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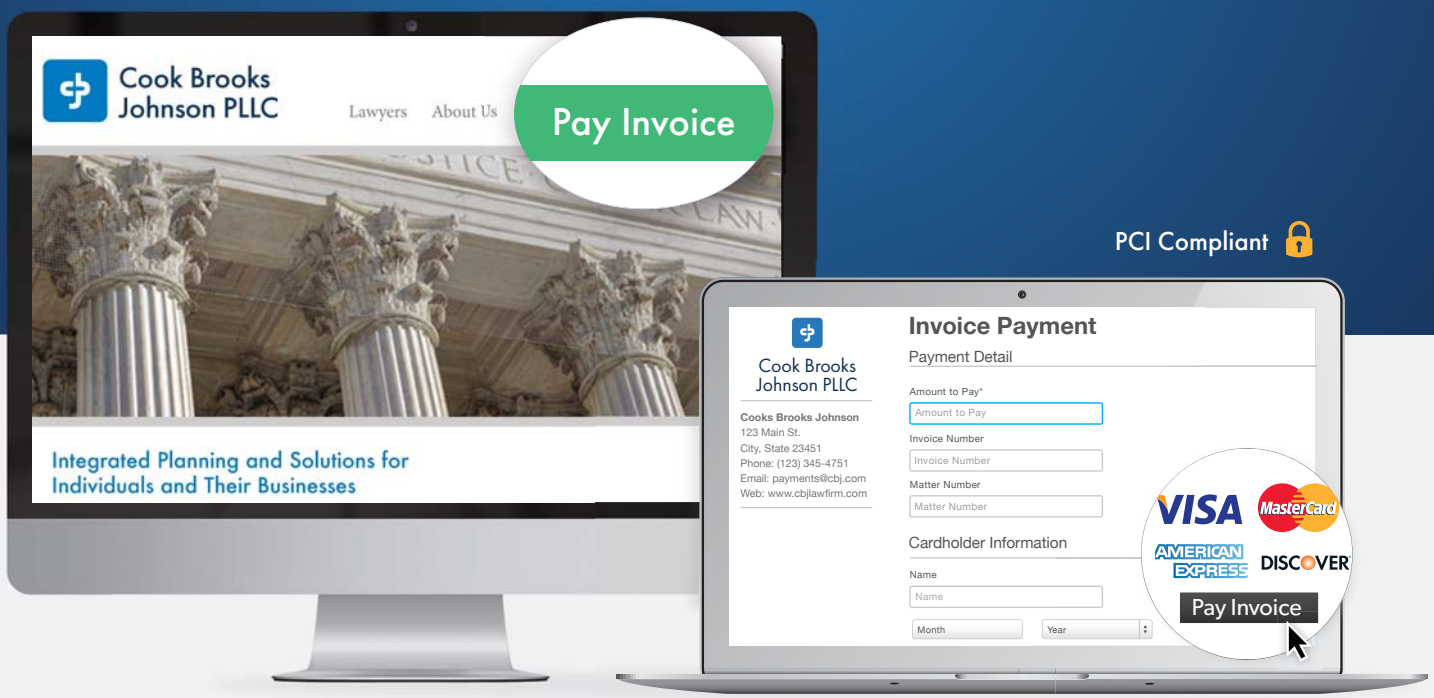

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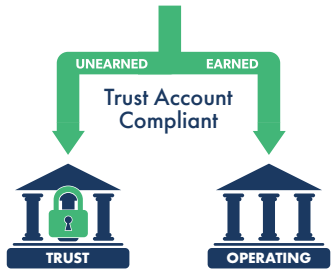

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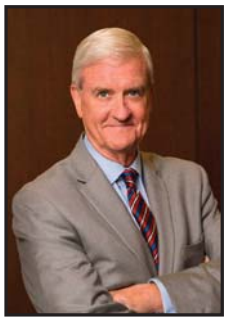

-Presiding-
Daniel M. Kotin
Outgoing President
The Chicago Bar Association

- Report of the Election Committee
- Introduction of Officers and Board of Managers
- Treasurer's Report
- Remarks by Outgoing President
- Presentation of Lincoln Gavel to Incoming President

-Remarks-
Judge Thomas R. Mulroy
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2017-2018

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CBA RECORD

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April/May 2017 • Volume 31, Number 3

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YOUNG LAWYERS SECTION

On the Cover
This issue of the **CBA Record** features "Rising Above the Flock," by our own Editor-In-Chief, Justice Michael B. Hyman

EDITOR'S BRIEFCASE

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

No Pudd'nhead

A few weeks ago, while waiting for a flight at Midway, I happened to sit next to an elderly gentleman with curly white hair and a drooping white mustache. He wore a rumpled white suit which gave off the scent of a box of stale cigars. He said he was catching a flight to Hannibal, Missouri. I knew right away that he was a St. Louis Cardinals fan. Under his suit jacket, he wore a red t-shirt depicting a cardinal whitewashing the ivy at Wrigley Field. He introduced himself as Mark.

We started talking about the rivalry between the Cardinals and the Cubs. He said Chicago "is where they are always rubbing the lamp, and fetching up the genie, and contriving and achieving new impossibilities." I defended our city's ball clubs as superior to his redbirds, but once he learned that I was a judge, instantly his eyes widened and he grinned as if he had just caught a huge bullfrog. I wrote down everything he said next, every word is his, with a few minor edits.

Mark: "The more I see of lawyers, the more I despise them. They seem to be natural born cowards, and on top of that they are God damned idiots. I suppose my lawyers are above average; and yet it would be base flattery to say that their heads contain anything more valuable than can be found in a new tripe. If we had as many preachers as lawyers, you would find it mixed as to which occupation could muster the most rascals."

MBH: A sore subject?

Mark: "Like the weather–everybody talks about the legal profession, but nobody does anything about it. I say a good lawyer knows the law; a clever one takes the judge to lunch." He flashed a smile, and glanced around. "Lawyers are like other people–fools on the average; but it is easier for an ass to succeed in that trade than any other. To succeed in other trades, capacity must be shown; in the law, concealment of it will do."

MBH: You should be more open minded about lawyers.

Mark: "An open mind leaves a chance for someone to drop a worthwhile thought in it."

MBH: Then, at least, try not to speak so ill of lawyers.

Mark: "Ah, well, I have been an author for years and an ass for 55."

MBH: I recall that you studied law.

Mark: "I had studied law an entire week, and then given it up because it was so prosy and tiresome. I was sorry my Aunt Mary thought I intended to study law. In my mind, that is proof positive that her excellent judgment erred one time. I did not love the law. Anyway, I was young and foolish then; now I am old and foolisher."

MBH: Wasn't your father, John Marshall Clemens, a self-educated lawyer?

Mark: "It is a wise child that knows its own father, and an unusual one that unreservedly approves of him."

MBH: And your oldest brother, Orion, practiced law, even studied under Edward Bates who served as attorney general for President Lincoln.

Mark: "Orion was as good and ridiculous a soul as ever was. When we remember we are all mad, the mysteries disappear and life stands explained."

MBH: Whatever you may think of lawyers, law gives shape and substance to society.

Mark: "In this topsy-turvy, crazy, illogical world, Man has made laws for himself. He has fenced himself round with them, mainly with the idea of keeping communities together, and gain for the strongest. No woman was consulted in the making of laws. And

nine-tenths of the people who are daily obeying–or fighting against–Nature's laws, have no real opinion." Mark sighed, and shook his head. "It would not be possible for Noah to do in our day what he was permitted to do in his own. The inspector would come and examine the Ark, and make all sorts of objections."

MBH: After that, I'm reluctant to ask about jury trials.

Mark: "I believe the jury system puts a ban upon intelligence and honesty, and a premium upon ignorance, stupidity, and perjury. The jury is the most ingenious and infallible agency for defeating justice that wisdom could contrive." He paused to check the time on his pocketwatch, and continued. "Trial by jury is the palladium of our liberties. I do not know what a palladium is, having never seen a palladium, but it is a good thing no doubt at any rate."

MBH: I don't know what a palladium is either. What have you to say about our system of jury trials in criminal cases?

Mark: "It is superior to any in the world; and its efficiency is only marred by the difficulty of finding 12 people every day who don't know anything and can't read. And I may observe that we have an insanity plea that would have saved Cain."

MBH: How about some advice for lawyers, if I dare ask.

Mark: "Realize that the edifice of public justice is built of precedents, from the ground upward; but also realize that all the other details of our civilization are likewise built of precedents."

MBH: Interesting.

Mark: "People forget that no man is all humor, just as they fail to remember that every man is a humorist." His manner turned serious. "It is a worthy thing to fight for one's freedom; it is another sight finer to fight for another's."

MBH: Let me ask about a favorite topic of yours—politicians.

Mark: "Imagine, if you will, that I am an idiot. Then, imagine that I am also a Congressman. But, alas, I repeat myself. Our lives, our liberty, and our property are never in greater danger than when Congress is in session."

MBH: A lot of Americans might agree with you.

Mark: "Politicians and diapers must be changed often, and for the same reason. If we would learn what the human race really is at bottom, we need only observe it in election times."

MBH: Washington seems to be in one bad fix today.

Mark: "There is something good and motherly about Washington, the grand old benevolent National Asylum for the Helpless."

MBH: Your plane has started boarding. I truly enjoyed our few minutes together. Despite what people might say, you're no pudd'nhead!

Mark: "Compliments make me vain; and when I am vain, I am insolent and overbearing. It is a pity, too, because I love compliments."

Mark stood up and, with a hint of sadness, looked directly at me. "Remember, Judge—my kind of loyalty was to one's country, not to its institutions or its officeholders. The country is the real thing, the substantial thing, the eternal thing; it is the thing to watch over, and care for, and be loyal to; institutions are extraneous, they are its mere clothing, and clothing can wear out, become ragged, cease to be comfortable, cease to protect the body from winter, disease, and death."

As I watched Mark disappear into the jetway, I noticed a copy of the U.S. Constitution peeking out of his carry-on. ■

Rehearing: " "The rain…falls upon the just and the unjust alike; a thing which would not happen if I were superintending the rain's affairs. No, I would rain softly and sweetly on the just, but if I caught a sample of the unjust outdoors I would drown him."–*Mark Twain*

PRESIDENT'S PAGE

BY DANIEL M. KOTIN

Who Knew What This Year Would Bring?

It has been said that the presidency a leader plans bears no resemblance to the presidency that actually takes place. I used to think that was likely the result of poor planning or poor execution. I now know that it's because something called "real life" gets in the way.

There are many things that I thought I knew a year ago which I now know differently–or view differently–after a year of serving with the honor of "President, Chicago Bar Association" following my name. What an amazing year of unexpected events and opportunities it has been.

When my year began last summer, I talked about increasing our efforts to promote access to justice by introducing some of the 90% of citizens who cannot afford legal services to the thousands of Chicago area lawyers who are either unemployed or underemployed. We have made some progress on that front–specifically launching a limited scope representation committee and including limited scope representation as part of our lawyer referral service.

But last summer, there was so much that had yet to happen in our world which would impact the upcoming bar year. There were so many events on the horizon of which nobody knew.

Nobody knew that Justice John Paul Stevens would honor us with his presence at the Stevens Awards Luncheon–perhaps his final visit–at a time when his beloved Cubs were headed for a World Series. Nobody knew we would have the opportunity to present him with a banner that hung over Wrigley Field during the 1932 World Series, a game Justice Stevens attended as a child.

On a related note, nobody knew that weeks after the World Series Championship, Cubs Executive Vice President Mike Lufrano would join us for a fantastic CBA event to discuss "All Things Cubs."

Nobody knew that Donald Trump, the Presidential candidate, would make public statements questioning the integrity of a federal judge, thereby necessitating our public response in support of the Rule of Law.

Nobody knew that Donald Trump would win the election, then issue an Unconstitutional Executive Order imposing a sweeping travel ban on several predominantly Muslim countries. This forced us to host a national news conference, with several affinity bar groups, condemning Trump's action, and again proclaiming the Rule of Law.

Nobody knew that Chicago would experience a record number of homicides in 2016, prompting us to take several actions in response. We welcomed Police Superintendent Eddie Johnson as our guest to speak to members about the police department response to this issue.

We launched an anti-violence committee and task force to address these issues on a permanent basis.

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It's Where You Belong

The Chicago Bar Association
Membership Dues Renewal

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April 2017

Dear Member:

There is no doubt that the legal profession is changing, which in turn presents new challenges in how we practice, serve our clients, run our businesses and spend our time and resources. As your professional partner, the CBA has been studying trends in the legal profession, listening to your concerns and developing new programs and services to better meet your changing needs:

- ✓ **Access to CLE anytime, anywhere.** Look for our mobile CLE app soon, allowing you to view seminars and committee meetings on your smart phone or tablet. Plus, we now have over 200 on demand seminars and law practice management how to's offering 24/7 access.
- ✓ **Business development. What works?** To help you grow your practice and expand your professional contacts, we are offering more structured networking events with other professional groups that take the stress out of networking and offer meaningful connections. We also offer business development workshops to enhance your skills in this area.
- ✓ **Affordable professional resources.** To help make ends meet, the CBA is offering more free CLE programs (enough to meet your IL requirement) and complimentary events, in addition to a dues installment plan and a dues hardship rate. Plus, no dues increase for the last 12 years!
- ✓ **Tips to run a more efficient, cost-effective law practice.** CBA members and their staff can get hands-on training to keep up with legal technology and implement best practices. A solo/small firm resource portal and low cost office consulting are also available.
- ✓ **Balancing work and personal life.** A legal career can be very stressful so check out our new mindfulness offerings, Balancing Act Blog, time management tips and other resources.
- ✓ **Access to free and low-cost career services.** Post your resume and view open positions via our free Career Center at www.chicagobar.org/careercenter, join the Careers Committee, and attend free and low-cost job fairs, career workshops and networking events.
- ✓ **Make a difference in my community.** Most of our members work and live in the Chicago metro area and the increased violence in our city is a huge concern. We recently formed a new committee to work with other organizations to develop opportunities for our members to get involved and become a part of the solution.

