acquisition, medical or other exempt purposes become a productive use of assets which would otherwise be depleted through required nursing home or hospital payments. Effective January 1, 2014 and extending for five years, these benefits are also extended to home and community-based care. The following are the most current allowances and limits:

- The 2014 minimum Community Spouse Resource Allowance (CSRA) is $23,448. The new maximum CSRA is $117,240.
- The Minimum Monthly Maintenance Needs Allowance (MMMNA) is $1,939, and the new maximum MMMNA is $2,931 (through July 1, 2014 for all States except Alaska and Hawaii).
- The Community Spouse Monthly Housing Allowance is $581.63 (through July 1, 2014 for all States except Alaska and Hawaii).
- The 2014 minimum Home Equity Limits is $543,000, and the new maximum limit is $814,000.

AT HOME MAINTENANCE ALLOWANCE

The at-home spouse is entitled to retain monthly income subject to a 2014 maximum ceiling of $2,931 (subject to state-by-state reductions). Special income calculation rules may apply. For example, where certain basic household expenses are greater than 30 percent of the MMMNA, the community spouse may be entitled to keep more, known as the Excess Shelter Amount (ESA). Rather than leaving the at-home spouse impoverished, the regulation permits states to allow retention of the minimum of (a) housing expenses over 30 percent of the floor amount or (b) up to 300 percent of the Social Security benefit amount. These examples are not meant to be comprehensive. Because of state-by-state variations, and nuances in the income and expense regulations, an experienced practitioner should be consulted before embarking on any course of action.

NEW ASSET TRANSFER RULES

Under OBRA 1993, the old "Medicaid Qualified Trust" has become subject to an extended "lookback" period. The new lookback rules are three years for outright gifts and five years for transfers to trusts. The five-year period begins at the latest transfer to the trust. This means that clients who wish to do trust planning must now have enough individual money or long-term care insurance coverage to pay for five years of private nursing home care, versus the old two and one-half year standard.

If a Medicaid applicant has made gifts within 36 months of application, the amount of the transfers up to three years back is summed and, if the amount of the transfers would have paid for the equivalent of 50 months of nursing care, the applicant is disqualified for a period of four years and two months afterward . This reverses the old rules which allowed for a maximum of two and one-half years of disqualification. Worse still, under the Kennedy Kassebaum Act,[5] effective January 1, 1997, a "botched" planning may subject the transferor to criminal penalties if he or she applies too soon for Medicaid.

OBRA TRUST EXCEPTIONS

The 1993 OBRA regulations specifically permit trusts which protect the assets of the Medicaid recipient. Three exceptions exist to the OBRA Trust five-year transfer rules. The first, available only in about a dozen "income cap" states (eligibility contingent on low income threshold) including Colorado, Florida and Texas, provides exemptions which take the allowable amount over the threshold and places the corpus in trust for the state until the death of the special needs beneficiary.

Second, in most states, a parent needing nursing home care who has a handicapped child (up to age 65) can transfer his or her entire estate into a Special Needs OBRA Trust for the benefit of the handicapped child. Precise language is required to avoid interpretation as a "Support Trust." Specifically not designed for "basic care and support," the Special Needs Trust when properly drafted is outside the reach of the beneficiary's creditors. At the beneficiary's death, the state is reimbursed from the remaining corpus. A Special Needs OBRA Trust allows eligibility on the day following such a transfer.

This type of asset protection trust requires an irrevocable assignment outside the reach of the grantor and beneficiary. Although the reluctance to relinquish control causes many couples to hesitate, this technique can be a true financial life saver. It can work especially well where the institutionalized beneficiary transfers assets to a well spouse who then transfers to the Special Needs Trust. If the healthy spouse predeceases the institutionalized spouse, the Special Needs Trust will prevent asset dissipation in favor of state liens. Remember, if the healthy spouse dies within three years, the three year look back rule may be invoked.

Third, pooled trusts, such as The Arc (formerly the Association of Retarded Citizens) of Indiana, allow individuals who are handicapped under 65 years of age to transfer funds to pooled trusts for their benefit with the corpus reverting to the state at death. Illinois has yet to offer this alternative although efforts continue to establish a qualifying vehicle.

