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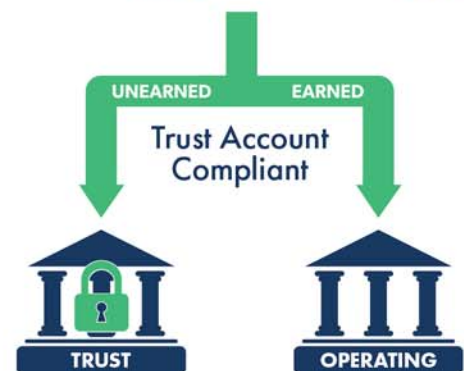
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April 20-21, 2017

The Impact of Dark Money on Judicial Elections and Judicial Behavior

In light of recent political events and the profound changes worked in the electoral landscape by the Supreme Court's decisions in *Citizens United v. Federal Election Commission*, and *Caperton v. A.T. Massey Coal Co.*, the symposium will explore one of the most pressing issues in civil justice today, maintaining the integrity of the judicial system in an era of virtually unrestricted campaign contributions. The issue will be examined from empirical, experiential and remedial perspectives. There will be two panels of empiricists asked to explore the impact of campaign contributions on who gets elected and how they conduct themselves once on the bench. Among the social scientists who will participate are leaders in the field, scholars who have been responsible for much of the key research on the impact of campaign financing.

Two panels will be devoted to legal perspectives on the question of judicial

campaign contributions. One will consider possible remedies to the problems created by such contributions and will include distinguished scholars who have provided some of the most important analysis in the literature. The second panel will seek to provide a broader social overview. It will feature a former state supreme court judge turned law professor, an author who has traced the political contribution activity of the U.S. Chamber of Commerce, and one of the leading sociologists of law.

Finally, the symposium will feature a panel of judges who have had to deal with the challenges of big money campaigns, including former Wisconsin Supreme Court Justice Louis Butler, former Iowa Supreme Court Chief Justice Marsha Ternus, retired Chief Judge Jonathan Lippman of the New York Court of Appeals, and former Mississippi Supreme Court Justice Oliver Diaz.

The Clifford Symposium on Tort Law and Social Policy

In 1994, Robert A. Clifford ('76) endowed a faculty chair in tort law and social policy. The chair gives meaningful expression to his belief that the civil justice system serves a number of vital interests in American society. The Clifford Chair at DePaul provides a vehicle for exploration of the civil justice system in an intellectually rigorous fashion.

In addition to providing support for faculty research and teaching, the

endowment makes possible an annual symposium addressing a timely issue in the civil justice area. The purpose of the symposium is to bring the latest scholarship and advances in legal practice to lawyers and scholars who specialize in tort law, civil justice and related fields. Professor Stephan Landsman is the current organizer and director of the symposium underwritten by the Clifford Chair.

Past conference topics include:

- 2016** Privacy, Data Theft and Corporate Responsibility
- 2015** The Supreme Court, Business and Civil Justice
- 2014** In Honor of Jack Weinstein
- 2013** A Brave New World:
The Changing Face of Litigation and Law Firm Finance
- 2012** A Celebration of the Thought of Marc Galanter
- 2011** Festschrift for Robert Rabin
- 2010** The Limits of Predictability and the Value of Uncertainty
- 2009** Rising Stars: A New Generation of Scholars Looks at Civil Justice
- 2008** The Challenge of 2020:
Preparing a Civil Justice Reform Agenda for the Coming Decade
- 2007** Distortions in the Attorney/Client Relationship:
Threats to Sound Advice?
- 2006** Is the Rule of Law Waning in America?
- 2005** Who Feels Their Pain? The Challenge of Non-Economic
Damages in Civil Litigation
- 2004** Starting Over? Redesigning the Medical Malpractice System
- 2003** After Disaster: The September 11th Compensation Fund
and the Future of Civil Justice
- 2002** Export/Import: American Civil Justice in a Global Context
- 2001** Smoke Signals: Civil Justice in the Wake of the Tobacco Wars

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- | | | |
|--|--|--|
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Registration

The Clifford Symposium is free and open to the public.

