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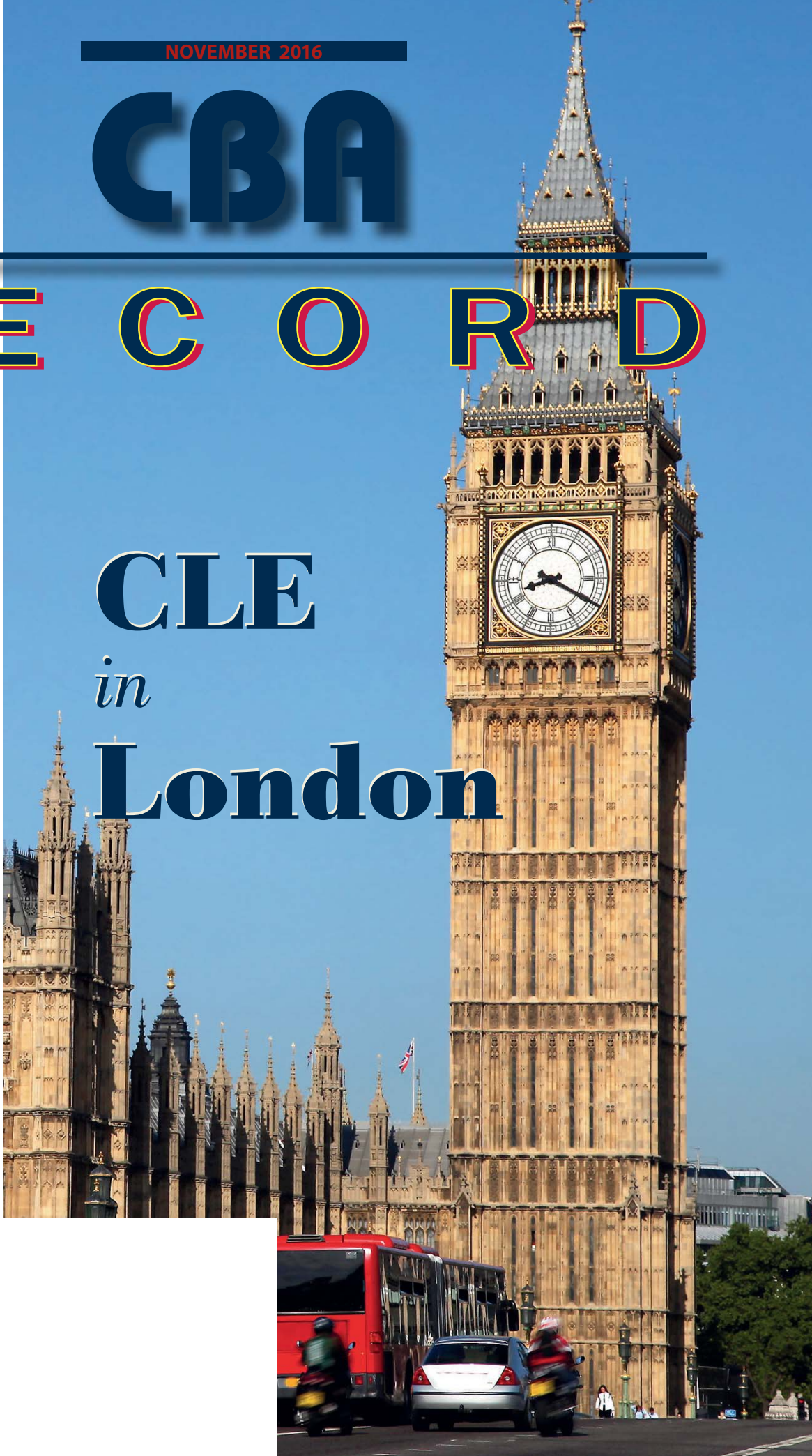
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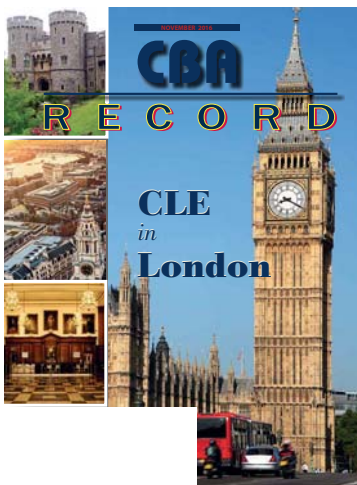
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CBA members are invited to a special CLE event in London, England, in April 2017. See London as you haven't seen it before! More information appears in this issue and at [www.chicagobar.org/London](http://www.chicagobar.org/London).

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# EDITOR'S BRIEFCASE

BY JUSTICE MICHAEL B. HYMAN, EDITOR-IN-CHIEF

## A Bias-free Profession

The fairness and legitimacy of the legal system depends on it being bias-free. This means we lawyers and judges must recognize and set aside our own natural biases. But like many consequential challenges in life, this is easier said than done.

Until recently, explicit bias seemed to have dissipated, but the hyper-contentious presidential campaign has encouraged hate-mongers, xenophobes, and racists to be open about their prejudices. Meanwhile, implicit bias, which, whether we like it or not, exists within just about everyone, has entered into the national consciousness and evolved into a subject of some controversy, especially as it relates to law enforcement.

Implicit bias, also known as “unconscious” or “hidden” bias, refers to attitudes or stereotypes that unknowingly affect our decisions and behavior. Implicit bias happens quickly and without conscious thought, and can result in compromised judgments, degrading generalizations, derogatory attitudes, impaired objectivity, and unjustified perceptions about personal or demographic characteristics. These personal or demographic characteristics include a person’s gender, appearance, age, socio-economic class, sexual orientation, marital status, religion, physical ability, or race. Our personal background, culture, and life experiences all influence the implicit bias that we each carry.

It has been said that denying that you are subject to implicit bias is like denying your own reflection in a mirror. The human brain simply cannot be stripped of implicit biases as if it contained an electric current with a shutoff switch.

“Once lodged in our minds, hidden biases can influence our behavior toward members of particular social groups, but we remain oblivious to their influence,” observe Professors Mahzarin Banaji and Anthony Greenwald, co-authors of *Blind Spot*.

Implicit bias has emerged as a prominent issue in the legal profession too. Every lawyer and judge has an ethical obligation, and, I suggest, a moral obligation as well, to, as much as humanly possible, halt the harm that implicit bias can unleash on our work and our lives.

Loosening the hold of implicit bias requires that we commit ourselves to recognizing and challenging our biases and predispositions, not to mention recognizing and challenging biases that are embedded in the legal system itself.

One way to begin unmasking hidden biases is to take the Implicit Association Test (IAT). In 1998, Banaji and Greenwald helped develop the IAT as an instrument to measure subconscious preferences for one type of person over another. The IAT is on-line, takes a few minutes, and is free. You may not agree with the results, but the IAT has been studied thoroughly. Find the IAT at [implicit.harvard.edu/implicit/takeatest.html](http://implicit.harvard.edu/implicit/takeatest.html).

Because implicit bias occurs outside our awareness, experts on the subject have said we can minimize its effects by slowing down our thought processes and responding in a deliberate rather than automatic fashion. Several studies confirm that taking the time to reflect and reason leads to less biased decision-making.

Studies also have found that we will not be able to defuse implicit bias unless we train ourselves to regularly challenge its possible presence. That is, we have to question our beliefs, our instincts, and our thought processes. And we have to do so as a matter of course. In addition, we can place ourselves in the shoes of those we see as “others,” which has the power to open us up to a balanced and less stereotyped perspective. Finally, we can take seminars and read books and articles on implicit bias. The more we understand implicit bias, the better equipped we will be to handle our encounters with it.

A bias-free profession is the goal. While it is essentially an impossible goal, justice demands that each of us try. ■

*Rehearing:* “A great many people think they are thinking when they are merely rearranging their prejudices.”—William James, 19th Century psychologist

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# PRESIDENT'S PAGE

BY DANIEL M. KOTIN

## A Sudden Change in Message



**O**n November 10, I had the honor of addressing a full auditorium of soon-to-be new Illinois lawyers at the Supreme Court Admission Ceremony at the Arie Crown Theater. Just a week earlier, we had honored the 103 lawyers who have been members of the Chicago Bar Association for 50 years. My plan had been to speak about leadership and juxtapose the new lawyers with the 50-year lawyers, as bookends of this profession.

But a few hours before I stepped to the podium that morning, the 2016 presidential election was decided. The election result compelled me to rethink my remarks and at least acknowledge the election, as it was certainly still in the forefront of everyone's mind.

I knew better than to offer any opinion regarding the outcome of the election. That's not the role of the CBA President, and, as in any free country, personal opinions as to who should lead will differ. On top of that, it is still much too early to know what impact this election will have upon our society, and in particular, on our legal system. There was, however,

one opinion I could offer because I was confident that everyone in the auditorium, in our nation, and in the world, would agree: this was the most *uncivil* presidential campaign that any of us have endured. If nothing else, these new lawyers should take a lesson from that.

As I looked out at the hundreds of mostly young faces, I could tell that civility was not at the top of anyone's list of concerns. They all had every intention of treating their fellow lawyers with dignity and respect. I recalled having felt the same way exactly 25 years earlier when I sat in that auditorium and was sworn in. I acknowledged this to this crowd but then reminded them of something that those of us with some experience know all too well. The practice of law sometimes can be hard. Representing clients can be contentious at times. And as we have all seen too often throughout the years, many of today's lawyers are willing to compromise civility in the name of advocacy. I implored the Class of 2016 not to do this.

The practice of law remains a noble profession. It is our privilege to serve as lawyers, not our right. We all learned early in law school that perhaps the most important tenet in our profession is "honesty." But not far behind that is "civility." I asked these candidates, from day one, to make a concerted effort to *always* treat other lawyers, judges, co-workers, clients, and opponents with courtesy and respect. They all deserve it. Our profession deserves it.

With this in mind, my impressions from our annual luncheon a week earlier honoring the CBA's 50-year members became even more relevant. With each passing year, the size of our 50-year class grows



larger and larger. This year, we honored 103 members (101 men and 2 women) who have been part of our association for 50 years.

At the reception before lunch, I was amazed by the reunion-like atmosphere that was on display in the room. These lawyers, most in their mid to late 70s, had essentially grown up together in law. When they reunited at the luncheon, these lawyers displayed comradery and treated each other with admiration and respect. It truly was an example of our noble profession on display at its best.

Let us hope that this new class of lawyers can have similar reunions 50 years from now. Let us hope that these new lawyers look at the conduct in the 2016 presidential campaign as behavior they should reject, not embrace. And let those of us in the middle, practicing between zero and 50 years, strive to conduct ourselves in ways that the new lawyers of today and in the future can emulate with pride. ■

## Every Person Has A Voice

Monday, January 23, 2017, 3:00–6:30 p.m.

Presented by: Young Lawyers Section

MCLE Credit: 2.75 IL MCLE Credit

This program will provide an in-depth look at issues, concerns and remedies aimed to address the exploitation of individuals through human trafficking both domestically and globally. Panelists and speakers will discuss what trafficking is, provide current research and trends concerning trafficking, and describe how ending demand is the key to preventing the further exploitation and abuse of individuals through sex trafficking.

A reception and book signing with Hon. Virginia M. Kendall will follow the seminar, where she will sign copies of her book, *Child Exploitation and Trafficking: Examining Global Enforcement and Supply Chain Challenges and U.S. Responses* (Rowman & Littlefield, 2016).

