



In Brief

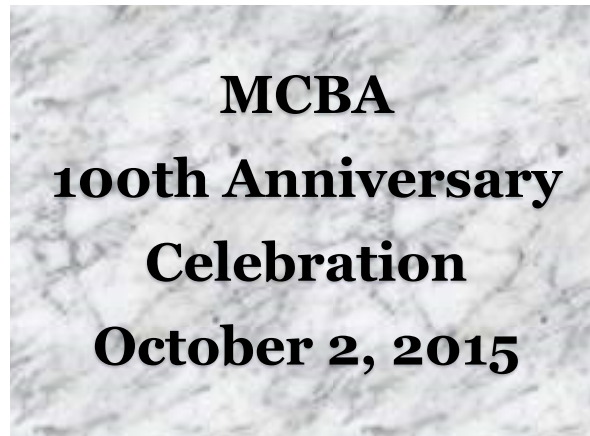


November 2015

A Quarterly Publication of the McHenry County Bar Association



Jamie Wombacher, Bar
President



Vette Kell receiving an award for
Longest standing Bar member



Thank you to our sponsors!

Platinum—\$1000

1st American Title
Gehris & Associates
Michling Plaza & Associates
The Thomas Law Office
Zukowski, Rogers, Flood & McArdle

Gold—\$500

Home State Trust & Wealth Management

Silver—\$250

The Law Offices of David R. Gervais
NLT Title, LLC
The Waggoner Law Firm, PC

Bronze—\$100

Franks, Gerkin & McKenna, PC

2014-15 Board of Governors

Executive Committee

Jamie Wombacher
President
Hon. Mark Gerhardt
1st Vice President
Rhonda L. Rosenthal
2nd Vice President
Steven J. Greeley, Jr.
Secretary
Jennifer Johnson
Treasurer

Committee Chairpersons

Michelle Gehris
ADR/Mediation
Peter Carroll
Bylaws
Jenette M. Schwemler
Civil Practice
Margi Worth
Commission on Professionalism
Keith D. Sloan
Continuing Legal Ed.
Robert V. Deters
Criminal Law
Rebecca Lee
Family Law Section Liaison
Hon. Thomas A. Meyer
Judiciary/Court Rules
Hon. Mark Gerhardt
Law Day
Steven J. Greeley, Jr.
Legal Aid
Tom Cynor
Legislative
Bill Westfall
Membership/Directory
Hon. Mary H. Nader
Newsletter
T.J. Clifton
Outreach
Doreen T. Paluch
Real Estate Law
Kelly Vaclavek
Social
Michael Stetler
Technology
Amber Michlig
Young/New Lawyers
Carlos Arévalo
Past President

Board of Governors Meeting Highlights

August 18, 2015

PRESIDENT'S REPORT: J. Wombacher reported that the 100th Anniversary Celebration is scheduled for October 2, 2015. The Bar is currently seeking sponsors and Bar memorabilia for the event.

1ST VICE PRESIDENTS REPORT: Judge Gerhardt reported that the Law Day theme for 2016 is Miranda.

OUTREACH: T.J. Clifton presented a flyer for the Wills for Veterans event which was approved. Prairie State Legal Services will handle the qualifications and provide the insurance for those that volunteer to draft the Wills.

YOUNG/NEW LAWYERS:

A. Michlig reported that the Annual Picnic and Softball game will take place on September 25, 2015.

ADMINISTRATIVE

ASSISTANT'S REPORT:

E. Frommes was contacted by Mike Rooney from IICLE about taping future CLE's and making them available on their website. The contract will be emailed out to the Board members to review.

LEGAL AID: S. Greeley reported that there is a CLE scheduled for November 11th in conjunction with the Wills for Veterans project that will provide basic training on estate planning and other transactional topics.

NEW BUSINESS: The Bar has purchased 2 new robes, one for each of the new judges, Coppedge and Hirsch.

September 15, 2015

CIVIL PRACTICE: Seminar scheduled for December 8, 2015 where a judge will speak on ethical issues that come from popular literary works.

COMMISSION FOR PROFESSIONALISM: There will be an orientation meeting on December 9, 2015 for mentors and mentees.

LEGAL AID: The legal aid awards luncheon has been set for May 24, 2016.

October 20, 2015

PRESIDENT'S REPORT: Judge Caldwell is asking for help with the Lawyers Assistance Program and their Social Media presence and asked the Board to "like" their Facebook page and connect on LinkedIn.

New Members

Danielle DelValle
Jonathan Thornton
Carin Brio
Jeanne Barrett
Heather Kruse
Wilma Walker
Todd Benison
Stephen Scherrer
Steve Janezic

President's Page

Jamie Wombacher

2015/16 MCBA President

It is hard to believe that the first quarter of my term as President is behind me; in distance running terms I have completed the first 10K of a marathon. So many exciting things happened in the bar association and courthouse since August that it seems like so much longer.

In September we celebrated the retirement of Circuit Judge Gordon E. Graham with a retirement luncheon at Bull Valley Country Club. Judge Graham immediately left for a road trip out west in his convertible. He was happy that we celebrated with a luncheon, because in his words, "luncheons have a definite end."

At the end of September, the "Young Guns" finally prevailed over the "Experienced Team" in the annual Judges Softball Picnic. Thankfully, the Young Lawyers planned this event, and all I had to do was show up. It was a fun night!