Because of space limitations, however, those interested in attending are encouraged to register in advance. Registrants will be given preference with regard to attendance, luncheon and distribution of materials. Registration must be completed no later than **Monday, April 17, 2017**. Walk-ins are welcome, but space is not guaranteed.

**Reservations are accepted by phone at (312) 362-8372
or online at 2017cliffordsymposium.eventbrite.com**

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On the Cover

This issue of the **CBA Record** features an untitled painting from a resident of Anne's House, a facility that helps victims of sexual exploitation and human trafficking.

CBA RECORD

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EDITOR'S BRIEF CASE

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

Lawyer Lincoln: A Lesson in Character

On March 24, 1836, the clerk of the Sangamon County circuit court deemed Abraham Lincoln “a man of good moral character,” then the basic requirement for bar admission. No exam or test of qualifications. A good moral character was the sole criterion.

Lincoln's legal career has inspired generations of lawyers, especially Illinois lawyers, as to how we should behave and interact with others. Lincoln followed his keen inner moral compass, at a time when there were no codes or rules of professional conduct. So assured was Lincoln's moral nature that he developed the reputation of being trustworthy, truthful, and principled before he became a lawyer. As Lincoln said, “I would rather be a little nobody, than be an evil somebody.”

Lincoln valued doing what fairness required. As the authors of an article on Lincoln's legal practice put it, “[W]here most lawyers would object, he would say he ‘reckoned’ it would be fair to let this in, or that; and sometimes when his adversary could not quite prove what Lincoln knew to be the truth, he ‘reckoned’ it would be fair to admit the truth to be so-and so.” Similarly, Lincoln scholar Brian Dirck says Lincoln exemplified honesty in both his moral and ethical sense—he was “frank, unapologetic[,] and practical.”

Lincoln would reject a case, even quitting in the midst of trial, if he believed the cause to be without merit. He saw trials as a means to promote morality, to achieve fairness and equity. Once, while trying a case out-of-town, he retired to the local hotel and sent the judge a message through a lawyer friend that he would not be returning. “My hands are dirty,” Lincoln told the friend, “and I came over to clean them.”

While Lincoln distinguished himself in the courtroom, he would not let deceit, unpleasantness, discord, and dishonor enter into his advocacy. Were he practicing in the 21st Century, Lincoln would disapprove of petty discovery battles or aggressive pretrial motion practice. As Lincoln said of his approach to practicing law, “I want no disputes and fusses with men about simple unimportant facts. I must conciliate.”

Lincoln heeded his conscience whenever it conflicted with client loyalty. “No client ever had money enough to bribe my conscience or to stop its utterance against wrong and oppression,” Lincoln told his partner William Herndon. “I will never sink the rights of mankind to the malice, wrong, or avarice of another's wishes, though those wishes come to me in the relation of client and attorney.”

In addition, Lincoln saw himself as defending decency, as a guardian of public order and public morals. There are countless stories of Lincoln the selfless lawyer. He would go out of his way not to take advantage of a situation or a client. But should a client flat-out refuse to pay what Lincoln considered a fair fee, he would not hesitate to sue the client. (He never drew a retaliatory malpractice claim, but his were far different times.) For instance, after successfully securing tax exempt status for the Illinois Central Railroad, he had to sue for his fee, and secured the largest fee he ever received, without jeopardizing his relationship with the Illinois Central, which continued to hire him.

For Lincoln, the cultivation of a good moral character was the standard by which he practiced law. It should be our ultimate standard as well. ■

Rehearing: “When the conduct of men is designed to be influenced, persuasion—kind, unassuming persuasion—should ever be adopted. It is an old and a true maxim, that a ‘drop of honey catches more flies than a gallon of gall.’” A. Lincoln, Temperance Address, Feb. 22, 1842.