### Participants include:

*Donna Fishman, Illinois State Policy Advocacy Network Chair and the Co-Chair for the Jewish Coalition Against Sex Trafficking Chicago (JCAST); Kaethe Morris Hoffer, Executive Director, Chicago Alliance Against Sexual Exploitation (CAASE); Catherine Longkumer, Project Manager, Human Trafficking Initiative, Metropolitan Family Services Legal Aid Society; Professor Jody Raphael, Senior Research Fellow, Schiller DuCanto & Fleck Family Law Center, DePaul University College of Law; Det. Al Krok (ret.), Special Investigations Unit, Chicago Police Department; Professor Katherine Kaufka Walts, Director, Center for the Human Rights of Children, Loyola University Chicago; and Judge Virginia M. Kendall, U.S. District Court for the Northern District of Illinois.*



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# CBA NEWS

## ARCHBISHOP BLASE CUPICH ADDRESSES CBA MEMBERS

# Forming Alliances to Find Solutions

By Pamela Sakowicz Menaker, Editorial Board Member

Speaking shortly before his formal elevation to Cardinal, the message of Cardinal-Designate Archbishop Blase Cupich was clear: the Catholic Church wants to be an integral part of the ecumenical solution in fighting violence in Chicago, “forming alliances for mutual respect and trust” in a collaborative effort with other religious and civic groups to reverse the cycle of violence.

At a crowded luncheon at the Standard Club on a brisk October day, Archbishop Cupich addressed CBA members regarding an issue that he said reporters asked him about even as he stepped off the plane some two years ago to head the Archdiocese of Chicago. Then, the Archbishop said he could only speak in generalities. For the past two years, he has spoken to many community leaders, he has visited prisons and even taken night rides with police officers in an effort to understand the depth and breadth of this issue. He said that he has learned that the Catholic Church cannot solve this issue alone. “We must all pull together to help with short and long-term goals,” he told the group.

The ecumenical spirit of the luncheon was apparent from the very start when invitations from Rabbi Steven Lowenstein of Glencoe, Bishop James Dukes of Liberation Christian Center on Chicago’s South Side, and Monsignor Kenneth Velo of Old St. Patrick’s Church demonstrated how everyone was speaking from the same CBA pulpit.

The CBA’s effort on Restorative Justice began years ago when Judge E. Kenneth

Wright, Jr., as CBA President invited to Chicago Nobel Peace Prize winner and the first South African Anglican bishop of South Africa, Archbishop Desmond Tutu. The international peace figure spoke to CBA members about gun violence and possible solutions at an interfaith dinner in 2009.

Archbishop Cupich is now taking on that peacemaking role as he said he tries to understand the multi-faceted issue due to reasons including education, segregation, racism, alcohol abuse, domestic abuse and availability of weapons.

### Seeks to Combat City’s Violence

He listed many programs at the Archdiocese of Chicago already in progress trying to deal with violence—from anti-bullying in the schools to Mercy Homes for Boys and Girls to the Anti-Violence Task Force Initiative to the work of Catholic Charities, the largest provider of social services in the state.

The CBA has worked for the past seven years on its Restorative Justice Program with volunteer attorneys who teach students in fifth through eighth grades how to handle heated conversations and stressful situations in a more peaceful and civil manner. Archbishop Cupich also mentioned the work of the Catholic Lawyers Guild of Chicago that also is working on Restorative Justice in Chicago.

His insight into the “power and control” cycle that many people find as a way to solve their problems stems from their witnessing abusive behavior as children in the “toxic environments” of their homes. He also

raised the interesting issue of “recapturing the art of friendship.” He said that being friends is no longer a matter of trusting individuals; it has become a mere “transactional exercise in back-scratching.” He went on to say that “young people need to see that this is not disingenuous discourse” on the subject of reducing violence in Chicago.

In building friendships and collaborative relationships, the Archbishop pointed out that, “Friendships remind people that we have so much in common.”

His 20-minute speech (which can be viewed at [https://www.youtube.com/watch?v=3wW9a\\_BrP6M](https://www.youtube.com/watch?v=3wW9a_BrP6M)) received a standing ovation—for his words as well as for his evident commitment to helping all of Chicago—bring together people of all religions, races and ethnicities to solve the complex issue of violence and to bring justice to those who deserve a better chance in life. His emphasis on early education and of instilling good habits was well received.

The Archbishop took time to answer questions from the audience and spoke at length privately following his address with several African American religious leaders who were in attendance. As he prepared for his November trip to Rome to be elevated to Cardinal, he said he would pray for a Cubs victory in the World Series. Even sports, he said, is a way to stave off gang violence. ■

*Note: The Very Rev. Gregory Sakowicz is the Rector of Holy Name Cathedral and is the brother of Pamela Sakowicz Menaker, this article’s author.*



*Thank you for renewing your CBA membership!* As the legal profession continues to face new challenges, it is comforting to know that we have a strong membership base that is committed to strengthening our profession and improving our justice system. But what are we doing for you personally?

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Creating new opportunities for young lawyers to get legal training in return for representing underserved populations.

Offering more volunteer opportunities to enhance your resume and connect you with members of Chicago's legal community.

Supporting new work-life balance resources including seminars, a Working Parents blog and the Mindfulness and the Law Committee.

Adding new career resources, mentoring programs, on demand seminar webcasts, and more!

These are only a few of our new programs currently underway. Our goal is to continually offer innovative programs that engage our members in new and helpful ways. If you want to get more involved and don't know where to start or have ideas for new programs or services, please contact me at [president@chicagobar.org](mailto:president@chicagobar.org).

Together we can make the CBA an even stronger force in the legal profession and in our community.

Sincerely

Daniel M. Kotin  
2016-17 CBA President



# Regulating High-Tech Food

By Amy Cook

CBA Record Managing Editor

### *What is Cheese?*

Maybe you haven't given it much thought, but state and federal food regulatory agencies and business owners concerned with product labeling certainly have.

At a recent meeting of the CBA Food Law committee, Nicole Negowetti, Policy Director at the Good Food Institute, spoke about the regulatory framework for plant-based and high-tech foods. The Good Food Institute's goal is to promote plant based and "clean" alternatives (those they say are healthier and more sustainable) to animal agriculture.

Negowetti told of a small California company's product originally called Cashew Cheese. The product did not contain any dairy. The Milk and Dairy Food Safety branch of the California Department of Food and Agriculture said because it was labeled as "cheese" and "has the appearance, taste, smell, texture or color of a milk product" that the company needed to comply with the sanitary requirements for the operation of a milk products plant, which was cost prohibitive for the company. Additionally, the California Food and Agriculture Code provides that nondairy product containers and

labels shall not contain any combination of words, symbols, marks, designs or representations commonly used or associated with the sale, advertising, or distribution of milk products.

The Federal Standard of Identity (SOI) provides detailed requirements that a certain food must meet to lawfully bear a certain name—e.g. milk—on a food product's label. The company eventually changed the name of its product to Cashew Reserve.

The question of the use of the term "milk"—and whether it must include dairy—was raised some time ago by soymilk manufacturers, and it's still an open question. Soymilk manufacturers petitioned the FDA in 1997 requesting that the agency establish a standard of identity for soymilk but the FDA has yet to respond to the petition.

Negowetti also discussed a lawsuit over mayonnaise. Unilever sued Hampton Creek for false advertising because Hampton Creek's product does not contain eggs, as required by the SOI. Unilever complained that the plant-based product had taken market share away from its well-known brand Hellmann's, which is made with eggs. Unilever argued that the term "mayo" has long been understood as shorthand for may-

onnaise and that, along with the picture of an egg on the label, may mislead consumers to believe that the product contained eggs. The suit was later dropped and Hampton Creek modified its label.

### **Intersection of Food and Science**

The Good Food Institute's work is at the intersection of food and science. For instance, one company is making animal-free milk that is molecularly identical to milk from cows. A similar process for making eggless eggs exists. Negowetti also mentioned that companies are working on growing actual animal meat without harming animals. It involves extracting cells from animals and growing the cells in nutrient media. Now, regulatory agencies—such as the USDA, which regulates genetically engineered (GE) plants and crops, and the FDA, which regulates GE product that will be consumed as food—need to catch up and figure out how to categorize such products.

Most of the news about GMOs surrounds large biochem companies tinkering with crops to increase yields and make them resistant to pesticides and herbicides. The term "GMO" has become equated with "Frankenfoods," with many people concerned with their healthfulness and environmental safety. Negowetti's presentation revealed another aspect of high-tech foods: providing options to those who choose not to eat (or can't afford) animal products and reducing the environmental impact of raising animals for food. These new food businesses and the agencies that regulate them are forging a fascinating new path. ■



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*The CBA's Food Law Committee meets on the third Monday of each month at CBA Headquarters.*

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# CLE & MEMBER NEWS

## Three Mentoring Programs

The CBA is pleased to announce three Mentoring Programs to enhance your professional development.

**Group Mentoring Program.** This program groups new lawyers (5 or less years) with more seasoned lawyers (8 or more years) to foster the exchange of ideas, promote professional networking and tackle career challenges during a year-long program. Mentoring groups meet once per month to discuss a wide range of topics including professional & career development, networking, law office management matters, time management skills and techniques, communication strategies, ethics, civility, diversity and inclusion and work/life balance issues. Mentee applications are accepted for select mentoring groups until those groups reach capacity. The group mentoring program will begin a new application cycle in the summer of 2017. Please note that the group mentoring program is not accredited for Illinois MCLE credit. Attendance is for the benefit of the participant.

**Lawyer-to-Lawyer Mentoring Program.** In this program, sponsored in partnership with the Illinois Supreme Court Commission on Professionalism, experienced attorneys (6 or more years) are matched with newly licensed attorneys for a year-long mentoring program. Participating mentors and mentees will receive 6 hours of Illinois professional responsibility Illinois MCLE credit upon program completion. Attendance at the orientation session and eight subsequent in-person meetings between the mentoring pair is required to complete the program and receive Illinois MCLE credit. 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. Registration for the lawyer-to-lawyer mentoring program opens in November of each calendar year. A mandatory orientation for mentors and mentees takes place at the CBA in January of each calendar year.

**Alliance for Women's Mentoring Circles.** Designed to benefit women of all ages and in all stages of professional development. Junior members learn from those with more experience, and mid-level and senior attorneys gain an invaluable opportunity to hone management skills, build relationships and develop referral networks. Under the traditional rubric of mentoring, experienced practitioners give and junior apprentices take. But in the AFW's Circles, each member is both a mentee and a mentor. Each Circle is made up of 6 to 8 practitioners of varying levels of experience, and from different practice areas. The Circles allow women to discuss many of the same issues at the heart of the AFW's mission: professional development, networking, and work-life balance. The Circles offer a smaller, private forum, which allows each group to tailor solutions and strategies for their members. Circle discussions might touch on, for example, the balancing act of a new mother, the decision to change practice areas or a firm's promotional practices. They meet at least four times a year but some meet as often as once a month. If you are interested in becoming a member of a Mentoring Circle, you should be aware of the time commitment. We ask that you only sign up if you are willing to commit to attending regularly, and staying in touch with the Circle. The benefits of the Circles can only be achieved if each member of a Circle is dedicated to making it a success.

For more information on any of the above, visit [www.chicagobar.org/Mentoring](http://www.chicagobar.org/Mentoring) or call 312/554-2052. ■

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## Attention Law Student Members

It's time to renew your membership. Most law student memberships are valid through December 2016 unless you recently joined or prepaid dues for your entire law school term. Be sure to check your membership card for your expiration date.

