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QUARTERLY

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Thies family looking to collect "a million meals"

by Maria Kantzavelos

On a recent fall morning, John E. Thies settled into a comfortable spot beside his wife, Terry, on the couple's living room sofa at their home in southeast Urbana and came up with one word to best describe the first half of his year-long term as president of the Illinois State Bar Association: "whirlwind."

It's a twister that has nonetheless kept Thies on his feet.

"There's no denying it's been a whirlwind," he said. "But it's a predictable and planned whirlwind."

That's probably because Thies and his wife share a similar penchant for order, especially in keeping a hectic schedule as he leads the largest bar association in the state while maintaining a law practice as a self-described "journeyman lawyer," and she runs a household that includes the couple's two young daughters, Kathryn, 11, and Caroline, 9, while keeping up with her own volunteer activities.

"We work better in an organized environment than a chaotic environment," Terry said. "We can work in chaos, but ... " Her husband chimed in, "It's better if we don't."

"We just think you can accomplish more if you have a plan and execute it" Thies said.

Evidence of one plan in the works for the ISBA was on display that morning in the couple's den, a room that Thies



John and Terry Thies relax in their Urbana home. Photo credit: Illini Studio

playfully dubbed "Mission Control."

There, a poster board map of Illinois showing the eight regions where a network of food banks serve all of the state's 102 counties stood ready for use in tracking the progress of Lawyers Feeding Illinois, a competitive food and fundraising campaign among lawyers and legal organizations across the state.

Registration to participate in the campaign, one of Thies' presidential initiatives undertaken with the cooperation of Illinois Attorney General Lisa Madigan, opened on Nov. 5.

The actual competition runs from Feb. 18 to March 1, when teams that are signed up for the challenge will face off

in a race for the most points by collecting food and funds in support of the eight member food banks of Feeding Illinois, the state association of food banks that work with a vast network of partnering agencies, such as food pantries, soup kitchens and shelters, by supplying them with food for people in need.

Teams can be law firms, bar associations, law schools and other legal organizations, or individual attorneys registered to compete as a single entry, with winners to be determined in several categories by size and type of team.

Food and monetary donations collected by each team will be directed to the

(Continued on page 4)

Initiatives making progress on key issues

by Maria Kantzavelos

When John E. Thies took the helm of the ISBA in June, he did so with a focus on tackling some of the most pressing challenges facing the legal profession. Midway through the president's term, here's an update on the work of three special committees dealing with those challenges.

1. The Special Committee on the Impact of Law School Debt on Delivery of Legal Services has been conducting public hearings throughout the state since October as part of its work in recording how the practicalities of law students graduating with huge amounts of debt are impacting the ability of the profession to meet legal needs.

So far, the committee has heard from attorneys in private and public settings as well as law school deans, in forums held in Wheaton, Peoria, Fairview Heights, and Champaign. A final hearing is scheduled for Dec. 12 at the ISBA Chicago Regional Office.

(Continued on page 4)

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1 held in common 2 for each other 3 shared



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Free CLE to debut January 1

The Illinois State Bar Association is proud to announce that it will begin offering 15 hours of free online CLE programs to eligible members beginning in January 2013. The free courses will be available 24/7 through the ISBA's Free CLE" channel on FastCLE.

"We are proud to be the first voluntary state bar in the country to provide this benefit to members," ISBA President John E. Thies said. "We're confident that when lawyers realize all that the ISBA has to offer, including free CLE and free online legal research, that they will agree membership in the ISBA is a great investment in their professional development."

The online channel will contain approximately 30 hours of high-quality programs on a range of topics that include



substantive law, ethics, law practice management and technology.

The six-hour basic skills program will also be available at no cost to help newly-admitted attorneys meet their basic skills requirement. Program content will change regularly to accommodate changes in the law and new areas of interest.

"We're all very excited to offer some of our best programs to the membership at large," CLE Committee Chair Lori G. Levin said. "We are trying to make sure many practice areas are covered and there is a broad range of programs so members continue to have excellent value for ISBA CLE."

Further information is available at www.isba.org/freecle.

Free CLE FAQs

- **Is it really free?** Yes! These hours will be covered by your annual dues and there are no hidden fees.
- **I've never taken a program on FastCLE. How does it work?** ISBA's FastCLE is CLE available anytime, anywhere, offering members a flexible and convenient way to earn CLE credit on their terms in multiple formats. To select a program from the Free CLE channel, simply browse the program titles available, select a program in either online streaming or podcast format and follow the instructions on viewing the program and certifying credit. Course materials will be available under the "Papers" tab in PDF format for viewing, printing or saving to your computer. If you have questions about the program, an email address is available to contact the speakers.
- **Who is eligible to participate?** Members eligible to receive this benefit include dues levels 2-20 (regular dues-paying members), new admittees, law students, lifetime, honorary, dues-waived and dues-reduction categories.
- **Who should I contact if I have questions about the benefit?** All information currently available about the benefit has been included on the website. However, if you have a question regarding FastCLE, please email the CLE Department (FreeCLE@isba.org) or call (217) 525-1760 or (800) 252-8908.

Don't forget - 9 Board seats, 127 Assembly seats up for election

The ISBA Election in the Spring of 2013 will elect 9 seats on the Board of Governors, 39 seats on the Assembly for Cook County and 88 seats on the Assembly for Downstate. A new 3rd Vice President will also be elected.

Nominating petitions may be filed no earlier than Wednesday, January 2, 2013 and must be filed by 4:30 p.m. on Thursday, January 31, 2013 at either the Illinois Bar Center, 424 South 2nd Street, in Springfield or the ISBA Chicago Office at 20 S. Clark Street, 9th Floor, Chicago. Petitions must be physically submitted with original signatures. Petitions submitted via email or fax will not be accepted.

Candidate packets and the Notice of Election are available at www.isba.org/elections



Over 92% of votes in the 2012 ISBA election were submitted electronically.

(Continued from page 1)

team's local food bank, like the Greater Chicago Food Depository, which serves 600 agencies, or the Northern Illinois Food Bank, which serves 510 agencies.

Thies has charged his wife with overseeing the statewide campaign as chair of a volunteer steering committee comprised of ISBA members in cooperation with Feeding Illinois.

"She was the best one to do it," Thies said of his wife.

Reaching out in support of the work of food banks is not foreign to Thies and his wife. Before the couple had children they served for many years as advisors to local high school students through their Presbyterian church youth group. In that role, the couple led teens on a number of church missions, including trips to West Virginia, Mississippi, and Mexico. But their outreach work also included visits to food pantries and soup kitchens as well as the St. Louis Area Foodbank, which is among the eight regional food banks expected to benefit from the Lawyers Feeding Illinois campaign.

"We saw the potential for our association and our members to get involved relatively easily and make a difference in food banks, because we had been there passing cans along and stuffing boxes," Thies said.

The idea of food banks as the focus of a philanthropic project for the ISBA was "consistent with one of the things that we care a lot about," Thies said.

"Because I have always known lawyers to be very philanthropic, I wanted to encourage, facilitate and celebrate this spirit," he said.

By supporting the state's mega food banks, his wife said, "we're supporting the agencies, and that's where you see that people are helped the most because that's where the food gets to the families."

According to statistics cited by Feeding Illinois, more than 1.9 million people in the state are facing hunger.

"That's a staggering amount of people that don't have access to good nutritious food," Terry said.

Through Lawyers Feeding Illinois, Terry said, "We have an opportunity where we can use this huge bar association to tap into the desires of oth-

ers who have good hearts and want to help."

Although she shies away from the "First Lady" title, Terry often serves as a sounding board for her husband on issues related to the initiatives of his presidency, which include a focus on promoting adequate funding of and public trust in the Illinois justice system, and the impact of the law-student debt crisis on the delivery of legal services (see accompanying story).

With her taking on the task of overseeing the statewide food and fund-raising campaign, the roles are somewhat reversed. "I'm the sounding board for her on Lawyers Feeding Illinois," Thies said.

The couple started brainstorming and planning for the statewide philanthropic project well before Thies took the helm of the association in June. And as the campaign officially kicked off in November, Thies and his wife marveled at its magnitude since joining forces with the statewide Feeding Illinois association, and the likelihood of the project surpassing its stated goal of "raising a million meals."

With the infrastructure in place at Feeding Illinois as well as the support of ISBA staff members, the couple said, the project has taken off with its own website (www.lawyersfeedingil.org), promotional materials and media outreach plans, a kickoff event that took place on Nov. 14 and a post campaign celebration/awards ceremony and a system for financial donations to be accepted online as well as offline.

In raising funds toward the effort, lawyer teams can collect cash and checks. But they can also, in a quick and easy way, accept online donations by credit card from supporters anywhere via a link to a team's own online fundraising page, hosted by a third-party fundraising platform called Crowdrise.