THE NEED FOR PRIVATE PAY

Many nursing homes will not accept a new Medicaid patient without two or two and one-half years of prior private pay. Therefore, upon entry into a managed care facility, wise planning dictates that a couple of years of expenses be retained or covered by private insurance.

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5 The Health Insurance Portability and Accountability Act of 1996 (HIPAA)(HIPPA), Public Law 104-191, 100 Stat. 1936

Because of state regulated limits on Medicaid bed allocations, a skilled advisor will obtain a written commitment letter acknowledging acceptance of Medicaid benefits when private pay resources run out.

With a written agreement, as the institution becomes aware of private funds depletion, they will be more likely to reserve a bed or provide notice that an accelerated paydown is in order. While case law is sparse, it is clear that, fair or not, nursing homes with commitments to honor are more likely to communicate with the client.

ENTER: LTC INSURANCE

In response to concerns over the rising cost of long-term care, Congress has developed new tax incentives for private insurance. Beginning in 1997, eligible premium payments on long-term care insurance may be deductible expenses. In addition, LTC policy benefits are received tax-free for all taxpayers. Deductions are based on a sliding scale and start at $360 per year for those under 40 rising to $4,550 per year for policy holders over age 70. Unfortunately, the deduction can only be used if uninsured medical expenses exceed 7.5 percent of adjusted gross income (AGI). Premiums for "qualified" long-term care insurance policies are tax deductible to the extent that they, along with other unreimbursed medical expenses (including Medicare premiums), exceed 7.5 percent of the insured's adjusted gross income. This threshold rose to 10 percent on January 1, 2013, although it will remain at 7.5 percent for taxpayers 65 and older through 2016

BONUS FOR SELF-EMPLOYEDS

Further Congressional encouragement of LTC programs is being directed at the rising tide of self-employed taxpayers. Long-term care premiums up to 100 percent of the eligible premium amounts above (including spousal and dependent premiums) may be deductible for the owner without meeting the 7.5 percent AGI threshold, as long as there is a net profit to the owner from the venture. However, no deduction is allowed during a month where the spouse or self-employed individual is eligible to participate in another employer-subsidized LTC plan.

PARTNERSHIPS

Partnership members and shareholder/employees of Subchapter S companies with more than 2 percent ownership may also qualify for deductibility. Although the LTC premium paid by the entity is included in their AGI, a deduction is allowed up to the amount of the eligible premium amounts. Again, so long as there is a net profit from the venture, the 7.5 percent AGI threshold does not apply.

PLANNING OPPORTUNITY

This means that, where a spouse is employed in a sole proprietorship or partnership, the owner/partner may be able to deduct the full premium for the spouse's policy. This is the case even if that spouse's policy had a shared benefit rider and/or an accelerated payment schedule.

SUBCHAPTER C CORPORATIONS

LTC premiums are generally 100 percent deductible as business expenses when purchased for employees, spouses or dependents without limitation to the age-based ceilings. Because there are no anti-discrimination rules, the employer can be selective in the class of employees that it chooses to cover and should seek advice from their legal and tax counsel. Again, an accelerated payment policy may provide advantages in this area.

OPTION 1: PAY-AS-YOU-GO – TRADITIONAL LONG TERM CARE POLICIES

Depending on the needs and financial resources of the LTC client, there are two main types of policies. They provide similar LTC benefits and mainly differ in (a) the premium payment mode and (b) the availability (or not) of your money for non-policy uses. The most common policy is a 'pay-as-you-go' program which requires regular and ongoing premium payments in exchange for continued coverage matches.

This typical payment plan balances expected care needs with the buyer's ability to pay. Much like a common term life insurance policy, this payment feature is often most attractive to those with limited financial resources who could be financially devastated by nursing home costs and perhaps forced to seek less expensive care. Like term life insurance, there is no cash build up and no 'surrender value'.

Under either payment option with traditional long term care, your annual premium rate is guaranteed and cannot be raised by the LTC provider unless the same cost increase is applied uniformly to the entire class of insureds in which you belong. This means that you cannot be singled out for a premium increase. For single premium life insurance/hybrid LTC products, the cost of insurance/fees/expenses cannot exceed the maximums specified in the insurance policy.