For only \$12 a year, there is no better way to jump-start your legal career. Law student membership offers you many ways to learn about the actual practice of law through free seminars, networking events, practice area committee meetings, career resources, and more. Learn what they don't teach you in law school! Questions regarding renewals—call Kayla Bryan at 312/554-2135 or email [kbryan@chicagobar.org](mailto:kbryan@chicagobar.org).

*Important Note to Law School Graduates:* If you have already been sworn in, please call or email Kayla or note this on your statement and return it by fax 312/554-2054 or mail. And be sure to take advantage of our free one year membership offer for new admittees. If you did not receive a letter outlining this offer, call 312/554-2133 or sign-up online at [www.chicagobar.org](http://www.chicagobar.org). Unfortunately, your law student membership will not automatically transfer to a regular membership nor can you convert this online

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CLE

**THE CHICAGO BAR ASSOCIATION**  
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**Planning Your Financial Future**

November 29 • 3:30-5:00 p.m. (complimentary)

**How To... Create a LinkedIn Company Page**

November 30 • 1:45-2:45 p.m. (complimentary)

**Practice Makes Perfect: How New Lawyers Can Identify and Avoid Ethical Missteps**

December 2 • 12:00-2:10 p.m.

**Workshop: Google Search Like a Pro**

December 7 • 2:00-3:00 p.m.

**Workshop: Create a Website for Your Law Firm**

December 8 • 1:45-4:45 p.m.

**Advanced Legal Writing**

December 8 • 12:00-2:10 p.m.

**How To... Adopt Technology into Your Small Law Firm with Smokeball**

December 13 • 1:45-2:45 p.m. (complimentary)

**Trauma-Sensitive Lawyering: Practical Advice for Working with Vulnerable Populations**

December 13 • 3:00-6:00 p.m.

**The Flexible Law Firm**

December 15 • 12:00-1:30 p.m.

**How To... Organize Projects: Microsoft OneNote vs. Evernote**

December 20 • 1:45-2:45 p.m. (complimentary)

**Workshop: Excel for Lawyers**

December 21 • 2:00-3:30 p.m.

**Every Person Has a Voice: Exposing, Examining and Eradicating Human Trafficking**

January 23 • 3:00-6:30 p.m. (complimentary)

To register, call 312-554-2056 or visit [www.chicagobar.org](http://www.chicagobar.org). Programs are held at the CBA Building, 321 S. Plymouth Ct., Chicago, unless otherwise indicated above.

Seminars are also Webcast live (as well as archived) at [www.chicagobar.org](http://www.chicagobar.org) and West LegalEdcenter. Visit [www.chicagobar.org/cle](http://www.chicagobar.org/cle) for more information. The CBA is an accredited continuing legal education provider in Illinois.

The Chicago Bar Association

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# Chicago Bar Foundation Report



## Tenth and Final Year of CBF Fellowship Program

# Five Legal Attorneys Recognized for Their Service on Behalf of Low Income Clients

By **Dina Merrell**  
CBF Associate Director

Five outstanding legal aid attorneys last month became the final class of CBF Sun-Times Public Interest Law Fellows. This program, in its tenth and final year, has helped 50 legal aid lawyers to continue their careers in legal aid in the face of significant student debt loads. In doing so, the program has played a key role in improving access to justice for people in need and making the legal system more fair and efficient for everyone.

Through a generous \$2 million *cy pres* award from a case involving the Chicago Sun-Times, the CBF created this 10-year Fellowship Program in 2006. Over 92% of the CBF's Sun-Times Fellows remain in public service today.

This fellowship addresses a crisis facing lawyers in our community who are increasingly finding that a career in legal aid and public service is simply untenable from an economic standpoint. Lawyers graduating today



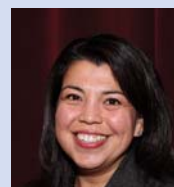
The 2016 CBF Sun-Times Fellows with Allegra Nethery, CBF Immediate Past President (second from left); David Mann, Fellowship Selection Committee Chair (third from left); and Bob Glaves, CBF Executive Director (right). Lesley A. Arizmendi, Equip for Equality; Adrian G. Barr, Prairie State Legal Services; Graham Bowman, The Law Project of Chicago Coalition for the Homeless; Virginia L. Torres, Life Span; and Samoane E. Williams, First Defense Legal Aid.

typically have mortgage-sized law school debt while working for relatively modest salaries at pro bono and legal aid organizations.

The fellowships are awarded to legal aid attorneys who demonstrate a commitment to public interest work, academic achievement in law school, and outstanding character and integrity. The fellowship recipients provide vital legal services to low-income and disadvantaged members of our community.

### Adela Carlin, 2012 Recipient

LAF, Director of Community Engagement Unit



When Adela learned she received the Fellowship, she "cried when I got the call because up until that moment, I did not know how I would ever finish paying my law school loans. This award

has changed our family and allowed me to think about the future in ways I couldn't imagine possible." Adela just celebrated her 16<sup>th</sup> anniversary at LAF. "I am able to do so because of the support of people who believe in access to justice. I am thankful for the moral and financial support which allows me to be a community lawyer."

For more information about the CBF Sun-Times Fellowship Program and the 50 recipients, visit [chicagobarfoundation.org/fellowships](http://chicagobarfoundation.org/fellowships).



## The Recipients

### 2009

Beth Johnson, Director of Legal Programs,  
Cabrini Green Legal Aid Clinic

### 2011

Keri McGuire, Senior Staff Attorney, Life Span

### 2012

Adela Carlin, Director of Community Engage-  
ment Unit, LAF

### 2013

Matt Hulstein, Staff Attorney, CVLS

Erica Spangler-Raz, Staff Attorney, The Law  
Project, Chicago Lawyers' Committee for Civil  
Rights Under Law

### 2014

Caroline Manley, Supervisor of the Senior Legal  
Assistance Clinics, Center for Disability & Elder  
Law

"We are excited to conclude the 10-year CBF Sun-Times Fellowship Program with such an impressive and inspiring group of legal aid attorneys. With their achievements, these attorneys could have chosen a more lucrative career path, but instead chose to make significant financial sacrifices to serve the people in our community who are in most critical need of the protections of the justice system," said David Mann, Chair of the Sun-Times Public Interest Law Fellowship Selection Committee.

Even though this is the final year for this high-impact program, the problem it was designed to help address has not gone away. Law students graduate owing over \$140,000 in law school debt and many also have undergraduate loans. This combination of skyrocketing student debt and more modest legal aid salaries still makes it difficult for many law graduates to consider or remain in a legal aid career.

The CBF will continue its advocacy efforts to tackle this issue, including

### Caroline Manley, 2014 Recipient

Center for Disability & Elder Law, Supervisor of the  
Senior Legal Assistance Clinics



easing my financial burden."

"I feel so lucky that I am able to serve the clients that I am privileged to work with every day. This Fellowship allows me to continue the work that I love by

### Matt Hulstein, 2013 Recipient

CVLS, Staff Attorney



uated law school and started doing foreclosure defense on behalf of low-income people, I never dreamed I could own a house—and have a mortgage! Thank you, thank you, thank you for making this possible!"

"Thanks in large part to the student debt relief available under this Fellowship, my wife and I were able to purchase our first house! It's nothing fancy, but it's ours and it's home. When I graduated

reforming the student loan system and preserving the Federal Public Service Loan Forgiveness Program. In addition, thanks to the generosity of Kimball and Karen Anderson, the CBF will continue to award the groundbreaking Anderson Fellowship, the inspiration for the CBF Sun-Times Fellowship, to help legal aid attorneys manage their student debt burden while working in legal aid. ■

## Solo Small Firm Resource Portal

One stop shopping for all your needs. Includes sections on starting your own firm, marketing, business networking, law office technology training, low cost office management consulting, and savings on insurance and business expenses. Visit [www.chicagobar.org](http://www.chicagobar.org) and click on the Resources tab.

## Save on Legal Research and Writing Services

The team of experienced attorneys at Legal-Research.com now offers discounted services to CBA members—on your terms, your schedule and your budget. Visit [www.legalresearch.com/CBA](http://www.legalresearch.com/CBA) for more information or call 844/638-6733 for a free consultation.

### Beth Johnson, 2009 Recipient

Cabrini Green Legal Aid Clinic, Director of Legal Programs



"The Fellowship has been a savior, helping to manage my large monthly loan. . . . So thank you for making our lives better and allowing me to stay in my chosen career—because I love what I do."

### Keri McGuire, 2011 Recipient

Life Span, Senior Staff Attorney



"I'm actually paying down my law school debt, something I never imagined possible! I did not have to make the horrible choice to leave the job that brings much satisfaction to my life in order to pay the bills. There are so many more clients in need of help and I want to continue to help them. This Fellowship made this possible."

### Erica Spangler-Raz, 2013 Recipient

Chicago Lawyers' Committee for Civil Rights Under Law,  
Staff Attorney, The Law Project



When Erica received the Fellowship, she said, "Had I not received this fellowship, I would make my final loan payment after my infant son graduated from college. Now half will be paid in five years."

A few years into the Fellowship, Erica happily shared that she and her husband bought a house and were able to drastically shorten their previous three-hour, one-car commute. "This move has had a much more positive impact for me and my family than I ever thought it could, and of course it would not have happened without the financial assistance of this Fellowship."

# MURPHY'S LAW

BY TERRENCE M. MURPHY, CBA EXECUTIVE DIRECTOR



The CBA's Executive Committee (Executive Director Terrence M. Murphy; First Vice-President Law Division Associate Judge Thomas R. Mulroy; Secretary Jesse H. Ruiz, Drinker Biddle; President Daniel M. Kotin, Tomasik Kasserman Kotin; Second Vice President Steven M. Elrod, Holland & Knight; and Treasurer Maurice Grant, Grant Law LLC) greeted honored guest Cardinal Blase Cupich at an October 20th luncheon in his honor at the Standard Club. Photo by Bill Richert.

**D**on't miss this year's Bar Show, "This Case is a Shamilton," opening on Thursday, December 1, and running through Sunday, December 4, at DePaul's Merle Reskin Theater. The Bar Show is a perfect venue for entertaining your family, friends and guests during the holiday season. Performed entirely by lawyers and judges, the Bar Show is an irreverent musical parody and, if you haven't already guessed, this year's national, state and local elections have produced a superabundant harvest of politico's who rightfully deserve to be lampooned by some of Chicago's best. This holiday classic is guaranteed to bring forth smirks, smiles and hearty belly laughs. Good seats are still available for all of the performances so order your tickets now at [www.barshow.org](http://www.barshow.org).

## CLE in London: April 10-13, 2017

President **Daniel M. Kotin** is taking the members to London for this year's international CLE program. Our friends

from LexisNexis have graciously agreed to host the CLE programming at their London headquarters. The programming will include presentations on comparative law and judicial trends, access to justice, diversity and inclusion in the legal profession, and cybersecurity. Tours and social events include: The House of Lords, The U.K. Supreme Court and the Royal Courts of Justice, a private dinner at London's oldest pub Ye Olde Cheshire Cheese, an opportunity for members to view a trial at the Old Bailey Courthouse in the "well" courtroom floor, a luncheon boat cruise of Runnymede featuring a lecture from one of England's foremost experts on the Magna Carta followed by a tour of Windsor Castle, attendance at a dinner featuring the Honorable **Lord Neuberger**, President of the U.K.'s Supreme Court, and 4 hours of unique MCLE programming. A flyer announcing the program was emailed to members, and is available at [www.chicagobar.org/London](http://www.chicagobar.org/London). We have secured a great group rates, which include breakfast

at the Athenaeum Hotel & Residences at 116 Piccadilly, Mayfair, London. The Athenaeum is located directly across the street from Green Park, and is a short walk to Buckingham Palace. For more information, contact **Tamra Drees** at 312/554-2057 or [tdrees@chicagobar.org](mailto:tdrees@chicagobar.org).