On average, the state's eight food banks can turn every dollar they receive into five meals for hungry families, Terry pointed out.

"The significant part about the donation of the funds is that the buying power of the food banks is so great that they can do so much more with that one dollar than we ever could with the can of soup that I bring or bag of rice," Terry said.

Organizers also set out to make it "as easy as possible" to donate much needed food, Terry said.

With the support of the Illinois Judges Association, which is coordinating the participation of judges in the food and fund-raising project, two courthouses in every circuit around the state will serve as drop-off points for a team's food donations. And the teams competing in the challenge can also arrange for a drop-off or pick-up of their collected food donations by their local food bank at the end of the campaign.

By early November, nearly two dozen teams had already signed on to the challenge and donations were coming in.

And, thanks to the recent promise of a gift that will cover 100 percent of all processing fees for online donations up to \$200,000 from a main sponsor of the campaign, Attorneys' Title Guaranty Fund, "We can say that nearly every dollar someone gives will likely go to the food banks," Thies said.

The food bank support project is also seeing the advantages that can come from a statewide bar association effort, Thies said. For example, the Women's Bar Association of Illinois has offered its support to the cause, and the Lake County Bar Foundation has offered to match the contributions of the Lake County lawyers up to \$5,000.

"This is something we hope we'll see all over the state," Thies said. "That's why we started early."

Back at the Thies home front, the campaign has garnered the support of the couple's two young daughters, who will, "Probably go around our neighborhood, collecting canned goods to support the Webber & Thies Team," Terry said, referring to the 10-person firm in Urbana where Thies concentrates his practice in business representation and general litigation.

She and her husband have also given the girls the task of using the poster board map set up in their den to track the locations of teams as they register, to see the impact of the campaign across the state.

"We really want to have this map covered with pushpins," Terry said. ♦

INITIATIVES

(Continued from page 1)

"It's exactly the sort of dialogue that I had hoped for," Thies said. "We're getting some wonderful testimony from people representing very different perspectives."

2. The Special Committee on Fair and Impartial Courts has produced a program on the issue of court funding to be offered during the ISBA Midyear Meeting (Joint meeting with the Illinois Judges Association) Dec. 13 – 15 at The Sheraton Chicago Hotel & Towers. "As we go into the second half of the year, the committee members will be working on a report with findings and recommendations," Thies said. "We're also working on other projects to start advancing public discourse on the crisis we face in funding our courts."

3. The Special Committee on Judicial Disqualification Standards came up with a proposed rule and commentary that won the unanimous support of the ISBA Board of Governors in October.

The proposed judicial disqualification rule addressing campaign spending will be presented to the Assembly for consideration in December and, if approved, on to the Illinois Supreme Court for its consideration.

"I am pleased our association is headed toward a proposed rule that speaks to the significance of political contributions in our judicial selection process," Thies said. "It will be a great accomplishment if we can get this done." ♦

Maria Kantzavelos

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Capitol Chronicle



by **Jim Covington**

Director of Legislative Affairs



This is a wrap-up of bills that have been enacted into law as the new 98th General Assembly begins in January.

Personal property exemptions. Public Act 97-1030 (Sandack, R-Downers Grove; Mathias, R-Buffalo Grove) exempts from judgment a revocable or irrevocable trust that names the wife or husband of the insured or which names child, parent, or other person dependent upon the insured as the primary beneficiary of the trust. Effective July 17, 2012.

Judicial Privacy Act. Public Act 97-847 (Madigan, D-Chicago; Cullerton, D-Chicago) creates the Judicial Privacy Act that allows a judge to prohibit a government agency or business from publishing "personal information" about a judge. It requires that the judge make a written request to the agency or business to trigger this protection. Effective September 22, 2012.

Illinois Power of Attorney Act. Public Act 97-868 (Dillard, R-Westmont; McAsey, D-Lockport) amends this Act to exclude certain kinds of agreements from the Act's regulation. Those excluded would be a financial institution named as an agent for any person if the agreement does not include a durable power of attorney that survives the incapacity of the principal. The amendment clarifies that this kind of agreement is not a "nonstatutory property power" subject to this Act's provisions pertaining to statutory short form powers of attorney for property. Effective July 30, 2012.

Dissipation and child support. Public Act 97-941 (Mulroe, D-Chicago; Soto, D-Chicago) does two things affecting dissipation claims and child support. (1) It requires notice of intent to claim dissipation to be filed no later than 60 days before trial or 30 days after discovery closes, whichever is later. The notice must include an identification of the property dissipated and the date or periods of time during which the marriage began undergoing an irretrievable breakdown and when the dissipation occurred. No dissipation may be considered if it occurred five years before the filing of the petition for dissolution of marriage or three years after

the party claiming dissipation knew or should have known of the dissipation. (2) It specifically grants the court the right to order one or both parties to make reasonable payments for health needs not covered by insurance, child-care, education, and extracurricular activities in addition to statutory child support. Effective January 1, 2013.

Child-support enforcement. Public Act 97-994 (Pritchard, R-Sycamore; Silverstein, D-Chicago) does three things in the Income-Withholding for Support Act. (1) It requires that an action to collect a penalty from a payor may not be brought more than one year after the date of the payor's alleged failure to withhold or pay income. (2) It requires that the obligee must give written notice of the non-receipt of payment to the payor by certified mail with return receipt requested. Within 14 days of receipt by the payor the payor must (i) notify the obligee of the reason for the non-receipt of payment or (ii) make the required payment, together with interest at the rate of 9 percent calculated from the date on which the payment of income should have been made. If a payor fails to comply with this provision, the payor is subject to the \$100 per day penalty provided under the Act. (3) It caps the total penalty for one occasion at \$10,000 for a payor's failure to withhold or pay to the SDU an amount designated in the income-withholding notice. Effective August 17, 2012.

Adoption - service of process. Public Act 97-988 (Sommer, R-Morton; LaHood, R-Peoria) eliminates service of process on a minor defendant who is less than 14 years of age for whom a guardian ad litem has been or will be appointed under the Adoption Act. But it doesn't override any provision of the Adoption Act that relates to "identifying information" to which an adopted person is entitled under the Adoption Act's registry. Effective January 1, 2013.

Order of protection. Public Act 97-919 (McAsey, D-Lockport; Mulroe, D-Chicago) makes it a Class 4 felony to violate an order of protection if the defendant had been convicted in another state of domestic battery or certain crimes of violence or been the subject of an out-of-state order of protection. It also makes the actions of a defendant who directed the actions of a third party to violate this section accountable as if those actions had been personally done by the defendant without regard to the mental state of the third party. Effective August 10, 2012.

Security deposit and email. Public Act 97-999 (Barickman, R-Champaign; LaHood, R-Peoria) amends the Security Deposit Return Act to allow a lessor of five or more units to send an itemized statement of damage and repair costs to the lessee by electronic mail to a verified electronic mail address provided by the lessee. Effective January 1, 2013.

Community association fees. Public Act 97-1021 (Maloney, D-Chicago; Thapedi, D-Chicago) amends the Community Association Manager Licensing and Disciplinary Act. It requires all community associations to pay the Department of Financial and Professional Regulation an annual fee of \$50 plus an additional \$1 per unit not to exceed an annual fee of \$1,000 if they (1) have 10 or more units, (2) retain an individual to provide services as a community-association manager for compensation, (3) are not master associations, or (4) are registered in the state as a not-for-profit corporation. Effective August 17, 2012.

Common Interest Community Association Act. Public Act 97-1090 (Haide, D-Alton; Cross, R-Oswego) makes a number of changes to this Act including the following. (1) It prohibits an action to incorporate a common interest community as a municipality until two-thirds of the members sign an incorporation document. (2) It requires elections to the board at least once every 24 months, eliminates voting by proxy, and prohibits a term of office as a board member or officer for more than four years. (3) If the total common expenses exceed the budget, the board must disclose this variance to all members and identify subsequent assessments that will be made to offset this in future budgets. (4) Assessments for additions and alterations to common areas or to association-owned property not in the annual budget must be separately assessed and are subject to approval of a simple majority (instead of two-thirds) of the total members at a meeting called for that purpose. Effective August 24, 2012. ♦

Jim Covington is Director of Legislative Affairs for the Illinois State Bar Association. He is a 1976 graduate of Eastern Illinois University and a 1979 graduate of the University of Oklahoma College of Law.

iPad apps for your legal practice

by **Bryan Sims** bsims@simslawfirm.com

Sims Law Firm, Ltd., Naperville

About a year ago, I wrote about smartphone and tablet apps that were useful in a legal practice. In this column I address some legal specific apps that are available for the iPad.

I concentrate on iPad apps for a couple of reasons. First, most attorneys who have tablets seem to have iPads. Second, most legal specific apps seem to be available only for the iPad. In fact, the Droid Lawyer just published an article claiming that android tablets did not need legal specific apps. See tinyurl.com/isbaandroid.