On October 2nd, over 100 bar members, family, friends and support staff celebrated the 100th Anniversary of the McHenry County Bar Association with a dinner and dance at Boulder Ridge Country Club. It was an honor to present Vette Kell with a plaque to recognize his service as the longest standing bar member. Vette first joined the McHenry County Bar in 1957, and at 100 years old he joyfully attended the celebration. I have received many compliments regarding the evening. Overall, I have received the most praise for making the presentation a sprint and not a marathon. The highlight of the evening for many of the attendees was dancing to the music of Hans & the Hormones. Many thanks to the committee members that planned this event.


Also in October, several bar members traveled to Galena for the fourth annual MCBA Destination Seminar. Participants received several hours of professional responsibility CLE while still finding time for socializing and enjoying Galena's beautiful fall scenery. Once again, the volunteers that put this event together are to be commended for their hard work and effort.

Last week two new associate Judges took the bench. While the courtroom ceremony is yet to come, we are proud to welcome Michael Coppedge and Jeff Hirsch to the bench. Stay tuned to the next newsletter for photos and interviews with Judge Coppedge and Judge Hirsch.

Even with the busyness of the past three months, the Board of Governors has been busy planning many great events for the next three months. There will be an afternoon CLE on Wills and Real Estate on Veteran's Day at the Bar Office. Ashley Wilson and T.J. Clifton worked with Prairie State to offer the CLE in coordination with the Wills for Veteran's program. The holiday party is December 3, 2015 at Woodstock Country Club; and the Civil Practice Section is planning a CLE for December 8, 2015. Stay tuned for more details.

While I survived the first quarter of my Presidency when it comes to running I am not so sure. The Hot Chocolate 15K is Sunday, and I am even less prepared for it than I was in August. My daughter broke her foot in August, and somehow I decided that since she could not train, I would not either. Almost daily in my law practice, I use the phrase, "it is what it is." I am sure that will be running through my mind multiple times on Sunday!

Lawyer to Lawyer Mentoring Program

 <http://www.2civility.org/programs/mentoring/mentoring-resources/>

Do you want to be a mentor? Do you need a mentor? If yes, we hope that you will apply to participate in the McHenry County Bar Association lawyer-to-lawyer mentoring program that we are sponsoring in partnership with the Illinois Supreme Court Commission on Professionalism.

Experienced attorneys (six or more years) will be matched with newly licensed attorneys for a year-long mentoring program. Both mentors and mentees will receive six professional responsibility CLE credits upon successful program completion.

This lawyer mentoring program creates opportunities for experienced lawyers to guide new lawyers in developing the practical skills and judgment to practice in a highly competent manner and to instill the ethical and professional values that characterize excellent lawyers.

The mandatory orientation luncheon will be on December 9, 2015 at noon at the MCBA office.

For further information, please contact our program administrator Erin Frommes by email or phone 815-338-9559 or go on the 2Civility Website <http://www.2civility.org/programs/mentoring/>.

New Lawyer Qualifications

Rule 795(d)(11) requires that completion of the mentoring program “occurs during the first three years of the mentee’s practice in Illinois.” As a practical matter, this means that in order to complete a one-year long program within the first three years of practice, the new lawyer must begin the program no later than two years after being admitted to the Illinois bar.

A new lawyer seeking to participate in the mentoring program and earn the professional responsibility credit must meet the following minimum standards:

Be admitted to practice in Illinois no more than two years prior to the date of beginning the program;

Be registered on the Illinois ARDC Master Roll of Attorneys as active; and

Practice law in Illinois or intend to practice law in Illinois.

New lawyers who meet these eligibility requirements and choose to participate in the Lawyer-to-Lawyer Mentoring Program may complete and submit the New Lawyer Application or an application of the Program Administrator’s design, to the Program Administrator.

Mentor Qualifications

The success of any Lawyer-to-Lawyer Mentoring Program depends upon experienced and dedicated lawyers who are willing to commit the time to serve as mentors, and to personally convey the core values and best practices of the profession to new lawyers. In order to be effective, lawyer mentors should a) value teaching and counseling new attorneys in the development of professional habits, b) strive to improve the legal profession through their mentorship, and c) possess superior interpersonal skills and the ability to facilitate quality discussions about the best practices and highest values of the legal profession.

A lawyer seeking to serve as a mentor shall meet the following minimum standards:

Be registered on the Illinois ARDC Master Roll of Attorneys as active and in good standing;

Be admitted to practice law in Illinois for not less than six years;

Never have been suspended or disbarred from the practice of law in any state or jurisdiction, and have no formal disciplinary complaint pending.

Lawyers meeting these eligibility requirements and choosing to participate in a Lawyer-to-Lawyer Mentoring Program may complete and submit a Mentor Application or an application of the Program Administrator’s design, to the Program Administrator.

Finally, with respect to judges serving as mentors, although the Commission recognizes the invaluable insight and experience that a currently sitting judge could share with a new lawyer mentee, eligibility of judges to serve as a mentor, within the context of an approved mentoring program under Rule 795(d)(11), is limited to retired judges only.

455 Coventry Lane #105
Crystal Lake, IL 60014
(815) 308 – 5532



250 Parkway Drive #150
Lincolnshire, IL 60069
(224) 261 - 6719

Estate Appraisals & Sales

- Public, Private and Online Estate Sales
- Appraisals of Personal Property by a Nationally Accredited Appraiser

Testimonials

"Mr. Treadway and his team produced excellent results. He helped our family tremendously."