## Illinois Judges Association Luncheon: Friday, December 9

Illinois State President **John J. Cullerton** will be the keynote speaker at this year's Illinois Judges Association Mid-Year Meeting on December 9 at the Sheraton Grand Chicago, 301 E. North Water Street. Illinois Judges Association President **Israel Desierto** will preside at the luncheon. Tickets are \$85 per person and \$850 for a table of ten. For more information or to order tickets, contact IJA Executive Director **Kathleen Hosty** at 312/431-1238 or [ija@chicagobar.org](mailto:ija@chicagobar.org).

## Illinois Supreme Court Dinner

The Illinois Supreme Court Dinner, co-hosted by the Chicago and Illinois State Bar Associations, will be held on Friday, December 9 at the Sheraton Grand Chicago Hotel. CBA President **Daniel M. Kotin** and ISBA President **Vince Cornelius** will co-emcee the dinner, and all Illinois lawyers are invited to join us in honoring the distinguished men and women who serve on the Illinois Supreme Court. A reception for the Justices will begin at 6:00 p.m., followed by dinner at 7:00 p.m. Chief Illinois Supreme Court Justice **Lloyd Karmeier** will be the keynote speaker at this year's dinner. Following the dinner, a special reception is being hosted by the ISBA Mutual Insurance Company, featuring entertainment by "Chicago Catz." The event is Black Tie optional and tickets for the pre-dinner reception are \$25 per person, dinner tickets \$125 per person, and tickets for the post-dinner reception hosted by the ISBA Mutual Insurance Company are \$25 per person.

Tickets may be purchased by visiting the ISBA's website, [www.isba.org/jointmeeting](http://www.isba.org/jointmeeting). For additional information or to order tickets contact **Kim Weaver** at [kweaver@isba.org](mailto:kweaver@isba.org).

*continued on page 22*



A Special Notice to all Lawyers Who Reside in or Practice in Cook County

## The Moses, Bertha & Albert H. Wolf Fund

The Chicago Bar Association manages the Moses, Bertha, and Albert H. Wolf Fund to aid attorneys who reside or practice law in Cook County and are ill, incapacitated or superannuated. Through the Fund, the CBA provides financial assistance in the form of grants and loans.

Eligible recipients also include lawyers in Cook County who receive assistance from the Lawyers Assistance Program and are in need of medical assistance.



*"I can say without hesitation that the generous support that I have received from the Wolf Fund has enabled me to receive medical treatment for several disabling conditions and prevented me from becoming homeless. My hope is that I will be able to return to the full-time practice of law and someday make a substantial contribution to The Chicago Bar Association's Wolf Fund in return for all the help they have given me. I am ever so grateful."*

*— Wolf Fund Recipient*



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For more information, please contact Terrence M. Murphy, Executive Director  
312-554-2002 • [tmurphy@chicagobar.org](mailto:tmurphy@chicagobar.org)

The Chicago Bar Association  
presents  
the 93rd Annual Bar Show



*"...AN IRREVERENT MUSICAL  
PARODY WRITTEN AND  
PERFORMED BY LAWYERS, BUT  
ENJOYED BY EVERYONE!"*

- D. NOVO



THIS CASE IS A  
SHAMILTON

*"...THE BEST SOCIAL AND POLITICAL PARODY  
THIS SIDE OF NORTH AND WELLS!"*


- B. QUEATH

ORDER YOUR TICKETS NOW  
AT [WWW.BARSHOW.ORG](http://WWW.BARSHOW.ORG)

December 1-4, 2016  
Thu-Sat 7:30pm • Sun 2:00pm  
DePaul Merle Reskin Theatre



# The Chicago Bar Association presents the 93<sup>rd</sup> Annual Bar Show



**THIS CASE IS A  
SHAMILTON**

December 1-4, 2016 • Thu-Sat 7:30pm • Sun 2:00pm  
DePaul Merle Reskin Theatre • 60 E. Balbo Ave. • Chicago

## Email/Fax/Mail-in Ticket Order Form

Join the Chicago Bar Association for an evening or afternoon of musical entertainment at the 93<sup>rd</sup> Annual Bar Show! Each December, the Association has parodied local and national legal, political, sports, and showbiz figures. This year, the show once again promises to deliver hilarious parodies of political peccadillos, governmental gaffes, legal lampooning, and celebrity spoofs.

**Main Floor Tickets: \$45 / But just \$40 for groups of 10 or more**  
**Mezzanine Tickets: \$35 (no group discount)**

To order your tickets,  
visit [www.barshow.org](http://www.barshow.org) or call the box office at 312-554-2064 *anytime*,  
**OR** complete this form and submit it by *no later than November 11, 2016*  
(i) as PDF by e-mail to Awilda Reyes at [areyes@chicagobar.org](mailto:areyes@chicagobar.org),  
(ii) by fax to the CBA at 312-554-2054, or (iii) by mail to the CBA,  
Attention: Bar Show, 321 S. Plymouth Court, Chicago, Illinois 60604-3997.

You will receive an e-mail confirmation of your order.

***Please complete all applicable fields below.***  
***Credit card payment only. All sales are final.***

### 2016 BAR SHOW TICKET ORDER

	# Tickets Main Floor @ \$45*	# Tickets Mezzanine @ \$35	Total Amount Due
Thursday, December 1	_____	_____	\$ _____
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Saturday, December 3	_____	_____	\$ _____
Sunday, December 4	_____	_____	\$ _____
<b>ORDER TOTAL:</b>			<b>\$ _____</b>

\*Main floor is only \$40 for 10 or more.

#### NOTE SHOW TIMES:

Thu-Sat evenings: 7:30 p.m.  
Sunday matinee: 2:00 p.m.

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## LEADERSHIP INSTITUTE

The CBA is accepting applications for its 2017 Leadership Institute. Through this program, designed to enhance the leadership skills and professional growth of Chicago attorneys, emerging leaders will gain practical knowledge and business development strategies necessary to attain and be successful in leadership roles. Full details and a downloadable application can be found at [www.chicagobar.org/leadership](http://www.chicagobar.org/leadership). Apply through December 30, 2016.

### Murphy's Law continued from page 18

#### Congratulations

CBA Symphony Orchestra Maestro extraordinaire **David Katz** celebrated the 30<sup>th</sup> Anniversary of the CBASO with a performance of Gustav Mahler's *Triumphant Symphony No. 1* at St. James Cathedral on Wednesday, November 16. More than 80 members of the Chorus and Orchestra participated in the gala concert which also featured Fauer's *Cantique de Jean Racine*, Handel's Coronation Anthem *Zadok the Priest*, Schubert's *Stabat Mater*, and Lewandowski's Psalm 150 *Hallelujah, Praise Ye the Lord*...Chief Circuit Court of Cook County Judge **Timothy C. Evans** received the Boy Scouts of America's Pathway to Adventure Council's Distinguished Citizen Award...**Ann Hatch**, Herzog Crebs LLP, received the Illinois Bar Foundation's Fellows Distinguished Service to Law & Society Award. **Patrick Fitzgerald**, Skadden, Arps, Slate, Meagher & Flom LLP, received the IBF's 2016 Honorary Fellow Award... Judge **Jesse G. Reyes**, Illinois Appellate Court, was honored by Secretary of State Jesse White during National Hispanic Heritage Month.

**Newton N. Minow**, senior counsel at Sidley & Austin LLP, received the 2016 Presidential Medal of Freedom from President Obama...**Ray Koenig**, Managing Partner at Clark Hill, will serve as the 2017 Chair of the CBA's Leadership Development Program...**Gerald V. Cleary** was appointed by the Illinois Supreme Court to fill the vacancy of retired Judge **Donald J. Suriano** in the 10<sup>th</sup> Subcircuit...CBA Treasurer **Maurice Grant** and board member

**Pamela S. Menaker** were appointed to the Public Interest Law Initiative's Board of Directors...**Darby Dickerson** takes over as the new Dean of The John Marshall Law School. Dickerson has served as the Dean of Texas Tech University's School of Law and from 2003-2011, as Dean of Stetson University College of Law...Illinois Secretary of State **Jesse White** is the recipient of the Diversity Scholarship Foundation's Unity Award...**Chasity A. Boyce**, Retired Circuit Court Judge **William J. Haddad**, **Tiffany R. Harper**, **Cecilia Horan**, and Judge **Jorge L. Ortiz**, Chief Judge of the 9<sup>th</sup> Judicial Circuit, received the group's Advocates for Diversity award. Illinois Appellate Court Justice **Laura C. Liu** (In Memoriam) received the group's Access to Justice Award...Advocates Society President **Matthew A. Sidor** was honored by Circuit Court Clerk Dorothy Brown for the Advocates Society's volunteer expunge-work...**Lavelle Law Ltd.** celebrated its 25th anniversary.

CBA Marketing Director **Sharon Nolan** received the National Association of Bar Executives E. A. "Wally" Richter Leadership Award for outstanding professional achievements in the field of bar communications...**Woon-Wah Siu** was named to Katten, Muchin, Rosenman LLP's Corporate Practice Group...**Robert M. Gordon**, True Partners Consulting LLC, was a featured speaker at the Federal Taxation Committee...**Lori E. Lightfoot**, Mayer Brown LLP, and **Adam J. Diedrich**, Sidley Austin LLP, were honored by the Chicago Lawyers' Committee for Civil Rights Under Law...**Vedder Price** has opened a new office in Singapore...**Sonya Olds Som** was named a partner at Major, Lindsey & Africa...**Marc V. Richards**, Brinks, Gilson & Lione, was appointed interim director of the Patent Trial and Appeal Board Bar Association...**Tinos Diamantatos**, partner at Morgan Lewis & Bockius LLP, has been named the new President of the Chicago Inn of Court...**Sen Wang** is now an associate at Brinks, Gilson & Lione...**Catrina Erickson** has joined Ladden & Allen Chartered...**James E. Enlow** is of counsel at Leavens, Strand & Glover LLC...Corboy & Demetrio Partners **Robert J. Bingle**, **Philip H.**

**Corboy, Jr.** and **Francis Patrick Murphy** have been named to 2016 *Irish Legal 100*. This is the second year that Corboy and Murphy have been named to the elite list, and it's the inaugural year for Bingle. The highly-selected members of the *Irish Legal 100* are the 100 leading lawyers nationwide of Irish descent. Corboy & Demetrio Partners **Thomas A. Demetrio**, **Robert J. Bingle**, **Philip H. Corboy, Jr.**, and **Francis Patrick Murphy** have also been selected to the elite 2016 *Lawdragon 500* Leading Lawyers in America.