Below are some of the legal specific apps that I have found to be most useful in my practice.

TrialPad (\$89.99) TrialPad is probably the most expensive iPad app that you will purchase. However, given its power, as well as the fact that comparable desktop software costs almost 10 times as much, even at \$90, this app is a great deal.

TrialPad is presentation software that is designed to work at trial. However, it also works great for presentations, hearings, mediations and arbitrations.

The key to this app is that it is extremely easy to use. It allows you to resize your documents, use a laser pointer, and create call outs. The app even contains a white board that allows you or a witness to draw pictures for display to the judge or jury.

If you have ever considered using your iPad in the courtroom, this is one app you will want in your iPad toolbox.

TranscriptPad (\$49.99) TranscriptPad allows you to easily read a transcript, annotate it, highlight it, code it for issues, and create a report with that information. One of the cool features of this app is that it allows you to color code your issues. Additionally, you can easily Highlight text. For those who really like highlighters, you can choose from among 4 different colors of highlighter and four different colors of underlining.

In the past, I paid a couple of hundred dollars for a program on my computer that had similar features. TranscriptPad is a fraction of the price. Plus, TranscriptPad works better and more easily than the computer software.

Fastcase: (Free) Fastcase makes a free app for both the iPhone and iPad. The app allows you to search Fastcase's database. Further, you can connect your app account with the Fastcase service that you have through the ISBA. Even if you do not use Fastcase regularly, having this app on your device means that you can easily search for a case from court or another location.



WestlawNext: (Free) The primary service I use for legal research is WestlawNext. West has released an app for the iPad that allows me to access my WestlawNext account. This is one of the most used apps on my iPad. The app contains all of the functions that I get when I access my account on the computer, but they are properly sized and formatted for my iPad. I like this app so much, that I have found that I prefer to do my research on the iPad rather than using my computer. Not only is it easy to use, but it also means that I am not tethered to my desk and can work from more comfortable locations. Quite simply, it's just as easy or easier to do my research from my iPad with this app than it is to do the research from my desk. Although the app is free, you must have a WestlawNext subscription to use it. If you are a Lexis user, Lexis makes a **Lexis Advance** app that provides similar functionality.

Black's Law Dictionary 9th Edition: (\$54.99). Recently I was working on a brief and I needed access to Black's Law Dictionary. However, I was not close to one. I was able to quickly solve my problem by buying Black's for my iPad. This app is published by West, which is one reason that it is still quite costly. However, the app works quite well. It is easy to search for words. Additionally, each entry contains the citation to the page in the physical book that the definition appears.

FedCtRecords: (\$9.99) This app provides mobile access to your PACER account to allow you to access dockets in the federal district courts. The good thing about this app is that it makes it very easy to access federal dockets and to retrieve documents from those dockets.

Additionally, you can save cases to your app so you can easily retrieve that case information at any time. My chief complaint about this app is that it is built for the iPhone and it does not have an iPad specific build. Further, the app does not provide access to the bankruptcy courts.

rulebook: (Free) Rulebook allows you to access your electronic library of legal research materials. In my rulebook, I have copies of the Federal Rules of Civil Procedure, Evidence, and Appellate Procedure. I can browse or search any of these books. The app is free, but you can purchase a variety of content, including the federal rules mentioned above as well as the Illinois Rules of Evidence, and Article I, II, or III, of the Illinois Supreme Court Rules. Each of the Illinois sets costs \$2.99. You can also pick up the Bluebook for \$39.99. The various federal rule sets are typically priced at \$1.99.

One convenient feature of this app is that it saves your materials locally. This means that you have full access to them without having an active internet connection.

Given the hundreds of thousands of apps that are available, there are quite likely many more apps that you could incorporate into your practice to make yourself more efficient. However, the apps identified above are a good place to start to integrate an iPad into your practice as a key component in your computing equipment. ♦

WHEN RESULTS MATTER.. WHY CHOOSE ANYONE ELSE?

\$14 Million for the family of a woman who died during child birth and her daughter who suffered brain damage

\$11.4 Million when a man died when doctors negligently performed a cervical fusion surgery

\$10.1 Million JURY VERDICT for a 72 year old woman severely injured by a truck

\$10.1 Million RECORD HIGH JURY VERDICT for a teenager killed by a Greyhound bus

\$7.8 Million for a woman who suffered a severe stroke after a delayed diagnosis of meningitis

\$7.65 Million for a man seriously injured when construction equipment malfunctioned

\$6.95 Million JURY VERDICT for a man whose leg was amputated at a City of Chicago construction site that was improperly barricaded

\$6.8 Million for a woman brain damaged after a tracheotomy was negligently managed

\$6.7 Million for the family of a 24 year old man who was killed on an Illinois expressway after collisions with a car and commercial motor vehicle.

\$6 Million RECORD HIGH JURY VERDICT for a teenager injured when a truck crashed into her motorcycle

\$5.8 Million when a wheel assembly dislodged from a semi-trailer truck and killed a teenager

\$5.5 Million when a baby suffered permanent brain damage as a result of a wrongly administered drug

\$5.5 Million JURY VERDICT for a woman killed when her vehicle crashed into an improperly maintained construction area

\$5.3 Million JURY VERDICT when a 12 year old died when doctors and nurses negligently managed her airway

\$5 Million for a man who suffered severe back injuries while undergoing physical therapy to repair a herniated disc

\$5 Million RECORD HIGH SETTLEMENT when a worker was severely injured in a farming incident

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A MESSAGE FROM THE PRESIDENT-ELECT

| By Paula H. Holderman



Ready to Lead? Nominate Yourself for an ISBA Committee or Council

Looking for a chance to lead? To grow? To make a difference in the Illinois State Bar Association and the legal profession? Then consider nominating yourself for one of our many section councils and committees for 2013-14.

As president-elect, it's my privilege to make appointments to councils and committees for the coming fiscal year. These small but influential groups are the lifeblood of the ISBA. They produce newsletters and CLE programs, propose legislation, and help ISBA serve its members in countless ways.

Over a thousand ISBA members serve on committees and section councils. It's a great way to make new friendships and advance your career. While not everyone can be appointed, all who seek appointment will be considered. I encourage each of you – especially young lawyers and others whose participa-

tion makes the ISBA more diverse – to complete the online form at isba.org/membergroups/nominations.

Current committees and section councils are listed below. As you can see, the areas of focus and activity span many disciplines. Be aware that an appointment presumes you will attend meetings and actively participate. The ISBA partially reimburses its members for many of their expenses. Your chances of appointment are best if you indicate more than a single area of interest, but no more than three.

Please join me and other ISBA members in serving both the profession and the public.

Paula H. Holderman, President-Elect

ISBA COMMITTEES

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Commission Committee
Bar Services and Activities
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Legal Technology
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Young Lawyers Division

Please complete this form by February 1, 2013 online at
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Troop drawdown means possible increase in USERRA cases

by **Theresa Dollinger**, 3rd Year Law Student,
DePaul University, and **Kevin T. Lonergan**,
Legal Assistance Attorney, Rock Island Arsenal

As US Forces draw down their numbers in Southwest Asia, the number of Reservists and Guardsmen returning to their homes and jobs stateside will increase greatly in the coming weeks and months. With this influx of military personnel re-entering the civilian work force, it seems inevitable that there will be an uptick in USERRA claims for both. The goal of this article is to give a quick, yet comprehensive overview of USERRA as large numbers of Reservists and Guardsmen return home to Illinois.

Enacted in 1994, largely in response to veterans' and reservists' confusion and difficulty in understanding their employment rights following the first Gulf War, the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), 38 U.S.C.A. §§ 4301 et seq., is intended to be a clearer, more comprehensible version of the rights afforded by its predecessor, the Veterans' Readjustment Assistance Act, Pub. L. No. 93-508, 88 Stat. 1578 (1974), popularly known as the Veterans' Reemployment Rights Act (VRRRA). With such a huge number of National Guard and Reserve troops being called to active duty – nearly 900,000 since 9/11 – USERRA stands to be more relevant than ever in the coming years.

USERRA provides job security to reservists, National Guard, and any individual serving in the military for fewer than five years, by making unfavorable employment decisions based on such military status an actionable, federal claim. The Act can essentially be broken down into two parts: (1) § 4311(a)-(b), the prohibition of employment discrimination based on military status, including retaliatory firing for enforcing rights under the Act itself, and (2) § 4312, the right to reemployment upon return from military leave.

Under its discrimination provision of § 4311, USERRA forbids employers from using an employee's military status as a factor when making decisions regarding the hiring, retention, promotion, and benefits of employees. In this instance, the burden falls to the plaintiff to show that the employee's military status was a motivating factor in the employment decision.