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PRESIDENT'S PAGE

BY DANIEL M. KOTIN

Facing Challenges in What We Do



Summit on Violence

It was against this backdrop that I was approached by fellow trial lawyer Tony Romanucci last month inquiring about the CBA's interest in co-sponsoring a summit focusing on the fractured relationship between our citizens and police. We looked at Tony's proposed program and concluded that there is, in fact, a fractured relationship which needs to be addressed. Tony had worked toward developing this summit for more than a year. We were impressed by his efforts, and we were also moved by his explicit focus on finding answers to these problems. As we have all seen, there are plenty of "seminars" out there which do little more than rant about problems facing our legal system and our society. There are simply too few programs which devote the time and brain power necessary to identify and propose solutions.

So, we told Tony that we would be honored to sponsor this summit. We then soon concluded that the broken relationship between our police and citizens was just one symptom of a much broader problem. What about the relationship between the entire criminal justice system and our citizens? What about the relationship between our citizens and other societal institutions—families, schools, mental health providers, drug and alcohol treatment centers? What about the relationship between our citizens (gang members) and each other?

It was from this starting point, just last month, that the May 19th Curbing the Violence in Chicago Summit was born. It is well known that the key to success of any program with a focus on solving a problem is to have the buy-in and participation from

As I was planning my year as CBA President, considering initiatives to pursue, and scheduling events, the landscape in Chicago was different. The impact from the now-infamous Laquan McDonald police shooting video was still unknown. Donald Trump had not yet made Chicago his poster child epitomizing all that is wrong with our once-peaceful society. So, as we planned and organized many exciting initiatives for this year, holding a major summit on violence in Chicago was the furthest thing from my mind.

But now, a year later, life in our city is much different. Chicago recorded a record number of homicides last year, and data from January and February indicate that we are on pace to eclipse that number this year. Arguably, violence has become the most pressing issue facing our community.

At the Chicago Bar Association, we pride ourselves on remaining relevant. We pride ourselves on tackling difficult issues, and doing what we can on behalf of the legal profession to make a difference.

all stakeholders. Within days, we had the support of the Illinois Supreme Court. We had commitments to participate from the Circuit Court of Cook County, the Cook County State's Attorney's Office, the Public Defender's Office, the Chicago Police Department, and the Cook County Sheriff's Office. Just a week later, Alderman Ed Burke introduced a resolution in the City Council proposing that all City departments who share a concern about the relationship between law enforcement and our citizens should be represented and involved in this summit.

These voices, combined with those representing the perpetrators and victims of violence (religious leaders, community organizers and people living in our neighborhoods), will come together on May 19th in the Grand Ballroom of the Chicago Standard Club for a day-long summit focusing on finding a path toward curbing the violence which has so tragically impacted so many lives, taken a sig-

nificant financial toll on our government and local businesses, and has tarnished the global reputation of our great city. We also hope to learn from academics who have studied this problem, as well as folks in other cities who have addressed similar problems with success.

Topics will include:

- The relationship between law enforcement and the community;
- The affected communities: people, police, problems and progress;
- The impact of media and social media on Chicago violence; and
- Gun violence in the justice system: What can Chicago learn from other cities?

Those with experience in putting together programs such as this one tell me that planning requires a full year – not just three months. But we do not have the luxury of planning for a year. Our community cannot wait until next year. This process must start now. I use the word

WHAT'S YOUR OPINION?

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email us at publications@chicagobar.org. The

magazine reserves the right to edit letters prior to publishing.

“start” because that is what this summit will be—a beginning. If we can paint a path towards solutions to the violence epidemic this May, then we can dedicate future summits to implementing those solutions.