- **Bob Rasmus, CEO (retired) - Masonite Corporation**

"I recommend Mr Treadway very highly. His team did what we could not do."

- **Hal Hoekstra, Senior Pastor - Bethany Lutheran Church**

"Their process has Honored the Memory and Life of our clients' parents while finding good homes for a lifetime of accumulation. We have referred Bruce and his team for 6 years."

- **Mary Jo Zeller, Director - Lutheran Life Communities**

"He helped us through a situation when we could not help ourselves, and produced excellent results. I would recommend Bruce Treadway to anyone needing his services."

- **Bill LeFew, Treasurer - McHenry County**

"Mr. Treadway and his team were very easy to work with. The sale exceeded our expectations and we tell everyone."

- **Joan Tillman, Vice President of Marketing - American Girl**

"I recently had the opportunity to employ Bruce Treadway and Caring Transitions in assisting me in liquidating an estate. It is always refreshing to encounter someone who fulfills a commitment responsibly, competently and thoroughly. I would heartily recommend Bruce Treadway and Caring Transitions."

- **Father Geoffrey Wirth, Pastor - Saint Thomas Moore; Former Pastor - St. Thomas**



Our Mission:
*We assist professionals and
retirees through difficult
transitions.*

Liquidations of Loved Ones Estates... Peace of Mind in Difficult Times



Caring Transitions
Estates • Liquidations • Household Sales

Illness...a death in the family...downsizing and divorce, All are difficult times. When there is a need to sell personal belongings, call *Caring Transitions*. We are the trusted name in Liquidation Sales...from a few items to entire households.

Offices Nationwide • Bonded & Insured

Illinois Supreme Court Updates Rules on Technology

(And Some Tech Ideas for Small Firms)

By Michael Stetler

For some time, the Illinois Supreme Court has been updating the rules to address issues with technology. On October 15, 2015, the Illinois Supreme Court announced another set of rule changes addressing several issues, including technology. The new rules will be effective on January 1, 2016 and make some of the following changes:

- Some references to email were changed to refer to "electronic communications." The new term is meant to be more inclusive and could refer to a larger category of communications including text messages, chat messages, emails and a variety of other methods of communicating electronically.
- The comments to Rule 1.1, regarding competence, were revised to refer to technology. The comment now states lawyers are required to stay current and aware of changes in the law and their practice, including "the benefits and risks associated with relevant technology." The duty of competence now is expanded to having some grasp and understanding of the technology used and available to the attorney. The limits of "relevant" technology were not discussed and the term could apply to technology used by the lawyer as well as that which may be available for use in appropriate circumstances.
- Rule 1.6 providing for the confidentiality of information was expanded to require lawyers to take reasonable efforts to prevent the inadvertent disclosure of or unauthorized access to information relating to the representation of the client. The comments were amended and specifically refer to devices and software, noting that reasonable efforts do not include steps that make use of such devices or software excessively difficult. The comment goes on to state it is beyond the scope of the rules to determine whether lawyers need to take additional steps to protect private data and leaves this to federal laws regarding electronic information. Clearly, the rule and comment are intended to require lawyers to safeguard all data, including electronically stored information and reasonable steps should be taken to protect from unauthorized access by hackers, phishers and the like.
- In a series of changes to Rule 1.18, the comment was amended to specifically note that whether an electronic communication constitutes a consultation will depend on the circumstances of the communication. Inviting persons to provide information without proper precautionary language limiting the lawyer's responsibility is likely to be considered as inviting a consultation and therefore the duties otherwise due to prospective clients would not apply. However, responses to general advertising provided unilaterally and without an expectation of the lawyer discussing forming an attorney-client relationship likely is not a "consultation."
- Rule 4.4 was amended to require lawyers to promptly notify a third-party sender who inadvertently sends electronically stored information to the lawyer. The comment addresses metadata in files explicitly and states the obligation applies only if the lawyer knows the metadata was sent accidentally. (Metadata is additional information about a file, such as the date of creation, history of changes, etc. that is embedded in a file but typically not visible.)
- The comments to Rule 5.3 regarding non-lawyer assistance were updated as well. The comments state that the typical obligations of Rule 5.3 would also apply to using an outside company to store electronic documents or information of the firm and the clients. The lawyer is required to give sufficient communications to give reasonable assurance that the non-lawyer assistance (Dropbox, etc.) is compatible with the lawyers' professional obligations.
- The comments to Rule 7.2 regarding advertising also underwent several changes. The comments now specify a lawyer may advertise their email address and web site. Internet-based fee-per-lead services are allowed, but the services must comply with all the other rules and cannot imply that it is recommending the lawyer, has analyzed legal facts and suggested a lawyer based on those facts, or that the lead generator is not being compensated. Realtime solicitation by electronic means is prohibited generally, but the comments make clear that communications sent by email or other electronic means that do not involve immediate contact are not likely to be considered prohibited solicitation.