The reemployment rights provided in § 4312 of the Act treats military leave, whether voluntary or involuntary, as a furlough or leave of absence and entitles employees to reinstatement

upon their return. This right is guaranteed provided the employee satisfies the Act's reinstatement criteria: (1) the employee gave proper notice of leave, where feasible, (2) the employee was on leave for less than five years, (3) the employee is not dishonorably discharged from service, and (4) the employee submitted a timely application for reemployment. Possibly the most surprising and potentially burdensome part of this provision is the fact that, once the returning employee satisfies these requirements, she is to be reinstated in the same position of seniority, status, and rate of pay that would have been earned had she remained continuously employed.

USERRA provides job security to reservists, National Guard, and any individual serving in the military for fewer than five years.

It is important to note that §§ 4311 and 4312 create two separate and distinct causes of action. Section 4312 automatically guarantees servicemen who satisfy its requirements the right to reemployment upon return from leave. Any other alleged misconduct is covered under § 4311, imposing on a plaintiff the burden of proving discrimination based on his protected status. Essentially, as many courts have pointed out, § 4312 ensures reemployment, but does not prevent the employer from firing the employee the next day. It is the subsequent, allegedly improper firing of the employee which is covered under § 4311.

However, these sections are not necessarily mutually exclusive and under the right set of facts, a plaintiff may have a cause of action under both USERRA's antidiscrimination and reemployment sections. For example, an employee whose employer refused to rehire her upon return from military leave may bring a claim alleging a violation of her reemployment rights under § 4312, provided she satisfies the required criteria. Additionally, if the employer's refusal to rehire was based on a discriminatory purpose relating to the employee's military status, such as a fear that she may be called back to military service in the future, a discrimination claim under § 4311(a) may also stand.

In addition to bringing multiple causes of action under the Act itself, many situations may give rise to claims under other relevant federal, state, or local law which may be brought alongside a USERRA

claim. For example, an employee suffering from a disability caused by a war injury whose employer denied him reemployment upon return from active duty, refusing to accommodate such injury, may bring a USERRA claim as well as a disability discrimination claim under the Americans with Disabilities Act. A plaintiff may have much to gain by including any related or alternative actions, as USERRA only allows for equitable remedies such as reinstatement and recovery of lost wages and benefits and does not provide for recovery of compensatory damages such as emotional distress or punitive damages, which may be permitted under other laws.

USERRA's provisions provide certain safeguards for employers, giving leeway to employers when rehire or promotion of an employee is impossible or overly burdensome, signifying the legislature's respect for an employer's difficult position of having to temporarily replace a potentially invaluable employee within their company. However, these exceptions are outshined by two significant factors that tip the balance of interests markedly in favor of the employee. First, USERRA prescribes no statute of limitations, allowing an employee to bring a discrimination claim any number of years after the event, entitling a successful plaintiff to a limitless number of years of back pay and benefits. However, the wary plaintiff's attorney will encourage prompt action or an employer may defeat the claim under the equitable doctrine of laches.

Second, the recent Supreme Court case, *Staub v. Proctor Hosp.*, 131 S. Ct. 1186 (2011), may open employers up to more liability than ever. In reviewing the Seventh Circuit's decision, 560 F.3d 647 (7th Cir. 2009), the Supreme Court interpreted the phrase "motivating factor in the employer's action" to include any acts of military hostility causing an adverse employment decision, whether or not the hostility came from the person making the ultimate decision. In effect, if a direct supervisor of a military employee purposefully takes actions motivated by antimilitary animus and those actions are the proximate cause of the adverse employment action, then an employer may be liable under USERRA whether or not the employer had any knowledge of the antimilitary hostility when making its decision.

While there are many questions to be answered, a more thorough interpretation of USERRA will likely be hashed out as more cases arise. For any questions, talk to Employer Support to Guard and Reserve, the Labor Department, or seek private counsel. ♦

Profiles in pro bono excellence: Where are they now?

by **Mara Block**

ISBA Standing Committee on Delivery of Legal Services

Each year the ISBA's Delivery of Legal Services Committee solicits nominations for the John C. McAndrews Pro Bono Service Award. The award is named in memory of Rock Island attorney John McAndrews, who chaired the ISBA Committee on Delivery of Legal Services and is given to individual lawyers, law firms and corporate law departments, and bar associations each year who exhibit the highest degree of commitment and professionalism to the profession through their pro bono service.

The Committee has granted this award, previously named the Pro Bono Service Award, for over 20 years. The list of recipients includes individuals and law firms from across the state of Illinois that have contributed their time, talent and efforts to helping low income individuals get the same access to the court systems as those who are more resourced.

In light of the recent call for nominations for the Award, the committee wanted to go back to some of the early recipients and see what they are up to. Have they continued to be involved in pro bono work? Where have their careers taken them? What impact has doing pro bono had on their careers?

Randy Rapp received the award in 1993 for his involvement in what was then known as the Midwest Immigrant Rights Center (MIRC), now known as the National Immigrant Justice Center (NIJC). Today, Mr. Rapp is an attorney at the general commercial practice Kozacky & Weitzel, P.C. in Chicago and also serves as a mediator and arbitrator.

Mr. Rapp's work with NIJC has involved representation of multiple immigrants to the United States seeking political asylum. He became interested in the issue of political asylum in law school at the University of Iowa when he clerked for Prof. Berns Weston. Out of law school he joined the human rights committees of the Chicago Bar Association and the American Bar Association where he and a group of colleagues represented the 60 or 70 asylees who had come from Haiti, via Florida, in 1976.

He has had many memorable cases, but in one particularly memorable case he represented a torture survivor from El Salvador. On the day of hearing, Mr. Rapp presented expert testimony that graphically detailed the nature of the torture that Mr. Rapps's client and her daughter experienced in their home country. That testimony was so compelling that the Immigration Judge granted all his client's remedies from the bench, a highly unusual outcome, according to Mr. Rapp.

Over the course of his career he has personally represented more than a dozen individuals, some for as long as 20 years, but his work has had a spider effect as he has encouraged his colleagues and partners to get involved with NIJC and has supervised their work.

Gretchen E. Fisher, an attorney in Libertyville, received the Pro Bono Service Award in 1994. Ms. Fisher started her law career as a legal services attorney at Prairie State Legal Services (PSLS). She left PSLS after three years to join a small firm. While there, she continued her relationship with PSLS by referring cases to private attorneys that PSLS couldn't take due to conflicts of interest. The majority of the cases were family law cases and she devoted a huge amount of time to making sure those individuals would be represented. That was the work that got her nominated for, and ultimately awarded, the Pro Bono Service Award.

But her pro bono involvement didn't stop when the plaque assumed its place on the mantle. Almost 20 years later, Ms. Fisher continues to take family law pro bono cases from the Lake County Volunteer Lawyers' Program. And she raises money for legal services programs in Lake County.

When asked about memorable pro bono experiences, she referenced a client she represented who was a Section 8 voucher-holder whose landlord was charging her illegal side payments on top of her normal rent. Ms. Fisher filed a law suit on behalf of her client against the landlord. Although the landlord evaded service, when they finally did get him personally served, the case settled within two weeks and her client was paid back everything that they asked for, plus attorneys' fees. As Ms. Fisher said, "[We] got the bad guy."

Deborah Goldberg received the Pro Bono Service Award in 1995. Ms. Goldberg is an attorney in Waukegan and is the self-styled "Pro Bono Queen of Lake County." Ms. Goldberg started doing pro bono work out of necessity — she was just out of law school and needed experience. She went to Prairie State and got "real life experience" there. She has been doing pro bono work ever since. Ms. Goldberg recognizes that she lives a "charmed life." And it is her duty to give back. She says, "It's the right thing to do." And she has continued to do so throughout her career, representing Spanish-speaking clients in mostly family law matters.

But beyond her own cases, she has dedicated herself to encouraging younger attorneys to do pro bono. Her best tactic for recruiting? "Guilt," she says, jokingly. But she also reminds newer attorneys that they can get mentorship and training while working on pro bono cases and also that pro bono cases can lead to paid business.

Many thanks are owed to Rapp, Goldberg and Fisher, to the dozens of other award winners over the years, and to the countless attorneys across the state of Illinois who take on pro bono matters without recognition.

Nominations for the John C. McAndrews Pro Bono Service Award are due March 15, 2013, and information can be found at: www.isba.org/awards/mcandrews ♦



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Help honor your colleagues – Nominate them for an ISBA award

Nominations are being accepted for ISBA awards that will be presented on June 21, 2013, at the Annual Awards Luncheon. Additional information is available at www.isba.org/awards

Austin Fleming Newsletter Editors Award

This award honors outstanding editors or past editors of Association newsletters. Nominating forms are due March 15.

Community Leadership Award

Nominees for the Community Leadership Award should be judges, lawyers, members of state or local legislative bodies, educators or community activist groups who have worked to eliminate discrimination and foster understanding of legal issues relating to the LGBT community. The nominating form is due April 5.