**Richard J. Mason**, Partner at McGuire Woods LLP, was appointed co-chair of the International Bar Association's Insolvency Section...Clifford Law Partner **Michael S. Krzak** will speak at an ABA seminar on "Tips from Cockpit to Courtroom"...**Martina Brendel Sherman** and **Marie E. Casciari** are now partners at DeBofsky, Sherman and Casciari P.C....**Claudette P. Miller** was named partner at Reyes, Kurson Ltd....**William T. Gibbs** of Corboy & Demetrio P.C. spoke about litigating brain injuries for the Illinois Trial Lawyers Association...**Michael R. Panter**, senior mediator & arbitrator ADR, was a panelist for a program sponsored by Johnson & Bell Ltd. entitled: "A woman's place: getting into the first chair"...**Elizabeth S. Epstein** of Grant Thornton, LLP received the 2016 Top Corporate Counsel Award...**Dennis G. Walsh** has become president of Klein, Thorpe & Jenkins, Ltd....Brennan & Garvey LLC has changed its name to Brennan Burtker LLC...**Catherine L. Garvey** has become associate general counsel at the University of Chicago Medicine...**Nathan J. Hole** spoke at the National Advertisers/Brand Activation Association's Marketing Law Conference...**Barbara L. Yong** received the Outstanding Service Award from the Chicago/Midwest Chapter of the Turnaround Management Association.

Donohue, Brown, Mathewson & Smyth LLC partner **J. Kent Mathewson** was a speaker at the American Academy of Ophthalmology...**Grace M. Doherty**, Beermann, Pritikin, Mirabelli, Swerdlow, LLP, is co-chair of the Builders Board silent auction committee...**Christina M. Mermigas** was named an associate at Chuhak & Tecson, P.C....**G. Grant Dixon III**, Dixon Law, and **Margaret P. Battersby**

**Black**, partner at Levin & Perconti, will be the featured speakers at IICLE's 12<sup>th</sup> Annual Elder Law Short Course.

McDonnell Boehnen Hulbert & Berghoff LLP partner **Nicole E. Reifman** addressed University of Illinois engineering students...**Thomas L. Duston** was a featured speaker at the 2016 IP Strategy Summit...**Juan C. Arguello**, associate at Jones Day, received the National Immigrant Justice Center's Rookie of the Year Award... Corboy & Demetrio partner **Kenneth T. Lumb** will teach ITLA's CLE course on Electronic Medical Records...**Mitchell L. Marinello** of Novack & Macey LLP received the ABA's Best Website Award...**Scott Allen Kozlov**, Senior Counsel, Attorney Registration & Disciplinary Commission, and **Robin M. Belleau**, Executive Director of the Lawyers Assistance Program were featured speakers at the Northwest Suburban Bar Association's Professional Ethics Seminar... **Michael L. Weissman**, counsel, Levin Ginsburg, is teaching a course in Dubai, United Arab Emirates, on negotiating, drafting and administering contracts.

**Matthew T. Connelly** and **Martin D. Syvertsen** have been named associates in Freeborn & Peters LLP's litigation practice group... **Adam P. Beckerink** is counsel at Baker & McKenzie LLP...**E. Michael Montgomery** has been named an associate at Taft Stettinius & Hollister, LLP... Franczek Radelet P.C. partner **Ellen M. Babbitt** was named a member of Associated Colleges of Illinois Board of Trustees...**Christopher R. Drewry** has been elected an associate at Latham & Watkins, LLP... Corboy & Demetrio Partners **Philip H. Corboy, Jr.** and **Edward G. Willer** received a Trial Lawyer Excellence Award from the *Cook County Jury Verdict Reporter* related to a \$6 million settlement in a premises liability case on October 19.

#### Condolences

Condolences to the family and friends of **George B. Collins**, **Bruce R. Meckler**, **Phil C. Neal**, **John J. Cassidy, Jr.**, and **Ed McElroy**. ■

## CBA Members:

Community Partner Discount to plays at  
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CONTEMPORARY PLAYS, CLASSICS AND NEW WORK

**CBA Discount Ticket Price: \$12**

*On the Fullerton Stage*

***We Are Proud to Present...***

by Jackie Sibbles Drury  
directed by Erin Kraft  
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directed by Nathan Singh  
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*World Premiere!*

***Mrs. Phu's Cleansing Juices***

by Emily Witt  
directed by Krissy Vanderwarker  
May 19 - 27, 2017

*In the Healy Theatre*

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By Jeffrey Bunn

The Legal World and Social Consciousness

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# Can the Goodness Business Model Work for Law Firms?





## A trend in business for several years has some CEOs focusing on doing *good* in the world, as well as maximizing profit. It's sometimes referred to as the "goodness business model." Query: What is the goodness business model, and can it work for law firms?

**T**HE QUESTION OF WHETHER THE GOODNESS business model can work for law firms is particularly apt at present, when young men and women are struggling to deal with law school debt, and jobs as associates in law firms are hard to get. Capitalism thrives, and the legal profession has reaped more than its share of the wealth generated by our economic system. Will capitalism continue to thrive and be the economic driver that it has been, for so long? Or will the notion of "goodness" grow to become a part of what drives our economy in some way?

This article suggests that the business world—and the legal world, along with it—is no longer sustainable, as currently constituted. Few businesses and law firms affirmatively work toward sustaining our natural resources. They pay lip service to the notion of addressing our social problems. They do not recognize the value or needs of our human resources, and treat young men and women as fungible goods. They are not good stewards, either with respect to material or human resources.

I first came across a discussion of the goodness business model in a piece by Jarie Bolander in "*The Daily MBA*" (January 2, 2012). That's almost 5 years ago, and the concept has yet to widely take root in corporate and legal culture. But that doesn't mean that the goodness business model is not an idea whose time has come. I believe it has, and have secured the laudable support of the Chicago Bar Association in recently forming a committee on Mindfulness and the Law.

Bolander's article points to two books about the goodness business model as support for his case: *The Soul of a Business*, by Tom Chappell (Tom's of Maine) and *Screw Business As Usual* by Richard Branson (Virgin Group). Granted, neither author refers specifically to the "goodness business model" in their discussion and both come to their conclusions from totally different places. However, it's the substance of their ideas with which we should be concerned, and it is summarized rather neatly by Branson in *Capitalism 24902*, which encapsulates his attempt to spawn a movement that will change the face of capitalism and improve the world:

"Each and every single business person has the responsibility to take care of the people and planet that makes up our global village...

Consistent with Branson, Chappell concludes that a business relationship needs to be more of an *encounter* than a simple *experience*—a relationship that is much more than simple symbols or semantics. This is a genuinely revolutionary concept because it confers both meaning and depth upon our relationships with our clients or customers. It is more than a simple interaction about which we collect data and then analyze, classify, and theorize about it. As Bolander writes:

"This modality is the foundation of how goodness works—by opening ourselves to more *encounters* we see the likeness of ourselves in the world and that makes us want to do more good." (Emphasis added).

Emphasizing goodness as part of a model for a law firm may seem a difficult if not impossible goal. Except, it really isn't—it's just that business people, like lawyers, are not *taught* to incorporate business ideals into their thought process. Rather, MBA students (like law students) are taught one thing, in one form or another—the main objective of any business (or law firm) is to maximize shareholder (or equity partner) wealth.

The wider implications of that simple lesson, however, have been socially devastating. Again, quoting Bolander:

"In the early 1970's, Corporate Social Responsibility (CSR) coined the term stakeholder, and that movement talked about *maximizing stakeholder value*, which essentially meant to consider all the stakeholders of your business."

Maximizing shareholder value is fine, as far as it goes—but it really doesn't go far enough. It doesn't address the roles or the needs of individual lawyers, managers, non-equity law partners, or staff. In doing good by those people, and being a responsible "corporate citizen," law firms move closer to embracing the goodness business model.

## Goodness Can Be Measured

Many metrics exist for measuring goodness—metrics that many businesses and law firms have already recognized or embraced:

- Carbon footprint;
- Waste recycling;
- Commitment to local charities;
- Requests for client feedback;
- Tracking of sustainable materials used;
- Treatment of professionals, staff and subcontractors;
- Diversification in hiring and employment practices;
- Recognition of wellness practices, for both physical and mental health;
- Employee engagement.

## Goodness Can Be Managed

I used to work with a managing partner who liked to say, “If I can’t measure it, I can’t manage it.” If managing partners or management committees take it upon themselves to work with other managers in human resources, they will quickly learn that there are many different metrics (some of which are mentioned above) that management can use to both measure and manage the performance of a law firm.

Lawyers are, after all, people. Concepts that are intuitively sensible are concepts that we will accept, if expressed or applied in a rational and evenhanded manner. In that fundamental way, lawyers are not dramatically different than our peers in the business world.

## Goodness Can Be Marketed

The concept of goodness is not anathema to successful law firms. In fact, it can align firms with the values of like-minded clients, and bring firms closer to the men and women who give them the business that permits them to exist. The goodness model can, in fact, be a real boon to marketing—both internally and externally.

Law firms increasingly devote more and more of their assets to marketing and human resources, and that’s a good thing. Simply put, *goodness* is a good thing. Indeed, forward thinking law firm managers will recognize that they are already investing in the goodness model as part of

determining how they wish to run their law firms, and it is time that they started touting that fact to clients.

Tout the goodness business model (or whatever you might decide to call it) as a key component of your hiring/recruiting process. Tout the goodness business model as a key component of your pitch for new business, or your argument for retaining existing business. Tout the goodness business model as representative of how your law firm is run, and how your law firm may differ from its competitors. Tout the goodness business model, and make it central to the definition of who you are, and the values that your law firm stands for. It’s really “Marketing 101,” reduced to its most basic terms.

## Conclusion

Many of us who grew up in the late 20th Century are familiar with the old adage that, “the times they are a’ changing.” Guess what? They really *are* changing, and the goodness business model can help law firms thrive and grow in that climate of change. Just ask the next generation—the men and women who will be running law firms in 10 years. Ask the younger attorneys who are blithely referred to as “millennials.” They’ll tell you what the next generation of lawyers are thinking about, and it’s a pretty good bet that lawyers are thinking about the same things that their business peers (who will be running the businesses of the

future) are also thinking about.

Way up, near or at the top of the things that millennials are thinking about, is the concept of personal wellness. Not merely physical wellness, but also mental wellness—wellness that will sustain them as individuals and allow them to successfully practice their profession as they raise their families, and grow into their later years. Over the past 10 to 15 years, the notion that taking care of oneself *physically* is an important component of personal health that has become a fairly mainstream idea. What about also taking care of our *minds*?

Law schools and law firms are tremendous repositories of great minds. Why not take care of those minds? A strong argument can be made that lawyers’ minds are a law firm’s greatest asset—the fundamental reason why clients seek the advice and guidance of lawyers is their knowledge and insight. In other words, clients seek access to their lawyers’ *minds*. Why not let individual lawyers know that the law firm values and cares for their minds?

Recognizing and encouraging mental wellness is good for business. It is particularly good business for law firms, whose very lifeblood is the wisdom and the resilience of the individual lawyers who make up the firm. Mental wellness for lawyers is a concept that makes good business sense, both in the present and in the future. Indeed, it is an *investment in the future*, which is something that any thoughtful manager should be concerned about.

The future of our profession begins *today*. And you can be an important part of making that happen. ■

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*Jeffrey Bunn is a business litigation attorney and the chair of the CBA Mindfulness and the Law Committee. When he’s not arguing in court, Bunn is a practicing yogi and meditator at Bottom Line Yoga, located in the Chicago Board of Trade building.*

A close-up portrait of Nicole Alexander, a woman with blonde hair, smiling. She is wearing a black top and a pearl necklace. The background is a soft-focus green.

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By Judge Martha A. Mills (Ret.)