Now, if all the rule changes regarding technology have not dampened your desire to wade deeper into the technological revolution, consider some of the following ideas:

- **VOIP Telephone Service:** For a fraction of the cost of traditional telephone service, even small firms can have relatively sophisticated telephone systems. There are many different providers (Ringcentral, OOMA, Comcast, Vonage and Nextiva, just to name a few) with a large variation in types of services available.
- **Electronic Data Storage and Sharing:** Dropbox and similar types of services offer the ability to store and share large amounts of data. This is great when a file or files is simply too large to transmit by email or other means and mailing a CD, DVD or flash drive is not a realistic possibility. Refer to the rules above regarding these services, because it is our job to take reasonable steps to make sure the data is secure and not inadvertently disclosed or accessed without authorization.
- **More Robust Practice Management Software:** The market has exploded with services offering a comprehensive practice management software with a cloud or web-based approach. Many of these providers will handle contact management, calendars, billing, document management, document production and other nifty features. Compared to traditional software, the entry fee is low, but it is subscription based. On the plus side, there generally are no upgrades to worry about as improvements and new features are often part of the agreement.
- **Password Protection Programs:** Over time, you will accumulate dozens of passwords for various sites and programs. In order to provide the best protection, every password should be unique. Keeping track of dozens of passwords is difficult and may seem impossible for some less-frequently used resources. Consider using a password protection program. You can easily have many unique passwords without as much concern of forgetting while also protecting yourself if one site or password is compromised.



We Do More For Your Money


TRUST ADMINISTRATOR WANTED: Community bank in western suburbs seeking trust administrator. Experience in trust administration, estate planning or related field preferred. JD or CTFA.

Please apply online at <https://goo.gl/vVh6EZ>

EOE Minorities/Females/Disabled/Veterans

"If there were no bad people, there would be no good lawyers."

Charles Dickens



Don't Go Bare

**Starting out? Moonlighting?
Part-time? Malpractice
insurance is NOT an
unnecessary expense.**

- ▶ **You're still at risk**
- ▶ **Your referral partners are at risk**
- ▶ **Your relationships are at risk**

Protect your clients. Get covered with
ISBA Mutual...**It's easier than you think.**
We offer lawyers' malpractice insurance to new
and part-time lawyers at an affordable price.

800 473-4722 isbamutual.com



ISBA Mutual
Lawyers' Malpractice Insurance



Your time is money. Are your closings taking too long?

Our goal is to complete closings in one hour or less, and we meet that goal the majority of the time. Ask around. Then call or email Fred Roediger (815) 479-8400, froediger@htc24x7.com



HERITAGE TITLE COMPANY

4405 Three Oaks Road • Crystal Lake
htc24x7.com



RESIDENTIAL • COMMERCIAL • REFINANCING • CONSTRUCTION ESCROW

Seasonal Tips for Stressed Lawyers

by Leota Embleton, MSW, I.C.A.

Program Manager Ontario Lawyers Assistance Program

“Attitude is everything. Give thanks for the good things in life and watch your anxiety level plummet.”

Katherine Gibson

The end of a year brings the holiday season and reflection. It also brings rushing, pressure and meeting expectations....our own and others. Lawyers are not immune from these challenges. In fact, lawyers in general live a pressured existence. Some lawyers have observed that they feel they are contracting out their personal and family life in order to meet work expectations. Anxiety thrives in the legal environment.

These suggestions can help busy lawyers put a temporary halt to the hurried life. Try to pause during this season and take a bit of time away from the bustle and make the season a rich and wonderful time with friends and family. Create memories.

Appreciate: Take a moment to consider the good things that surround you. Joy flourishes when we feel and then express gratitude.

Throw away tiresome traditions: If there are activities that have lost their meaning or are creating stress replace them with other activities. Simplify your life.

Smile and Laugh: Take a moment to say something light hearted. You can find a moment to share a smile with a colleague, friend, senior partner or another member of the firm.

Unclutter your life at home and the office: Clutter includes things that are duplicated, negative feelings and meaningless people. Take charge of the season by not spending time with those who take up space in your life without contributing anything positive. Choose positive people over toxic people.

Take time for yourself: Take time to be silent—turn off electronic devices and take a walk or meditate. Clear your head of the demands of work and home.

Think green: Look for seasonal flowering plants or boughs when decorating. Take a moment to bring something to the work environment that recognizes nature.

Pause: Visualize an ideal holiday moment. What does it look like to you and how can you make it happen.

Expect the Best: Envision situations that create happiness and joy and think of the positive situations. Try to discard draining activities and meaningless commitments.

These tips work throughout the year—not only during holiday season. If you need some help with putting anxiety and worry behind you, remember that LAP is here to support you. When things are overwhelming or stressful, free and confidential help is available. Don't hesitate.

Call (800-LAP-1233) or email us (gethelp@illinoisLAP.org) anytime.



Playing God

By

Richard Jackson

Ethics shmethics! One of the most complex and perplexing ethical “dilemmas,” as it were, does not come from an exact legal parameter. Sure, allowing a multiple drunk driver back on the streets may pose a conundrum, or say pulling the plug on a DNR patient, but playing God- that’s something all together different. Let me explain.

Ethics are innate and ingrained. Driven into people via their parent’s morals. We are taught good from bad. Honesty vs. thievery. However, somewhere along the way we trip up and stumble over the blurry line between good and evil, thrust upon us with some tragedy that life may throw at us. The juxtaposition is a tough one. Thrown into the line of fire we sometimes cannot depend on our conscious leading us the right way. Emotions get involved. Anger enters the fray and mistakes are made.

Being a lawyer sometimes makes one a wordsmith- me! I’m a budding lexicographer. Webster describes the term as a standard of character set up by any race. Indeed. The proper treatment of morals- in accordance with right principles- defined by a given system of ethicality or professional conduct.