OPTION 2: LUMP SUM PAYMENT AND SINGLE-PREMIUM LIFE/LTC HYBRIDS

For many people, passing assets to their heirs is an important consideration. These people often wrestle with the statistics and wonder if they might beat the system and avoid long term care altogether. Others examine the coverage opportunities and either can't afford it or opt to pay care costs out-of-pocket, hoping to come out 'money ahead' versus paying for a policy. The reasoning then goes on to figure that, maybe, they can pass more money

to their kids. Unfortunately, the children are often more concerned about the financial strain and costs of care for aging parents.

The second LTC product addresses these concerns directly. If you end up not needing the coverage, your heirs are guaranteed to get the money. Even better, ready access to your funds means that your nest egg remains intact while insuring against the risk of high care costs. Given these types of options, it is no wonder that the children of older parents are large buyers of LTC policies.

Lump sum LTC protection answers the question "What if I don't need it?" – or worse, "What if I need the money back?" This increasingly popular LTC program provides for the acceptance of a single deposit by redeploying a less productive financial asset, such as a maturing CD. For those desiring to pass assets to heirs, these more upscale policies provide a death benefit (income-tax and probate free) if they are not needed during life. For those who are concerned that they may need the money back one day, issuers guarantee 100% return of principal, reduced by any loans, withdrawals, and benefits paid, provided all planned premiums are paid. This option may be subject to a holding period and may be taxable. This assures easy access and quick liquidity of unused payments along with potential tax-deferred growth.[6]

NOT FOR EVERYBODY?

For a CERTIFIED FINANCIAL PLANNER™ professional, safeguarding against devastating risk can be as important as properly diversifying an investment portfolio. Whether these risk-shifting programs are right for an individual client depends largely upon their special needs and resources. Only by looking at your family's situation can a meaningful LTC plan be developed. In that regard, there is never a substitute for a personal review with a competent counselor.

Long-term care planning is fraught with subtle nuances, lack of interstate conformity, changing regulations, and legal intricacies. Qualified counsel should be consulted before entering into any plan of action which may have tax or legal consequences.

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6 Since life insurance and long term care insurance are medically underwritten, you should not cancel your current policy until your new policy is in force. A change to your current policy may incur charges, fees and costs. A new policy will require a medical exam. Surrender charges may be imposed and the period of time for which the surrender charges apply may increase with a new policy. You should consult with your own tax advisors regarding your potential tax liability on surrenders or withdrawals.

Save the Date

Trusts and Estates Seminar
November 14, 2014

Registration and Lunch 11:30 a.m.
Seminar 12:00-4:30 p.m. (3.5 CLE Hours)

Reception immediately following seminar

Knollwood Country Club • 1890 Knollwood Road • Lake Forest, IL

Registration available on line at www.lakebar.org

LAWYER REFERRAL SERVICE

Why should YOU join the LCBA Lawyer Referral Service?

The LCBA Lawyer Referral Service (LRS) is a valuable member benefit as well as a public service. LRS provides member attorneys with an opportunity to build business through client referrals. The service benefits the public by helping callers quickly find an attorney in the area of law in which they need help. The LRS is widely publicized and all LCBA members in good standing who carry the required malpractice insurance are eligible to join.

The LRS program is designed to assist persons who are able to pay normal attorney fees but whose ability to locate legal representation is frustrated by a lack of experience with the legal system, a lack of information about the type of services needed, or a fear of the potential costs of seeing a lawyer.

Available Referral Panels

- Administrative
- Appellate
- Commercial
- Consumer
- Criminal
- Employment
- Environmental
- Family
- Real Estate
- Estate Planning, Wills, Trusts and Probate
- Personal Injury / Property Damage

Call the LCBA Office (847-244-3143) with questions
or download the procedures and application from our website at www.lakebar.org.

Start taking advantage of all the LRS has to offer!

The 2013-14 Volunteer Lawyers Program

The individuals listed below have either closed a pro bono case or taken a new pro bono case in 2013-14. This program is supported by the Community Outreach Committee of the Lake County Bar Association (LCBA). Members of the LCBA are indicated with an asterisk (*).