These are only a few ways that the CBA is trying to equip our members with the resources needed to thrive in a changing profession. If your needs are not being met by the CBA, I encourage you to email me at president@chicagobar.org. We value your membership and encourage you to renew for the coming year.

Sincerely,

Daniel M. Kotin
CBA President

Renew at www.chicagobar.org/renew, call 312-554-2020, or return your payment by mail. Thank you!

**Renew by midnight May 31, 2017 and receive free CLE coupons from the CBA and West LegalEdcenter. Details at www.chicagobar.org/renew.*

CPD SUPERINTENDENT EDDIE JOHNSON: "SOMEONE YOU SHOULD KNOW"

Answering the Tough Questions

By Daniel A. Cotter, Editorial Board Member

In the most recent installment of The CBA's "Someone You Should Know" series, CPD Superintendent Eddie Johnson discussed crime in Chicago and steps he is implementing to address and curtail the violence.

CBA President Dan Kotin introduced the superintendent to a packed Corboy Hall. Kotin noted that he and many others have a "real interest in meeting the superintendent and hearing what he has to say." Kotin then described Johnson's lifetime Chicago citizenship. Johnson was born in Cabrini Green and moved to the South Side as a kid, where he still lives. In 1988, Johnson became a detective in the Chicago Police Department, then head of gangs, chief of patrol, and eventually superintendent. After reading the public announcement of Johnson's appointment to the top police role, Kotin turned the podium over to Johnson.

Johnson opened by stating that the increase in crime on the South and West Sides of Chicago is unacceptable, but noted that the city is not "up for grabs." Johnson blamed the majority of crime resulting in that increase on five of the 22 police districts in Chicago and noted that the majority of those crimes were committed by gang members and repeat gun offenders who tended to have a "brazen attitude toward life."

Johnson also stated that Chicago was subject to an unprecedented level of national scrutiny, emboldening criminals, and that public trust decreased substantially once the reports and videos relating to the LaQuan McDonald shooting were released to the public. Johnson told the attendees that the CPD welcomed the Department of Justice's findings and many findings had been addressed or are being implemented. Johnson also noted the CPD was judged on the video without opportunity for it to investigate fully and address the issues raised.

Spt. Johnson with CBA President Daniel M. Kotin

One theme that Johnson noted several times during his remarks was the ease of access criminals have to guns in Chicago, stating that Chicago confiscates more guns annually than Los Angeles and New York combined. Johnson informed the audience that CPD confiscates a gun every hour and that it is on pace to confiscate 50% more guns than at the same time last year.

Johnson also mentioned that while taking out the gang power at the highest echelons was a success, it allowed the violence to spread. Johnson also identified weak enforcement of criminal sentencing as a cause of the outbreak of gun violence, noting that, in Chicago, gun offenders serve less than half their sentences. The ease of access and no penalty make guns more attractive and provide holders with a sense of power even if for a short time, according to Johnson.

After discussing the current state of violence in Chicago, Johnson turned to the 2017 revised crime plan he and CPD are implementing, consisting of several initiatives, including:

- Addressing the flawed sentencing of repeat gun offenders.
- Utilizing data-driven planning tools.
- Engaging the communities and partnering more with local groups.

According to Johnson, these initiatives have early signs of success, with two districts experiencing shooting reductions of 70% and 40%, respectively. Johnson also mentioned the rollout of bodycams for all police officers on the street. He ended his prepared remarks by promising that he and CPD will "make 2017 a safer year for the city."

Johnson then answered audience questions, including a response that social media tirades resulting from "personal disrespect" make up a large number of shootings that currently occur in the city. Johnson also responded to a question about threats of the "feds coming to Chicago" by stating that he did not know what President Trump meant by those comments but that economic funding was welcomed. He finished his response to this question by asking, "Do you really want tanks rolling down Ashland Avenue?" ■

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RECOGNIZING THE VANGUARD OF THE CHICAGO LEGAL PROFESSION

Advancing Toward What Will Be

By Nina Fain, Editorial Board Member

The Chicago Bar Association joined 15 other area bar associations to co-host the 2017 Vanguard Awards Luncheon at the Standard Club on April 6. In keeping with the original mission of the award program's creation, this year's awards honored lawyers and judges from government and not-for-profit organizations who challenge members of the legal profession to be more representative of the communities our members serve.

Vanguard Award nominees are chosen by their participating bar associations, each of which select a recipient they identify as having made a significant contribution to the legal community. The 2017 Vanguard Award honorees were: Michael C. Aguhar, Filipino American Lawyers Association; Justice Anne M. Burke, Chicago Bar Association; Chicago Legal Clinic, Inc. Advocates Society; Susana Darwin, Lesbian and Gay Bar Association of Chicago; Justice Robert E. Gordon, Decalogue Society of Lawyers; David Herrera, Puerto Rican Bar Association; Patricia Brown Holmes, Black Women Lawyers Association; Sana'a Hussien, Arab American Bar Association of Illinois; Andrea S. Kramer, Women's Bar Association of Illinois; Sang-yul Lee, Asian American Bar Association, James D. Montgomery, Sr., Cook County Bar Association; Mary Meg McCarthy, National Immigrant Justice Center, Hispanic Lawyers Association of Illinois; Tony Shu, Chinese American Bar Association; Sufyan Sohel, South Asian Bar Association of Chicago; and Adrian Vuckovich, Serbian Bar Association.

The Vanguard Award Class of 2017. Photo by Bill Richert.

Since its inception in 1996 , the Vanguard Awards have been a platform to stimulate greater sharing of information and resources among a diverse set of bar leaders. This year's ceremony reinforced the importance of recognizing excellence in our profession, as embodied by the volunteer lawyers who help people in need.

Against a backdrop of world disorder, the atmosphere of this year's award ceremony was particularly inspiring. To a person, each recipient spoke of the need for lawyers to make an unwavering commitment to help those in need. Each recipient led the way in fulfilling his or her organization's mandate to help the poor and the needy, including victims of violence and displacement who come to their doors.

Because the mission of the Vanguard Awards is to recognize leaders within the legal profession who step forward to raise the standard of the profession in its journey to assure justice for all, it was significant that all awardees emphasized that the volunteer work of lawyers is more important than ever to preserve the values and humanity that underpin American life.

As the recipients spoke in prepared videotaped remarks, a hush came over the audience. Everyone in the capacity crowd appeared to be transfixed, many remembering why he or she had taken an oath to fight for justice for all. Lawyers are the guardians of those who are voiceless, and our advocacy can assure that the powerless can achieve their dreams. In summation, we will take a page from the remarks of one awardee by quoting the philosopher Kahlil Gibran, and remind our bar members that "Progress lies not in enhancing what is, but in advancing toward what will be." ■

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EARL BURRUS DICKERSON AWARD LUNCHEON

Promoting Equality and Justice: 2017

By Jasmine Hernandez, Editorial Board Member

The Chicago Bar Association annually recognizes lawyers and judges who strive to help others gain equality and justice at its annual Earl Burrus Dickerson Award Luncheon. Named in honor of an outstanding lawyer and among the first African-American members of the CBA, Dickerson spent his career fighting for the constitutional guarantee of freedom and justice for all. The CBA showcased this year's honorees, all of whose careers emulate Dickerson's and honor his memory: Josie M. Gough, Graham C. Grady, and Robert F. Harris.

As Clinical Assistant Professor and Director of Experiential Learning at Loyola University of Chicago School of Law, Josie Gough's distinguished career also includes time practicing law in both the public and private sectors. When she is not teaching law students the nuts and bolts of actually practicing law, with an emphasis on professionalism, she lectures on diversity and inclusion in the legal profession. In her remarks, Gough said she was deeply touched to be named as an honoree. Always an educator, she encouraged luncheon attendees to reach back and share their knowledge with law students and young attorneys.

CBA President Daniel M. Kotin (far left) and Past President Judge E. Kenneth Wright Jr. (far right) congratulated this year's Dickerson recipients: Loyola University of Chicago School of Law Professor Josie M. Gough, Cook County Public Guardian Robert F. Harris, and Graham C. Grady, a partner at Taft Stettinius & Holliister. Photo by Bill Richert.

An equity partner at Taft Stettinius & Hollister, with a background in public service, Graham Grady represents real estate developers, property owners and tenants to obtain government entitlements in all classifications of real estate. Despite his many professional achievements and obligations, he still devotes time to serve on several boards across the city including the Lloyd A. Fry Foundation, which addresses problems plaguing urban Chicago, namely poverty and violence. In his acceptance speech, Grady lauded his fellow Fry Foundation board and staff members present for their commitment to helping the underprivileged.

A dedicated public servant, Cook County Public Guardian Robert Harris was honored for his career advocating for children and the elderly. As Cook County Public Guardian, Harris manages a staff of over 230 employees who provide services and legal representation to abused and neglected children, children in divorce cases, and cognitively disabled elderly persons. When accepting the honor, he stressed the need for good legal representation for all persons and commended his staff for all they do to advocate for their approximately 8,000 child clients and adults under the Public Guardian's guardianship.

The Dickerson Award Luncheon began with an invocation by Judge E. Kenneth Wright. It adjourned with Judge Wright surprising Judge Timothy C. Evans, Chief Judge and 2002 Dickerson Awardee, with an award for his efforts to promote equality and justice. Referring to Judge Evans as the "quarterback" of the Circuit Courts, Judge Wright led the crowd in an ovation for *all* the luncheon honorees. ■

RESOURCES FOR NEW LAWYERS

Just getting started in the practice of law in Chicago? The CBA offers many resources and programs to help new lawyers. Find out more about MCLE, start-up boot camp, career & mentoring services, practice area pointer videos, and volunteer opportunities. All under the YLS tab at www.chicagobar.org

Beverage Industry Faces Strict Labeling Regulations

By Rikkisha Candler, CBA Food Law Committee

Have you ever wondered about the accuracy of that "All Natural/Non-GMO" claim on the label of your craft beer? How about the "Made in the USA" claim? Recent growth in the number of class action lawsuits regarding food and beverage related labeling matters indicates similar concerns by other consumers. Recently, the CBA YLS Intellectual Property Law Committee and the CBA Intellectual Property Law Committee hosted a panel discussion on Wine, Beer, Spirits and the Law. The discussion provided insight into the legal processes for review and approval of such claims on beverage labels. The panel, which included small business owners and in-house and outside counsel, provided an in-depth review of marketing, advertising and general intellectual property issues faced by business owners in the beverage industry.

Caroline Hudson, attorney at Winston and Strawn, provided an overview of current trends in food and beverage labeling claims litigation. Leading the list of trends are lawsuits based on claims that a food or beverage is "All-Natural or "Non-GMO." Also common are suits based on manufacturing process claims ("handmade" or "craft beer"), country of origin claims ("made in the USA"), and environmental and "green" claims. Suits based on claims that a product is "gluten-free" are prevalent and can create a greater level of risk for businesses in the beer industry. Panelist Jim Ebel, co-founder of Two Brothers Brewing, provided business perspective by describing his company's process to ensure compliance with applicable court decisions and regulations on gluten-free label claims. The resulting product has an undetectable level of gluten, and is lawfully labeled "crafted to remove gluten."

Hudson also discussed the Federal Trade Commission's legal review of labeling claims. The FTC is one of the federal agencies that has jurisdiction to regulate advertising in the food and beverage industry. The FTC has set basic principles for claims substantiation, including a requirement that advertisers have a reasonable basis for all express and implied claims. Specifically, the reasonable basis must be present for all reasonable interpretations of an advertising claim *before* the claim is disseminated. What constitutes a reasonable basis depends on several factors, including: (1) the type of claim; (2) the product or service being advertised; (3) the consequences of a false claim; (4) the benefits of a truthful claim; (5) the cost of developing substantiation for the claim; and (6) the amount of substantiation experts in the field that believe the claim is reasonable. The Department of the Treasury's Alcohol and Tobacco Tax and Trade Bureau and the Food and Drug Administration also have overlapping jurisdiction with respect

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CLE & MEMBER NEWS

N-Z Lawyers- Meet Your Upcoming MCLE Requirement through Free CBA CLE

If your last name begins with N-Z, you need to complete your 30 hours of Illinois MCLE credit by June 30. Take advantage of the CBA's free archived CLE webcasts and free noon hour committee meetings (live or webcast). Members can also access unlimited CBA and YLS seminars of their choice through our *CLEAdvantage* Plan for only $150 through May 2017). To sign up for the CLE Advantage Plan call 312/554-2058. For more information regarding MCLE reporting requirements, visit www.mcleboard.org . ■

Dues Auto Pay Plan Available

Wish you could spread your dues payments throughout the year? Tired of getting monthly invoices from the CBA? Want to save on stamps, envelopes and bill payment time? Looking for free CLE coupons?

If you answered yes to any of these questions, you should sign up for the CBA's Dues Auto Pay Plan which allows you to automatically bill your CBA membership dues to your designated credit card on an monthly, quarterly, semi-annual or annual basis.

All we need is your authorization and enrollment form. This is a great way to save time and ease up on your budget. Installment plans apply to dues only. CLE Advantage fee, voluntary contributions and monthly membership charges are not included in this option. Automatic charges will begin on June 1.

If you have any questions regarding your dues statement, email billing@chicaobgar.org or call 312/554-2020. CBA membership is an important investment in your professional and personal growth. We encourage you to renew, thank you for your support and look forward to serving you in the new bar year. ■

Renew Your Membership and Receive Free CLE Coupons

Its membership renewal time at the CBA! In April, all members were mailed an annual dues renewal statement for the membership period June 1- May 31, 2018. As a special incentive for renewing early, if your dues payment is received by May 31st, you'll receive three free CLE coupons (one free CBA seminar and two free online seminars from the West LegalEd Center, coupon details available at www.chicagobar.org). Renewing is easy: online (www.chicagobar.org), by phone (312/554-2020), or by mail. Dues installment plan and financial hardship dues are available. And best of all - No dues increase for the 12th year in a row!