The legal profession tends to create ethicality or ethicalness by making the ethical, ethicizing, or ethicized- treating things and behavior ethically- to make ethical. We study human conduct and emphasize the proper determination of right from wrong. We create a normative science. Apply logic and reason- the basic principles of right action. Ergo, reasonableness.

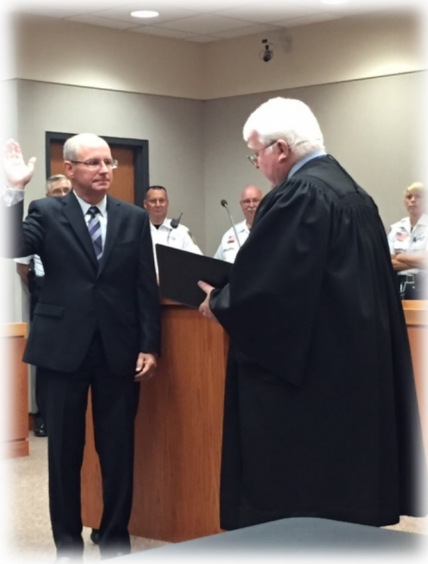
Now, my neighbor is twelve and is a seriously special needs person, suffering from a syndrome from birth known as Guillain-Barré, and she’s slowly dying. Recently her kidneys failed and she’s undergone dialysis to keep her alive whilst waiting for a transplant and being put on a donor’s list. Do we decide if she gets the kidney or someone without a serious handicap? She’s going to die anyway, so why waste a perfectly good kidney? Why not give it to someone with a better chance of survival? Alas, someone had/has to play God. Does she live or die? Morally, ethically- what to do? Honestly, I’d rather decide on the drunk driver, not my neighbor.

Thank goodness I didn’t have to decide that one- a team of doctors did- hopefully based on a series of well thought out parameters involving the medical profession’s morals and values, interfaced with mathematical and scientific input and actuarial prognostication. In our “profession” we are not provided the niceties of time, science, or math. Often times, it is a last minute or the very second of a behavior that demands ethical application. The split second demonstration of a normative application of a learned human behavior of righteousness and hopefully, purity, sometimes painful, and often difficult but applied with calm demeanor and meaningful straight-forwardness.

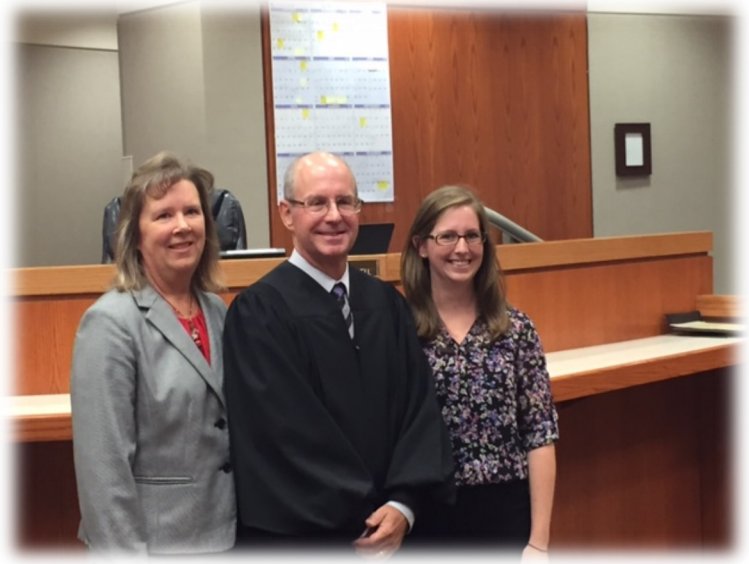
There isn’t one way to do the right thing. There is, however, many ways to get it wrong. Does practice make perfect? Hardly. Each situation is different in some subtle way from the situation one encountered before. The environment is different, the clients are different. Are there strict, steadfast rules? No. Take a modicum of intelligence and mix in a dose of humanity, and listen well. Act right and it’ll be alright.

Proceed with caution- be wary but let the pro in you come out. Bite your tongue, humble down, and the outcome will be fair and obtainable. Just don’t play God.

THE HONORABLE JAMES S. COWLIN SWEARING IN CEREMONY



Judge Cowlin took the oath of office administered by Chief Judge Michael J. Sullivan.



Judge Cowlin with his proud wife, Lynn and daughter, Katie.

Associate Judge James S. Cowlin was sworn in as a Circuit Judge on September 10, 2015

Member News

Attorney Elizabeth Dalton joins Mohr & Sullivan

ALGONQUIN, IL —Terry Mohr, principal of Mohr & Sullivan Attorneys at Law announced Elizabeth J. Dalton recently joined his firm. Elizabeth J. Dalton compliments the skills of both Terry Mohr and his partner Bryan D. Sullivan. Ms. Dalton practices primarily in the areas of family law and real estate. Her prior experience was in civil defense litigation with emphasis in the areas of personal injury, toxic tort and municipal law.



“Helping families obtain proper legal protection as they evolve is such an important area of law. I am proud to be affiliated with a practice recognized as a leader in the region,” said Elizabeth Dalton. “Terry Mohr has achieved a number of impressive awards and honors. The firm’s philosophy of working as a team to deliver client satisfaction is one I am very pleased to adopt.”