Diversity Leadership Award

The Diversity Leadership Award recognizes long

standing, continuing and exceptional commitment by an individual or an organization to the critical importance of diversity within the Illinois legal community, its judiciary and within ISBA. The nominating form is due April 5.

General Practice

Nominees for the Matthew Maloney Tradition of Excellence Award must be ISBA members who have been in general practice for at least 20 years and have made significant contributions to the profession and community. The nominating form is due April 1.

Gertz Award

The Gertz Award recognizes long-standing, continuing and exceptional commitment by an individual or an organization to the protection or advancement of Human Rights. Nominating forms are due March 8.

Joseph R. Bartylak Memorial Award

The Joseph R. Bartylak Memorial Legal Services

honors the extraordinary commitment and dedication of a civil legal services attorney who has provided the highest caliber of legal representation and outstanding service to Illinois' vulnerable and low-income population. The nominating form is due Jan. 18.

Law Students

Nominees from ISBA-affiliated law schools should be participating in activities that enhance professional responsibility and provide service to the public. Nominating forms are due April 5.

Young Lawyers

The Young Lawyers Division presents two Young Lawyer of the Year awards - one for Cook County and one for outside Cook County-to attorneys who have achieved excellence in litigation, advocacy or counseling, and have contributed to the profession through public service and pro bono activity. The nominating form is due April 5. ♦



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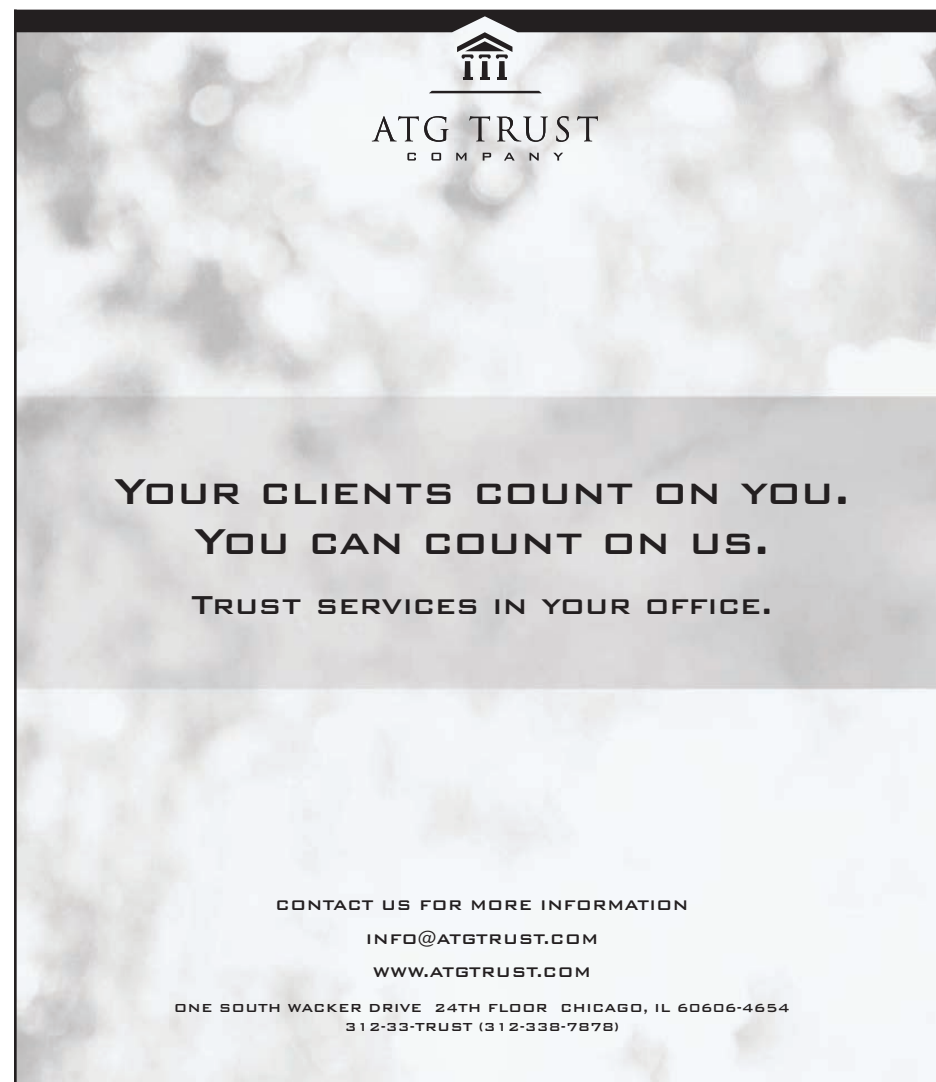
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Illinois Supreme Court MCLE Requirements

As Amended September 2011

New Admittees, Did You Know . . .

✓ that the MCLE rules—adopted by the Illinois Supreme Court and administered by the MCLE Board of the Court—were amended in September 2011 and now establish a **MCLE Board 15-hour accredited MCLE requirement* for newly admitted attorneys** allowing you to choose from the following compliance options described in S. Ct. Rule 793:

(a) A 6-hour Accredited Basic Skills Course (such as the ISBA's 6 hour Basic Skills Course) **PLUS** 9 additional hours of MCLE credit of your choice (also available from ISBA at www.isba.org/cle); **OR**

(b) Participation in a year-long Mentoring Program approved for 6 credit hours by the Illinois Supreme Court's Commission on Professionalism http://www.ilsccp.org/mentoring/mentoring_index.htm **PLUS** 9 additional hours of MCLE credit of your choice; **OR**

(c) A 6-hour Basic Skills Course **PLUS** Participation in a year-long Mentoring Program approved for 6 credit hours by the Illinois Supreme Court's Commission on Professionalism **PLUS** 3 additional hours of MCLE credit of your choice?

✓ that this requirement for newly admitted attorneys must be completed by the last day of the month that occurs one year after your admission to practice in Illinois? And that you must certify compliance to the Supreme Court's MCLE Board within 31 days after your Basic Skills course year has ended (unless you qualify for an exemption)?

✓ that attorneys must report MCLE requirement compliance to the MCLE Board either online at mcleboard.org or via the certification form that will be mailed by the MCLE

Board to the attorney (at the address on file with the Attorney Registration and Disciplinary Commission—ARDC)? And that failure to timely report to the MCLE Board will result in late fees and the risk of removal of your name from the Master Roll of Attorneys?

✓ that attorneys should retain their Certificates of Attendance for individual courses (including all courses taken to satisfy the 15-hour course requirement for newly admitted attorneys) in their files for three years after the end of the reporting period in case they are audited?

✓ that after completing the 15-hour course requirement for this one year period, your initial two year MCLE reporting period begins on the next July 1st, pursuant to the MCLE Board reporting schedule? And that the schedule is based on the first letter of your last name? (See chart below)

✓ that you are exempt from the **General** CLE requirements during this one year period, **but** before your two year reporting period begins, you can earn and carry over up to 15** MCLE hours in excess of your newly admitted attorney requirement, including up to 6 hours of professional responsibility credit?

✓ that you can continue learning new legal skills at live ISBA CLE programs for only \$25 per program for your first three years of admission to the bar? And that you can visit ISBA.org for a full calendar of CLE programs? ♦

**New Attorneys admitted after Dec. 31, 2005 and before Oct 1, 2011, who have not yet satisfied the new attorney requirements, have the option of completing a 15 hour Basic Skills course as detailed under the prior Rule 793(c) or satisfying the Newly Admitted Attorney requirements described above. S. Ct. Rule 793(h)*

***New Attorneys admitted between Jan 1, 2006 through June 30, 2009 may carry over a maximum of 10 CLE hours, excluding professional responsibility hours. S. Ct. Rule 794(c)(2)(i)*