This is a tall task that we have embraced. It will be challenging. But the Chicago Bar Association has never run away from challenges. Now, more than ever, we must face this issue head-on. ■

Civil Rights and Police Litigation

Wednesday, April 19, 1:00–5:15 PM

Presented by: YLS Civil Rights

MCLE Credit: 4 IL MCLE Credits

Topics Include Federal Criminal Justice Clinic Race Discrimination Litigation In U.S. District Court; FOIA and its Role in Police Accountability and Document Production; a Community Activist's View on Transparency, Data Collection and Production of Police Audio and Video Files; Policing in the 21st Century, Technology, Independent Investigations and Policing Under Pressure; Plaintiffs' Perspective in Litigating Police Liability Cases from Investigation through Trial; a Defense Counsel's Perspective in Litigating Police Liability Cases from Investigation through Trial; the Government's Role in Police Liability Cases from an Investigation and Document Review and Production Perspective; and a Judicial Perspective on Litigating Police Liability Cases in Federal Court.

Participants include:

Professor Alison Siegler, Director, University of Chicago Law School Federal Criminal Justice Clinic; Antonio Romanucci, Romanucci & Blandin, LLC; Michael Bersani, Hervas, Condon & Bersani, PC.; Judge Gary Feinerman, U.S. District Court, Northern District of Illinois; and Moderators Nicole Schult, Uptown People's Law Center; Co-Chair, YLS Civil Rights Committee; and Anthony Becknek, Hervas, Condon & Bersani, PC; Co-Chair, YLS Civil Rights Committee. Other speakers will be announced at www.chicagobar.org.

HUMAN TRAFFICKING AWARENESS WEEK 2017

YLS Initiative Puts Spotlight on Chicago

By Clifford Gately, Editorial Board Member

By all reports, Chicago is a major national hub for human trafficking, including the pernicious market for underage prostitutes. In Chicago, 16,000-25,000 women and girls are involved in the commercial sex trade annually, with one-third of them first getting involved by the age of 15. Raphael, J., & Ashley, J (2008) *Domestic sex trafficking of Chicago women and girls. Chicago: Illinois Criminal Justice Information Authority & DePaul University College of Law*

Two individuals who are trying to make a difference by helping to rescue minor victims of sex trafficking spoke at a program entitled “A Spotlight on Child Trafficking in Chicago,”—Rohit Chandra, senior attorney with the Juvenile Division of the Office of the Cook County Public Guardian, and Queona Whitfield, the Assistant Director of Salvation Army Promise Program’s Anne’s House. The program was put on by the CBA’s Young Lawyers Section as part of Human Trafficking Awareness Week.

In 2005, the FBI designated Chicago as one of the nation’s “High Intensity Child Prostitution” locations. In his role as the Public Guardian Office’s Human Trafficking Coordinator, Chandra consults on all cases where a youth has been the subject of commercial sexual exploitation. His presentation focused on how the Public Guardian’s Office works to identify and protect victims of sex trafficking, and how



such cases are handled in the Cook County legal system.

Whitfield talked about the therapeutic and vocational programs that are provided to residents of Anne’s House—which was Illinois’ first long-term trauma-based residential program for girls and young women who are victims of sex trafficking. She also discussed programs that Anne’s House

conducts at schools and elsewhere in the community that are aimed at prevention and intervention of sex trafficking. ■

For more information on Anne’s House, go to <http://salarmy.org/promise>.

Van•guard (noun)

A group of people leading the way in new developments or ideas

2017 Vanguard Awards

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An Esteemed Panel of Legal Mentors

By Jennifer Byrne, CBA YLS Director

The 2017 CBA Leadership Institute launched in January with an exciting kick-off. This year's class of 20 young lawyers from various area law firms and organizations heard a lively panel discussion on the qualities and skills needed to become an effective leader. The panel included Judge Sophia H. Hall of the Circuit Court of Cook County, Alexis MacDowall, Vice President and General Counsel of Global Litigation for Johnson Controls, Lisa M. Madigan, Attorney General of the State of Illinois, and Jesse H. Ruiz of Drinker Biddle. The discussion was moderated by John E. Mitchell of KM Advisors, a leadership consultant who has been integral in the CBA's development of the Leadership Institute program. An interactive speed networking reception followed the panel discussion. Participants had an opportunity to delve deeper with each of the panelists about leadership success during small group discussions.