Robert Ackley*
Burr Anderson*
Dolores Ayala
Gwendolyn Barlow
Howard Bernstein*
Amy Biesenthal
Deanna Bowen*
Ann Buche Conroy*
Michael Caravello*
Julia Carpenter*
Portia Chen
Kathleen Curtin*
Lucy Dorenfeld*
William Franks*
David Ganfield II*
Ellen Gibson
Deborah Goldberg*
Lillian Gonzalez
Thaddeus Gruchot
John Julian
Kevin Kane*
David Kerpel*
Richard Kohn
David Layfer
Ronald Lundeen
James Magee*
Chris Marder*
Cindy Matre
William Mullen
Darin Osmond
Adrienne Packard
Damon Park
Ennedy Rivera*
Joel Schechter
Gary Schlesinger*
Steve Simonian*
Liz Simpson
Lawrence Smith*
Albert Speisman
Sarah Stack*
Robert Stavins*
Michael Strauss*
C. David Ward
Douglas Zeit*
Heather Zimmerman
Carrie Zuniga*

Thank You!

To join these volunteers, please call Prairie State Legal Services at 847-662-6925.

Committee Chit Chat

The **Civil Trial and Appeals Committee** held its first meeting (after the summer break) on Thursday September 18 at 5 p.m. The group has a new location for all of its meetings — The Grille on Laurel in Lake Forest.

Meetings are the 3rd Thursday of each month. The next meeting is Thursday, October 16. Also new this year, the Committee is instituting a meeting "sponsor" each month. The goal of this is two-fold: First, this sponsorship opportunity will bring together local businesses who support our legal community (court reporters, lending companies, litigation service companies, etc.) and the trial lawyers in Lake County. If we don't already have relationships, this will be an easy, no-pressure forum in which to build them. Second, this sponsorship concept will hopefully encourage increased attendance. In addition to our stimulating discussion of timely topics, who can turn down some free food and drinks?! The Committee will have speakers, including judges from Lake and surrounding counties, at some meetings. However, as of now, the meetings will not be dependent on having a presenter each month. For those meetings that do include a presentation, CLE will be offered.

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Las Vegas, Nevada has been chosen as the location for the **Family Law Committee**'s 2015 Seminar (Thursday, February 12 through Monday, February 15, 2015). The group will be staying at the Aria hotel. Reservations are available under Lake County Bar Association with rates as follows: Thursday, 2/12/15, $139; Friday 2/13/15, $189; Saturday, 2/14/15, $279; and Sunday, 2/15/15 $195 (this does not include a $25.00 resort fee and 12% tax).

There will be a group activity Friday morning; welcoming reception on Friday evening; the seminar will take place on Saturday and Sunday; the Committee will have another activity Saturday afternoon, with the group dinner on Sunday.

The group is currently putting together potential topics and a theme for the seminar – if you are interested in speaking, please email Patricia L. Cornell or Dwayne Douglas (include a topic if you have one). The Committee's next F.L.A.G. meeting will be held on October 8, 2014, at Noon at the Bar Office and the October Family Law Committee will be held on Wednesday, October 15, 2014, at Noon in C-105.

Save these dates in your calendars and be sure to call and reserve your room at the ARIA in Las Vegas!

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On Tuesday October 21, 2014 at noon at the Bar Association, Neal Takiff and Jennifer Hansen of the law firm Whitted Takiff + Hansen LLC will give a presentation to the **Local Government Committee** on "How to Obtain Mental Health and School Records in Illinois." Bring your own lunch and walk out with .5 hours of free CLE!

Board of Directors' Meeting

August 21, 2014

BY JENNIFER J. HOWE
SECRETARY

CONSENT AGENDA

- Minutes: July 2014
- Membership Report:
  - New Members since July 2014 meeting
  - Facilities Equipment Update
- Special Events
  - Justice Ginsburg Luncheon
  - Unity Dinner
- Members in the News
- Membership Photo Program
- Upcoming LCBA Events & Committee Meetings

All items listing above in the Consent Agenda were approved by motion.