NEW ADMITTEE ILLINOIS SUPREME COURT MCLE RULE REQUIREMENTS AND DEADLINES

	Admitted November 2008	Admitted May 2009	Admitted November 2009	Admitted May 2010	Admitted November 2010	Admitted May 2011	Admitted November 2011	Admitted May 2012	Admitted November 2012
15-hour Course Requirement must be completed by:	Nov. 30, 2009	May 31, 2010	Nov. 30, 2010	May 31, 2011	Nov. 30, 2011	May 31, 2012	Nov. 30, 2012	May 31, 2013	Nov. 30, 2013
Certify Compliance to Supreme Court MCLE Board by:	Dec. 31, 2009	July 1, 2010	Dec. 31, 2010	July 1, 2011	Dec. 31, 2011	July 1, 2012	Dec. 31, 2012	July 1, 2013	Dec. 31, 2013
General MCLE Carry Over Hours Possible To Earn (Sup. Ct. Rule 794(c)(2))	10 Hours (except PMCLE Credit) earned between Basic Skills compliance and the first day of your first reporting period	10 Hours (except PMCLE Credit) earned between Basic Skills compliance and the first day of your first reporting period	15 Hours, including up to 6 hours PMCLE credit, earned between date of bar admission and the first day of your first reporting period	15 Hours, including up to 6 hours PMCLE credit, earned between date of bar admission and the first day of your first reporting period	15 Hours, including up to 6 hours PMCLE credit, earned between date of bar admission and the first day of your first reporting period	15 Hours, including up to 6 hours PMCLE credit, earned between date of bar admission and the first day of your first reporting period	15 Hours, including up to 6 hours PMCLE credit, earned between date of bar admission and the first day of your first reporting period	15 Hours, including up to 6 hours PMCLE credit, earned between date of bar admission and the first day of your first reporting period	15 Hours, including up to 6 hours PMCLE credit, earned between date of bar admission and the first day of your first reporting period
First 30 Hour MCLE reporting period for last names beginning with A – M:	July 1, 2010 – June 30, 2012	July 1, 2010 – June 30, 2012	July 1, 2012 – June 30, 2014	July 1, 2012 – June 30, 2014	July 1, 2012 – June 30, 2014	July 1, 2012 – June 30, 2014	July 1, 2014 – June 30, 2016	July 1, 2014 – June 30, 2016	July 1, 2014 – June 30, 2016
First MCLE reporting period for last names beginning with N – Z: (30 Hours unless noted)	July 1, 2011 – June 30, 2013	July 1, 2011 – June 30, 2013	July 1, 2011 – June 30, 2013	July 1, 2011 – June 30, 2013	July 1, 2013 – June 30, 2015	July 1, 2013 – June 30, 2015	July 1, 2013 – June 30, 2015	July 1, 2013 – June 30, 2015	July 1, 2015 – June 30, 2017

To find out more visit the MCLE Board website at www.MCLEBoard.org

YLD continues its efforts to help lawyers build relationships

by Debra Thomas

The Young Lawyers Division (YLD) recently held its second Professional Development Luncheon at the ISBA's Chicago Regional Office. The title of the program was "Taking Charge of Your Legal Career." The speakers, **Paula Holderman**, **Shawn Kasserman** and **Mary Sabatino**, presented on how lawyers could network, make professional connections and move ahead in their careers. One largely agreed-upon takeaway from the program by the speakers was that networking should really be considered "building relationships."

The YLD is a tool new and young lawyers, as well as more experienced lawyers and law students, can use to do exactly that: to build relationships.

There are four main ways that lawyers can utilize the YLD to help build relationships, whether they are professional relationships or long-lasting personal ones.

1. Social Events: Every year, the YLD hosts various social and charity functions. One of the main social functions the YLD holds every year is the Holiday Party. This is a great venue for new and young lawyers to meet other lawyers and start building new and lasting relationships, and ticket proceeds go to benefit the ISBA YLD Children's Assistance Fund. The 15th Annual Holiday Party will be held on December 7, 2012 at the Cubby Bear Lounge in Chicago. Information on the event can be found at www.holidayparty.org.

2. Continuing Legal Education: Another great opportunity for building relationships is attending continuing legal education seminars. The YLD provides its own continuing legal education seminars for lawyers and also co-

sponsors other seminars. The YLD seminars are geared to new or young lawyers and focus on topics such as starting your own law firm, handling the economics of a law firm, marketing your practice and building your own website, as well as basic legal topics that new lawyers should have exposure to as they enter their practice.

The YLD will be hosting its next seminar, "Legal Issues a New Lawyer Should Know," on Feb. 28, 2013. Topics will range from general estate planning and traffic law that new lawyers should be aware of, to how to create your own website and manage the economic aspects of your law firm. Visit the YLD website to learn more about this upcoming seminar.

3. Professional Development Luncheons: This four-part series is designed to help new lawyers and law students learn practical skills for enhancing their practices and careers. They are held in the ISBA Chicago Regional Office and do not provide CLE credit. The PDL's offer attendees the opportunity to learn from more experienced lawyers who will present on relevant topics geared to lawyers starting out or working to take the next step in their careers.

4. Charitable Events: Finally, the YLD not only raises funds for the Children's Assistance Fund, but it also works to get its members involved in doing charitable work in the community and helps attorneys give back to those who need assistance. This year, YLD members volunteered at the Greater Chicago Food Depository on Oct. 27.

For more information about the YLD or any of the events or programs discussed, please visit www.isba.org/sections/yld. ♦

Illinois admits 2,125 new attorneys in November ceremonies



New admittee Jason Fisher and family with Illinois Supreme Court Justices Anne M. Burke, Charles E. Freeman and Mary Jane Theis at the 1st District Admission Ceremony in Chicago. Jason's father, ISBA member Robert A. Fisher, made the motion to admit the class.



ISBA 2nd Vice President Richard D. Felice and new admittee Sara Suleiman at the 2nd District admission ceremony in Elgin.

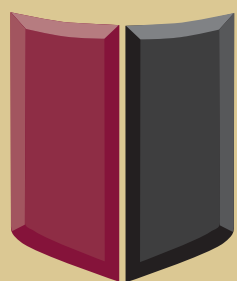


New admittee Yaniece A. McPherson (Champaign) with her husband, Kamal King, and Justice Rita B. Garman at the 4th District Admission Ceremony in Springfield.

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State Bar Association and the ISBA Alternative Dispute Resolution Section, qualifies for 40 hours of MCLE credit, including 40 hours of Professional

Responsibility MCLE credit (subject to approval). Due to its popularity, the program is being presented in both January and February!

The program is taught by Richard Calkins and Fred Lane—two nationally recognized mediators, authors, and educators. Until 20 years ago, both Mr. Calkins and Mr. Lane were well-known and highly regarded litigators. Since then, however, they have successfully mediated over 5,000 cases. Together, Mr. Calkins and Mr. Lane co-founded the International Academy of Dispute Resolution and co-authored two books: *Mediation Practice Guide* and *Lane & Calkins Mediation Practice Guide*. **Registration for the 40-Hour Mediation/Arbitration Training program includes a copy of Lane & Calkins Mediation Practice Guide.** ♦

This course is now a Cook County Court-Approved Mediation Training Program to become a Law Division and/or Chancery Division Court-Annexed Mediator.

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The ins and outs of practice continuation arrangements

A must for solos, sole owners and small firm lawyers

by John W. Olmstead, MBA, Ph.D, CMC

jolmstead@olmsteadassoc.com

While many lawyers and law firms are beginning to think about long range succession issues and the need for long range succession plans, many have not yet addressed shorter range issues.

Many solo lawyers are in “reactionary mode” and have not adequately prepared backup plans in the event that, in the short term – prior to retirement – something would happen to them. For example:

- How would the firm keep operating?
- Who would take care of the clients' needs?
- How would the firm's staff be taken care of?

Sound practice continuation arrangements can solve this dilemma and preserve practice value and can help prevent a lawyer's spouse or immediate heirs from facing a hasty sale or disposition of the practice in an emergency. A practice continuation arrangement can also give lawyer practitioners, their staff, and their family peace of mind.

What is a Practice Continuation Arrangement?

A practice continuation arrangement is an arrangement – typically in the form of an agreement or contract – made between an individual lawyer or a small law firm and another lawyer or law firm. The arrangement describes a course of action to transfer a lawyer's practice and sets payment for its value. In the event of vacation, temporary or permanent disability, or death, a practice continuation arrangement protects the practice, the business interests of the lawyer or law firm's clients and the financial interest of the lawyer and his or her family.

Approaches

There are different kinds of practice continuation arrangements. Typically a lawyer enters into a one-on-one agreement with another sole proprietorship, partnership, limited liability company, or professional corporation in the community. Agreements can range from simple “dual coverage for each other” for vacation or other temporary absences to sale of the practice in the event of long term disability or death.

Typical Components of Continuation Agreements

There are many components to a practice continuation agreement. It is important that temporary dis-

ability, permanent or total disability and retirement are outlined and defined appropriately.

Permanent disability is total disability due to poor health, either physical or mental. In contrast, temporary disability is defined as a physical or mental disability that does not last more than approximately six months. Retirement is simply defined as the exit from the practice of law on an immediate or phase-out basis.

Temporary disability. The agreement should call for the successor firm to provide employees to assist in the practice's daily business. The employees generally would be attorneys and staff. However, an attorney or attorneys must be available in the successor firm to review the work of paralegals and staff and provide the necessary experience and background to make needed decisions. The attorney(s) would be in contact with and under the supervision of the temporarily disabled practitioner. Each of the two law firms would negotiate a compensation arrangement for the assisting firm. The agreement would provide for a conclusion of the arrangement once temporary disability ends. The temporarily disabled practitioner probably would give advance notice of his return, but the agreement would not require it.