The CBA is your ultimate legal network with resources that can help you:

- Save time and money
- Access practical legal, business and technology skills
- Keep pace with legal developments and trending topics
- Start/grow your practice through business development programs
- Connect with local attorneys and judges
- Meet your IL MCLE requirement for free
- Enhance your resume with speaking/writing/leadership opportunities
- Prepare for career changes
- Find work/life balance

New benefits include: More free CLE on demand 24/7, law firm marketing and business development programs, solo/small firm resource portal, judicial meet and greets, legal news feeds, online practice area document library, personalized career counseling, new mentoring programs, how to's on legal and business software, hands- on technology training for members and their support staff, discounts on Verizon, Expedia, loop parking and other products/services. Most of these new benefits are free or very low cost.

What's Ahead: New CLE mobile app allowing you to view our seminars and committee meetings via your smart phone or tablet any time anywhere, faster and easier navigation and search functions on our website, programs for retiring lawyers, expanded leadership training, more structured networking events, shorter term volunteer opportunities supporting a variety of community groups. Visit www.chicagobar.org to see a complete list of what's new at the CBA.

We appreciate your past membership support and look forward to serving you in the coming bar year. Questions regarding dues statements should be referred to the CBA's Membership Accounting Department at 312/554-2020 or billing@chicagobar.org. ***Remember to renew by May 31, 2017 to receive free CLE coupons.***

In-Person • Webcast

CLE

THE CHICAGO BAR ASSOCIATION
Continuing Legal Education

Chicago's Top Attorneys Under 40
May 31 • 5:30-6:30 p.m. • Members Free/Reception Follows

GDPR Implementation and Compliance
June 1 • 2:00-5:00 p.m.

3rd Annual Chicago Video Game Law Summit
June 2 • 8:30 a.m. - 5:00 p.m.

Securities and Regulation in a Changing Administrative State
June 6 • 2:00-5:00 p.m.

Applying for Professional Liability Insurance: An Underwriter's Perspective
June 7 • 12:00-1:00 p.m.

Hot Topics in Bankruptcy Law
June 8 • 2:00-5:00 p.m.

Workshop: Fillable Forms and Templates in Word
June 8 • 2:00-3:00 p.m.

Moving Forward in Complex Markets
June 9 • 2:00-5:00 p.m.

How To... Use eSignatures in Your Practice
June 13 • 1:45-2:45 p.m. • Members Free

Hot Topics in Workers' Compensation
June 14 • 2:00-5:00 p.m.

Taking and Defending Depositions in State and Federal Court
June 15 • 2:00-5:00 p.m.

Workshop: Create a Website for Your Law Firm
June 15 • 1:00-4:00 p.m.

Strategies for Success in Handling Cases Involving Self-Represented Litigants
June 19 • 12:00-1:30 p.m.

Workshop: Use Google Forms to Collect Data
June 20 • 2:00-3:00 p.m.

How To... Use Feedly (Combat Information Overload)
June 27 • 1:45-2:45 p.m. • Members Free

Workshop: Using Nuance Power PDF in Your Law Firm
June 29 • 2:00-3:00 p.m.

To register, call 312-554-2056 or visit 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 and West LegalEdcenter. Visit 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

The Chicago Bar Foundation
Ensuring access to justice for all

The Circuit Court's Resource Center for People Without Lawyers Turns Three

They Can Help You Right Next to the Starbucks

By Kelly Tautges
CBF Director of Pro Bono & Court Advocacy

"I am writing this letter today to praise one of your employees…" begins a letter thanking CARPLS for excellent legal advice at the Municipal Court Advice Desk and highlighting the especially kind and supportive service received from an Illinois JusticeCorps member as part of the process. This court patron's letter highlights the unique and important services being provided in The Circuit Court of Cook County Resource Center for People without Lawyers in the concourse level of the Daley Center, which indeed is right next to the Starbucks there.

The Resource Center, and the critical help it provides, is now so firmly established in the court's ecosystem that it is hard to believe it has only been open for three years. Fully operational as of April 2014, the Center is a partnership between the CBF, the Circuit Court, and two legal aid organizations: CARPLS and the Chicago Legal Clinic (CLC). There are three major legal advice desks in the Center—the Municipal Court Advice Desk, the Chancery Court Advice Desk and the Domestic Relations Advice Desk. These three desks are managed and staffed by lawyers from CARPLS and CLC.

Illinois JusticeCorps plays a central role as well. JusticeCorps volunteers have helped more than 160,000 people, and attorneys at the advice desks have provided advice and assistance in more than 37,000 cases since the Center opened.

People without lawyers receive help at the Circuit Court of Cook County Resource Center. JusticeCorps volunteers (right) check people in outside the Center and provide the navigational help, and help desk staff serve clients inside (above).

JusticeCorps Volunteers Get People Where They Need to Go

One of the many advantages in the Resource Center for both court patrons and the advice desks is the presence of Illinois JusticeCorps, an innovative AmeriCorps program that is dedicated to making the courthouse more welcoming and less intimidating for people without lawyers. JusticeCorps volunteers, who mainly are undergraduate students and recent graduates, act as docents and provide other procedural and navigational assistance to people without lawyers. The CBF first launched Illinois JusticeCorps as a pilot in 2009 and continues to manage the program in Cook County. JusticeCorps later was expanded to other parts of the state as well, and the other partners in the program's statewide operations include

continued on page 49

Investing in Justice Campaign 2017

Justice People Deserve, Not Just What They Can Afford

Everyone deserves equal access to justice.

For the 11th year, Chicago's legal community has once again shown great leadership through The Chicago Bar Foundation Investing in Justice Campaign, making it possible for tens of thousands of people in need to get critical legal help. The Campaign proves that lawyers and other legal professionals can have a huge impact when we come together around this cause, helping build a fairer, stronger, and better community for everyone.

Our thanks to 2017 Campaign Chair Jesse Ruiz of Drinker Biddle & Reath LLP, to the Campaign Leadership Team, to the thousands of individuals making personal contributions, and to the more than 150 participating law firms, corporate legal departments, and other organizations.

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Invest in justice today at chicagobarfoundation.org.

MURPHY'S **LAW**

BY TERRENCE M. MURPHY, CBA EXECUTIVE DIRECTOR

Stanley Tigerman and Margaret McCurry, icons in Chicago architecture, who designed the CBA Building, have donated their architects model to the Association, which is now prominently displayed in our lobby at 321 South Plymouth Court. Photo by Bill Richert.

The Association's 144th Annual Meeting will be held on Thursday, June 22, in the Grand Ballroom at the Standard Club. A reception for outgoing president **Daniel M. Kotin** and for incoming president Judge **Thomas R. Mulroy** will begin at 11:30 a.m., followed by the business meeting and luncheon. The Association's incoming officers and board members will also be installed at the meeting. Tickets for the annual meeting are $70 per person or $700 for a table of ten. For more information or to make reservations, contact Events Coordinator **Tamra Drees** at 312/554-2057 or tdrees@chicagobar.org.

New Officers and Board Members

The 2017 Nominating Committee, chaired by CBA past president Daniel A. Cotter, has nominated an outstanding slate of incoming officers and board members. The new slate with their firm affiliation is as follows: **Jesse H. Ruiz**, Second Vice President, Drinker Biddle & Reath LLP; **E. Lynn Grayson**, Secretary, Jenner & Block LLP; and **Maurice Grant**, Treasurer, Grant Law LLC. New members of the Board of Managers for two-year terms include: **Mark B. Epstein**, Epstein & Epstein; **Michael J. Kaufman**, Dean and Professor of Law, Loyola University Chicago School of Law; **Matthew A. Passen**, Passen Law Group; **Mary Robinson,** Robinson Law Group LLC; **John C. Sciaccotta**, Aronberg Goldgehn; **Helene M. Snyder**, solo practitioner; **Greta G. Weathersby**, Integrys Business Support LLC; **Zeophus J. Williams**, Cook County State's Attorney Office. Holdover board members include: **Alan R. Borlack**, Bailey Borlack Nadelhoffer; Judge **Thomas M. Durkin**, U.S. District Court, Northern District of Illinois; Judge **Shelvin Louise Marie Hall**, Illinois Appellate Court; **Robert F. Harris**, Public Guardian of Cook County; **Michele M. Jochner**, Schiller DuCanto & Fleck; **Pamela S. Menaker**, Clifford Law Offices; **Paul J. Ochmanek, Jr.**, Ochmanek Legal Office; **Andrew W. Vail**, Jenner & Block. Incoming YLS Chair **Jonathan B. Amarillio**, Taft Stettinius & Hollister, will be appointed to serve a one-year term on the Board of Managers. Pursuant to the CBA's Bylaws, **Steven M. Elrod** becomes First Vice President and Judge **Thomas R. Mulroy,** having served as First Vice President, automatically becomes President.

Justice John Paul Stevens Award

Justice **John Paul Stevens'** legacy of outstanding service to our city, state and nation puts him in the pantheon of America's judicial greats. Each year, the Association honors lawyers and judges whose legal careers best exemplify Justice Stevens' integrity and commitment to public service. Nominations for the 2017 Justice John Paul Stevens Award Luncheon are being accepted and should be submitted to: Terrence M. Murphy, CBA Executive Director, 321 S. Plymouth Court, Chicago, IL 60604 or tmurphy@chicagobar.org on or before Tuesday, August 1.

Justice Stevens served as Second Vice President of the CBA until his nomination to the U.S. Court of Appeals by President Gerald Ford. Justice Stevens was appointed to the U.S. Supreme Court in 1975 and retired from the High Court in 2010.

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

THE CHICAGO BAR ASSOCIATION

For more information, please contact Terrence M. Murphy, Executive Director
312-554-2002 • tmurphy@chicagobar.org

IMPORTANT DUES BILLING REMINDERS

- **Annual Dues.** In our ongoing effort to reduce administrative expenses and keep dues at the current level, the CBA has an annual billing cycle.
- **Dues Auto Pay.** Spread your dues payments throughout the year by signing up for the Dues Auto Pay Plan which allows you to pay your dues automatically on a monthly, quarterly, semi-annual or annual basis at no extra cost via automatic credit/debit card charges.
- **Reduced Dues for Financial Hardships.** Unemployed members and those with financial hardships may request our reduced annual dues rate of $50.
- **eStatement.** Receive your CBA bills by email only and save time, postage and the environment.
- **Billing Statement.** The CBA's statement allows you to choose any or all of the above options and add in your own level of contributions to the Bar Foundation/ Legal Aid Fund and the CBA Building Fund.

Justice Stevens is the third longest serving justice of the Supreme Court. Justice Stevens' publications include: *Six Amendments: How and Why We Should Change the Constitution*, and *Five Chiefs*, which is a compendium of memories of each Chief Justice of the Supreme Court that he served with from Chief Justice Fred Vinson through Chief Justice John Roberts.

The Justice John Paul Stevens Award luncheon is held during September. An announcement with the details for this year's luncheon will be emailed to members in August. For more information, contact **Tamra Drees** at tdrees@chicagobar.org.

CBA Open House/All Bar Reception

Save the date for the Association's Fall Open House Reception and join your colleagues from the bench and the bar in welcoming new CBA President Judge **Thomas R. Mulroy** and YLS Chair **Jonathan B. Amarillo**. The Open House Reception will be held on Thursday, September 7, from 5:00–7:00 p.m. on the second floor at the CBA Building. There is no charge for the reception which will include cocktails and hors d'oeuvres. Look for more information about the Open House Reception in upcoming Association announcements.

CBA Special Program "Mental Health Resources: Pathways to Help for Persons and Families in Crisis" to be held June 29 at the Standard Club

Don't miss this special Association program, featuring many of our state's leading mental health experts including Professor **Mark Heyrman**, University of Chicago Law School; **Matthew Davison**, Illinois Guardianship and Advocacy Commission; Circuit Court Judges **Lauren Edidin** and **Maureen Ward Kirby**; **Mark Epstein**, Epstein and Epstein; **Marcella (Marcia) Horan**, Cook County Assistant State's Attorney; **Alexa James**, Executive Director, NAMI Chicago; **John Whitcomb**, Monahan Law Group; Dr. **Daniel Yohanna**, Interim Chair, Department of Psychiatry and Behavioral Neuroscience, The University of Chicago; and Hon. **Kathleen Zenoff**, Illinois Appellate Court. This outstanding program will be held on Thursday, June 29 from 10:00 a.m.–12:00 p.m. in the Grand Ballroom at the Standard Club, 320 S. Plymouth Court. This program qualifies for 1.75 hours of Illinois MCLE credit. Cost for CBA members is $50 and the non-member cost is $75. For more information or to register, visit www.chicagobar.org.

Congratulations

CBA Secretary **Jesse H. Ruiz** received the Hispanic Lawyers Association of Illinois' Aquilla Award at HLAI's May gala...U.S. District Court Judge **Elaine E. Bucklo** received the Alliance For Women's 2017 Founders Award and **Julie A. Johnson** received the Alta May Hulett Award... **Anton R. Valukas** was honored by Jenner & Block for his outstanding leadership as Chair of the firm. Valukas will remain as an active senior partner...CBA past president **Aurora Austriaco** was reappointed to a three-year term on Attorneys' Title Guaranty Fund's Board of Directors...**Christine Sparks** was named Senior Vice President and Chief Operating Officer for Attorneys Title Guaranty Fund...**John "Jack" George** is a new partner at Ackerman LLP...**Kathleen Duncan**, **Chris Leach** and **Meg George** have also joined Ackerman...**Thomas Suffredin**, Assistant CBA Legislative Counsel, was elected an Alderman in Evanston...**James B. Pritikin** was appointed by the Illinois Supreme Court to serve as a Hearing Chair at the Illinois Attorney Registration and Disciplinary Commission...**Joseph J. Duffy** is a new litigation partner at Loeb & Loeb LLP... **Lawrence S. Schaner** has formed Schaner Dispute Resolution, LLC...**David M. Pilotto** has rejoined Much Shelist, P.C.... Reed Smith LLP, now in 27 cities throughout the world, has opened a Miami office... **Jason M. Wejnert** was named a principal at Much Shelist, P.C....**Kara Coleman**, daughter of U.S. District Court Judge **Sharon Johnson Coleman**, received the Gold Award Project for her "Court Companions" project to assist children who use the Circuit Court of Cook County's Court Advocacy Rooms. Kara collected more than 600 books, which are being used in 10 different courts...**Daniel G. M. Marre**, partner at Perkins Coie, has been elected a 2017 Fellow at the American College of Real Estate Lawyers...**Kathryn "Katie" Carso Liss** and the CBA's YLS received the ABA YLD's First Place Award for its Embracing Diversity Challenge...**Susan L. Lees**, Allstate Insurance Company and **David M. Bamlango**, DLA Piper are the 2017 Co-Chairs of the CBF's Pro Bono and Public Service Awards Luncheon on July17... **Jonathan B. Amarillio**, partner at Taft Stettinius & Hollister LLP, becomes the 2017/2018 Chair of the Association's Young Lawyers Section...**Maryam Fahouri** and **Ross Herseman** received the YLS' David C. Hilliard Award for Outstanding Committee Service…**Thomas Cramer** received the YLS' Rising Star Award... **Alexander Memmen**, received the Milton H. Gray Award for Outstanding Project Leadership.