Ms. Dalton graduated from the University of Virginia, School of Law in 2012. During law school, Ms. Dalton performed pro bono work with the Housing Law Clinic at the Legal Aid Justice Center and assisted low income clients in housing related litigation. Prior to attending law school, Ms. Dalton graduated summa cum laude from DePaul University receiving a Bachelor of Arts in History with a minor in Italian.

Mohr & Sullivan has offices in McHenry and Algonquin, Illinois. For more information, visit www.MohrFamilyLaw.com or call the office at 847-658-9100.

LAP 2015 Annual Dinner

The Lawyers' Assistance Program is pleased to announce that McHenry County Judge Michael Chmiel and McHenry County attorney Andrea Olness are being awarded the *John Powers Crowley*, Judge of the Year Award, and the *President's Award* respectively, at the 2015 LAP Annual Dinner, which will be taking place November 13th, 2015 at the Union League Club in Chicago. Judge Chmiel and Ms. Olness are being given these awards for their unwavering support and dedication to LAP and its' mission to assist the Illinois Legal Community with addiction and mental health issues. Judge Chmiel is a Circuit Judge in the 22nd Judicial District and Ms. Olness practices with the law firm of Lucas & Associates in Woodstock, Illinois. If you would like to join us at the Annual Dinner to congratulate Judge Chmiel and Ms. Olness please contact Bridget McLaughlin at 312-726-6607 or bmclaughlin@illinoislap.org. Tickets may be purchased for \$125 or a table of 10 for \$1250.

MCBA Annual Picnic and Softball Game

As home plate umpire and crew chief, I have the honor of informing the Bar Association that the Annual Softball Game was played on September 25th without injuries---well, none that anyone admitted to anyway. In a closely fought game, the "Young Guns" edged out the "Experienced Attorneys" by the final score of 21-1. A game highlight was certainly the play in which Experienced Attorney Ray Flavin was called out at third twice while Judge Costello stole home for the only Experienced run. Certiorari for the appeal of Judge Costello's contested score has been denied.

Many thanks to the sponsor of the event, Heritage Title, for a fine picnic, to Judge Chmiel for obtaining the bases and some chalk for the lines, to retired Judge Graham for coming out to ump third base, and to all the participants and their families whose spirited play and sportsmanship showed that, in the end, we're all in this together.

Best,
Judge Robert Wilbrandt



MCBA 4TH ANNUAL

Networking & Educational Forum

Thank you to our Sponsors!

Heritage Title

Campion Curran Lamb & Cunabaugh

Wendy Drefahl, WFA Econometrics Corporation

Joe Canevello, Connections Counseling

Court Call

OWC PRO IT Services

Gummerson Rausch Wand Lee & Wombacher

MN Lawyers Mutual



Speaker: Robert Chemers



Speaker: George Bellas





Speaker: Jeffrey Hirsch, formerly of The Gitlin Law Firm, PC



Speaker: Joe Canevello, Connections Counseling



Speaker: Dolores Dorsainvil



Speaker: Darron Burke



MAJOR OVERHAUL IN DIVORCE & CUSTODY LAWS EFFECTIVE 2016

By

Jeffrey L. Hirsch

Illinois recently enacted a major overhaul of the Illinois Marriage and Dissolution of Marriage Act. These amendments and new laws (P.A. 99-90) will become effective as of January 1, 2016. A few of the most significant changes include:

1. Abolishing actions for alienation of affections and breach of promise to marry.
2. Establishing no-fault, irreconcilable differences as the only ground needed to divorce, and eliminating all other fault grounds, e.g., mental cruelty, adultery, etc. If the parties have lived separate and apart for at least six months, there is an irrebuttable presumption that irreconcilable differences exist.
3. Calling for a statewide form of financial affidavit to be used in temporary hearings, and providing for significant sanctions against a party who intentionally or recklessly files an inaccurate or misleading financial affidavit.
4. Deeming premarital property as non-marital regardless if it was acquired in contemplation of marriage.
5. Setting a fair market value standard to determine the value of assets and property, giving the court discretion to use the trial date or another date for valuation, and permitting the court to seek the advice of financial experts.
6. Clarifying the maintenance factors and guidelines (see, "[*Solving for X & Y: Exploring the Illinois Maintenance Guidelines*](#)," Jeffrey L. Hirsch, Illinois Bar Journal, September 2015, Vol. 103, No. 9).
7. Capping obligations for college tuition and housing expenses to similar amounts charged by the University of Illinois at Urbana-Champaign, and requiring the student to maintain a cumulative "C" grade point average.
8. Specially identifying support for a non-minor child with a disability.
9. Redefining custody to an allocation of parental responsibilities.
10. Changing interstate removal to relocation based on distance.

Undoubtedly, the most substantial changes are those made to custody and visitation. Those terms are abolished in favor of an "allocation of significant decision-making responsibilities and parenting time." The court must allocate to one or both parents the significant decision-making responsibility for each significant issue affecting the child, including but not limited to:

- Education, including the choice of schools and tutors.
- Health, including decisions and treatments related to the medical, dental, and psychological needs of the child.
- Religion, assuming there is an agreement by the parents or past conduct as to the child's religious upbringing.
- Extracurricular activities.

These responsibilities shall be allocated by agreement of the parents or determined by the court based on the best interests of the child.