**The Implications of an International Crisis**

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# **The Nation of Turkey: A Judiciary and Bar in Grave Peril**



**Fellow Members of the Judiciary and Bar: some of our colleagues have been arrested and are being held without charge, bond or preliminary hearing.**

**No, it is not happening here, but it concerns us all as judges, lawyers and citizens of a democratic country. Eighteen Turkish judges visited our federal court here in Chicago in 2013. They made a favorable impression on our court administrators and judges. It is now believed that many among the Turkish judges who came to Chicago to learn from our court system have been arrested and are being held, as are thousands of others, without charge, without bond, and without hearing in connection with a failed coup in Turkey on July 15, 2016.**

**W**HEN THOSE JUDGES WERE IN CHICAGO, THEY were clearly in a learning mode. They, like us, when we visit other court systems around the world, wanted to see what we do with respect to record keeping, filing, scheduling, handling pleadings and motions, handling trials and hearings. We were pleased to show off our technology, our systems management and all aspects of our courts and how they run. We are now concerned about those judges—and others—in the wake of the failed coup.

Following the failed coup, and on July 21, Turkey's President Recep Tayyip Erdoğan declared that the government of Turkey had approved a three month state of emergency, under Article 120 of the Turkish Constitution, which authorizes it "in the event of serious indications of widespread acts of violence aimed at the destruction of the free democratic order...or of fundamental rights and freedoms, or serious deterioration of public order because of acts of violence." The Constitution limits the state of emergency in Article 15 in that "the exercise of fundamental rights and freedoms can be partially or entirely suspended, or measures may be taken, which derogate the guarantees embodied in the Constitution, *provided that obligations under international law are not violated.*" (Emphasis added.) In early October Erdoğan announced that the state of emergency was extended for another three months. *Al Jazeera* reported that at the time it was extended, Erdoğan suggested it might be in place for up to a year.

The "state of emergency" also was submitted to the United Nations, as required, under Article 4 of the International Covenant on Civil and Political Rights (ICCPR), as well as Article 15 of the European Convention on Human Rights (ECHR). In both cases a state of emergency "threatening the life of the nation" is required.

Even in times of emergency a nation, in this case Turkey, cannot avoid "obligations to protect the right to life, prohibit torture, adhere to fundamental elements of due process and non-discrimination, and protect everyone's right to belief and opinion."

The UN Human Rights Committee notes to Article 4 provide that a "state of emergency" is not a justification for violating "preemptory norms of international law, for instance...through arbitrary deprivations of liberty or by deviating from fundamental

principles of fair trial, including the presumption of innocence." To protect these rights, people must have the "right to take proceedings before a court to enable the court to decide without delay on the lawfulness of detention." <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20394&LangID=E>

Experts with the UN Human Rights Office reported on August 19 that Turkey was urged to uphold its obligations under international human rights law and the ICCPR. At the same time they noted that a state of emergency is lawful only if there is a threat to the life of the nation, and that is "a condition that arguably is not met in this case."

The European Court of Human Rights has never found that a country's declaration of a state of emergency did not exist, though its predecessor, the European Commission of Human Rights, has done so. Nevertheless the extension has drawn some criticism, to which Turkey responds by pointing to France, which has recently done the same thing in the wake of the terror attacks there.

### **Thousands of Judges and Prosecutors Jailed or Suspended**

Although the dates when certain things happened are not clear from news reports, in the weeks following the failed coup, the Turkish government issued a list of 2,745 judges and prosecutors who were to be suspended, 48 members of the Council of State, Turkey's highest administrative court, two members of the Constitutional Court, 140 members of the Court of Cassation, and four members of the higher Council of Judges and Prosecutors. It was also reported that 2,167 judges and prosecutors had been jailed in addition to the 2,745 removed from their posts.

Early on it was ordered that prosecutors could bar detainees from talking to a lawyer for five days. Some lawyers reported pressure or fear of representing those detained. The Adana Bar Association on July 26 publicly expressed concern by Adana lawyers and asked the government to remind all relevant authorities of the right of all detainees to a defense, of the principles of fair trial and the presumption of innocence.

Also troubling was language in the weeks following the coup that allowed for the permanent discharge of judges, prosecutors



and civil servants without any investigation or possibility of legal challenge. It also was reported that, by order of a judge, the assets of 3,048 judges and prosecutors were frozen. At the same time, more than 100,000 people in the military, civil service, police, judiciary and universities were discharged or suspended, and 32,000 arrested.

The UN Human Rights experts also noted on August 19 that since the initial declaration of a state of emergency, “Turkish society has seen an escalation of detentions and purges, in particular in the education, media, military and justice sectors.” And “allegations of torture and poor detention conditions have been raised following legislative provisions that enable wide and indiscriminate administrative powers that affect core human rights.” They said they understood the sense of crisis in Turkey, but are concerned that “the Government’s steps to limit a broad range of human rights guarantees go beyond what can be justified in light of the current situation.”

In a recent case before the European Court of Human Rights, a Hungarian judge complained of removal from his position other than by the end of his term or any finding of wrongdoing. In *Baka v. Hungary*, the court cited the provisions of the Basic Principles on the Independence of the

Judiciary (See sidebar on page 31), found in favor of the judge, and awarded him the compensation he should have received. [http://hudoc.echr.coe.int/eng-press#%22itemid%22:\[%22001-163113%22\]}](http://hudoc.echr.coe.int/eng-press#%22itemid%22:[%22001-163113%22]}). The language indicates that the court will take a strong stand on matters related to judicial independence and treatment.

Although it is unknown at this writing what has happened to the Turkish judges detained without charge, hearing or bond to date, to the many judges removed from their positions without hearings, or to those whose assets may have been frozen, we cannot ignore or fail to raise a complaint about this treatment. And, we should follow through to see what was done and whether assistance is needed in obtaining basic rights for those judges and all others affected.

This article does not intend to discuss the background of the failed coup except to point out that any certainties at this point in time are elusive. Although the coup seems to have been genuine, the reaction seems almost certainly over-broad. The Turkish nation believes there are justifications for its broad reaction, though those are sounding more problematic as it extends its arrests and suspensions to those it claims are Kurdish dissenters, as well as those connected with the group it calls terrorist and on which it blames the

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coup. Those matters will surely have to be explored in dealing with the arrests and suspensions of so many.

### Urgent Situation

Whatever that background turns out to be, and it may, in small or large part, be significant to the fate of the many who have been arrested, lost positions, or had their assets frozen, it is vital to be sure that Turkey respects all of its international obligations. These are not merely duties; these are basic human rights to which every person is entitled. ■

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*Judge Martha Mills, who at the time of her retirement was Supervising Judge of the Parentage and Child Support Court, has spent her life breaking barriers and fighting for civil rights. Her book **Lawyer, Activist, Judge: Fighting for Civil and Voting Rights in Mississippi and Illinois** (ABA Book Publishing, 2015) was published in connection with the 50th anniversary of the 1965 Voting Rights Act.*

## UN Basic Principles on the Independence of the Judiciary

As applied strictly to judges, the UN Basic Principles on the Independence of the Judiciary—<https://www.un.org/ruleoflaw/blog/document/basic-principles-on-the-independence-of-the-judiciary/>—provides:

8. In accordance with the Universal Declaration of Human Rights, members of the judiciary are like other citizens entitled to freedom of expression, belief, association and assembly; provided, however, that in exercising such rights, judges shall always conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary.

...

12. Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office, where such exists.

...

17. A charge or complaint made against a judge in his/her judicial and professional capacity shall be processed expeditiously and fairly under an appropriate procedure. The judge shall have the right to a fair hearing. The examination of the matter at its initial stage shall be kept confidential, unless otherwise requested by the judge.

18. Judges shall be subject to suspension or removal only for reasons of incapacity or behaviour that renders them unfit to discharge their duties.

19. All disciplinary, suspension or removal proceedings shall be determined in accordance with established standards of judicial conduct.

20. Decisions in disciplinary, suspension or removal proceedings should be subject to an independent review. This principle may not apply to the decisions of the highest court and those of the legislature in impeachment or similar proceedings.

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Send your views to the **CBA Record**, 321

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**Serenity Now**

**By Kathryn Carso Liss  
YLS Chair**

**R**ight before your eyes open, your mind turns on, the wheels spin, and either consciously or unconsciously, you start preparing arguments for today’s hearing. Your eyes eventually open. You get up, brush your teeth, squeeze in a quick run if you are lucky, and step into the shower. Those thoughts about your arguments and about your cases do not escape: they are in the forefront of your mind all day.

Fast forward to arriving at your office with your Starbucks in hand. As soon as you sit at your desk, you see that annoying red light on your phone repeatedly flashing—seven new voicemails since you left the office yesterday at 6 p.m. You turn on your computer—twelve new emails since you last checked your phone this morning. It is only 8:45 a.m. This is your life—it is the life of a lawyer.

Being a lawyer can be stressful. And in order to stay sane in this busy practice, you need an outlet that brings serenity.

Serenity is defined as a state of being calm, tranquil, and at peace. This inner calm seems all but extinct in today’s world, but it can exist for you. You just need to find it. In *Seinfeld*, Frank Costanza, George’s father, was advised by his doctor to say “serenity now” when he became stressed to help him lower his blood pressure. Frank tried to listen to his doctor by

yelling “serenity now!” to relieve his stress. Albeit comical, yelling this mantra was probably not effective.

Perhaps Frank could have found serenity if he closed his eyes, took a deep breath, and quietly said “serenity now” or simply had a calming thought. As an attorney, exercises like this may make you more effective on your cases and in your life overall. You may find that by pausing and redirecting your thoughts, you can calm yourself and refocus, rather than stressing over a discovery deadline or an opposing counsel who yells at you about some irrelevant part of the case, like who gets to keep the dining room table in a divorce.

New to the CBA this year is a committee that addresses mindfulness among attorneys. It is called the Mindfulness Committee and is run by Jeffrey Bunn. It presents a great opportunity to assist attorneys and law students to find inner calm, especially if they are unable to go on that long run, take a vacation, or do whatever it is that helps them find peace of mind during their workday.

Finding serenity is something that not only works for adults, but can also work for children. For example, some schools are starting to transition away from the traditional punitive detention model (i.e., sitting in a room and staring at the wall). One school in Baltimore, Maryland, for instance, has disruptive kids go through breathing practices or mediation to help them calm down and re-center. This school and others with similar programs have seen a direct correlation between these innovative practices and fewer suspensions or disciplinary actions. In fact, some schools are offering yoga after school to help students both exercise and connect with their bodies and increase focus through breathing exercises and meditation. One organization, Mindful Schools, helps train teachers and organizations about mindfulness so that individuals can implement a curriculum on mindfulness in their schools or activities.

The movement toward mindfulness is a step in the right direction. Once you are able to take a deep breath and let some things go, the more focused you will be as an individual and as an attorney. ■





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## HOW AN ILLINOIS ATTORNEY CAN INVEST IN A CLIENT'S BUSINESS

# The Ins and Outs of Influence

By Brett Geschke



Suppose a client comes to your office full of excitement. He has an idea for a big business and the product is ready to be produced, distributed, and sold. All he needs is some investment capital. After reviewing his sound business model and agreeing that the product is a great idea, you are ready to invest. But as his attorney, how should you do it?

Illinois Rule of Professional Conduct to Rule 1.8(a), entitled “Conflict of Interest: Current Clients: Specific Rules.” Rule 1.8(a) does not prevent a lawyer from investing with a client, or in a client’s business, but it must be followed to pro-

tect both the attorney and the client. Rule 1.8(a) mandates that full disclosure be made by the attorney and that the investment agreement be fair and reasonable to the client.