Permanent disability or death. The provisions called for in these cases are much more detailed. They must allow for an orderly transfer of firm clients to the successor firm with no assistance from the practitioner and for the beginning of predetermined regularly scheduled payments to his or her heirs.

Payment for the Practice

A practice continuation agreement's provisions for the sale of a practice must contain a reasonable valuation and a realistic payment structure. What lawyers really want is to leave to their surviving spouses or heirs something from all the years of hard work it took to build the practice. To accomplish this end, selling the practice at a buyer friendly price may be necessary. Law practices can lose value very quickly, so timing is vital.

One approach would be to list each client in the agreement and assigned individual values that equal the total valuation agreed on for the practice. Payment for each is made to the lawyer's heirs from cash received by the successor firm from billings to these clients for future services. The agreed-on percentage of current collections to be paid depends on the contract's term. If the term is 5 years, then 20% of each collected amount would be paid each year. The maximum amount to be paid for any client is its

agreed-on value. If the client terminates the successor firm's services, payments for that client cease.

The surviving spouse or heirs don't participate in any future client growth once the practice continuation agreement takes effect. Be careful about executing a note since it fixes the price for consideration and prevents payments that correspond with cash flow. It is inflexible to client loss. The buyer could end up paying for a client it may not keep.

While this article does not discuss the different valuation methods, lawyers should keep in mind that there are no hard rules on valuing a law practice. All law practices are unique, and a different set of criteria must be used for each. Many intangibles can affect the valuation. However, the valuation method must be agreed to by both parties and be an integral part of the agreement.

Notification

The predecessor firm should notify all clients of the agreement in accordance with their state bar requirements and assure them there will be no interruption of services when the practice changes hands. It is important to ensure that the surviving spouse or heirs are aware of the existence of the practice continuation agreement and understand its provisions. In addition, the attorney for the predecessor lawyer's estate should be familiar with agreement terms, if he or she did not draft and negotiate the agreement.

An Investment – Well Worth Your Time

Lawyers must invest time and effort to find suitable successors for their firms and to create useful, equitable, practice continuation agreements. The key is finding the right person or firm. The investment of time is a good investment because a good practice continuation arrangement makes sure that the value he or she has built over the years will not be lost. An orderly transfer of a practice to another lawyer or law firm is a substantial financial benefit to the lawyer's family. At the same time, through the handpicked successor, the lawyer fulfills his professional responsibility to his clients. Lawyers who don't have these agreements should learn more about preserving the value they've created. ♦

John W. Olmstead, MBA, Ph.D, CMC, (www.olmsteadassoc.com) is a past chair and member of the ISBA Standing Committee on Law Office Management and Economics. For more information on law office management please direct questions to the ISBA listserver, which John and other committee members review, or view archived copies of *The Bottom Line* Newsletters.

ISBA to recognize 1962 Class of Distinguished Counsellors

President John E. Thies will recognize the 1962 Class of Distinguished Counsellors on Wednesday, Dec. 12 at the Sheraton Chicago Hotel & Towers located at 301 East North Water in Chicago. The event will begin with a reception at 11:15 a.m. and will continue with a luncheon at noon.

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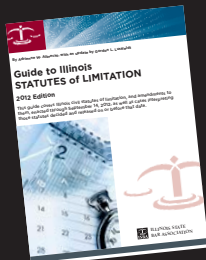
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Theodore E. Cornell Jr, Lake Forest

Admitted 1951

Date of Death: 11/3/12

Richard W. Culver, Barrington

Admitted 1965

Date of Death: 5/7/12

Kenneth J. Fisch, Chicago

Admitted 1959

Date of Death: 9/8/12

Etha Fox, Chicago

Admitted 1939

Date of Death: 9/8/12

John W. Gosselin, Batavia

Admitted 1959

Date of Death: 9/1/12

Thomas E. Harrington, Champaign

Admitted 1955

Date of Death: 8/8/12

Joseph B. Higgs III, Arlington Heights

Admitted 1940

Date of Death: 10/22/12

John D. Keller, Roselle

Admitted 1970

Date of Death: 8/26/12

Guy M. Lahr, III, Springfield

Admitted 1973

Date of Death: 9/4/12

Chester C. McCullough Jr., River Forest

Admitted 1948

Date of Death: 8/19/12

William B. McNamara, Danville

Admitted 1963

Date of Death: 4/3/12

Jonathan E. Persky, Chicago

Admitted 2002

Date of Death: 10/27/12

Joseph "Joe" Radovich, Geneva

Admitted 1943

Date of Death: 9/18/12

Eugene C. Shutts, Joliet

Admitted 1942

Date of Death: 08/12/12

John Stewart, Murphysboro

Admitted 1939

Date of Death: 9/12/12

Joseph Z. Sudow, Peoria

Admitted 1938

Date of Death: 9/9/12

James E. Whelton, Naperville

Admitted 1955

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Stuart H. Wolf, Arlington Heights

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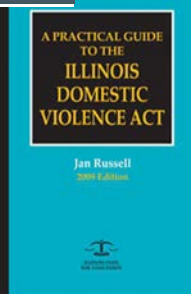
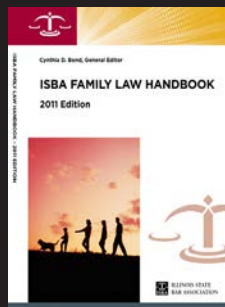
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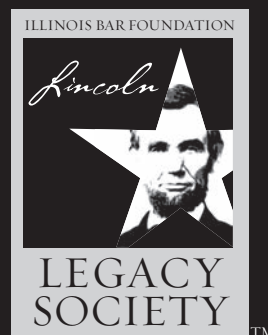
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Roger J. Dodd has active offices in Park City, Utah (DoddLaw), Valdosta, Georgia (Dodd and Burnham), and Jacksonville, Florida (Spohrer and Dodd) where he practices trial work of all types. This includes personal injury, wrongful death, criminal defense, and domestic relations. He is listed in Best Lawyers for more than 20 years. He is one of a handful of lawyers nationally who are listed in Super Lawyers in more than one state simultaneously. He is a fellow in the American Academy of Matrimonial Lawyers, the International Academy of Matrimonial Lawyers, and the American College of Family Trial Lawyers. Mr. Dodd is Board Certified by the National Board of Trial Advocacy in Civil Trial Practice for more than 21 years, and was Board Certified in Criminal Trial Practice for more than 20 years. He has lectured and taught lawyers and judges in all 50 states, and multiple foreign countries. TV and legal credits include CourtTV, TruTV, CNN, ABC, CBS, and cable TV.

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7 - 8 - Chicago

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8 - Quincy

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After a very successful foray into the French Quarter in 2011, the Illinois State Bar Association is taking its Law Ed back to New Orleans and you are invited! With two days of premium family law presentations, a complimentary reception to network with friends and colleagues, and plenty of free time to soak in the region's culture and cuisine, this is a can't-miss opportunity to mix French Quarter fun with ISBA's top-notch educational programming. Topics include: the courtroom as a venue for domestic abuse; ethical issues when representing children; mental health issues in domestic relations matters; case law update; interviewing children; bankruptcy and divorce; ethics; parentage and custody; maintenance; and more. Family law attorneys, general practitioners, and lawyers working in the child law arena will benefit from the information presented throughout this two-day conference, which qualifies for **11 hours MCLE credit, including 5.0 hours Professional Responsibility MCLE credit** (subject to approval).

This year, the Hyatt French Quarter Hotel plays headquarters for the Family Law Update Festival and is offering special room rates of \$169/night for attendees who register by March 8th. Please book your hotel room by calling 888-404-6875. Be sure to identify yourself as an ISBA member and attendee of the ISBA Family Law Update Festival when making your reservation.

**For more information and a
full program agenda, please visit
[www.isba.org/cle/2013/04/04/
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* PMCLE denotes that the Professional Responsibility MCLE credit is subject to approval.

Illinois Supreme Court disbars 10, suspends 18

The Illinois Supreme Court disbarred 10 lawyers and suspended 18 in its latest disciplinary filing. More information on each case is available at tinyurl.com/ardcnov

DISBARRED

Avalon E'lan Betts-Gaston, Matteson, was disbarred. Over a period of time, she engaged in several different acts of mortgage fraud/equity stripping. In doing so, she caused significant harm to several clients, all of whom were vulnerable and experiencing serious financial problems. The clients lost money and several lost their homes.

Andre L. Brady, Washington, D.C. was disbarred in Maryland for neglecting a civil matter he filed on behalf of a client, charging the client an unreasonable fee of \$10,000 for the representation, and failing to cooperate with the disciplinary authority. The Supreme Court of Illinois imposed reciprocal discipline and disbarred him.

Richard Steven Connors, Skokie, was disbarred. He was found guilty in federal court of conspiring to smuggle Cuban cigars into the United States, smuggling goods into the United States, violating the Trading with the Enemy Act and related regulations, and making false statements on a passport application. He was sentenced to a 37-month prison term, fined \$60,000, and ordered to pay a special assessment of \$650.

