



In Brief



May 2015

A Quarterly Publication of the McHenry County Bar Association

Law Day 2015



LIBERTY BELL AWARD WINNER MARSHA BONCOSKY

L to R: Carlos Arévalo, Marsha
Boncosky, Honorable Mark R.
Gerhardt, Jamie Wombacher

DISTINGUISHED SERVICE AWARD WINNER DAVID STONE

L to R: Carlos Arévalo, Honorable John
D. Bolger, David Stone, Jamie
Wombacher



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Young/New Lawyers
Tamara Marshall
Past President

Board of Governors Meeting Highlights

February 17, 2015

ADMINISTRATIVE ASSISTANT'S REPORT:

E. Frommes reported that she is continuing to work on the new website and membership portal.

CIVIL PRACTICE:

Ms. Schwemler reported that the February 16, 2015 seminar at Loyola was well attended.

LEGISLATIVE:

Mr. Cynor reported that there was no money budgeted for court reporters. Discussion was held.

YOUNG/NEW LAWYERS:

Mr. Westfall reported that he is working on setting up a team for a Trivia night for the Special Olympics and a bowling team to support Big Brothers and Sisters.

NEW BUSINESS:

Ms. Kasten presented the contract for the 2015 Destination Seminar at Eagle Ridge Resort in Galena, IL. The seminar will take place on October 15-18, 2015.

March 17, 2015

ADMINISTRATIVE ASSISTANT'S REPORT:

E. Frommes asked why there is a separate checking account for the FLS. Discussion was had and it was decided to table the discussion until bylaws could be reviewed.

PRESIDENTS REPORT:

C. Arévalo reported that Dennis Favarro asked if the MCBA was interested in converting into a foundation.

LAW DAY:

J. Wombacher reported that there were 37 essays to be judged for the Law Day essay contest. She also reported that the recipients for the Liberty Bell and Distinguished Service awards have been chosen.

REAL ESTATE:

D. Paluch reported about doing a CLE using a septic and well expert partnered with a surveyor along with a presentation on CFPB.

April 21, 2015

PRESIDENT'S REPORT:

C. Arévalo reported that membership dues need to increase. It was voted on to increase from \$125 to \$150 with \$15 of the increase set aside for technology.

1ST VP REPORT:

J. Wombacher asked the Board to let her know if they want to be reappointed or change positions. Jennifer Johnson will be stepping up to Treasurer which leaves the Social chair position open.

CLE:

K. Sloan reported that the MCLE Board is changing their fees effective July 1, 2015. The Bar will now only be charged a \$300 yearly fee with no limits on the number of classes and no per person fee per credit hour.

LEGAL AID:

S. Greeley reported that \$35,000 was raised for Prairie State Legal Services.

OUTREACH REPORT:

A. Wilson reported on looking into doing "Wills for Hero's" for Veterans in November.

New Members

Adam Sault
David Mellem
Jana Blake Dickson
Jonathan Nye
Callie Czerwinski
Jared Stave
Janet Contusi

President's Page

Carlos Arévalo,

2014/15 MCBA President



On April 16th, I attended the Leadership Greater McHenry County ("LGM") Candidate Breakfast. For those of you not familiar with LGM, it is a program designed to foster and develop community leaders and to educate and inspire professionals to engage in community leadership. Each year, a class comprised of thirty-two individuals embarks on a ten month program that exposes and allows its participants to learn about their community. Most importantly, the program gives participants an opportunity to develop relationships with individuals with whom they might not have come in contact otherwise. It is the development of those relationships and the participants' willingness to give of themselves that has made LGM so effective and successful over the past ten years.

As I sat at the LGM Candidate Breakfast listening to the featured speakers, I found myself thinking of our Bar Association. It too is a successful organization and its success is similarly based on the relationships of its leadership and membership and their commitment to contribute. These relationships and commitments on the part of all members are critical for the Bar's ongoing annual operation and continuity over time. The Executive Committee and Board are designed to ensure that the Bar's vision is smoothly passed from outgoing president to incoming president. Any success this year can be attributed to the work of past presidents and board members. It is my hope that I have done things to prepare and contribute to future successes in 2015/2016 and beyond. With only a couple of months left in my term as President, not only can I look back in amazement at how fast this past year has gone by, but also look with deep appreciation at all of you who have helped make this year a successful one. Both the Executive Committee and the Board have been extremely diligent in their efforts throughout the year. The Family Law and Criminal Law Sections, as always, continue to be active providing speakers and leading social and educational events for their members.