It is presumed that an investment agreement between a lawyer and a client proceeded from undue influence. Illinois State Bar Association Advisory Opinion on Professional Conduct, Opinion No. 9-06, November 1999. The attorney, as the dominant party, has the burden of proof to establish that the transaction was fair, equitable, and just, and that the benefit did not proceed from the attorney’s undue

influence over the client. *Bremer v. Bremer*, 411 Ill. 454, 457 (1952). To determine whether a lawyer has met his burden of proof to overcome that presumption, the following factors are considered: (1) the attorney made a full and complete disclosure of all relevant information to the client; (2) adequate consideration was given, consistent with contract law; and (3) the client had independent legal counsel before entering into the investment transaction. *Klaskin v. Klepak*, 126 Ill.2d 376, 387 (1989) (quoting *McFail v. Braden*, 19 Ill.2d 108, 118 (1960)).

**Rule 1.8: Conflict Of Interest: Current Clients: Specific Rules**

(a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:

- (1) The transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;
- (2) The client is informed in writing that the client may seek the advice of independent legal counsel on the transaction, and is given a reasonable opportunity to do so; and
- (3) The client gives informed consent, in a writing signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

**Overcoming the Presumption of Undue Influence**

The motivation behind the language of Rule 1.8(a) appears to focus on protecting clients' legal and business interests. The rule, however, provides a framework for a lawyer to meet his or her burden of proof that the transaction was fair, equitable, and just, and that the benefit did not proceed from the lawyer's undue influence. McGarry, Thomas P. and Sukowicz, Thomas P., "Investing in a Client's Business is Risky Business." *Chicago Lawyer Magazine*, November 2004. A lawyer can actually use Rule 1.8(a) to protect himself or herself by establishing, *in writing*, that the terms of the investment transaction were fair and reasonable, that the client received advice from independent legal counsel, and that the client gave informed consent to the essential terms of the investment transaction (Ill. R. Prof. Conduct 1.8(a)(1)-(3)). This creates evidence that the investment transaction was not a product of undue influence.

Rule 1.8 does not define what would make an investment agreement between an attorney and a client "fair and reasonable," yet that phrase is also used in Rule 1.5, which provides the factors to determine whether an attorney's fee is "fair and reasonable." Hartley, Joseph M., "A Piece of the Action: The Promises and Perils of

Taking an Interest in a Client's Company." *GPSolo Magazine*, April/May 2004. Those factors include: (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; and (7) the experience, reputation, and ability of the lawyer performing the services. The inquiry into whether an attorney's fee is "fair and reasonable" requires a thorough understanding of the legal marketplace and the nature of the matter. A similar understanding of the proposed terms of the lawyer's investment into the client's business would also be wise. Therefore, concluding that an investment transaction is "fair and reasonable" is not simple. To determine whether an attorney's investment deal in a client's business is fair, a number of public and private circumstances must be taken into consideration for both the attorney and the client.

In regard to "full disclosure," best practices would call for the attorney to

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disclose everything that could go wrong with the investment transaction. *See* American Bar Association Center for Professional Responsibility, “Comment on Rule 1.8.” It is a good idea for the attorney to draft a waiver of potential conflicts between himself and the client so that the attorney can offer effective legal representation while enjoying investment success alongside the client.

### Investment in Lieu of Fees

It is important to note that receiving equity in a client’s company, in lieu of taking a fee, is still an investment. The same three elements of Rule 1.8(a) would need to be followed by an attorney. In fact, this may be the most likely investment arrangement, as your client may seek investment capital for a business and may be reluctant to commit to paying your hourly rate or a flat fee for legal work. It is important that the requirements of Rule 1.8(a) are followed, because a lawyer should anticipate being second-guessed on an investment

agreement with a client, especially if the investment becomes successful. Any transaction between a lawyer and a client will receive close scrutiny; the lawyer entering an investment agreement with a client’s business must fully comply with both Rule 1.8(a) and Rule 1.5(a). Illinois State Bar Association Advisory Opinion on Professional Conduct, Opinion No. 98-03, January 1999.

Often, before a law firm chooses to accept equity in a client’s business in lieu of legal fees, the firm has a committee determine whether the firm would be willing to take a chance on a start-up entity that needs investment capital. Such a committee should include members of the law firm who are familiar with the industry that the client’s business is entering. It would be wise for a law firm, or a lawyer, to take less than 25% of the outstanding shares in the client’s company. There should be an established exit strategy if the firm or the lawyer ultimately chooses to dispose of the acquired equity. Additionally, a law firm or

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a lawyer should keep a diversified portfolio of equity in clients’ businesses in order to minimize risk. ■

*Brett Geschke is a graduate of Notre Dame Law School, a member of SmithAmundsen’s litigation team, and a member of the Chicago Bar Association’s Professional Responsibility Committee*



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Ricardo Islas serves as the CBA's New Media Developer. He oversees the Association's legal and community programming through traditional and digital media platforms. Prior to joining the Association in 2016, Ricardo was an Emmy award-winning producer for WYCC in Chicago. While at WYCC, he served as producer for the CBA's "Justice and Law Weekly" series and town hall meetings.

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## CBA'S FOURTH YEAR FELLOWSHIP PROGRAM

## A Successful &amp; Meaningful Experience

By David J. Scriven-Young



Haske



McMillin

**B**oth the young lawyer and law firm participants in the CBA's Fourth Year ("4L") Fellowship are reporting successful and meaningful experiences.

Responding to the economic crisis and the lack of jobs for newly-minted attorneys, the CBA Young Lawyers Section developed the 4L Fellowship program. Now in its second year, the 4L Fellowship program gives law firms the opportunity to add new, eager attorneys to their staff, without the expense normally associated with a full-time attorney. Recent law school graduates are paired with busy law firms, which provide the new lawyers exposure to the day-to-day practice of law and the chance to learn the aspects of legal practice that are not generally taught in law school.

The participating firms are able to bill for their fellows' time at a reasonable rate for up to 30 hours per week. It is expected that the fellows' time in excess of 30 hours would be allocated to mentorship, pro bono work, networking, and other career development activities. Firms provide monthly cost-of-living stipends to their fellows. Fellows also commit to work for the firms for at least one year, at which point the firm may or may not decide to make an offer to the fellow for continuing employment.

To ensure that the fellows actually prac-

tice law—as opposed to acting as a filing clerk or some other type of assistant—the fellowship includes a number of benchmarks for each fellow to complete during his or her fellowship. These benchmarks depend on each firm's individual practice setting and area and are negotiated prior to the fellowship. For instance, a 4L fellow participating in a litigation fellowship may be expected to complete the following during the fellowship: (1) attend at least eight fact depositions; (2) take the deposition of at least two fact witnesses; (3) attend at least one expert deposition; (4) work with a client to answer discovery; (5) propound discovery; (6) attend at least ten case management calls; (7) attend a contested motion hearing; (8) attend a trial (if possible); and (9) work hand-in-hand with a partner on at least four cases.

This sort of real-world training is akin to a medical residency program. Fellows are expected to learn fast and adapt to their firm's style and caseload. They will also be expected to develop their legal expertise to prepare them for the rigors of a legal career.

One of this year's Fellows, Daniel McMillin, was paired with Nash Disability Law, which concentrates exclusively in Social Security disability law. Mr. McMillin says that initially, his role in the firm was almost exclusively in case management: "I

spent most of my time speaking to clients on the telephone, explaining where their case was procedurally and explaining what information was needed in order to make a strong case. Additionally, I would also write 'on the record' requests, interrogatories for treating medical professionals, and occasional briefs to the Appeals Council." As he became more familiar with Social Security disability law, McMillin was "given the opportunity to represent clients at hearing. While I still do much of the writing and client management I had done in the past, it is balanced with newer hearing responsibilities," he said.

Another of the Fellows, Jennifer Haske, was paired with The Memmen Law Firm, LLC, which practices Plaintiff's personal injury litigation. Ms. Haske says that "because the firm is small and fast-paced, I have gained more practical experience and responsibility than most first year associates. In the first week, I began working with clients to answer and propound discovery. Since then, I have frequented the Daley Center for case management conferences, taken and defended over ten depositions, and prepared and argued several contested motions. Additionally, I attended and prepared briefs, discovery, and motions for both a trial and an arbitration hearing."

Any young lawyer interested in participating in the 4L Fellowship program and any law firm interested in accepting new lawyers for the program should contact YLS Director Jennifer Byrne at [jbyrne@chicagobar.org](mailto:jbyrne@chicagobar.org) to start the process of becoming prequalified by the CBA's 4L Fellowship Committee. The firm will then be given a selection of between three and five candidates for each available fellowship (depending on availability and the firm's preference). After reviewing resumes, the

*continued on page 44*

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# LEGAL ETHICS

BY JOHN LEVIN

## More on the Future of Our Profession

This year, after a two-year study, the ABA's Commission on the Future of Legal Services published its *Report on the Future of Legal Services in the United States*. The report summarizes the Commission's findings and recommendations on how legal services are and will be "delivered and accessed." It also contains references to the voluminous work done by the Commission in its study.

For those who have kept abreast of the changes occurring in the legal profession—including readers of this column or the 2015 publication of the ABA's *The Relevant Lawyer-Reimagining the Future of the Legal Profession*, reviewed in the February/March 2016 edition of the **CBA Record**—the findings and recommendations contain little new. For everyone else, the Report is a wake-up call to where our profession is headed.

The three major findings are: A. "Despite sustained efforts to expand the public's access to legal services, significant unmet needs persist." B. "Advancements in technology and other innovations continue to change how legal services can be accessed and delivered." and C. "Public trust and confidence in obtaining justice and in accessing legal services is compromised by bias, discrimination, complexity, and lack of resources." The findings emphasize that while many lawyers are underemployed, there are a "vast number of unrepresented parties" whose numbers adversely affect

the workings of the court system or who go without necessary legal advice.

While the findings are fairly precise in describing our existing problems, the Commission's recommendations, while laudable, are overly general. For example, recommendation 1 states, "The legal profession should support the goal of providing some form of effective assistance for essential civil legal needs to all persons otherwise unable to afford a lawyer." While it is hard to disagree with this concept, the recommendation does not give much guidance on how to meet the goal. Should the profession support on-line legal services or the creation of a class of non-lawyer legal professionals who can provide affordable services to the general public? The report finesses these issues.

However, guidance can be found elsewhere. In a resolution adopted on February 8, 2016, the ABA adopted Model Regulatory Objectives for the Provision of Legal Services. They are broad. For example, "[t]ransparency regarding the nature and scope of legal services to be provided, the credentials of those who provide them, and the availability of regulatory protections[.]" and "[p]rotection of privileged and confidential information."

However, attached to the Resolution is a report setting out the purpose of the objectives. This report states that the Model Objectives:

will be useful to guide the regulation of an increasingly wide array of already existing and possible future legal services providers. The legal landscape is changing at an unprecedented rate.... Given that these services are already being offered to the public, the Model Regulatory Objectives for the Provision of Legal



John Levin's Ethics columns, which are published in each **CBA Record**, are now indexed and available online.

For more, go to <http://johnlevin.info/legaethics/>.

### ETHICS QUESTIONS?

The CBA's Professional Responsibility Committee can help. Submit hypothetical questions to Loretta Wells, CBA Government Affairs Director, by fax 312/554-2054 or e-mail [lwells@chicagobar.org](mailto:lwells@chicagobar.org).

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Services will serve as a useful tool for state supreme courts as they consider how to respond to these changes.