William (Bill) Lewis was named partner at Reed Smith LLP...**Terry Mazany**, President and CEO of Chicago Community Trust, will step down after 16 years of outstanding service to our community... **Gloria Santora**, Chief Legal Officer, McDonald's Corporation, is the 2017

recipient of CARPLS' Gold Gavel Award... **Jeanne M. Kerkstra** has published a new book "Dead Celebrities Lessons in Estate Planning"...U.S. District Court Judge **Sharon Johnson Coleman** received the Women's Bar Association's prestigious Mary Heftel Hooton Award and Judge **Lynn M. Egan** received the group's Women with Vision Award...**Manuel Flores,** partner at Arnstein & Lehr, recently spoke at the Chicago Chapter of the Association of Certified Anti-Money Laundering Specialists...**Brandon E. Peck** has become a partner at Peck Ritchey LLC... **Daniel B. Lange** is a new shareholder at Vedder Price...**Bruce R. Pfaff**, **Michael T. Gill** and **Matthew D. Ports** planned a mock trial for the American Board of Trial Advocates at IIT Kent College of Law... **Steven S. Scholes**, McDermott Will & Emery, was appointed operations partner for the firm's litigation practice group... **Sevan A. Avakian** is a new associate at Gould & Ratner LLP...**LaShonda A. Hunt** was recently installed as a U.S. Bankruptcy Judge…**Patrick N. Wartan** was added to Taft Stettinius & Hollister LLP to lead the firm's food and beverage practice.

David A. Newby was named a partner at Momkus McCluskey Roberts LLC... **Lazar P. Raynal** was added as a partner at Quinn Emanuel Urquhart & Sullivan LLP...**Marci A. Eisenstein**, Schiff Hardin LLP, was elected to a third term as managing partner...**Gabriel M. Rodriguez**, **Stephen J. Dragich** and **Kenneth M. Roberts** serve on Schiff Hardin's Executive Committee...**Martin Healy, Jr.**, served as the Grand Marshall of this year's St. Patrick's Day Parade...**David P. Lindner** and **E. Brandon Nykiel**, Brinks Gilson & Lione, recently spoke at ACI's Advanced Summit on Medical Device Patents... **Michael S**. Nelson is a new associate at Aronberg Goldgehn Davis & Garmisa... **Matthew C. Jardine** was elected a new shareholder at Segal McCambridge Singer & Mahoney Ltd.

James L. Komie and **Michael D. Lee**, Howard and Howard PLLC, were featured speakers at the CBA's Commercial Litigation Committee...**Keith A. Hebeisen**, partner at Clifford Law Offices, recently spoke at ITLA's Ethics and Professionalism seminar...**Joseph E. Tilson** and **Jeremy J. Glenn**, Cozen O'Connor, spoke at the firm's Fort Lauderdale, Florida seminar... **Michael H. Erde** recently spoke about estate planning at Liberty Bank…**Kenneth M. Crane** is a new partner and senior counsel at Freeborn & Peters LLP...**Laura Beth Miller**, Brinks Gilson & Lione shareholder, was a recent speaker at Women In Bio-Chicago's Women's History Month program...**Michael Mannion** will join former state senator **Kirk W. Dilliard** at Locke Lord, LLP as a senior counsel in the Chicago office...**Daniel A. Cotter**, partner at Butler Rubin Saltarelli & Boyd, spoke at the Society of Insurance Financial Management Conference on data sharing and regulatory issues...**Ehren M. Fournier** is an associate at Schoenberg, Finkel, Newman Rosenberg LLC...**Gregory R. Meeder**, Holland & Knight LLP, was a featured speaker at the Chicago Building Congress's Conference "Forecasting Your Future"**...Justin T. Evans** is an associate at Anderson, Rasor & Partners LLP...**David A. Johnson, Jr.** is an associate at Aronberg Goldgehn Davis & Garmisa... **Steven**

Sandler has joined Woodruff Johnson & Evans…**Harris L. Kay** was added as an officer at Greensfelder, Hemker & Gale, P.C.…**Kathleen M. Gilligan**, partner at Arnstein & Lehr LLP, and associate **Kiley C. Keefe** were recent speakers to McDonald's in-house legal department in Oakbrook...**Brian C. Fetzer**, shareholder at Johnson & Bell Ltd., participated in the Masters in Trial Program hosted by the American Board of Trial Advocates. Circuit Court Judge **Lorna E. Propes** presided...**Kyle A. Cooper** was named an associate at Donohue Brown Mathewson & Smyth LLC...**Ronald E. Neroda** was elected a partner at Cassiday Schade LLP... **William T. Gibbs**, Corboy & Demetrio P.C., recently participated in a sports, communication and entertainment law forum at the University of Notre Dame... **Jennifer J.C. Kelly** and **Brian D. Teven** have been named partners at Anesi Ozmon Rodin Novak Kogen Ltd...**Patrick A. Salvi**, Schostok & Pritchard P.C., and his wife **Linda Salvi** are recipients of the 2017 Leonardo da Vinci Award of Excellence... **Keith J. Shapiro**, Co-Chair of Greenberg Traurig LLP, received the Distinguished Service Award for Lifetime Achievement Award from Emory Bankruptcy Developments Journal...**Thomas H. Hayden lll** and **Yesha Sutaria Hoeppner** were named partners at SmithAmundsen LLP...**Mark A. Swantek** has been named an associate at Aronberg Goldgehn Davis & Garmisa... **William H. Frankel**, shareholder at Brinks Gilson & Lione, is a contributing author to a recently released book "Copyright Litigation Strategies"...**Donald L. Mrozek**, Hinshaw & Culbertson LLP, authored a Bloomberg Big Law Business article titled: "How to Evaluate Law Firm Leaders"...

Referral Service Launches First Flat Fee Service for Uncontested Divorces

Paving the Way for Consumer Friendly Priced Legal Services

In an effort to bridge the access to justice gap and take the guesswork out of legal fees, The Chicago Bar Association's Lawyer Referral Service (LRS) launched its first flat fee referral panel this month. Consumers who qualify will pay just $899, plus costs, for an uncontested divorce.

We are delighted to offer a flat fee service, one of the first of its kind, linking consumers with experienced attorneys to represent them. Eligibility requirements for the flat fee rate include: no children, able to locate spouse, no real estate, no pension/retirement plans, no alimony/support requested, no lawsuits pending, and in agreement re: personal property and financial accounts. After initial screening by the LRS, the client will then discuss their case with the referred attorney, who will make the final eligibility decision.

The attorneys participating on the flat fee panel undergo the same rigorous vetting procedures as all attorneys in the LRS and must demonstrate the following: numerous years of practice experience, proof of malpractice insurance, letters of recommendation, and good standing with the Illinois Attorney Registration and Disciplinary Commission.

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By Richard Lee Stavins

Contempt of Court: Distinguishing the Six Types

Few areas of the law create more confusion and misunderstanding than contempt of court. Here's a discussion of the six types of contempt, and some of the applicable rules for each.

THERE ARE SIX KINDS OF COMMON LAW CONTEMPT of court: direct criminal contempt, indirect criminal contempt, indirect civil contempt, direct civil contempt, a combination of two or more of the foregoing, and friendly contempt. An excellent description of the first five is found in the case of *In re Marriage of Betts*, 200 Ill.App.3d 26, 43-60 (4th Dist. 1990). The First District of the Appellate Court has described the Fourth District's opinion in *Betts* as reading "more like a treatise than an opinion," and has urged confused attorneys to review *Betts*. *People ex rel City of Chicago v. Le Mirage, Inc.*, 2011 IL App (1st) 093547, ¶ 48. The author urges likewise.

Direct criminal contempt

In direct criminal contempt, a wrongful act is committed directly in the presence of the judge (e.g., in the courtroom while court is in session), or in the constructive presence of the judge (e.g., in the courtroom while the judge is temporarily off the bench). The purpose of the criminal contempt order is punishment, retribution, or deterrence of socially unacceptable behavior. Example: During a trial, a litigant engages in a disrespectful outburst. This is the kind of contempt that television courtroom dramas love. Fortunately, it occurs far less frequently than dramatists would have the public believe.

In a direct criminal contempt proceeding, the contemnor is punished retrospectively for a past act that he cannot now undo. The accused in a serious criminal contempt proceeding has most of the same constitutional rights as does a defendant in a criminal case: confrontation, no self-incrimination, appointed counsel if necessary, presumption of innocence, proof beyond a reasonable doubt, etc. *People v. Covington*, 395 Ill.App.3d 996, 1007 (4th Dist. 2009). But in accordance with U.S. Supreme Court precedent, there is no right to trial by jury for direct criminal contempt if the punishment does not exceed six months incarceration. *Bloom v. Illinois*, 391 U.S. 194, 209-10 (1968).

A criminal contempt proceeding is prosecuted by the State's Attorney and is commenced by filing a petition for adjudication of criminal contempt. *City of Quincy v. Weinberg*, 363 Ill.App.3d 654, 663 (4th Dist. 2006). If found guilty, the contemnor cannot purge himself of the contempt and avoid the jail sentence or fine by compliance, as there is nothing with which he can comply other than go to jail and pay the fine. If the sentence is jail time and not just a fine, it should be a determinate sentence, i.e., for a specific length of time. Payment by the contemnor of a monetary fine is made to the local governmental entity, not to the opposing litigant. *Betts*, 200 Ill.App.3d at 44-46, 47-48, 49-52, 58-61.

Indirect criminal contempt

In an indirect criminal contempt proceeding, the wrongful act is committed outside the presence or constructive presence of a judge. Example: A person knowingly files a false document in the clerk's office or steals a court file from the clerk's office. Other than the place where the act is done, most of the concepts are the same as in a direct criminal contempt. *Betts*, 200 Ill.App.3d at 48, 58-61.

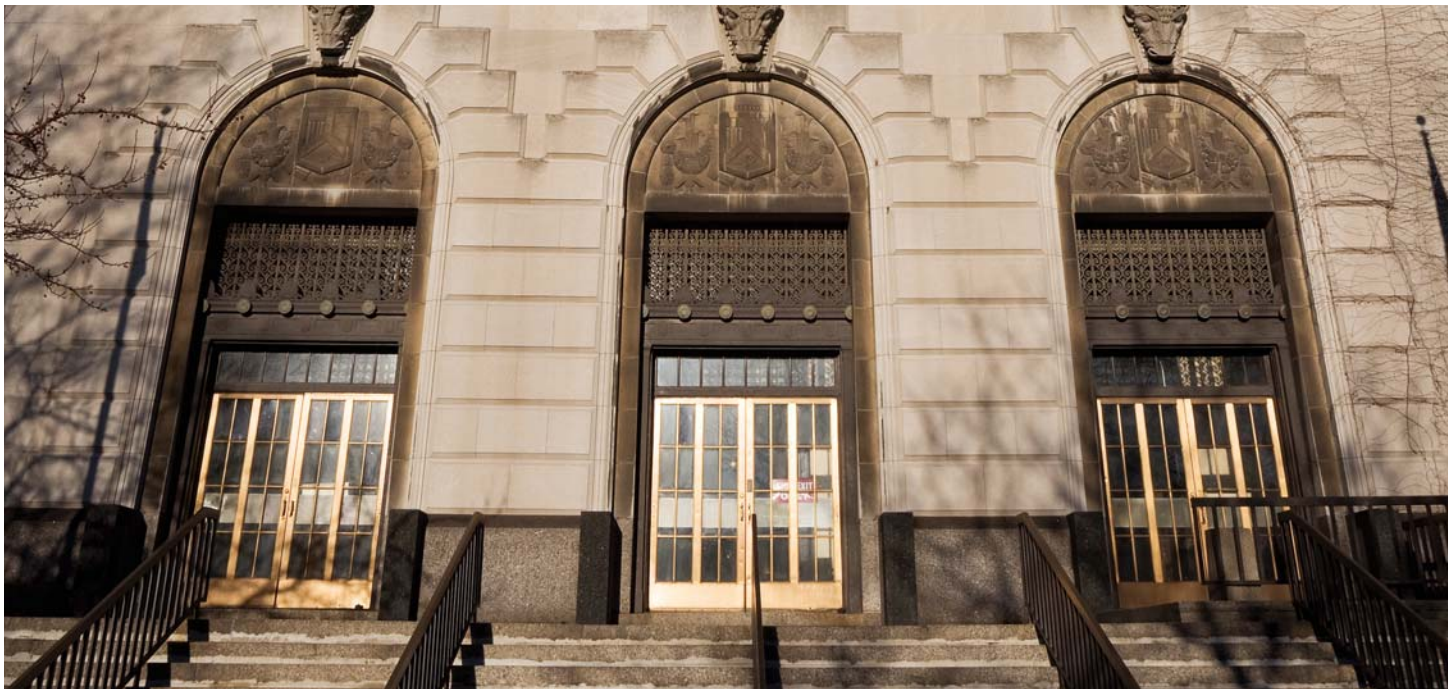
Indirect civil contempt

In an indirect civil contempt proceeding, the alleged contemnor was previously ordered by the court to do something, but she has not obeyed the order, although she has the capability of obeying. To coerce her into doing what she has been ordered to do, she is jailed or fined until she complies with the order. Thus, the contemnor has the opportunity to purge herself of the contempt order by complying. The contemnor in any civil contempt proceeding is often said to have the keys to her own jail cell: If she complies with the court order, the penalties cease and she goes free; but if not, she remains incarcerated. *Covington*, 395 Ill.App.3d at 1006.