As for the members, you have been supportive all year long by faithfully attending and participating in the general meetings, our CLE offerings and other social events. Over the past year, our members were part of record attendance at one hour CLE credit programs on topics such as immigration, real estate, estate planning and technology during the general meetings. These were the direct result of the Bar survey conducted in the 2013/2014 bar year which showed that members would benefit from and appreciate programs in underserved areas. On a larger scale, we can look at the work of Jenette Schwemler and her Committee putting together an excellent Civil Practice Seminar this past February. I also look forward to the Destination Seminar in Galena later this fall with Stephanie Kasten and her Committee already hard at work.

But the successes do not end at CLE events. We also had us some fun this past year! I look back at the Golf Outing in August and thank the Golf Committee for all their work in organizing the event and securing sponsors, prizes and awards. In September, the Young Lawyers put a lot of effort to ensure the success of the 2014 Picnic and Softball game (even if they ultimately lost the game) and let us not forget that we raised funds for a local food pantry in need. And who can forget a few of our members willing to get dunked in a very cold water tank to raise funds, with the help of Fred Roediger of Heritage Title, for our new website. We also enjoyed a great evening in December at the Holiday Party! Kudos to all of you for attending and bringing toys for the McHenry County Toys for Tots program, which netted the Bar a 2014 Commander's Award! And a special thanks to Madsen, Sugden & Gottemoller for sponsoring the adult refreshments. Lastly, I have taken notice of Jamie Wombacher and the Law Day Committee's efforts to organize Law Day events and celebration. I am certain Law Day 2015 will be a success.

As my year as President comes to a close, I want to thank all of you for supporting me and the Board. Mostly, I want to thank you for supporting the Bar. In my first page in August last year, I invited you to share our journey this year and to make 2014/2015 a fantastic year. I believed we accomplished what we set out to do. As a final note, I invite you to keep supporting the Bar by incessantly nourishing your relationships with each other and continuing to give of yourself. If you do these things, I can guarantee the McHenry County Bar Association will continue to be successful for years to come.

New Traffic Laws and Wrinkles

by Robert Deters

Every year the Illinois legislature passes new laws that affect the Illinois motorist. What was once common practice may be wholly new in a matter of months. In addition, local practices can change how cases are handled and what advice you may give your client.

In the recent years, the ratcheting down on driver's behavior has continued as media accounts of judicial practices or headlines regarding accidents, drunk drivers or commercial drivers dominate a news cycle. In response, and generally months if not years later, the laws respond accordingly.

Since 2012 the laws regarding speeding in Illinois have dramatically changed. The uppermost end for speeding has now dropped to 35 miles or more over the limit, a Class A misdemeanor, the same sort of charge as DUI or domestic battery. Even newer is that this can no longer receive supervision, even for a first time offender, something even a first time DUI offender can receive. This changes many people's perception of the seriousness of their charges and how the courts and prosecutors are handling these cases. It should be noted that a successful constitutional challenge to the law was pursued in Cook County and local attorneys are attacking the law on the same grounds. Developments in the next few months could change the status of the law again.

Commercial drivers rely on their valid license status for their livelihood. In recent years, the federal government has become more interested than ever in making sure commercial drivers do not receive benefits in traffic court that 'hide' the true nature of their moving violations. As a result it has become harder than ever for local practitioners to help CDL drivers absent a trial or other, often times hard to find, factors. Giving good advice and providing good outcomes for commercial drivers has become harder than ever and a deep knowledge of available outcomes and local practices is necessary to help clients.

New laws are always in the works. Currently two bills in the House in the state legislature will affect those who gets DUIs. It will affect practitioners who defend them as well as those who help drivers obtain driving privileges post-conviction.

The first would require that anyone with two DUI convictions be required to spend 5 years on a BAID, a device that requires to blow into it without alcohol in your system in order to start your car. If a driver applied for their license after their period of revocation and had never spent time on a BAID, this could extend the amount of time until they are free to drive on their own by that 5 years. This is a strong bill that could have profound effects on how people reinstate their driving privileges.