The Commission's Findings and Recommendations, the ABA's adoption of Model Regulatory Objectives, the number of products and services already being offered to the public—these all indicate that market forces are creating providers of legal services who are not licensed attorneys. We all need to recognize this fact and work to ensure that the services provided are of suitable scope and quality. ■

*John Levin is the retired Assistant General Counsel of GATX Corporation and a member of the CBA Record Editorial Board.*



# ETHICS EXTRA

BY SAMANTHA SINGER

## Difficult Clients: Dealing with the Media and Effecting Withdrawal

**R**ecent legal activity involving two Chicago sports figures, Patrick Kane and Derrick Rose, bring to mind certain “do’s and don’ts” for lawyers in regard to communicating with the media. Rule 3.6 of the Illinois Rules of Professional Conduct provides, “(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and would pose a serious and imminent threat to the fairness of an adjudicative proceeding in the matter.”

However inviting, in cases involving public figures, lawyers should refrain from making public statements regarding any aspect of the litigation. Such statements invite negative comments in the media and also could affect the outcome of the case. For example, in the Patrick Kane matter, the attorney for the alleged rape victim appeared before the media when the bag containing the rape kit mysteriously appeared on the alleged victim’s mother’s doorstep. The net result was unnecessary, embarrassing publicity regarding a specious claim. As the trial date approached in the Derrick Rose case, the federal trial judge admonished the lawyers, “[T]he parties’ attempt to litigate their respective cases with the press have increased as the trial

date has drawn near. Now, on the eve of trial, outlets from gossip blogs to sports networks to the Los Angeles Times are covering the story.” <http://www.usatoday.com/story/sports/nba/2016/09/30/judge-derrick-rose-lawsuit/91335544/>

Rose’s case was thus unfortunately elevated to a national story as the jury returned a not guilty verdict in Rose’s favor in less than an hour.

### O.J. Simpson Trial

On occasion, state disciplinary authorities consider the propriety of statements, especially when they are made publicly in a high profile case. For example, a First Amendment issue arose regarding public statements during the O.J. Simpson trial. The California State Bar received complaints regarding the public statement of defense attorney Johnny Cochran that the judge’s decision to exclude tapes “[was] outrageous, [was] specious, and unspeakable.” <http://archive.calbar.ca.gov/calbar/2cbj/97jul/art01.htm>.

The California State Bar found the statements inappropriate, but protected by the First Amendment. The state bar reasoned that because judges are public officials, comments about their rulings are not subject to discipline unless the lawyer makes knowingly false statements of fact.

The Illinois Rules of Professional Conduct not only govern a lawyer’s contacts with the media, but also govern certain aspects of a lawyer’s relationship with a client. On occasion, a rift may occur between the lawyer and the client. In high profile cases, there may be more scrutiny by the media on how an attorney and client get along. For example, perhaps a client failed to tell the lawyer the whole story,

which compromises the case. Perhaps the client has failed to pay the lawyer’s bills for no apparent reason. Perhaps crucial evidence has been tampered with, such as when the bag containing the rape kit in the Patrick Kane situation was found on the doorstep of the accuser’s mother. The day after the bag was found, the press reported that the accuser’s lawyer had withdrawn from the case for ethical reasons. However, simply announcing to the press that one has withdrawn does not effect withdrawal in New York or in Illinois. The two states have quite similar court rules regarding withdrawal: the attorney must make a motion and obtain a court order to effect withdrawal.

### Withdrawal

Rule 1.16(b) of the Illinois Rules of Professional Conduct provides for permissive withdrawal as follows:

Except as stated in paragraph (c) a lawyer may withdraw from representing a client if (1) withdrawal can be accomplished without material adverse effect on the interests of the client (2) the client persists in a course of action involving the lawyer’s services that the lawyer reasonably believes is criminal or fraudulent; (3) the client has used the lawyer’s services to perpetuate a crime or fraud... (c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation.

In Illinois, Supreme Court Rule 13(c) governs withdrawal; in the Northern District of Illinois Local Rule 83.17 governs withdrawal.

An additional concern arises in high profile cases so that when a lawyer attempts withdrawal, the lawyer must not unwittingly reveal the efforts to the press and must not contact the press under any circumstance. The lawyer for the accuser in the Patrick Kane debacle made that mistake when he called a press conference regarding tampered evidence and said he was withdrawing from the case. His press conference had the effect of advertising his

*continued on page 44*

*Samantha Singer, a Francis D. Morrissey Scholar at the John Marshall Law School, received her J.D. in 2016*

# LPMT BITS & BYTES

BY CATHERINE SANDERS REACH

## What's New Now in Microsoft Office 365

In the September 2015 edition of the **CBA Record**, the Bits and Bytes column has an article on basic functions and pricing for Microsoft's subscription model to their tried and true office suite, Microsoft Office. Since then Microsoft has rolled out many new features and expanded the capabilities of others on the "cloud" side of Office 365. These new functions include project management, portals, robots, and super productivity tools.

### Find Time

When you need to initiate a meeting, it can quickly turn into a mess of emails without a resolution. FindTime is a feature users can access from Outlook online logged into MS Office 365 or from the installed Outlook application. FindTime is Microsoft's equivalent to online services like WhenIsGood, Doodle, MeetingWizard and a dozen more. All of these tools solve a problem—helping people in different organizations/companies/firms easily find and agree upon a time to meet. When done via email, a simple thing like finding a mutual time for several busy people to meet can be an administrative nightmare. Tools like FindTime make it easy to set up a quick poll to send to people so that they select their available time and it tallies to show the best time for everyone.

In Outlook calendar (online or installed),

if you invite people outside of the firm to a meeting, FindTime will appear and ask "would you like to FindTime?" Simply follow the instructions to send out the request. Others will get it, respond, and sooner than you knew possible you will have arrived upon a mutual time to meet and have it entered into the calendar.

### Flow

First came IFTTT (If This Then That), which connects applications, services and devices through "recipes", followed by Zapier that connects business applications through "zaps." These tools create automated workflows between apps and services online that do not normally integrate. For instance, Zapier offers 5 zaps for free that will run every 15 minutes with up to 100 tasks per month and has over 500 apps that connect everything from legal SaaS Clio to Basecamp to HelloSign. A few clicks and users can automate activities that were manual efforts.

Now there is Flow from Office 365. Flow's motto is "work less, do more." In Flow users connect services like Office 365, Slack, Twitter, Dropbox, Blogger, Facebook, Google, Wunderlist and far more—58 services in total—through templates to create a workflow. For instance, there are templates to save new email attachments to OneDrive for Business, save Tweets to an Excel file, get an RSS news feed to Yammer and hundreds more. The best way to get acquainted with the possibilities is to peruse the templates, get a few going and see how automation can help!

### Bookings

Bookings is currently only available to customers with Office 365 Business Premium plans. Bookings lets firms provide a way for clients to schedule appointments through

an online calendar. This model has been used by many other businesses, including consultants, dental offices and financial service providers.

Bookings allows your clients to book appointments with you via your website, blog, social media page or mobile apps. Clients (and staff) can easily book appointments, reschedule or cancel, send email or text notifications and more. Bookings displays bookings for each lawyer in the firm, and far more.

Similar products include SetMore free (unlimited appointments, 20 staff members, unlimited customers), an online appointment calendar software that helps you book and manage appointments via Web, Android, and iOS apps. Another product, ScheduleOnce, starts at \$5 a month and offers bidirectional sync with Google Calendar, Office 365, MS Outlook and iCloud Calendar to show free/busy times. The ScheduleOnce booking page is customized for the firm. You can create daily/weekly workload rules so that there is a cap on the number of appointments, and other time management features.

### Yammer

Yammer started as a kind of Twitter for enterprise, asking "what are you working on?" and billing itself as a free private social network. Anyone from the same domain who signed up for an account could follow other people at that domain, and send short form updates. As the service gained popularity they have added many new features. It was eventually purchased by Microsoft, and is now available to anyone with Office 365.

Users can share file, create white pages for notes, events, groups and much more. Practice areas, functional areas, and committees can create subgroups to share documents, hold conversations and take polls. Yammer has many features similar to social networks, so users can "follow" someone, "like" a message, and add hashtags.

Initially Yammer was only available for users in the same firm, but now others outside of the firm—clients, consultants, co-counsel—can be included in specific conversations. For people who spend a lot

*Catherine Sanders Reach is the Director, Law Practice Management & Technology at the CBA. Visit [www.chicagobar.org/lpmt](http://www.chicagobar.org/lpmt) for articles, how-to videos, upcoming training and CLE, services, and more.*

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of time on social media this form of communication will be second nature and may hold far more appeal than email, all within the security of the Microsoft cloud.

### Groups

Also of note is Groups. Creating a Group for an email distribution list also automatically triggers the creation of shared resources such as a SharePoint document library, a OneNote notebook, and a project management page in the Planner space, as well as integration with Yammer conversations.

All of these tools come as part of your subscription to Microsoft Office 365. The product is becoming a huge ecosystem of functionality anywhere on any device. Make sure to take advantage of every new feature that meets your needs. ■

Want to learn more? Watch the webcast archived CLE from July 16 "MS Office 365: Improve Your Firm's Collaboration and Productivity" and watch for forthcoming How To... and Hands On programs from LPMT.

## 4L Program continued from page 38

firm will set up interviews with candidates in a block. The firm will select its own candidate for the 4L Fellowship. The firms and 4L fellows will both sign a memorandum of understanding regarding their relationship.

The terms of the program are “low risk for the participating law firms,” says Mr. McMillin, and therefore firms can “take a chance on a candidate that may not have the necessary experience but may show potential to learn with proper guidance. In all, the program has allowed me to work closely with clients and other attorneys within the firm. It is difficult to say how my career would have begun without the program, but as it stands, it has allowed me to learn from the ground up in a field that I knew very little about.”

Participating law firms have been happy with the work product and career development of their Fellows. As Ms. Haske has said of her experience: “The 4L Fellowship Program has forced me to get out of my comfort zone and think on my feet and,

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even though my heart still beats out of my chest when the bailiff says, ‘All rise,’ I am more comfortable and confident given the experience gained thus far.” The founder of the participating law firm, Alex Memmen, comments that Ms. Haske “has been extremely professional and is learning quickly. I can’t wait to see her career continue to progress.”

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*David J. Scriven-Young is Senior Counsel in the Environmental Law, Construction, and Commercial Litigation Groups at Peckar & Abramson. He is a past member of the CBA Board of Managers and can be contacted at [dscriven-young@pecklaw.com](mailto:dscriven-young@pecklaw.com).*

## Ethics Extra continued from page 41

opinion of his client and the strength of her case outside of any advocacy setting.

Withdrawal is initially a matter between the lawyer and the client, and then becomes a matter between the lawyer, the client, and the court. When relying on Rule 1.16(b) for withdrawal, the lawyer must carefully draft a letter to the client setting forth in wholly objective language the reason for the decision to withdraw (or for the client’s decision to fire the lawyer) and what arrangements need to be made for the client to obtain the services of another lawyer and for transfer of the file. Whatever the client’s demeanor, the lawyer’s demeanor must be absolutely professional.

Dealing with the media and dealing with clients can present challenges, but the Illinois Code of Professional Conduct and its Comments provide excellent guidelines. ■



## The Chicago Bar Association Leadership Institute

### Congratulations to those who successfully completed The Chicago Bar Association’s 2016 Leadership Institute Program

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# The Chicago Bar Association 4L Fellowship

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