Similarly, parenting time shall be allocated according to the best interests of the child. In doing so, the court may consider, among other factors, the amount of time each parent spent performing care-taking functions in the 24 months preceding the filing, or if the child is under 2 years of age, since birth. Also, "visitation" is now applicable for non-parents, e.g., grandparents, step-parents and siblings. Therefore, under the new scheme, parenting time is for parents, i.e., the time when a parent is responsible for exercising caretaking functions and non-significant decision-making responsibilities, whereas visitation is time that non-parents spend with a child.

All parents must submit a proposed parenting plan to the court, either jointly or separately, within 120 days from the date of filing, service or appearance. Mediation must be ordered to assist the parties with their parenting plan if they disagree. The parenting plan must set forth at a minimum:

1. Allocation of significant decision-making responsibilities.
2. Provisions for the child's living arrangements and each parent's parenting time.

3. A mediation provision.
4. Each parent's right of access to medical, dental, and psychological records, child care records, and school and extracurricular records, reports and schedules.
5. Designate the parent who will be denominated as the parent with the majority of parenting time solely for purposes of state and Federal statutes requiring a custody designation.
6. Designate the child's residential address for school purposes only.
7. State each parent's residence address and phone number, and place of employment.
8. Requiring a parent changing his or her residence to provide at least 60 days prior written notice.
9. Provisions for notice of emergencies, health care, travel plans, or other significant child-related issues.
10. Transportation arrangements.
11. Provisions for communications, including electronic communications, with the child during the other parent's parenting time.
12. Provisions for resolving issues arising from a parent's future relocation.
13. Provisions for future modifications of the plan.
14. A right of first refusal, if so desired.
15. Any other provisions that addresses the child's best interests or will otherwise facilitate cooperation between the parents.

When parents submit an agreed parenting plan to the court for approval, it will be binding upon the court unless it finds that the agreement is unconscionable. If the court does not approve the parenting plan, then the court may conduct a hearing to determine whether the plan is in the child's best interests. If parents cannot agree on a parenting plan, then the court must determine a plan which is in the child's best interests and maximizes the child's relationship and access to both parents.

If a parent engages in any conduct that seriously endangers the child's mental, moral, or physical health or significantly impairs the child's emotional development, the court can impose restrictions (reduction, elimination, or other adjustment) upon that parent's decision-making responsibilities or parenting time, or both. Among the possible restrictions is the authority to require a parent to complete a treatment program for perpetrators of abuse, for drug or alcohol abuse, or other behavior that is the basis for restricting parental responsibilities.

The concept of interstate removal has been expanded to include both in-state and out-of-state "relocations." A parent intending a relocation is required to give at least 60 days' written notice to the other parent. What triggers a relocation depends on how far the move is from the child's current primary residence. For Cook County and the collar counties (DuPage, Kane, Lake, McHenry, and Will), a relocation is defined as a move to a new residence in Illinois that is more than 25 miles from the current residence. For all other counties, a relocation is more than 50 miles from the current residence. For all out-of-state moves, a relocation is triggered if more than 25 miles from the current residence. If, after receiving notice, the non-relocating parent agrees, then the relocation shall be allowed. If the non-relocating parent objects, then the relocating parent must obtain the court's permission. The court will consider the child's best interests, including, among others, the history and quality of each parent's relationship with the child, the educational opportunities for the child, and the possible arrangements for the exercise of parental responsibilities.

Finally, the concept of out-of-state relocation also purports to affect exclusive, continuing jurisdiction under the UCCJEA. The new statute states that if a parent moves with the child 25 miles or less from the child's primary residence to a new primary residence outside Illinois, Illinois continues to be the home state of the child under the UCCJEA. Illinois' UCCJEA is also similarly amended. There is no mention how this amendment might conflict the UCCJEA of other states or the federal Parental Kidnaping and Prevention Act.

Ultimately, the purposes of these amendments are said to "ensure predictable decision-making for the care of children and for the allocation of parenting time and other parental responsibilities, and avoid prolonged uncertainty by expeditiously resolving issues involving children; to recognize the right of children to a healthy relationship with parents and the responsibility of parents to ensure such a relationship; and to acknowledge that the determination of children's best interests and the allocation of parenting time and significant decision-making responsibilities are among the paramount responsibilities of our system of justice." In other words, to put children's rights first and foremost, the divisive language of "custody" and "visitation" needed to be removed from the process. Instead, the focus is on developing a Parenting Plan that recognizes the rights and responsibilities of both parents in a manner that is consistent with their child's best interests. In this light, the amendments to the IMDMA are more than just a word change; they are a quantum shift in both process and meaning, a declaration to the family law system that children's lives matter and that parents (and their lawyers and judges) must converge their efforts and talents to faithfully discharge this responsibility.

Trial Call

Case Number: 13LA99
 Plaintiff: Nolber Morales
 Defendant: Nighttime Entertainment, Inc.
 Plaintiff's Attorney: Bennu Legal Services
 Defendant's Attorney: Heineke & Burke
 Trial Date: August 11-13, 2015
 Judge: Michael T. Caldwell
 Verdict: Defendant
 Net Total Verdict: \$0
 Last Demand: \$50,000
 Last Offer: \$0