The accused in a civil contempt proceeding has none of the rights of a defendant in a criminal case, and only two minimal due process rights: notice and an opportunity to be heard. *Covington*, 395 Ill.App.3d at 1006. Although the name is civil contempt, the ordinary rules of civil procedure are not fully applicable.

To commence the civil contempt proceeding, a rule to show cause must be entered or other form of notice of the contempt proceeding must be generated. The rule or notice must then be personally served on the alleged contemnor. *People v. Sherwin,* 353 Ill. 525, 528 (1933); *Bender v.* Frost, 317 Ill.App. 441, 447 (1st Dist. 1943); *Bonner v. People*, 40 Ill.App 628, 631 (1st Dist. 1890); *Whelan v. Whelan*, 161 Ill.App. 293, 294 (1st Dist. 1911). The instrument served on the alleged contemnor must state the time and the place of the hearing, and must adequately describe the facts on which the alleged contempt is based. *In re Parentage of Melton*, 321 Ill.App.3d 823, 829 (1st Dist. 2001); *Cleeland v. Gilbert*, 334 Ill.App.3d 297, 302 (3d Dist. 2002); *Covington*, 395 Ill.App.2d at 1007; *Betts*, 200 Ill.App.3d at 52.

As to the place of the hearing, the notice must state the specific



street address where the hearing will occur. *In re County Treasurer*, 359 Ill.App.3d 763, 769 (1st Dist. 2005); *In re Application of County Collector*, 356 Ill.App.3d 668, 672-73 (1st Dist. 2005). In Chicago, stating the courthouse's vanity address ("Richard J. Daley Center") to a non-attorney is insufficient. *County Treasurer,* 359 Ill. App.3d at 769; *County Collector,* 356 Ill. App.3d at 672-73.

One familiar example of an indirect civil contempt is the jailing of an ex-husband who fails to pay court-ordered support to his ex-wife although he is able to pay, and keeping him jailed until he pays what he owes. The payment, if made, goes to the ex-wife and not to any governmental entity. *Betts*, 200 Ill.App.3d at 44-46, 48, 52-57.

The elements of an indirect civil contempt are: order by a court of competent jurisdiction, directing the alleged contemnor to act, the alleged contemnor's capability of acting as ordered by the court, and his not so acting. The burden of proof on the party initiating the civil contempt proceeding is not to prove each of those elements. Rather, noncompliance with a court's order is deemed prima facie evidence of an indirect civil contempt, and when the movant makes that prima facie showing of respondent's non-compliance–e.g., nonpayment of previously ordered support money–the burden of proof then shifts to the alleged contemnor to prove ("to show cause") that his failure to comply was not willful or contumacious and that there exists a valid excuse for his failure to pay. *In re Marriage of Logston*, 103 Ill.2d 266, 285-86 (1984); *Shaffner v. Shaffner,* 212 Ill. 492, 496 (1904).

The valid excuse for non-payment is usually an inability to pay. *In re Marriage of Barile*, 385 Ill.App.3d 752, 758-59 (2d Dist. 2008); *In re Marriage of Sharp*, 369 Ill.App.3d 271, 279 (2d Dist. 2006); *In re Marriage of Kolessar and Signore*, 2012 IL App (1st) 102448, ¶ 23; *Bank of America, N.A. v. Freed*, 2012 IL App (1st) 113178, ¶ 20. To prove this defense, the alleged contemnor must show that he neither has money now with which he can pay, nor has disposed wrongfully of money or assets with which he might have paid. *In re Marriage of Peterson*, 319 Ill.App.3d 325, 332 (1st Dist. 2001); *Logston*, 103 Ill.2d at 285.

The burden of proof that is shifted to the alleged contemnor is to

> show with reasonable certainty the amount of money he has received… and that that money has been disbursed in paying obligations and expenses which, under the law, he should pay before he makes any payment on the decree for alimony. It is proper that he first pay his bare living expenses, but whenever he has any money in his possession that belongs to him and which is not absolutely needed by him for the purpose of obtaining the mere necessaries of life, it is his duty to make a payment on this decree." *Logston,* 103 Ill.2d at 286.

Where the alleged contemnor contends that his failure to pay was due to inability, the claimed financial inability to comply with the order must be proven by definite and explicit evidence. The alleged contemnor does not meet that burden by general testimony with respect to financial status. *Sharp,* 369 Ill.App.3d at 282; *In re Marriage of Deike,* 381 Ill.App.3d 620, 633 (4th Dist. 2008); *In re Marriage of Ramos,* 126 Ill.App.3d 391, 398 (1st Dist. 1984).

A civil contempt order, unlike a criminal contempt order, must always contain a purge clause, i.e., a statement of what the contemnor must do to get out of jail: the get-out-of-jail (but not for free) card. Without a purge provision, the contempt order is void. *In re Marriage of Knoll,* 2016 IL App (1st) 152494, par. 58. In theory the sentence in civil contempt will be indeterminate (until the contemnor complies), but not necessarily. The sentence may be determinate. But, whether determinate or indeterminate, the contempt order *must* contain a purge provision. *City of Mattoon v. Mentzer*, 282 Ill.App.3d 628, 636 (4th Dist. 1996); *Logston*, 103 Ill.2d at 289.

In *City of Mattoon,* the defendant was

found to be in indirect civil contempt and a 90 day jail sentence was imposed, with a two year stay. The reviewing court sua sponte noted a problem with the civil contempt order: the determinate sentence did not provide for defendant's release if he complied after being incarcerated. 282 Ill. App.3d at 638. The court cited the Illinois Supreme Court's decision in *Logston* and the U.S. Supreme Court's decision in *Shillitoni v. U.S.* for the proposition that in a civil contempt proceeding the court may impose a determinate sentence only if the order includes a purge clause applicable to the period of time after the contemnor's incarceration begins.

The problem described in *City of Mattoon, Logston* and *Shillitoni* was not in the imposition of a determinate sentence for civil contempt–which is permissible–but in the imposition of a determinate sentence without a post-incarceration purge clause.

Sometimes, the effect of an indirect civil contempt order is more to punish for past conduct that cannot be undone than to coerce future conduct. *Knoll,* par. 59. That can be profoundly significant, as it will mean that the stricter rules applicable to criminal contempt will become applicable.

Direct civil contempt

This form of contempt is quite rare. In a direct civil contempt proceeding, the judge orders the alleged contemnor to do something *instanter* in the courtroom in the presence of the judge, but the contemnor politely refuses to obey without disruption. Example: In a post-decree domestic relations case, the judge hands the ex-husband a deed to the marital domicile that conveys title to the ex-wife, as required by the previously entered judgment of dissolution of marriage, the judge orders the ex-husband to execute the instrument immediately, but the ex-husband politely refuses to do so. *Betts*, 200 Ill.App.3d at 47, 52. And if the ex-spouse speaks disrespectfully to the judge, that is also a direct criminal contempt–which brings us to the next kind of contempt: a combination of two or more of the foregoing.

Combination

More than one type of contempt may be involved in one contempt proceeding, depending on the facts. *Betts*, 200 Ill. App.3d at 46-47. Example: The contemnor is ordered to do something and refused to comply. He is punished for his past indirect criminal contempt and is also adjudged to be in indirect civil contempt to induce him to comply in the future.

Betts describes the scenario of a marital case where one ex-spouse, contrary to the judgment of dissolution, failed to execute a deed for the benefit of the other spouse. "[I]t may be entirely appropriate to jail the recalcitrant spouse for a determinate sentence, up to six months, for his indirect criminal contempt based on *past* failure to comply with the court order, and at the same time, to impose an indeterminate sentence…until such time as the civil contempt sanction is satisfied by the contemnor's compliance with the order in question." The contemnor thus gets a double hit: a determinate sentence for past failure to comply followed by an indeterminate sentence to induce future compliance. This is quite rare, but it would be proper if supported by the facts.

Whether contempt is civil or criminal is sometimes unclear. In such cases, the test is to look at the "dominant purposes for which the sanctions are imposed" in the particular case. *Betts*, 200 Ill.App.3d at 47. If the purpose is predominantly punishment for past conduct, the contempt proceeding is characterized as criminal. If the purpose is predominantly coercive to induce future compliance, the contempt proceeding is characterized as civil. *Betts*, 200 Ill.App.3d at 47.

Friendly contempt

A friendly contempt order holds someone in contempt solely as a legal fiction, to make an otherwise non-appealable interlocutory order appealable under Supreme Court Rule 304(b)(5). That rule allows an appeal as of right from a contempt order that imposes a punishment. In a friendly contempt, order one of the parties or her attorney is held in contempt of court for not complying with the court's order, and a nominal punishment is imposed, often a $100 fine. In the appeal from the friendly contempt order pursuant to Rule 304(b)(5), the reviewing court determines the propriety of the underlying order.

Friendly contempt orders are often entered where the order involved is not appealable but raises a good faith dispute on either a legal question of first impression or a discovery issue. *In re Marriage of Nash and Alberola,* 2012 IL App (1st) 113724-B, ¶ 30; *In re Marriage of Radzik and Agrella,* 2011 IL App (2d) 100374, ¶ 67.

A friendly contempt proceeding is generally initiated by the party who did not prevail on the underlying interlocutory dispute. That party asks the trial court to enter a friendly contempt citation against herself or her attorney, so that she can perfect an appeal as of right and obtain an immediate ruling on the issue from the reviewing court. *Center Partners, Ltd. v. Growth Head GP, LLC,* 2012 IL 113107, ¶ 21; *In re Marriage of Earlywine,* 2012 IL App (2d) 110730, ¶ 1. If the motion is granted, the circuit judge will hold the party or her attorney in contempt for not obeying the underlying order and will impose a nominal fine. Occasionally the order will specifically recite that the contempt is friendly. Because an appeal from a contempt order imposing any punishment–no matter how small–is appealable as of right, the Appellate Court must hear the appeal. S.Ct. Rule 304(b)(5). The reviewing court then adjudicates not whether the party willfully disobeyed the order, but rather the propriety of the underlying order. If the underlying discovery order is invalid, then the contempt must be reversed. *In re D.H. x rel. Powell*, 319 Ill. App.3d 771, 773 (1st Dist. 2001).

Judicial authority to enter a friendly contempt order is by no means unlimited. For example, recently in a martial dissolution action where interim fees were awarded and reduced to judgment, the Appellate Court said that a friendly contempt order should not be entered where the paying party is merely in disagreement with the award rather than acting in good faith to secure an interpretation of an issue without direct precedent. *In re Marriage of Arjmand,* 2017 IL App (2d) 160631, par. 12.

No matter what its decision might be on appeal from a properly entered friendly contempt order, the reviewing court generally vacates the contempt finding, reasoning that the interlocutory order involved was disobeyed in good faith and not willfully. *Earlywine*, 2012 IL App (2d) 110730, ¶ 24; *In re All Asbestos Litigation,* 385 Ill.App.3d 386, 392 (1st Dist. 2008); *In re Marriage of Squire*, 2015 IL App (2d) 150271, ¶24.

However, if the contemnor was not acting in good faith to test the propriety of the underlying order, the contempt will not be viewed as friendly, and the contempt order will not be vacated. *Willeford v. Toys "R" Us–Delaware, Inc.,* 385 Ill.App.3d 265, 277 (5th Dist. 2008). That's always the risk in a friendly contempt: that the reviewing court will not see it as quite so friendly. Of course, a friendly contempt order would never impose a jail sentence or a substantial fine or reference a purge amount, as there is no real intent in a friendly contempt either to punish the contemnor or to induce his compliance. So, fortunately for the person held in contempt, the downside risk of a friendly contempt order being held not friendly is slight. ■

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By Michael D. Richman

The Unique Role of **Section 2-619(c)**

Permitting Trial by Motion Practice

Section 2-619 is unique among the motion practice provisions of the Code of Civil Procedure in that it empowers the trial court to conduct an evidentiary hearing to resolve disputed factual issues involving whether the motion to dismiss should be granted or denied.

YOU HAVE JUST BEEN RETAINED TO DEFEND A matter. You spot a defense that should fall under one of the provisions of section 2 619 (735 ILCS 5/2-619). Confidently, you prepare the section 2-619 motion, submit a supporting affidavit, and, perhaps, some supporting documents. You feel confident about prevailing and the case being disposed of quickly. Then you receive discovery requests from the plaintiff opposing your motion in the form of depositions and document requests. And to make matters worse, plaintiff's counsel also makes known to the court when you present your motion that they intend to demand an evidentiary hearing to defeat your motion. The judge doesn't disagree. You think: "Wait, this is a motion to dismiss. How can the court conduct an evidentiary hearing to decide my motion?" You are incorrect.

Most practitioners are generally familiar with the nature of a section 2-619 motion. But what is sometimes lost is that bringing a section 2-619 motion has nuances far different from the other frequently used motion practice provisions in sections 2-615 or 2-1005.

Section 2-619(c) is the key, in that it enables the trial court to actually decide disputed factual issues in connection with the affirmative defense raised. Unlike a section 2-615 motion, which challenges the factual sufficiency of a claim, a section 2-619 motion admits the legal sufficiency of that claim; its function is to determine whether the affirmative defense interposed defeats the claim. *Smith v. Waukegan Park District,* 231 Ill. 2d 111, 120-21 (2008); *Aurelious v. State Farm Fire & Cas. Co.,* 384 Ill. App. 3d 969, 972 (2d Dist. 2008) (explaining differences between sections 2-615 and 2-619 motions). Obviously, there is no right to an evidentiary hearing when presenting a section 2-615 motion. Nor is there a right to propound discovery when deciding that section 2-615 motion. And, as practitioners know, the court never decides disputed factual issues in a section 2-615 context. But all three of these attributes may be perfectly permissible when addressing a section 2-619 motion.