The other bill would allow those with 4 DUI convictions, previously a lifetime ban on driving, to obtain a restricted driving permit with a BAID. Advocates for this measure state that revoked for life drivers will drive anyway, so monitoring them and making sure they aren't drinking is the least we can do to keep Illinois drivers safe. Both measures seem to have significant support.

As always, local McHenry County practitioners can keep up on current laws by attending Bar Association meetings or joining the specific committees that focus on their area of practice.

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A Foreclosure Process Primer

by Keith Sloan

While the economy and housing market has “bounced back” to a certain degree, foreclosure cases continue to be filed. Very often, I find that lay persons, and even attorneys do not understand the foreclosure process, especially the “timeline” involved. In an informative effort, the following is a primer regarding that process, and in part will answer the question most often asked by clients: when do I have to be out of my house?

Illinois is a judicial foreclosure state, which simply means that the foreclosure process is codified, and monitored by the judiciary. The Illinois Mortgage Foreclosure Law (“IMFL”) is found in the Illinois Code of Civil Procedure at 735 ILCS 5/15-1101 *et seq.* and in part, establishes the timeframe of the judicial proceedings.

Presuming the bank has complied with the pre-filing notice requirements (commonly known as a 30 day grace period), a homeowner will be served with a summons and complaint. The summons is a 30 days summons, which requires the borrower to file an appearance and answer within the 30 days. Many times, homeowners incorrectly conclude that they must vacate the property within this 30 days period, however, this is not the case.

First, the IMFL provides for a reinstatement period. This period is for 90 days after the homeowner was served with the summons and complaint, and allows the homeowner to bring the loan current. Under the IMFL, this right is only available once every 5 years. (735 ILCS 5/15-1602)

Second, and in the event the homeowner does not reinstate, the IMFL also provides for a period for the homeowner to redeem the property, or in other words, pay the full principal balance, all accumulated interest, fees, and costs. Under the redemption provision (735 ILCS 5/15-1603(a)) for residential property, the redemption period shall end on the later of (i) the date 7 months from the date the mortgagor or, if more than one, all the mortgagors (A) have been served with summons or by publication or (B) have otherwise submitted to the jurisdiction of the court, or (ii) the date 3 months from the date of entry of a judgment of foreclosure.

Thus, if the homeowner takes *no* action in the foreclosure case, the homeowner will have a minimum of seven months from the date of service of summons to remain in the property. This time period may even be longer, if the homeowner defends the litigation, and delays the entry of judgment past the 7 months from the date of service. In this case, the redemption period expires 3 months after the date of entry of judgment.

Presuming the redemption period has expired, the bank can move to judicial sale, which is governed by 735 5/15-1507. Once the bank sells the property, it must have the court approve/confirm the sale. In my experience, this generally happens within 30 days of the sale. Once the sale is confirmed, the homeowner is entitled to possession for an additional 30 days.

As one can see, the panic induced by a foreclosure summons and complaint is greatly diminished by the IMFL, and can be further reduced through proper legal representation. The immediacy of a client being “forced” from their home through a foreclosure proceeding does not exist, and this fact can bring much comfort to a client facing a foreclosure.

Law Day 2015

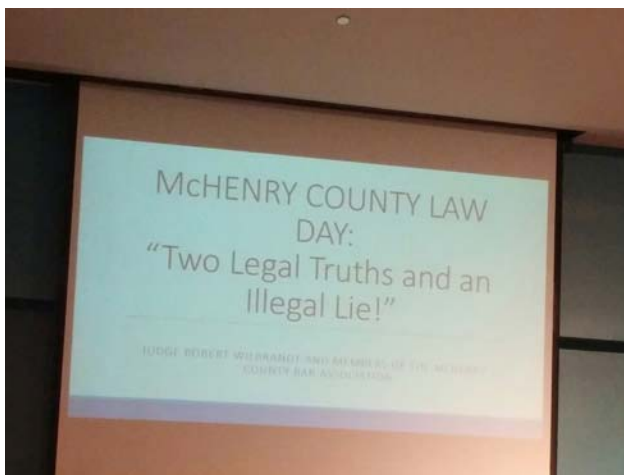
High School Program at MCC



K-9 Demonstration



Two Legal Truths and an Illegal Lie Game show—hosted by the Honorable Robert Wilbrandt with Jamie Wombacher and Deputy Aimee Knop





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We wish to thank the following contributors for ensuring that equal access to justice remains a reality for low-income individuals and families in McHenry County. In 2014 the following donors generously contributed over \$35,900 to Prairie State Legal Services, including over \$25,900 donated in honor of Herb Franks (indicated with an asterisk).