Case Number: 13LA195
 Plaintiff: Sarah Kostrzeski
 Defendant/3rd Party Plaintiff: Melissa Islam
 3rd Party Defendant: Megan Nazzari
 Plaintiff's Attorney: Michling Plaza & Associates
 Defendant/3rd Party Plaintiff's Attorney: John Currie Law Office
 3rd Party Defendant's Attorney: Querrey & Harrow, Ltd.
 Trial Date: August 17-19, 2015
 Judge: Michael T. Caldwell
 Verdict: Plaintiff against Defendant. Third-party Defendant against Third-party Plaintiff
 Medical: \$17,758.16
 Pain & Suffering: \$8000
 Loss of Normal Life: \$2625
 Gross Verdict: \$28,383.16
 3rd Party Defendant's Contributory Negligence: 0%
 Net Verdict: \$28,383.16

Case Number: 14AR84
 Plaintiff: Erin Dickerson
 Defendant: Jason Thomas
 Plaintiff's Attorney: Zukowski, Rogers, Flood & McArdle
 Defendant's Attorney: Lucas & Associates
 Trial Date: August 24-25, 2015
 Judge: Michael T. Caldwell
 Verdict: Plaintiff
 Medical: \$7514
 Pain & Suffering: \$25,486
 Loss of normal life: \$2500
 Gross Verdict: \$35,000
 Net Total Verdict: \$35,000
 Last demand: \$18,500
 Last offer: \$10,000

Case Number: 10LA273
 Plaintiff: Christine Lipa
 Defendant: Basudeb Saha, M.D. Northern IL Medical Center, Centegra Health System
 Plaintiff's Attorney: Dwyer McCarthy & Assoc., Ltd.
 Defendant's Attorney: Heplerbroom, LLC and Hinshaw & Culbertson
 Trial Dates: September 28—October 2, 2015
 Judge: Michael Caldwell
 Hung Jury
 Last demand: none
 Last Offer: none

Case Number: 13LA210
 Plaintiff: Angela Bollinger

Defendant: Joanne Foote
 Plaintiff's Attorney: Kent Lucaccioni
 Defendant's Attorney: Beverly & Pause
 Trial Date: September 28, 2015 - Mistrial
 Trial Date: September 29, 2015 – 2nd Mistrial
 Trial Date: October 5-8, 2015
 Judge: Thomas A. Meyer
 Verdict: Plaintiff
 Gross Verdict: \$170,000
 Plaintiff's Contributory Negligence: 35%
 Total Net Verdict: \$110,500
 Last Demand: \$225,000
 Last Offer: \$75,000 (withdrawn)

Case Number: 13AR166
 Plaintiff: Robert Martino
 Defendant: Melissa Krieser
 Plaintiff's Attorney: Franks & Rechenberg
 Defendant's Attorney: Lucas & Associates
 Trial Date: October 13-15, 2015
 Judge: Thomas A. Meyer
 Medical: \$11,367.20
 Pain & Suffering: \$5,500.00
 Loss of normal life: \$1000.00
 Net total verdict: \$17,867.20
 Last Demand: \$30,000
 Last Offer: \$7,250 + \$10,000 set off



**THE HARVARD
STATE BANK**

Harvard • Hebron • Oregon • Rockford
www.webhsb.com

**Our Trust Department provides
a full range of Trust and Investment
services for your clients**

Trust and Estate Administration
 Trust and Agency Investments
 Land Trusts
 Life Insurance Trusts
 Custodial Accounts
 Rollover IRA's
 401K and Profit Sharing Plans

Thomas Tearney, CFP
Vice President and Sr. Trust Officer
The Harvard State Bank
 35 N. Ayer Street, Harvard, IL 60033
 815-943-4400

Your Friends in Banking

3,000,000 POLICIES IN 50 YEARS.

LAWYERS PROTECTING CONSUMERS.
ONE TRANSACTION AT A TIME.



In the midst of celebrating our 50th year, we issued our three millionth policy.

Congratulations to homeowners William “Billy” and Jill Thompson of Oglesby, Illinois, and to the ATG attorney-member who issued the policy, Dick Fiocchi (far left) of Bernabei, Balestri & Fiocchi, Spring Valley, Illinois. Congratulating Billy and Jill are ATG President Peter Birnbaum (second from left) and ATG Senior Vice President, Jerry Gorman, far right.

**These homeowners and this ATG member represent what we strive for every day:
Protecting the investment of every homeowner,
and preserving the lawyer’s role in the process.**

For 50 years.

LAWYERS AT THEIR BEST FOR FIFTY YEARS



ATTORNEYS’ TITLE GUARANTY FUND, INC.

800.252.0402 | www.atgf.com | atginfo@atgf.com

MCBA Calendar of Meetings & Events

Date	Event	Location	Time
November 5, 2015	Criminal Law Section Meeting	MCBA Office	Noon
November 10, 2015	Family Law Section Meeting	MCBA Office	12:15
November 11, 2015	Wills for Veterans CLE	MCBA Office	Noon—4:00pm
November 17, 2015	Board of Governors Meeting	MCBA Office	Noon
December 3, 2015	Criminal Law Section Meeting	MCBA Office	Noon
December 3, 2015	MCBA Holiday Party	Woodstock Country Club	6pm
December 8, 2015	Civil Practice Seminar	MCBA Office	9:00—4:00
December 9, 2015	Mentor Program Orientation Lunch	MCBA Office	Noon
December 15, 2015	Board of Governors Meeting	MCBA Office	Noon
January 7, 2015	Criminal Law Section Meeting	MCBA Office	Noon
January 12, 2015	Family Law Section Meeting	MCBA Office	12:15
January 19, 2015	Board of Governors Meeting	MCBA Office	Noon
January 26, 2015	General Meeting		Noon

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