A Unique, Hybrid Motion

A section 2-619 motion by its very nature contemplates not only the submission of competing evidentiary materials, but the trial court's adjudication of those disputed facts, if readily ascertainable. *Barber-Colman Co. v. A & K Midwest Insulation Co.,* 236 Ill. App. 3d 1065, 1072 (5th Dist. 1992) ("A section 2-619 motion provides a means of disposing not only issues of law but also of easily proven issues of fact."); see also *Fleckles v. Diamond,* 2015 IL App (2d) 141229, ¶ 30 (purpose is to dispose case on basis of issues of law or easily proved issues of fact). As pointed out in the seminal decision of *Barber-Colman Co.,* a motion brought under section 2-619 "affords an avenue between the completely legal bases of section 2-615 motions and the completely factual bases of section 2-1005."

Given the hybrid nature of a motion under section 2-619, its early usage was controversial. In fact, back in 1955 the Joint Committee considered whether to abolish section 2-619 motions altogether from the Code. But, because practitioners were using these types of motions so widely and successfully, the Joint Committee not only opted to retain them, but went on to expand their coverage.

What further makes a section 2-619 unique is that filing can be deferred until after the court rules and denies a previously filed section 2-615 motion to dismiss. Although section 2-619.1 permits the combination of multiple types of motions into a single motion, it is not mandatory to do so. Thus, an important strategy to consider is whether to combine a section 2-619 motion with the section 2-615 motion, or wait to bring the section 2-619 motion until after denial of the section 2-615 motion. Courts have allowed litigants to take that strategy. See *Lamar Whiteco Outdoor Corp. v. City of West Chicago,* 355 Ill. App. 3d 352, 366 (2d Dist. 2005).

Trial Court Decides Disputed Issues of Fact by Conducting Evidentiary Hearing

Section 2-619's framework is potent, as it provides a foundation for the parties to propound discovery and for the trial court to resolve factually disputed issues by conducting evidentiary hearings under section 2-619(c)—all at the early dismissal stage of the proceedings.

First, there is no question a movant may submit evidentiary materials in the form of affidavits, deposition testimony and documents in support of its section 2-619 motion. See *Fremont Comp. Ins. Co. v. Ace-Chicago Great Dane Corp.,* 304 Ill. App. 3d 734, 741 (1st Dist. 1999) (evidence other than affidavits may be introduced in connection with section 2-619 motion); *Hertel v.*

Sullivan, 261 Ill. App. 3d 156, 160 (4th Dist. 1994) (affidavits and depositions permissible). Second, when the movant produces evidentiary support, the respondent cannot rest on its pleadings. Rather, the burden immediately shifts to the plaintiff to submit counter-evidentiary materials refuting the movant's affirmative defense. *See In re Marriage of Kohl,* 334 Ill. App. 3d 867, 877 (1st Dist. 2002); *Pryweller v. Cohen,* 282 Ill. App. 3d 899, 907 (1st Dist. 1996). And, if the court finds plaintiff has failed to carry its evidentiary burden refuting that evidence, the motion will be granted and the cause of action dismissed with prejudice. *See Kedzie and 103rd Currency Exch., Inc. v. Hodge,* 156 Ill. 2d 112, 116 (1993).

It may sound as if a section 2-619 motion is an offshoot of a summary judgment motion. Not quite. While a section 2-619 motion does involve "essentially a summary judgment procedure" *(Barber-Colman,* 236 Ill. App. 3d at 1072), it differs in one key respect relevant here: a section 2-619 motion "allow[s] a determination of the motion on the merits even if there is a genuine issue of material fact raised by the affirmative matter as long as the party opposing the motion has not filed a jury demand…." *(emphasis in original);* see also *Consumer Electric Co. v. Cobelcomex, Inc.,* 149 Ill. App. 3d 699, 703 (1st Dist. 1986); accord *Gilbert Bros., Inc. v. Gilbert,* 258 Ill. App. 3d 395, 397-98 (4th Dist. 1994) (citing *Cobelcomex* with approval). By contrast, summary judgment's purpose is axiomatic: "…Not to decide the facts but to ascertain whether a factual dispute exists." *Barber-Colman,* 236 Ill. App. 3d at 1070.

Indeed, the very language of section 2-619(c) could not be clearer in that it empowers the trial court to "decide" the existence of "material and genuine disputed question[s] of fact" in determining whether to grant or deny the motion. And, when the non-movant's evidentiary materials raise genuine issues of fact in resisting a section 2-619 motion (typically, this would be the plaintiff), the appellate court's directive is clear: the trial court must conduct an evidentiary hearing—to protect the non-movant—under section 2-619(c). *Cobelcomex* emphasized this point, reversing the trial court's refusal to conduct the hearing when the parties had submitted competing affidavits in connection with a section 2-619 motion. *Cobelcomex* further admonished that, "in those cases where affidavits of the non-moving party raise genuine disputed questions in fact, the court must allow the parties the opportunity for an evidentiary hearing on the motion" *(emphasis added).*

Thus, when the non-movant opposing a section 2-619 motion submits evidence raising genuine issues of fact, there is no discretion. The trial court "must" allow for an evidentiary hearing if it is to resolve those disputed facts on the merits in connection with the motion. The appellate court districts uniformly confirm that, if the trial court elects to decide the merits of a section 2-619 motion with competing evidentiary materials that create a genuine fact issue, the court cannot simply weigh the evidence; but, rather, must allow the parties to conduct an evidentiary hearing for its resolution. See *In re Estate of Zivin,* 2015 IL App (1st) 150606, ¶ 18 (in deciding the merits of a section 2-619 motion "a trial court cannot determine disputed factual issues solely upon affidavits and counter-affidavits. If affidavits present disputed facts, the parties must be afforded the opportunity to have an evidentiary hearing."); *Chicago Housing Authority v. Taylor,* 207 Ill. App. 3d 821, 827 (1st Dist. 1990) (following *Cobelcomex* and remanding for evidentiary hearing on disputed factual issue); *Gilbert Bros., Inc,* 258 Ill. App. 3d at 398 ("the trial court may not resolve disputed factual issues without an evidentiary hearing").

So what does this mean in practice? Once the non-movant to a section 2-619 motion submits evidence creating a genuine issue of material fact, the trial court has two options— (1) under section 2-619(d), it can outright deny the motion without prejudice and allow defendant to re-raise the affirmative defense in its answer, where the affirmative matter will likely be resurrected on a full record through summary judgment (this is the more probable result because it allows the trial court to simply deny the motion with the knowledge that defendant can raise it later in the proceedings); or (2) if the trial court elects to push ahead and decide the merits of the motion, there is no discretion regarding the procedure it need follow to resolve the motion and it must conduct an evidentiary hearing.

The points here are straightforward. Unlike section 2-615 or 2-1005 motions, section 2-619 motions empower trial courts with the ability to decide disputed facts that may dispose of the entire matter, and all at the early motion practice stage. That unique circumstance makes a section 2-619 motion a potent defensive weapon and an important strategic litigation tool. Moreover, if an evidentiary hearing is to be conducted, there is the potential for having to incur the expense of conducting substantial discovery in preparation for that hearing and, in the process, locking in

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Defeating a Section 2-619 Motion

What should a non-movant do proactively to defeat a section 2-619 motion? Assuming the ground raised is not purely a legal matter to be decided on the face of the pleadings, the respondent needs to demonstrate the existence of a genuine and material factual issue regarding application of the interposed affirmative defense to the pleaded claim. And, if a timely jury demand is already in place, the motion can likely be defeated because genuine factual issues cannot, by virtue of section 2-619(c), be resolved via a section 2-619 motion. See Hertel v. Sullivan, 261 Ill. App. 3d at 160 ("court may not decide a disputed question of fact if a jury demand is filed.").

However, assuming no jury demand has been filed, the strategy becomes entirely different. That is because the mere existence of factual issues may not be enough to defeat the motion. Without question, the respondent must affirmatively challenge the movant's evidence and, to be prudent, submit competing evidentiary materials. This can take the form of propounding written discovery, submitting affidavits and deposing the movant's affiants or other relevant witnesses. But here, the stakes are higher, because even the existence of a factual issue might not be enough to defeat the motion to dismiss. That is because one of the purposes of a section 2-619 motion is to resolve disputed facts. Thus, the movant will try to persuade the trial court to conduct an evidentiary hearing to decide the disputed facts for resolution of the section 2-619 motion and, in the process, dismiss the plaintiff's claims.

Presented with material disputed facts, the trial court has several options to dispose of a section 2-619 motion: (1) deny the motion, but not on the merits, thereby allowing the movant to reassert the defense in its answer, as permitted under section 2-619(d); or (2) if the merits of the motion are to be decided (perhaps because, if granted, the entire case can be disposed of), conduct an evidentiary hearing to determine whether the motion will ultimately be granted or denied. It is reasonable to surmise that, the more complex the factual dispute, the less likely the court will be inclined to entertain deciding it by invoking the evidentiary hearing option under section 2-619(c). When in doubt, a trial court might play it safe for all parties by denying the motion and permitting the movant to re-raise the defense in its answer under section 2-619(d).

Conclusion

The takeaway is tactically important from both defense and plaintiff perspectives. When a movant brings a section 2-619 motion, and no jury demand has been filed, the existence of material and genuine factual issues needed for deciding that motion does not guarantee the motion's denial. Thus, a plaintiff needs to think proactively when filing a complaint and consider including a jury demand if, for no other reason, than to prevent a trial court from resolving contested issues of fact by way of an evidentiary hearing under section 2-619(c) when the defendant files its section 2-619 motion.

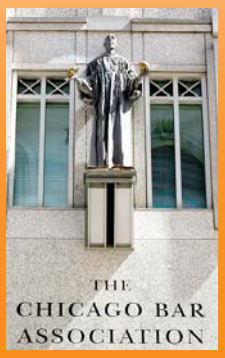
Conversely, if no jury demand has been made, a defendant's section 2-619 motion becomes a powerful weapon to dispose of a plaintiff's case on the merits, giving the movant the ability to have a trial court actually decide contested issues of fact in connection with its motion to dismiss by way of an evidentiary hearing. ■

Michael D. Richman is a partner in the Appellate Group at the Chicago office of Reed Smith. He has been involved in more than 100 appeals throughout his 36 years of practice

#FBF #CBAHistory

THE CHICAGO BAR ASSOCIATION

Standing over the entrance to the CBA Building is the male figure of Justice by sculptor Mary Block. The cast aluminum sculpture balances on the book of law while holding a bird (peace) in his right hand and a globe (the global nature of life) in his left.



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Dear YLS: Thank You

By Kathryn Carso Liss
YLS Chair

It is with both joy and sadness that I write my final column in the **CBA Record.**

Joy as you have shown me just how wonderful a group we are. You are filled with committed and caring lawyers and leaders in the Chicago community. So far this bar year, you raised awareness about the issues of child abuse, trafficking, and educational equality, helped children in local schools, worked with women and children in domestic violence shelters, served as mentors to high school students, and raised funds for multiple Chicago organizations, including, but not limited to, the Chicago Bar Foundation, Chicago Children's Advocacy Center, and Anne's House. Your 28 committees held regular meetings, events, and more than 25 seminars in all areas of law thus far.

Sadness as this entry marks the final months in my role as your Chair and as a young attorney. You introduced me to numerous friends and colleagues along my journey, some of whom I imagine will remain in my life forever. Also, you helped create several unforgettable memories. For that, I am deeply thankful. I will continue to cherish my friendships and memories made along the way during my tenure as Chair.

I would like to take this opportunity to recognize some of your fellow leaders this bar year. The following YLS Officers did an exceptional job ensuring that the YLS remains active and important by making vital decisions on programming and committees: Jonathan Amarillio (First Vice-Chair), Brandon Peck (Second Vice-Chair), Shawna Boothe McCann (Member Service Manager), Alex Memmen (Public Service Manager), Octavio Duran and Paraisia Winston Gray (Project Officers), Carl Newman (Secretary/Treasurer), and Oliver Khan and Nick Standiford (Co-Editors). The YLS' Directors, Special Project Coordinators, and Committee Chairs have all helped make the YLS one of the best and relevant young lawyers sections in any bar association. Additionally, the voice and participation of the YLS' 9,000+ members have increased the CBA's strong, connected presence within the legal community and beyond.

You implemented a number of prior year projects, including, but not limited to, Walk a Mile in Her Shoes, End Distracted Driving, Dear Santa Letters, Lawyers in the Classroom, and Law Student Speed Interviewing.

You also created several new projects such as Human Trafficking Awareness Week, Miami Nights, Paths to Teaching Law, Pie Competition, Planning Your Financial Future, Preparing for the Bar Exam, and Legal Workshops with Legal Prep Charter School.

You helped raise more than $2,000 for Anne's House to help young women survivors of human trafficking and more than $500 for Chicago Children's Advocacy Center to help abused children. You also helped Santa (get and) deliver 500 presents to Chicago Public School students via Direct Effect Charities. Recently, you also raised over $10,000 for the Chicago Bar Foundation through our Miami Nights event.

You worked with other organizations such as Center for Disability and Elder Law (Serving Our Seniors), Exelon (Wills for

continued on page 49

The Chicago Bar Association
Young Lawyers Section

2017 Annual Meeting

June 7, 2017

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2016-2017 Young Lawyers Section Chair

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Jonathan B. Amarilio
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by May 31, 2017

The Young Lawyers Section is pleased to honor the following individuals for their contributions to the Section during the 2016-2017 bar year:

David C. Hilliard Award
For Outstanding Committee Service
Maryam Fakouri
Columbia College

Ross Hersemann
Loading Law

Creative Arts Committee

Milton H. Gray Award
For Outstanding Project Leadership
Alexander Memmen
The Memmen Law Firm

Rising Star Award
For a Leader with Exceptional Promise
Thomas Cramer
Cramer Law Chicago, P.C.