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Prairie State Legal Services Borderless Pro Bono Program

Are you short on time but would like to do Pro Bono?

Prairie State Legal Services, Inc. is excited to announce a new *pro bono* program through which volunteers will provide advice, information, and/or brief services to unmarried parents with family law issues such as custody and visitation. This is a very high demand, and historically underserved, area of law. We are calling the program “borderless” because volunteers will be matched with clients from throughout Prairie State’s 36 county service area for advice or brief services. Technology will be used to connect volunteers to clients.

We are currently seeking volunteers who can, starting in early June or later, provide over-the-phone, one-time, advice consultations to pre-screened single parents with family law issues. Volunteers will also need to document advice provided and time spent on each case. We request that volunteers agree to speak with 3-5 clients per month and to volunteer for a minimum of 3 months. The total time commitment should be less than four hours per month. The calls can be made from your office and each volunteer can determine his/her schedule for providing advice.

We hope this program will be a win-win for clients and volunteers. Clients, who otherwise would get no advice or assistance, will receive individualized advice about their issue. Attorneys who want to do *pro bono* but do not have the time to commit to take a (potentially open-ended) case for representation will have a discrete, bite-sized opportunity to provide meaningful help to individual clients. We know that the need is there; over 14% of Illinois residents live in poverty, and Prairie State receives many calls each week from low-income parents with family law issues.

This opportunity is open to experienced practitioners as well as attorneys new to family law. Training and mentorship are available. Prairie State will provide detailed instructions regarding project practices for client referral, advice, documentation of advice and time, and scheduling your availability. Prairie State will also provide you with a list of local resources for each county within its territory, to help you provide high-quality advice to clients in counties other than where you normally practice.

Please contact Project Developer Tiffany Allison Harvey, at 630-580-3350 or tharvey@pslegal.org, if you are interested in volunteering or want to learn more about the project. Thank you for your interest.

Save the Date!

Prairie State Legal Aid awards event – Tuesday May 26 at the McHenry County Bar Association General Meeting

Please plan on joining us as we recognize the excellent efforts of volunteer attorneys and law firms in support of the Legal Aid Program. Our speaker this year will be Jayne Reardon, Executive Director of the Illinois Supreme Court Commission on Professionalism. The event, held at the Loyola Retreat Center in Woodstock, will be facilitated by Judge Michael T. Caldwell. Our outstanding awardees will be: Peter Carroll, Melissa Cooney, Michelle Gehris and Steve Greeley. Please plan to be there!

SAVE THE DATE:
MCBA 39th ANNUAL GOLF OUTING
AUGUST 7, 2015



Mark your calendars! We will return to Turnberry Country Club in Lakewood, Illinois this year for the **39th Annual McHenry County Bar Association Golf Outing**. This year's outing takes place on **Friday, August 7th** and the shotgun start will be at 11:00 a.m.

It is never too early to start gathering your foursomes to come out and enjoy a day on the golf course with us. We will have a day of fun, networking and contests for you to enjoy.

As we make our way toward summer, look for your invitation to arrive via email mid June, take advantage of our Early Bird Registration and come out for a day of golf, fun and networking. Hope to see everyone on August 7th!

New for 2015:
Lower pricing for members
Larger Grand Prize Raffle @ \$1000
Bloody Mary Bar sponsored by Home State Bank Trust & Asset Management

Stress for the practicing attorneys is standard fare; it's a natural consequence of the legal and can't be avoided, or even mitigated to some extent. The most basic definition of stress is, "*events that require responses or resources we can't provide.*"

So in order to help survive stressful situation we should consider the following:

1. **Slow down-** try not to pre-judge a situation until more facts are available about how to respond.
2. **Practice "persistent patience"**- Understand we may not have a good deal of control over the outcome of an event; but we may have more control over our part of the process. So it's help to be 'patient' about getting the outcome we want, but at the same time we can be persistent in do what we can.
3. **Ask for help-** Many stressful events require response we don't have; so it's helpful that we ask others, e.g., family or colleagues, to help us out from time to time.
4. **Observe more, react less-** we often exhibit the tendency to react first rather than perceive. The more we observe first, the less likely we are to react inappropriately in a stressful encounter.