DISCUSSION ITEMS

Treasurer's Monthly Report

Rick Kessler presented the Association's monthly report and discussed the budget with the Board. Current expenses for this fiscal year beginning in June 2014 appear at first glance to be higher than budget in some areas; however, this was caused by a number of factors including the purchase of additional furniture for a new hire and the timing of certain accounts payable, both of which over-inflated the appearance of the overall monthly expenses. Additionally the Board discussed one particular budget item where the Association has leased on a month to month basis the open, unleased space next to the LCBA office. Chris Boadt reports that the LCBA is only obligated on a month to month basis and that he does use this space several times a month (Gridiron, photography of membership) and that it is very convenient due to its location next to the LCBA office. The Board discussed ways in which this expense might be reduced further and Mr. Boadt will report back next month.

In addition to the monthly expenses appearing inflated, the Association's income does not yet reflect fees which are still to be received for the lawyer referral service. Due to a glitch in the electronic invoicing, this fee was not included on the electronic membership invoices and the LCBA will now be issuing paper invoices. There was further discussion about comparison of our budget to prior years and Mr. Boadt will be preparing reports for further consideration by the board.

Other financial and budgeting issues discussed included the installation of a new phone service which is expected to provide savings two years from now when the phone which were purchased are paid, as well as potential discounts for annual advertisers with *The Docket*.

Membership Dues Waivers Request

The Board was presented with two confidential requests for due waivers and/or a reduction in association dues for reasons of financial hardship which were discussed by the Board. There was a motion made to reduce the dues of one member by $100 for fiscal year 2014-2015 and the motion passed. There was a second motion to reduce the fees of a second member for fiscal year 2014-2015 by one-half which motion

MEMBERS PRESENT

Keith C. Grant
President

Michael J. Ori
First Vice-President

Donald J. Morrison
Second Vice-President

Richard N. Kessler
Treasurer

Jennifer J. Howe
Secretary

Brian J. Lewis

Stephen J. Rice

Hon. Daniel B. Shanes

Shyama S. Parikh

also passed.

Association President's Remarks

President Keith Grant reported that the LBCA and Lake County Bar Foundation have established a joint committee as a collaborative effort and approach to the Foundation's efforts to purchase a building in Waukegan for lease to the LCBA for its offices and other purposes as of October 2015, when the current lease expires. Discussion among the Board ensued. The president organized a subcommittee of the Board to simultaneously consider the Association's current lease and the needs of our organization which shall include Jennifer Howe, Keith Grant, Steve Rice and Rick Kessler.

Mr. Grant further reported that the Holiday Party has been set for Friday, December 5 at the Lake Forest Club and that the President's Award Dinner will be on Friday, February 27, 2015 at the Deerpath Inn. There was discussion among the Board as to the President's awards to be presented at the dinner.

Judicial Selection and Retention Committee Report

Don Morrison, Chair of the Judicial Selection and Retention Committee reported on the absence of and necessity of a new confidentiality provision which would protect the confidentiality of those persons, who wish confidentiality and who are interviewed or report to the committee members about a candidate, to encourage full and frank disclosure to those on the committee about the candidate/judge/applicant being rated. Discussion ensued. A motion was made to add the proposed confidentiality provision attached to the agenda to the existing rules for JSRC and the motion passed.

There was a further motion to amend the JRSC rules so that the Committee would evaluate candidates for: (a) Associate Judge positions as being rated "not recommended", "recommended" or "highly recommended"; and (b) Circuit Judges (election and retention) Judges and/or candidates for Circuit Judge position as being rated "not qualified", "qualified" or "highly qualified". Discussion ensued and thereafter, a vote was taken and the motion passed. Board member Daniel Shanes abstained.

E. Pro Bono Awards – Wednesday, September 24, 2014 – Waukegan City Hall

The Board was advised that the Community Outreach Committee recommended Robert O. Ackley for the annual Wayne Flanigan Award to be awarded on September 24, 2014. The Board discussed the recommendation. There was a motion made to approve the recommendation of Mr. Ackley for the award and the motion passed.

The Board was advised that the Pro Bono Service Awards this year which are approved by Prairie State Legal Services will be presented to Carrie Zuniga, Lakelaw; and to David R. Ganfield II, David R. Ganfield, P.C.