If kick-off event is any indication, the CBA Leadership Institute is poised to have another successful year in 2017. The CBA welcomes the following emerging leaders to the 2017 Leadership Institute class: Wasim Bleibel of Locke Lord; Roberto Dall'Asta of Polsinelli; Noah Frank of SmithAmundsen LLC; Anthony Fuga of Holland & Knight; Jeremy Gordon of Seyfarth Shaw LLP; Chris Hopkins of Clark Hill PLC;



David Kurczewski of Baker & McKenzie; Caroline Manley of the Center for Disability and Elder Law; Chloe Milstein of Neal Gerber; Joseph Motto of Winston & Strawn LLP; Christina Olson of Seyfarth Shaw LLP; Jessica Schneider of the Chicago Lawyers' Committee for Civil Rights Under Law, Inc.; Benjamin Schuster of Holland & Knight; Merili Seale of Bryan Cave; Shawn Staples of MuchShelist; Bruce Van Baren of ReedSmith LLP; Shaun Van Horn of Jenner & Block, LLP; Ben Waldin of Eimer Stahl; David Williams of Drinker Biddle & Reath LLP; and Jin Yan of Schiff Hardin.

The CBA Leadership Institute is a program designed to enhance the leadership skills and foster the professional growth of Chicago attorneys. The program provides emerging leaders within Chicago's legal community with the practical knowledge and business development strategies necessary to attain and be successful in significant leadership roles. The program curriculum consists of nine substantive sessions, plus eight additional cohort meetings and special events from January through October 2017. ■

The CBA's Leadership Institute is designed to enhance the leadership skills and foster the professional growth of Chicago attorneys. To learn more, go to www.chicagobar.org/leadership.




The Leadership Institute's Class of 2017

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MIKE LUFRANO IS "SOMEONE YOU SHOULD KNOW"

Take Me Out to the Ballgame

By Nina Fain, Editorial Board Member

Everyone knows that baseball is America's favor pastime and in Chicago that pastime is spelled C-U-B-S. In preparation for the 2017 pennant race, Mike Lufrano, Senior Vice President and General Counsel of the Chicago Cubs, was the special guest of the association's "Someone You Should Know" series at the Standard Club. CBA members were treated to a unique event.

CBA President Dan Kotin rightly noted in his introduction of Lufrano, "It's no secret that in addition to bringing home its first World Series crown in 108 years, the Ricketts family and new Cubs administration have made dramatic and fantastic changes to the team, Wrigley Field, and the surrounding neighborhood."

Lufrano talked about the careful planning and commitment had resulted in the historic achievement of the World Series championship for the Cubs baseball organization. For proof of the benefits of those changes, one needed only to look in the faces of the excited CBA fans.

In the leadership and commitment to excellence that brought the championship trophy to Wrigley Field, the team's owners, the Ricketts family, worked their magic. By combining management's strategy with the hard work of the players and the unwavering dedication of the fans, they created for Chicago an extraordinary

platform for sports and entertainment. Speaking to a large crowd of CBA members, Lufrano thanked to the team's fans for remaining steadfast in their team loyalty, unaffected by the curses of random goats. President Kotin echoed those sentiments by reminding CBA members that at the John Paul Stevens Award luncheon earlier in the year, even U.S. Supreme Court Justice Stevens, one of the oldest Cubs fans, had his loyalty rewarded by vintage gift from the Cubs of a pennant that had flown over the Wrigley since 1932 when the team waged its Division championship fight.

Legal Issues

Lufrano explained that the legal issues often addressed in the general counsel's office related not only to the customary business and real estate issues that arise in companies, but expanded to involve intellectual property rights, marketing, branding, licensing of marks, and protection to prevent infringement. Lufrano shared a video about the Cubs' spectacular season and wonderfully dedicated fans, the beauty of the historic field, and the extraordinary promise of the 2017-2018 season. As the team organization looks to the next season, he believes that the Cubs' goal of a World championship repeat would be greatly enhanced by the Cubs' investment in a premier Arizona spring training facility.