Get Involved!

The Young Lawyers Section (YLS) offers great opportunities for professional growth, community service, and networking to its over 9,000 members. This year the Section focused on the theme of "Protecting Our Children" and completed several special initiatives to raise awareness about human trafficking and child protection.

To learn more about the Section and how you can get involved, visit www.chicagobar.org/yls, email yls@chicagobar.org or 'Like' us on Facebook @cbayls.

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In re Ferguson and the Equitable Remedy

Marshaling in Bankruptcy Courts

By Sean P. Williams, Alex J. Whitt, and E. Philip Groben

Bankruptcy courts are courts of equity, and therefore have the power to apply the principles and rules of equity jurisprudence, which include the marshaling of assets among competing creditors. In its classic form, marshaling involves two creditors, one senior and one junior, whereby the junior creditor may protect its security interest by forcing the senior creditor to exhaust remedies not available to the junior creditor. Marshaling may benefit more than one junior creditor, and a majority of bankruptcy courts allow marshaling claims to also be brought by a chapter 7 trustee given the trustee's status as a lien creditor. Marshaling is a remedy governed by state law, and the Illinois Supreme Court has long recognized a creditor's right to marshal assets.

To promote fair dealing between creditors, marshaling prevents a senior creditor from satisfying its debt and thereby arbitrarily prejudicing a junior creditor, which may have no other recourse. As marshaling is a form of equitable relief, a bankruptcy court will not authorize it if there is an inequitable result to the senior creditor, such as delay or inconvenience, where the property to the senior creditor is of an uncertain value, or where a marshaling order would render an otherwise oversecured creditor undersecured or unsecured. A party asking the court to issue a marshaling order bears the burden of demonstrating that the senior creditor will not suffer prejudice or hardship as a result of the marshaling.

The Marshaling Analysis in *In Re Ferguson*

The recently reported decisions in *In re Ferguson* are especially instructive for junior creditors attempting to apply the doctrine of marshaling in bankruptcy courts. *See In re Ferguson*, No. 10-81401, 2011 WL 5910659, at *1 (Bankr. C.D. Ill. Nov. 28, 2011) ("Ferguson I").

On April 28, 2010, Jerry and Julie Ferguson (the "Debtors") filed a chapter 12 case, which was still pending as of May 9, 2017. The Debtors' senior secured creditor, First Community Bank ("FCB") had a claim of approximately $297,000 against the Debtors secured by (a) a first mortgage on the Debtors' home and associated land (the "Real Estate"); (b) a first priority lien on the Debtors' farm equipment (the "Equipment"); and (c) a first priority lien on the Debtors' 2009 crop proceeds (the "Crops"). The junior secured lender, West Central FS ("WCFS"), had a claim of approximately $176,000 secured by a second priority lien on the Equipment and Crops, but critically, not on the Real Estate. The initial dispute arose because the Debtors sought to retain the Real Estate through their chapter 12 plan while liquidating the Equipment and Crops. The liquidation of the Equipment and Crops generated proceeds of over $170,000. By virtue of its first priority lien on the Equipment and Crops, FCB would be entitled to collect the entire $170,000 while also retaining its first mortgage on the Real Estate.

WCFS filed a motion to impose marshaling upon FCB and to take the liquidated proceeds from the Equipment and Crops for itself, leaving FCB to recover from its first mortgage on the Real Estate. To impose marshaling, the following factors are considered: (1) the existence of two creditors of the same debtor; and (2) the existence of two (or more) funds belonging to a common debtor; with (3) only one of the creditors having access to both funds; and with (4) the absence of prejudice to the senior secured creditor if the doctrine is applied. WCFS could easily prove the first three elements, but the fourth element was the subject of *Ferguson I*. When considering the Debtors' proposed plan, which called for retention of the Real Estate, the Bankruptcy Court noted that having a first lien in the Equipment and Crops was a valuable right that should be protected in law and equity. The Bankruptcy Court considered the long-term repayment of debt secured by the Real Estate to be an inappropriate amount of risk when compared to immediate payment from the Equipment and Crops proceeds, and the court denied WCFS's marshaling request. However, the Court noted it would consider revisiting the issue of marshaling if the Real Estate was ever liquidated.

The Debtors' case sat idle until the Supreme Court issued its ruling in *Hall v. United States*, 132 S. Ct. 1882, 1885 (2012). In *Hall*, the Supreme Court held that a debtor's postpetition taxes have administrative priority and could not be paid off over time through a chapter 12 plan. For the Debtors, this meant that their postpetition tax liability of over $200,000 rendered their confirmed chapter 12 plan infeasible, and the Debtors subsequently converted their case to chapter 7. After the chapter 7 trustee liquidated the Real Estate, WCFS filed a renewed marshaling motion (the "Renewed Motion"). FCB had no interest in the Renewed Motion, as it was satisfied in full pursuant to the sale of the Equipment, Crops, and Real Estate. However, the Debtors and the Internal Revenue Service (the "*IRS*") both objected to the Renewed Motion, as the Debtors now owed nearly $200,000 in potentially non-dischargeable tax debt. The chapter 7 trustee (the "Trustee," and collectively with the Debtors and the IRS, the "Objecting Parties") also objected arguing that unsecured creditors would likely receive little or no distribution if the Renewed Motion was granted.

Ferguson II

The dispute at the heart of the Renewed Motion turned upon the second element of marshaling, whether "two funds" existed from which to pay the junior creditor, and served as the predicate for the second *Ferguson* decision, *Ferguson v. West Central FS, Inc. (In re Ferguson)*, 2013 WL 4482445 (C.D.Ill. 2013) ("Ferguson II"). The Objecting Parties argued that (a) FCB would be forced to return money to the estate to effectuate WCFS's request and (b) there were no longer two funds in existence from which FCB and WCFS could recover (as FCB has already been paid in full). In disposing of the Objecting Parties' first argument, the Court noted that money is fungible, and that FCB would not have to give any of its proceeds back to the estate in order to grant the Renewed Motion. The Court also held that WCFS's marshaling rights were determinable based on the circumstances that existed when the bankruptcy case was filed to justify its decision that "two funds" existed for recovery. The Bankruptcy Court granted the Renewed Motion.

Ferguson III

The Objecting Parties appealed the Bankruptcy Court's decision in *Ferguson II* to the District Court. In *Ferguson v. W. Cent. FS, Inc.*, No. 14-1068, 2015 WL 5315612 (C.D. Ill. Sept. 11, 2015) ("Ferguson III"), the Court held that WCFS could prove only the first element of marshaling: that two parties held liens on the Debtors' property. In contrast to the Bankruptcy Court, the District Court held that there were no longer two funds available for distribution when the Bankruptcy Court granted the Renewed Motion. The District Court took this analysis a step further, noting that the Crops and Equipment were no longer part of the bankruptcy estate, as their proceeds were already distributed to FCB.

While neither *Ferguson I, Ferguson II,* nor *Ferguson III* specifically considered whether the Bankruptcy Court has the power to "net" offsetting debits and credits once a senior secured creditor has been made whole with the only funds to which the junior creditor was entitled, the Bankruptcy Court clearly believed that such an action led to an equitable result and that the protection of a junior creditor's rights was paramount. The District Court, however, found no textual support for the retroactive application of marshaling and did not believe that such action was appropriate, as two funds literally no longer existed.

As the District Court noted, WCFS "became a victim of timing, new case law, and other unforeseen events." This issue is difficult on its face, but one wonders how marshaling could ever be applied other than retroactively; after all, marshaling is an equitable remedy. For example, it is apparent, at least from this case, that WCFS would never be paid from its security interest in the Debtors' collateral unless the Debtors' plan called for the sale, rather than retention, of the Real Estate. This essentially moots one's ability to apply marshal-

ing, as that is what would happen under the Bankruptcy Code's priority scheme in any event. It is not difficult to imagine a situation where the Real Estate was under contract, but the Equipment and Crops were sold first (and both FCB and WCFS could recover in full). In theory, this would be a situation where the Bankruptcy Court may have allowed marshaling. Yet, it is also not difficult to imagine a situation where the Real Estate is not sold pursuant to that contract and ends up selling for an amount that could no longer make both FCB and WCFS whole. Unfortunately, the Seventh Circuit declined to hear an appeal of *Ferguson III* on appellate jurisdiction grounds because the District Court's ruling was not a final order; the District Court ruled on the "issue" of whether marshaling was appropriate, not the "dispute" of "[w]ho gets how much money."

Practical Considerations

There are a great number of considerations which must be made when counseling a client who receives a notice of bankruptcy filing. If your client is a junior secured creditor who may suffer through a senior lender's foreclosure, then a marshaling claim may be appropriate. However, as *Ferguson I* demonstrates, an often-overlooked aspect to a motion to enforce marshaling upon a senior creditor is the potential for prejudice to the senior creditor. *Ferguson I* was clear in that prejudice would exist in a court forcing the senior lender to accept the risk associated with payments over time considering the senior creditor could otherwise simply satisfy its claims through foreclosure upon its security interests.

A successful marshaling request must not only demonstrate why the petitioning creditors will be benefited, but also why the request for relief will not prejudice the senior creditors. For this reason, a creditor must not only understand the relative priority of its security interests, but must also ascertain the debtor's intention as to the collateral securing those interests. It is difficult to imagine that any creditors, other than FCB and the IRS, got what they wanted in *Ferguson*. As is often the case in bankruptcy proceedings, the unsecured creditors in *Ferguson* are likely to receive pennies on the dollar. However, a detailed and reasonable marshaling request may be the difference to a junior or undersecured creditor from receiving a pro rata distribution and exercising its rights as a secured lender. ■

Sean P. Williams is an associate with Goldstein & McClintock LLLP and represents debtors, creditors' committees, and purchasers of assets in bankruptcy courts throughout the nation. Alex J. Whitt is an associate with Hiltz & Zanzig LLC representing businesses and individuals in bankruptcy and reorganization matters. E. Philip Groben is an associate with Gensburg Calandriello & Kanter, P.C. and represents debtors, secured and unsecured creditors, and equity interests in bankruptcy proceedings, commercial litigation, and non-bankruptcy workouts.

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LEGAL ETHICS

BY JOHN LEVIN

E-Mail–More Things to Think About

Technology continues to add complexity to how lawyers must manage their practice. You would have to have been living on another planet for the past year not to have heard about the problem of using the wrong server to manage your email. By now you have hopefully reviewed your email usage and kept your client communications secure.

However, it is not only your domain that you should attend to. You probably receive email from friends, clients, potential clients, and so on, with domain names of large commercial entities such as "gmail.com" or "aol.com." You also receive email with domain names such as "company.com," "school.edu," or "subject.net." You probably do not pay much attention to the domain name of the sender.

Perhaps you should. The recent New York slip opinion, *Matter of Peerenboom v. Marvel Entertainment LLC* (31957U, Sept 30, 2016), has received some popular attention. In this case, Peerenboom ("P") sued Q for defamation. Q was employed by Marvel and sent and received email from his work account, including emails to and from his attorney. P served a subpoena on Marvel to obtain material Marvel may have regarding the alleged defamation. Q intervened and objected on the grounds that some of the email communications were privileged.

P countered on the grounds that Q waived all privilege since he was employed by Marvel, and the Marvel employee handbook stated that "hardware, software, e-mail, voicemail, intranet and Internet access, computer files and programs–including any information you create, send, receive, download or store on Company assets–are Company property, and [it] reserve[s]s the right to monitor their use, where permitted by law to do so."

The court engaged in a broad review of the law of privilege in New York, but the key holdings for purpose of this column are: (1) '[t]he use of one's own personal home computer to communicate with an attorney on a private, unencrypted e-mail account does not vitiate the attorney-client privilege …,' and (2) "use of a proprietary e-mail system, subject to an employer's computer usage policy such as the one adopted by Marvel, constitutes a waiver of any privilege that can otherwise be unilaterally asserted.…"

Many (if not most) employers have language similar to that of Marvel's in their employee handbooks. In fact, many (if not most) have language when you log in that says the equivalent of "everything on this computer system is ours, none of it is yours."

So what is the lawyer to do? The first thing is to pay attention to the client's e-mail domain name. A clear warning sign is if it is "company.com", especially if the client is emailing about a work related issue. Even "school.edu" could be a significant issue, depending on the facts. However, in any case it would be wise to ask the client whose email account he or she is using, and what service or server is being used. Be sure that the client is using a personal account and not one that is owned or controlled by a third party.

As a footnote to this column, nothing you put on a server connected to the Internet or in the cloud is reliably secure. Earlier in the digital era, this column suggested that anything that was *really* confidential should be kept on paper in a locked file. Developments over the past few years have only reinforced this advice. ■

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

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/legalethics/.

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.

President's Page continued from page 8

Most remarkably, we planned and hosted a large Chicago Violence Summit, featuring *all stakeholders in the crisis,* with the common goal of finding a workable solution.

Nobody knew that Archbishop Blase Cupich would join as a speaker for a sold-out CBA luncheon just days after the Pope announced his elevation to Cardinal.

Nobody knew that the CBA would be fortunate enough to hire producer/director Ricardo Islas from WYCC-TV. We then built our very own television studio off the lobby of the CBA, and now have unlimited capabilities for television production and other media services.

You see, none of these events were on anybody's radar screen as I tried to plan my year. But they happened and we reacted, and that is what makes the CBA the vibrant and dynamic organization that it is.

Now, I really don't have the space to mention the dozens of programs that took place which we *did* know about and plan in advance. However, a couple of events need to be highlighted.

We all *did* know that a portrait of our Executive Director Terry Murphy would be commissioned, completed, and that the long overdue dedication of the "Terry Murphy Lobby" would finally take place. Terry's portrait now hangs above the fireplace. The dedication event was held on March 23rd, and I will always remember it as a highlight of my bar year. I am so happy that Terry is finally allowing folks to recognize and honor his contributions to this bar and our city. I am even happier that he has agreed to continue serving as Executive Director for at least another three years!