CLE Projects

The Boad discussed various CLE projects and upcoming seminars. Moreover, a Brown Bag luncheon program is also being planned and is booked through the end of 2014.

Consideration of Approval of Family Law Pro Se Guidebook

The Board was provided a copy of the revised Family Law Pro Se Guidebook from Marjorie Sher, who asked that the Association approve the Guidebook. There was a motion made to consider the revised Guidebook and place on agenda for next meeting. Motion passed.

Minutes June 20014

There was a motion made to amend the proposed minutes for June 2014 with the amendment indicating that member Dan Shanes was present. Motion passed.

There was a motion made to adjourn the meeting, and the motion passed and the meeting ended.

CLE HOURS • CLE HOURS • CLE HOURS • CLE HOURS • CLE H

Return of the Brown Bag

9.0 FREE CLE HOURS

Lake County Bar Association

300 Grand Avenue, Ste A, Waukegan

12:15 –1:15 p.m.

Wednesday, October 29, 2014
1.0 CLE Credit including 1.0 Ethics
Why Good Lawyers Do Bad Things:
The Psychology of Malpractice
Alan Levin, CareForLawyers.com

Thursday, November 13, 2014
1.0 CLE Credit
Everything You Want to Know About Paralegals/
Legal Assistants But Were Afraid to Ask"
Gayle Miller, Paralegal Studies Department Co-Chair,
College of Lake County

Thursday, December 11, 2014
1.0 CLE Credit including 1.0 Ethics
Reducing the Risk of Claims When Disciplining
and Discharging Employees
Rob Klein, Klein Dub & Holleb, Ltd.

Thursday, January 8, 2015
1.0 CLE Credit
Regarding Alternative Dispute Resolution:
Is Arbitration Overrated?
Burr Anderson, Anderson Law Offices

February 2015
Open for Volunteer Speaker
Contact Virginia at 847.505.7101 or virginia@lakebar.org

Thursday, March 12. 2015
1.0 CLE Credit
The Downside of Using Social Media
Todd Glassman and Gemma Allen,
Ladden & Allen Chartered

Thursday, April 9, 2015
Open for Volunteer Speaker
Contact Virginia at 847.505.7101 or virginia@lakebar.org

Thursday, May 14, 2015
Open for Volunteer Speaker
Contact Virginia at 847.505.7101 or virginia@lakebar.org

Thursday, June 11, 2015
1.0 CLE Credit
David Lutrey, Lesser Lutrey McGlynn and Howe, LLP

Register for this FREE program on-line at www.lakebar.org
Interested in presenting a Brown Bag CLE Program? Contact us at info@lakebar.org

CLE HOURS • CLE HOURS • CLE HOURS • CLE HOURS • CLE H

2014-2015 CLE Hours

66.5 CLE CREDIT HOURS INCLUDING 20.75 ETHICS CREDITS OFFERED BY YOUR ASSOCIATION

October 13, 2014
3.0 CLE Credits
1st Annual Debtor/Creditor Seminar and Golf Outing
White Deer Run Golf Club, Vernon Hills, IL

October 23, 2014
3.0 CLE Credits including 3.0 Ethics
Risk Management
Knollwood Country Club, Lake Forest, IL

November 14, 2014
3.5 CLE Credits
Annual Trusts and Estates Seminar
Knollwood Country Club, Lake Forest, IL

November 19, 2014
CLE Credits including 1.0 Ethics
ARDC Update with James Grogan
and Membership Luncheon
Greenbelt Cultural Center, North Chicago, IL

January 13, 2015
3.0 CLE Credits
Immigration Seminar
Greenbelt Cultural Center, North Chicago, IL

February 12-16, 2015
8.0 CLE Credits
21st Annual Family Law Seminar
Aria, Las Vegas, NV

March 2015
3.0 CLE Credits
Worker's Compensation Seminar
Lake County Bar Association, Waukegan, IL

March 18, 2015
3.0 CLE Credits
Employment Law Seminar
Greenbelt Cultural Center, North Chicago, IL