In conjunction with smart choices about players, trades, and coaching, Cubs staff believes the team is well positioned for another winning year.

Beyond that goal, in 2017, the rejuvenated Wrigley field will not only be used as a baseball diamond, but also an entertainment stage and a field for football. World-class entertainers like Billy Joel will perform in August, and the field will adapt to offer opportunities to accommodate plans for Big 10 football and college Bowl games to be played at Wrigley. For those who may have been surprised by that announcement, Lufrano quickly reminded CBA members that the Chicago Bears once played at Wrigley Field. What a tremendous coup it was for the CBA members to have Lufrano, who works each day at the heartbeat of the club, to give us a 2017-2018 season preview.

As Lufrano closed the breakfast, and all attendees received a Cubs cap, everyone agreed that from opening day forward, the "W" would again fly often over Wrigley Field ■



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The Long Road to Equality

By William A. Zolla, Editorial Board Member

In March, 1972, after nearly five decades of legislative efforts, Congress passed the Equal Rights Amendment (ERA), a proposed amendment to the United States Constitution which declares that “equality of rights under the law shall not be denied or abridged by the United States or any State on account of sex.” Following passage, Congress submitted the ERA to the states for ratification, and set a seven-year deadline for the necessary 38 states to approve the measure.

Despite strong initial support, only 35 States, not including Illinois, approved the ERA by the original 1979 deadline, leaving the proposed amendment three states short of the 38 needed for ratification. Even after Congress extended the deadline for ratifying the ERA to 1982, no additional states approved the measure, and five states which originally approved the ERA passed resolutions purporting to rescind their approval.

Although the ERA largely faded from national attention after 1982, efforts to revive the measure have continued over the ensuing decades, particularly in recent years as issues of gender inequality have remained the subject of intense debate. In fact, supporters of the ERA have directed much of their focus on Illinois, which is considered one of the states most likely to approve the measure after failing to do so during the original ratification period.

In light of the renewed public interest in the ERA, the CBA recently hosted, “The Equal Rights Amendment: Why it Still Matters and How it Will Affect Our Future,” a program which examined the legislative, legal, and political history of the

proposed amendment, both nationally and in Illinois. The program also focused on recent efforts to ratify the ERA in Illinois, and addressed the continued necessity of the ERA, the potential effects that the ERA would have on efforts to combat gender inequality, and the various legal and political hurdles that must be overcome for the ERA to be ratified.

Cook County Commissioner Larry Suffredin moderated the program, which featured Illinois Solicitor General David Franklin, Illinois State Senator Heather Steans, Illinois State Representative Louis Lang, and Chicago Attorney Deane Brown. Also offering remarks were Elizabeth Wells and Sharon Eiseman, Co-Chairs of the CBA/WBAI Joint Task Force on Women & Aging, one of the co-sponsors of the program.

Solicitor Franklin, who discussed the legislative and political history of the ERA, believes the ERA, if ratified, would provide greater protection against gender discrimination than either current federal laws or the Equal Protection Clause of the 14th Amendment. Ms. Brown agreed that passage of the ERA could potentially fill in gaps in current gender discrimination laws such as Title VII by, for example, covering independent contractors and govern-

ment employees, and making it easier to redress systemic bias and discrimination in employment matters without proving an employer intended to discriminate.

Representative Lang and Senator Steans, who have lead the effort to pass ERA legislation in Springfield, agreed that the ERA is still important and necessary, and that it can and should be passed in Illinois. According to Senator Steans, Illinois is where the ERA essentially died in 1982, and the State’s failure to ratify the amendment represents a huge blemish on its historical record. She and Representative Lang both believe that the ERA has overwhelming popular support, and that passage is simply a matter of political considerations. Accordingly, they feel that more public pressure on state legislators is essential for the ERA to be ratified in Illinois. ■



The Chicago Bar Association—through its Legislative Committee and Board of Managers—has offered its full support to the passing of this current piece of legislation. Find out more at www.chicagobar.org/legislative

The Chicago Bar Association presents

The Herman Kogan Media Awards



Celebrating 28 Years of Outstanding Legal Journalism in Chicago

Tuesday, May 9, 2017

11:30 a.m. Cocktails

12:00 p.m. Luncheon & Awards

The Standard Club
320 S. Plymouth Court
Chicago, IL 60604

\$70 per person

Contact Karen Highley for reservations
at 312-554-2013 or
khighley@chicagobar.org.