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Hon. F. Keith Brown, (Ret.)

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**NORTHWEST SUBURBAN BAR ASSOCIATION
ANNUAL GOLF OUTING**



**Please Join Us
Wednesday, August 19, 2015**

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Trial Call

Case Number: 13LA165
 Plaintiff: Olivia Escutia, et al.
 Defendant: Sarah Wright
 Plaintiff's Attorney: Bryan J. O'Conner Law Group
 Defendant's Attorney: Wein & Associates
 Trial Date: March 2, 2015
 Judge: Thomas A. Meyer
 Medical: \$500 to Olivia Escutia and \$500 to Salvador Juarez
 Net Total Verdict: \$500/2 plaintiffs—total \$1000
 Last Demand: \$9000—Olivia Escutia; \$9500—Salvador Juarez
 Last Offer: \$6000—Olivia Escutia; \$6500—Salvador Juarez

Case Number: 10LA396
 Plaintiff: Tena Hoffman
 Defendant: Kevin Rabe, et al.
 Plaintiff's Attorney: Law Office of Alexander Gruzmark
 Defendant's Attorney: Sudekum, Cassidy, Shulruff
 Trial Date: March 9-11, 2015
 Judge: Michael T. Caldwell
 Medical: \$46,714.23
 Pain & Suffering: \$58,125.00
 Disability: \$46,000.00
 Gross Verdict: \$150,839.23
 Last Demand: \$100,000
 Last Offer: \$35,000

Case Number: 14AR156
 Plaintiff: Robert Owen
 Defendant: Erica Mejia, et al.
 Plaintiff's Attorney: Franks & Rechenberg
 Defendant's Attorney: Steven Lishosit & Perry Accardo
 Trial Date: March 23-24, 2015
 Judge: Thomas A. Meyer
 Medical: \$6260.80
 Pain & Suffering: \$9600.00
 Car Rental: \$549.80
 Lost Wages: \$648.00
 Loss of Normal Life: \$4800
 Gross Verdict: \$21,858.60
 Last Demand: \$22,000
 Last Offer: \$8,000

Case Number: 13LA99
 Plaintiff: Nolber Morales
 Defendant: Nighttime Entertainment Inc. et al.
 Plaintiff's Attorney: Bennu Legal Services
 Defendant's Attorney: Heinke & Burke
 Trial Date: March 23-24, 2015
 Judge: Michael T. Caldwell
 Verdict: Mistrial

Case Number 13LA18
 Plaintiff: James Buster
 Defendant: Milton Berg, et al.
 Plaintiff's Attorney: Thomas Popovich
 Defendant's Attorney: Jacobson Legal Group
 Trial Date: March 30, 2015—April 1, 2015
 Judge: Thomas A. Meyer
 Medical: \$15,050
 Pain & Suffering: \$2000
 Net Total Verdict: \$17,050

Case Number: 11LA283
 Plaintiff: Ana Quintero
 Defendant: Michael Springer, et al.
 Plaintiff's Attorney: Botto Gilbert & Lancaster
 Defendant's Attorney: Lucas & Associates
 Trial Date: March 30-31, 2015
 Judge: Michael T. Caldwell
 Verdict: Defendant

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MCBA Calendar of Meetings & Events

Date	Event	Location	Time
May 7, 2015	Criminal Law Section Annual Meeting	MCBA Office	Noon
May 12, 2015	Family Law Section	MCBA Office	12:15
May 19, 2015	Board of Governors Meeting	MCBA Office	Noon
May 26, 2015	Prairie State Legal Services Award	Loyola	Noon
June 16, 2015	Board of Governors Meeting	MCBA Office	Noon
June 23, 2015	Annual Meeting	Woodstock Country Club	Noon
July 21, 2015	Board of Governors Meeting	MCBA Office	Noon
July 28, 2015	General Meeting	Woodstock Country Club	Noon
August 7, 2015	39th Annual Golf Outing	Turnberry Country Club	11am Shotgun Start
August 18, 2015	Board of Governors Meeting	MCBA Office	Noon
August 25, 2015	General Meeting	Woodstock Country Club	Noon

McHenry County Bar Association
 110 South Johnson Street, Suite 210
 Woodstock, IL 60098