We also *did* know that our CLE trip to London was going to be a big success. After all, we had more than 100 lawyers and judges join us on the excursion, and we had remarkable assistance and support from lawyers and law firms, both here and abroad. Still, I think we were all a bit surprised that the whole trip came off without a hitch, and that all of us had as much fun as we did. (The only thing that could possibly top London will be Judge Mulroy's trip to Rome next year.)

CLE in London, April 10-13. More than 100 CBA members and their guests joined CBA President Daniel M. Kotin to enjoy the sights and sounds of London, England while attending the CBA's CLE in London in April. Highlights of the trip included tours of the Supreme Court of England and Wales, the Royal Courts of Justice, Runnymede and Windsor Castle. CLE sessions were held at the London headquarters of LexisNexis, and featured topics such as security and legal ethics and an exploration of the differences between U.S. and U.K. courts. The CBA would like to offer a special thank you to our event supporters, LexisNexis and Deloitte.

Mark your calendar to join 2017-2018 CBA President Judge Thomas R. Mulroy and the CBA for CLE in Rome, Italy on April 16-19, 2018. Highlights will include the marvels of ancient Rome, cooking classes, dinner in the Borghese Gardens of the Pincio, and four hours of continuing legal education. To receive notice of the program agenda and travel information, email tdrees@chicagobar.org.

In February, I was asked to speak to a national conference in Miami and describe what services we provide our members beyond "simply collecting dues." I was given only 20 minutes, and frankly, the concept of summarizing all the CBA does was rather absurd. The truth is that Terry, Beth McMeen, Tamra Drees, Sharon Stepan, and everyone at the CBA all work tirelessly to provide countless services and opportunities to all of us. They really do not get credit for all they do. I cannot take the space to thank all of them by name, but we should all make a point of thanking them for their efforts when we see them.

Next month I will hand off the title of "President" to Judge Tom Mulroy. If you do not know already, Judge Mulroy is far more accomplished, competent, and energetic than I could ever be. He's been a fantastic Vice-President and a good friend. He already has more planned for his year than anyone else could accomplish in two years. And, I am certain that when "real life" gets in the way of his grand plans, Judge Mulroy will react, adapt, and ensure that the CBA remains the relevant and important organization it has always been.

For me, this year has been a highlight of my personal and professional life. I had no idea that I had so much left to learn–yet I learned so much. I had no idea that I had so much room to grow as a person–yet I grew so much.

A few months ago, I saw the hit Broadway production of *Hamilton.* For those of you who have seen the show, you will remember a song called "The Room Where it Happens." Well, for me, this year serving as President of this organization has offered me so many opportunities to be in "the room where it happens." I would have never been invited, but for the CBA. Thank you so much for that. This is the best legal organization I know. I may be stepping aside as President, but I am not going far. ■

LPMT BITS & BYTES

BY CATHERINE SANDERS-REACH

Get to Know Your Judge

When a lawyer appears in front a judge it helps to know that judge's preference, trial history and other information. While this information is often shared among colleagues, an attorney can also do some independent research.

Federal Judiciary Homepage

The Federal Judiciary Homepage (http://www.uscourts.gov/courtlinks) provides a gateway to all federal court websites. Information on a court's website includes opinions, dockets, information on court calls, and local rules and forms. The Seventh Circuit Court of Appeals (http://www.ca7.uscourts.gov/) website provides a good example. There is a whole array of links to materials intended to assist practitioners in preparing winning briefs. This free information does not exist elsewhere.

Court Listener (Oral Argument)

CourtListener (https://www.courtlistener.com/) is an endeavor of the Free Law Project, and its purpose is to make available not only millions of legal opinons, but also analyze raw data to generate visualizations. Search by case name, precedential status, judges, citation, filing date ranges, and filter by jurisdiction. You can also set up alerts for new cases that match your query.

Something entirely unique to Court Listener is the database of oral arguments. An advanced oral argument search lets you search audio content by docket, case name, date ranges and judge in the Federal Appellate courts and Supreme Court.

There is also an advanced Judges search that provides date of birth, judicial positions, political affiliations, education history, non-judicial positions, and opinions authored by the judge.

Law libraries have guides to everything, written and updated by the librarians. Seek out bibliographies, guides and resources on how to do everything from research a judge to conduct a legislative history. As an example, there is a great judicial research guide from University of Cincinnati Law School.

RobeProbe.com and The Robing Room

These Judicial rating sites (https://www.robeprobe.com/ and https://www.therobingroom.com/) contain some biographical content. As usual, comments should be taken with a grain of salt.

Ballotopedia

Expanded from the former Judgeopedia, this site (https://ballotpedia.org) has various levels of information on judges–the higher the court, the more detail. This site also helpfully shows lists of judges in every court with bios and a tab for elections. You can see a list of judges, for instance, on the bench for the northern district of Illinois, and find out where he or she went to graduate and undergraduate school, year of birth, appointed by, etc. Further information, such as professional career, judicial career, and notable cases is also provided.

Almanac of the Federal Judiciary

Try your law library instead, as this title is a very expensive print publication or available through subscription to Westlaw or Wolters Kluwer. This title has judicial profiles for every federal judge, bankruptcy judge, magistrate judges, plus federal trial and appellate judges. Bios feature interviews of attorneys who have argued cases before the federal judiciary, as well as academic and professional background, noteworthy rulings and more.

Google Searches

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Sullivan's Judicial Profiles

In Illinois, Sullivan's Judicial Profiles (https://www.lawbulletin.com/legal/practice-solutions/sullivans-judicial-profiles/) is a hardcover book (or part of the online Lawyerport subscription service), usually held behind the reference desk, that provides "biographical information on every active Circuit Court, U.S. District Court, or 7th U.S. Circuit Court judge who presides in Illinois, this hardcover book includes Jury Verdict Reporter case cites, plus references to Law Bulletin print media in which the judge is mentioned." Additionally, the Jury Verdict Reporter database provides useful case summaries in Illinois and provides the trial history of your judge and opposing counsel. ■

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

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WANT TO LEARN MORE?

Watch the webcast archived CLE from January 11 "Tips to Take Your Firm Paperless" and sign up for the forthcoming How To. . . Use Best Practices for File Names for Retrieval & Storage on April 25.

Need Some Affordable Meeting Space?

The CBA has a variety of meeting rooms and can provide catering and audio/visual services for client conferences, firm meetings, social gatherings etc. Call Michele Spodarek, CBA Conference Center Manager at 312/554-2124 for details.

SUMMARY JUDGMENTS

REVIEWS, REVIEWS, REVIEWS!

How to Build Your Law Practice

The Attorney's Networking Handbook: 14 Principles to Growing Your Law Practice in Less Time with Greater Results
By Steve Fretzin
Illinois Institute of Continuing Legal Education, 2016

Reviewed By Daniel A. Cotter

The practice of law has changed substantially in the last several years, and with these changes an increased focus on business generation has emerged. Whether you are a solo practitioner or a lawyer at a large law firm, the pressure to develop a book of business has increased as the number of lawyers has grown significantly in the last 20 years. Yet, many lawyers are reluctant to network to grow their books of business or are not very effective at doing so. In *The Attorney's Networking Handbook: 14 Principles to Growing Your Law Practice in Less Time with Greater Results,* author Steve Fretzin, a business development trainer for attorneys and sales coach, has provided a handbook containing simple principles based on his own successful and unsuccessful attempts at various networking methods.

Daniel A. Cotter is a Partner at Butler Rubin Saltarelly & Boyd LLP, where he chairs the Insurance Regulatory and Transactions Practice. He is also a member of the CBA Record Editorial Board.

In the Introduction, Fretzin makes a confession with respect to the principles he sets out in 14 chapters of the book:

> I uncovered these business development methodologies in the traditional way–through trial and error. In truth, I don't know anyone who's made more networking mistakes than I have. The good news is that we rarely make the same mistake twice and that the best models, processes, and inventions were developed by the 'trial and error' method. The ability to mess up, learn something, and improve as a result of that mistake is the cornerstone of professional development.

For the last several years, Fretzin has focused on helping attorneys build their books of businesses, and in his book he outlines the lessons he has learned in the legal business development arena. Each chapter sets out one of the principles, then ends with takeaways and a "Networking Note" (quotes from some of his clients on the topic of the chapter). Fretzin provides thoughts and some steps that a lawyer seeking to grow a book of business can take to apply networking in pursuit of such growth. The fourteen principles and chapters are:

- Developing a Positive Attitude and Forming Good Habits;
- Putting Yourself in the Right Place with the Right People;
- Developing a Productive Networking Plan;
- Creating the Perfect Infomercial;
- Finding Success at Networking Events;
- Working a Conference and Getting Results;
- Paying Your Networking B-I-L-L;
- Being a "True Giver" when Networking;
- Running a One-on-One Meeting for Results;
- Turning Referrals into Quality Introductions;
- Developing the Best Strategic Partners;
- Building Your Networking "Dream Team;"
- Leveraging Personal and Client Relationships; and,
- Using Social Media in a Smarter Way.

As the foreword by Neil Dishman, Shareholder at Jackson Lewis P.C. and Fretzin's former client, notes: "Our lawyer's disease is a severe, irrational aversion to doing business development well, or even doing it at all."

Each chapter of the book provides straightforward guidance and ideas for improving every lawyer's networking and business development results. At the same time, as Fretzin concludes in his Introduction: "I'd say, 'Good luck,' but as you'll find as your read this book, luck has very little to do with becoming skilled at networking."

Networking takes time, energy and a solid plan of execution. Fretzin's book provides practical guidance for the attorney to develop such a plan and to benefit from the time and energy that goes into the actual networking. It is a quick read with real examples of principles that have worked for the hundreds of attorneys who have used Fretzin's services. The book is a worthy addition for young lawyers and more senior ones who are looking to improve their networking and business development skills. ■

YLS Chair
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Heroes partner), Chicago Alliance Against Sexual Exploitation (Know Your Rights Trainings), The Salvation Army Promise Program, Cook County Human Trafficking Task Force (public service announcement recordings), National Association of Attorneys with Disabilities, ABA Commission on Disability Rights, ABA Law Practice Division, Institute for Inclusion in the Legal Profession (Access Success), and Between Friends (Walk a Mile).

Such projects, events, and the **CBA Record** would not be possible without the support from your numerous sponsors. I would like to thank Navigant Consulting, It's Your Serve, ATG Legal Serve, Quarles & Brady, Kirkland & Ellis, Schiff Hardin, Buckley Sandler, Seyfarth Shaw, Corboy & Demetrio, Peck Ritchey, CBA Administrators, Citywide Title Corporation, Verity Group, McCorkle Court Reporters Inc., Preferred Med Network, Ruby Receptionists, The Memmen Law Firm, Veritext, Cramer Law, and Northwestern Mutual for their support of the YLS.

Last, your Director and MCLE Coordinator Jennifer Byrne is a dynamic, rock star. Jennifer has done a tremendous job in keeping you (and me) organized and ensured that every project went smoothly and will continue to go smoothly in the future. Thank you, Jennifer–you are a wonderful addition to the YLS family.

As with any chapter, there is an end, and I am honored to have been a part of your chapter these last ten years. Thank you for giving me the opportunity to serve you. I look forward to all the exciting programs next year and in the years to come.

To Your Continued Success! ■

CBF Report
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the Illinois Bar Foundation, the Illinois Supreme Court Commission on Access to Justice, and the Serve Illinois Commission.

Every morning starting at 8:00am, JusticeCorps volunteers are on site at the Center, managing the flow of traffic, checking people into the Center, and helping people get to where they need to be in the Daley Center. Since the Center opened, nine full-time AmericCorps fellows have served in the Daley Center, anchoring more than 150 part-time volunteers, who are mostly college students. Collectively, the fellows and part-time volunteers have contributed well over 30,000 hours of service.

A Network of Resources

A variety of resources are available in the Circuit Court of Cook County to help people without lawyers. For more than a decade, the CBF has worked with the Circuit Court, several pro bono and legal aid organizations, the CBA, and other stakeholders to develop and nurture a network of more than 10 legal advice desks to serve people without lawyers in the Daley Center and other court-based locations. The CBF provides key funding and other support for these desks because they provide critical help for people coming into the courts on their own.

An advice desk lawyer can triage the situation, give brief legal advice and assistance, and make a referral to pro bono and legal aid lawyers when necessary and available. Judges, clerks and other court staff are able to refer people who need help to an appropriate help desk, if one is available; to broader legal services, through the CARPLS legal hotline; or to Illinois Legal Aid Online, where people can learn more about their legal problem.

Rising Numbers of Self-Represented Litigants

The critical help provided in the Resource Center and in the courthouse is more important now than ever, as the number of people coming to court without a lawyer continues to rise. Last year, 93 counties in Illinois reported that 50% or more of civil cases have at least one unrepresented litigant. According to a recent survey by the Illinois Supreme Court Commission on Access to Justice, 73% of circuit clerks and 69% of civil judges see unrepresented litigants daily. National research reports that 75% of unrepresented litigants want an attorney but cannot find or afford one. These numbers highlight the critical importance of free and affordable legal help both inside and outside the courthouse.

An Important Milestone

The CBF's vision of a truly user-friendly and accessible justice system has long included a "central starting point" in the Daley Center where people without lawyers can receive help navigating a complex system as well as brief legal advice, related assistance, and referrals to other services. Thanks to the leadership of Chief Judge Timothy C. Evans and our other partners, three years ago the Center opened to play a critical role and starting point for people without lawyers. With our partners, the CBF will continue to build upon this important starting point to increase and improve the services that are available for people without lawyers. ■

Beverage Industry Regulations
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to regulation of food and beverage labeling and advertising.

In addition to the legal review, the small business owners on the panel provided sound advice for those attempting to prioritize spending for legal matters. Dr. Sonat Birnecker Hart, co-Founder and president at KOVAL Distillery, and Ebel both emphasized the high level of legal risk associated with brand protection and the importance of not only trademark registration, but using an attorney to assist with trademark protection and defense. Ebel mentioned that the craft beer industry is particularly susceptible to trademark infringement.

The levels of growth and innovation in the beverage industry are certain to ensure continued regulatory scrutiny of an already highly-regulated industry. ■

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