March 2015
3.5 CLE Credits
Criminal Law Mid-Year Seminar
Chicago, IL

April 2, 2015
6.0 CLE Credits
Annual Real Estate Seminar
Location to be Determined

April 23, 2015
3.0 CLE Credits
Local Government Seminar
Greenbelt Cultural Center, North Chicago, IL

May 12, 2015
3.0 CLE Credits
Technology Seminar
Lake County Bar Association, Waukegan, IL

May 21, 2015
3.5 CLE Credits including 1.0 Ethics
Annual Civil Trial and Appeals Seminar and Golf Outing
Biltmore Country Club, Lake Barrington, IL

June 24, 2015
3.0 CLE Hours including 3.0 Ethics
CLE Buffet
Lake County Bar Association, Waukegan, IL

Volunteer Help Desk Attorneys

The individuals listed below volunteered for the Mortgage Foreclosure Help Desk and the Guardianship Help Desk in 2013-14. This program is supported by the Community Outreach Committee of the Lake County Bar Association (LCBA). Members of the LCBA are indicated with an asterisk (*).

Tina Adams*
David Berland*
Richard Biondi
Nandia Black*
Michael J. Caravello*
Bartlett Carroll Jr.*
Wil Chan
Janelle Christensen*
Sandi Cloch
Thomas Concannon*
Mike Colter
Patrick Crame
Lori Cunningham
Kathleen Curtin*
Patricia Deemer*
Sam DiGrino*
Lucy Dorenfeld*
Jeff Dovitz*
Taryn Fisher*
Laura Dolores Frye*
Michael W. Gantar*
Kathleen Georgevich*
Amy Goldsmith
Lillian Gonzalez
Oren Graupe
Mary Griffin*
Sharanya Gururajan*
Mark T. Hamilton*
Justin Hanzel
Tiffany Harvey*
Danielle Haseman*
James Hermann*
Lisa Herout*
Patricia Hogan*
Bridget Hutchen*
Robert Isham*
Raj Jutla*
Rachel Kane*
Julie Kolodziej*
Richard Kopsick*
David Leibowitz*
Rick Lesser*
Carrie Lincoln
Jennifer Luczkowiak*
William Lundgren
Robert Magee*
Richard Mann
Jack Mardoian*
Michael McElroy*
Meredith McHugh
Joe McKeown*
Gayle Miller*
Cory Minnihan
Sandi Moon*
Vernon Morgan*
Scott Nelson
Charles Newland*
Stephen Newland
Paul Novak*
Jenn Nguyen
Jeff O'Kelley*
Katherine Oswald
Paul O'Keefe
Debbie Patinkin*
Tom Pasquesi*
Britta Peffer*
Katie Pinter*
Agnes Prindiville
Stephen Rice*
Jack Richtman*
Jencie Richtman
Raquel Robles-Escubach
Ronald Runkle*
Melanie Rummel*
Vanessa E. Seiler
Kathryn Shores*
Drake Shunneson*
Joanne Smith
Larry Smith*
Al Speisman
Matt Stanton*
Doug Stiles*
Pam Cohan Szewc
Robert Tomei*
Daniel Venturi*
Lindsay Wagoner
Jane Waller*
Amy Weiss*
Elizabeth Ellis Widup

Thank You!

Monthly Committee Meetings

DAY		MEETING	LOCATION	TIME
1st	Tues (Odd Mo.)	Diversity & Community Outreach	LCBA	12:15-1:15
1st	Thurs	Real Estate	In-Laws, Gurnee	5:15-6:15
2nd	Tues	Technology	LCBA	8:00-9:00 a.m.
2nd	Tues	Debtor/Creditor	The Grille on Laurel Lake Forest	5:15-6:15
2nd	Tues (Odd Mo.)	Immigration	LCBA	4:30-5:30
3rd	Tues	Local Government	LCBA	12:15-1:15
3rd	Wed	Family Law	C-103	12:15-1:15
3rd	Wed (Odd Mo.)	Employment Law	The Grille on Laurel Lake Forest	5:15-6:15
3rd	Thurs	Board of Directors	LCBA	12:00 noon
3rd	Thurs	Civil Trial & Appeals	The Grille on Laurel Lake Forest	5:15-6:15
3rd	Thurs	Trust & Estate	Park City Courthouse	12:15-1:15
4th	Tues	Criminal Law	TBD	TBD
4th	Tues (Odd Mo.)	*Docket* Editorial Board	LCBA	12:15-1:15
4th	Friday	Young and New Lawyers	LCBA	12:15-1:15