Sandra L. Craig, Pacific, Mo., was disbarred in Missouri for engaging in the unauthorized practice of law after she was suspended for failing to pay state taxes and not cooperating with the Missouri disciplinary authority. The Supreme Court of Illinois imposed reciprocal discipline and disbarred her.

Patrick G. Drury, Glen Ellyn, was disbarred on consent. In connection with a loan modification business, he failed to communicate with users of his service and failed to return unearned fees in 10 different mortgage loan modification matters.

John Farano, Jr., Palos Hills, was disbarred on consent. After a nine-week jury trial, he was found guilty in federal court of wire fraud, mail fraud, and theft of public property. He and his co-defendants, including another Illinois lawyer, acquired residential properties in economically-depressed areas of Chicago with the intent of quickly reselling the properties at fraudulently-inflated prices. He was sentenced to a nine-year prison term.

Bruce Paul Golden, River Forest, was disbarred. Over the course of three years, he

falsified financial aid applications in order to obtain a total of \$22,830 in financial aid from his daughter's private elementary school, aid to which he would not have been entitled had he truthfully reported his income. He also refused to respond to ARDC requests for information about his actions.

David Arnold Milks, Darien, was disbarred. He misappropriated more than \$13,000 in client settlement funds.

Richard James Salas, Las Vegas, Nev., was disbarred in California after he pleaded nolo contendere to one felony count of workers' compensation insurance fraud and one felony count of perjury in California state court. The Supreme Court of Illinois imposed reciprocal discipline and disbarred him.

Al Henry Williams, Dixon, was disbarred on consent. He misappropriated over \$95,000 from a 97-year-old client who was living in a nursing home. He later pleaded guilty to, and was found guilty of, financial exploitation of a disabled person, a Class Four felony.

SUSPENDED

Jeffrey Alan Avny, Northbrook, was suspended for 30 days. While working as an independent contractor for a loan modification company, he reviewed, signed and permitted the mailing of two letters to the company's customers, each of which contained false and misleading information about his law practice, services that he provided to customers, the status of customer matters and outstanding balances.

Charisse Angela Bruno, Buffalo Grove, was suspended for one year and until further order of the Court. She neglected two client matters, failed to communicate with her clients about the status of their matters, made misrepresentations to one of her clients about the status of that client's case, and failed to cooperate with the ARDC. She was previously disciplined.

Thomas R. Carnes, St. Louis, was suspended in Missouri for six months, with the suspension fully stayed by a one-year period of conditional probation. He neglected a personal injury matter and an immigration matter. The Supreme Court of Illinois imposed reciprocal discipline and suspended him for six months, with the suspension stayed in its entirety by a one-year period of probation, subject to the same conditions as those imposed in Missouri.

Bruce Alan Carr, Valparaiso, Ind., was suspended for nine months. He represented an Illinois lawyer in filing a frivolous lawsuit and frivolous attorney's liens against

clients of the law firm that had previously employed the other lawyer.

Stephen Bruce Evans, St. Louis, was suspended on an interim basis and until further order of the Court. The ARDC formally charged him with misappropriating at least \$97,000 in client funds from his trust and operating accounts, forging two of his clients' names on settlement checks, and either failing to respond to client inquiries or responding to the inquiries with false representations.

Lawrence Joseph Fleming, St. Louis, was suspended in Missouri for six months, with the suspension stayed in its entirety by a one-year period of conditional probation for neglecting two client matters. The Supreme Court of Illinois imposed reciprocal discipline and suspended him for six months, with the suspension stayed in its entirety by a one-year period of probation, subject to the same conditions imposed in Missouri.

Kenneth Alan Goldman, Chicago, was suspended for three years and until further order of the Court. In 2009, he was convicted in Colorado for engaging in sexually explicit internet conversations and in the dissemination of obscene materials to a police officer posing as a 12-year-old girl.

Lawrence Matthew Haws, Washington, D.C., was suspended on an interim basis and until further order of the Court. He pleaded guilty in Iowa to one count of forgery, a felony, and one count of theft, a misdemeanor.

Markian Bohdan Lewun, Chicago, was suspended for 30 days. He attempted to circumvent an Illinois Industrial Commission order approving the terms of a workers' compensation settlement by having his client pay \$16,200.19 more in attorney's fees than had been approved by an arbitrator.

Ronald Jay McDermott, Chicago, was suspended for six months and until further order of the Court, with the suspension stayed after 60 days by a two-year period of conditional probation. He recorded approximately 260 hours for work he falsely claimed to have performed on a client's behalf.

John Stephen Narmont, Springfield, was suspended for six months minus one day and until he completes the ARDC Professionalism Seminar. He recorded false liens against clients in order to secure his purported fees and prepared, for one of the clients, an assignment of interest in real estate in which he had inserted a clause

that required the payment of his purported attorney fees without the client's knowledge.

John Joseph Pawloski, St. Louis, was suspended indefinitely in Missouri, with the suspension stayed in its entirety by two years of conditional probation. The Supreme Court of Illinois imposed reciprocal discipline and suspended him for six months and until further order of the Court, with the suspension stayed in its entirety by a two-year period of probation subject to the same conditions imposed in Missouri.

J.W. Pierceall, Taylorville, was suspended for 90 days. While employed as an assistant county prosecutor, he repeatedly advised Christian County correctional officers to set bond, and release inmates under sentence, without prior judicial approval.

Howard Reich, Chicago, was suspended for six months. He breached his fiduciary duty as an escrow agent in a loan transaction when he favored a client's interests over the interests of another party by recording a mortgage prior to the date stated in the escrow instructions.

Robert William Rooney, Jr., Chicago, was suspended for two years and until further order of the Court, with the suspension stayed after 90 days by a two-year period of conditional probation. He failed to promptly distribute funds that he had been holding on behalf of an estate, neglecting to determine whether there was a lien on the money.

Alan Mark Schnitzer, Los Angeles, Calif., was suspended for a minimum of six months in California. The Supreme Court of Illinois imposed reciprocal discipline and suspended him for six months and until further order of the Court.

Eugene C. Stahnke, Deerfield, was suspended for 18 months and until he successfully completes the ARDC Professionalism Seminar. He prepared instruments giving bequests from his clients to Mr. Stahnke and Mr. Stahnke's wife. He also converted at least \$2,600.21 entrusted to him in two other client matters.

Joel M. Ward, Beverly Hills, Calif., was suspended in California for one year, with the suspension stayed in its entirety pending completion of a three-year period of conditional probation. Illinois imposed reciprocal discipline and suspended him for one year, with the suspension stayed in its entirety pending completion of a three-year period of probation subject to the conditions imposed in California.

ISBA events calendar

2012

December 7 (Friday) Chicago

YLD Holiday Party

December 12 (Wednesday) Chicago

Distinguished Counsellors Luncheon - "Class of 1962"

December 13-15 (Thursday – Saturday) Chicago

ISBA Midyear Meeting

2013

January 15 (Tuesday) Chicago

YLD Professional Development Luncheon

January 18 (Friday) Chicago

ISBA Board of Governors Meeting

February 28 (Thursday) Chicago

IBF Lawyers Rock Legends

March 8 (Friday) Champaign

ISBA Board of Governors Meeting

March 13 (Wednesday) Chicago

YLD Professional Development Luncheon

May 17 (Friday) Galena

ISBA Board of Governors Meeting

June 20-22 (Thursday-Saturday) Fontana, Wis.

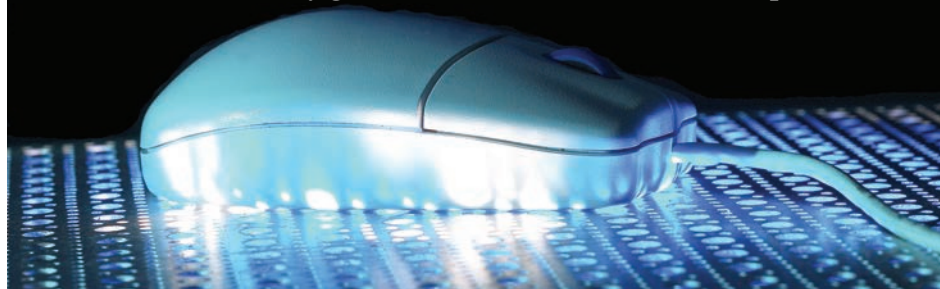
137th ISBA Annual Meeting

Visit www.illinoislawyernow.com/bar-calendar for a list of bar events from around the state.

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COVER PHOTO: ISBA President John E. Thies and his wife, Terry, the Chair of Lawyers Feeding Illinois, volunteered with the ISBA Young Lawyers Division at the Greater Chicago Food Depository on Oct. 27. Photo credit: Ralph Greenslade



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