- RSVP to a meeting at www.lakebar.org.
- Meetings subject to change, please check your weekly e-news, the on-line calendar at www.lakebar.org or call the LCBA Office @ (847) 244-3143.
- Please feel free to bring your lunch to the LCBA office for any noon meetings. Food and beverages at restaurants are purchased on a individual basis.

Lake County Bar Association est. 1912

Visit the LCBA Website: lakebar.org

Bar Bulletin Board

Downtown Waukegan
Offices for Lease. 200 N ML King Ave. 1, 2 or 3 Offices. 280 to 685 Sq Ft. Shared Conference Room, Basement Storage, On-Site parking, Furnished or Unfurnished. Walking Distance to Court House. (847) 680-4740. www.tjproperties.com.

For Sale or Lease
218 N County St. Waukegan. 9 offices on two levels. Will divide, on-site parking. Walking distance to court house. (847) 680-4740. www.tjproperties.com.

Age of Aquarius Dinner Dance Benefiting Three Lake County Charities

BY CARLTON R. MARCYAN
PRESIDENT

We need your participation and sponsorship. On November 21st the Lake County Bar Foundation will hold its bi-annual dinner dance at the Cuneo Mansion in Vernon Hills just north of Route 60 off of Milwaukee Avenue. This will be a memorable and fun event and benefit three major Lake County charities. Those of you who lived through and survived the 60's or missed that era but would have liked to have been part of it can experience a slice of it that evening. The committee, made up of Jennifer Cunningham Beeler, Joann Fratianni, Robert Ackley, Stacey Seneczko, Melanie Rummel, and Ana Marcyan have been working very hard over the past months to make this **THE LAKE COUNTY EVENT OF 2014**. Do not miss it.

The Board of Trustees of the Lake County Bar Foundation has selected the following three non-profit organizations to benefit from the proceeds of the November 21st Gala Dinner Dance. The theme for the event is "With a Little Help From our Friends" and will feature The Beatles tribute band, American English, a silent and live auction, and Chicago renowned caterer Blue Plate. The three beneficiaries are:

A SAFE PLACE
Courthouse Legal Advocacy Program

Provides a safe room (D100) within the court system for victims to receive assistance in filing Orders of Protection correctly and effectively, to receive referrals to other resources, and information on legal issues around domestic violence. In addition to providing support with paperwork, processes and referrals, the staff and volunteers also provide support, understanding and encouragement to those who choose to stand before the judge and testify against their abuser.

PRAIRIE STATE LEGAL SERVICES
Access to Opportunity Fellowship Service Program

Providing hands-on legal experience to a talented, underserved law student who would otherwise not be able to obtain the broad range of experience Prairie State Legal Services provides. A few of the priorities of PSLS are orders of protection for victims of elder abuse, helping low-income elderly and disabled people access, and preserving public benefits.

GREAT LAKES ADAPTIVE SPORTS ASSOCIATION
Injured Veterans Assistance Program

The Great Lakes Adaptive Sports Association believes that the quality of life should never be limited by a physical or visual impairment. They believe that it is possible to remove boundaries, elevate expectations, fulfill dreams, enhance self-worth, and empower individuals with disabilities in competitive and recreational sports. Backed by the motto to "Let No One Sit on the Sidelines," GLASA uses adaptive equipment and specialized coaching to improve the health outcomes of injured veterans in Lake County.

You may purchase your tickets and sponsorships online at www.lakebar.org.

Thank you for your support. Remember, a solid Foundation makes for a better community.

LAKE COUNTY BAR ASSOCIATION
est. 1912
300 Grand Avenue, Suite A
Waukegan, IL 60085
Tel: 847-244-3143
Fax: 847-244-8259

September 5, 2014

Shred Event

21,292 Lbs.
Shredded