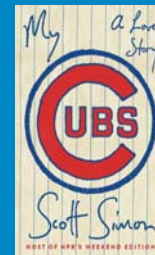
*Viewing and pictures with the Chicago
Cub's 2016 World Series Trophy will
immediately follow the luncheon.*



Guest Speakers:



David Kaplan is an American columnist, radio and television personality who currently hosts Kap and Co. on ESPN 1000. He also co-hosts Sports Talk Live, a daily sports roundtable discussion show on Comcast SportsNet Chicago.



Scott Simon an American journalist and the host of the Weekend Edition Saturday on National Public Radio.

Join our speakers after the luncheon for a book signing. Copies of both books will be available for purchase.



Veteran Chicago journalist Herman Kogan mastered a broad range of jobs in the media during his brilliant 50-year career – from reporter and literary critic, to radio host and television executive.

As a historian-biographer, he authored *The First Century: The Chicago Bar Association 1874-1974*, along with more than a dozen other books devoted to the history of Chicago's legendary institutions.

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, 2017. Don't wait until the last minute! Take advantage of the CBA's free archived CLE webcasts and free noon hour committee meetings (attend live or via webcast).

Members can also access unlimited CBA and YLS seminars of their choice through our CLE*Advantage* Plan for only \$150 (includes live, webcast and DVD formats). For more information regarding MCLE reporting requirements, visit www.mcleboard.org. ■

Learn from Experts at CBA and YLS Committee

Did you know the CBA hosts approximately 80 practice area committee meetings every month during the noon hour that members can attend live or via webcast, all at no extra cost and offering free CLE credit? Recent topics have included forensic evidence, ethics regarding social media, dealing with problem clients, preparing for mediation, cyber-

security, 2017 Cook County Assessor's Office update, immigration issues under the new administration, pending family law legislation, and much more.

Check the weekly eBulletin every Thursday to see current committee meeting titles and speakers. ■

Attention Law Student Members

Have you received your new membership card, valid through November 2017? If you have not yet paid your annual dues, please take a moment to do so now as your membership has officially expired. Your \$12 dues investment will go a long way toward advancing your legal career.

Tap into our free career resources. All these can give you a competitive edge. Call 312/554-2135 if you have any

questions regarding your membership renewal. If you were a student member and were sworn-in last November, please let us know so we can change your status accordingly and make sure you take advantage of our free membership offer for new admittees. And if you are taking the July bar exam, you should still renew your law student membership now as your free new admittee membership will not take effect until November 2017. ■

Discounted Parking Now Available

CBA members can park for just \$12 at the 75 W. Harrison parking garage (enter off Harrison, between Clark and Federal Streets) Monday through Friday for up to 12 hours (enter anytime but must be out by midnight). Just a 6 minute walk from the CBA Building, 321 S. Plymouth Court, Chicago. Enter at 75 W Harrison and push the button at the entry station. You will receive 3 tickets

(one to validate at the CBA for discounted rate, two for the valet attendants). Be sure to take your parking ticket with you for validation in the CBA Building lobby. Once the attendant retrieves your vehicle, insert your paid ticket into the exit station to lift the gate and exit.

Monthly parking also available. For more info, visit www.75wharrison.com/cbaparking or call 312/494-9135. ■

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312/554-2056

www.chicagobar.org

Nov. 2015 Admittees— Is This Your Last Issue?

It could be if your CBA membership dues have not yet been paid or if you have an outstanding balance that is 90 days past due. In accordance with the CBA's By-Laws, members who did not renew by February 28 received a notice of termination of membership. If you have not yet renewed your membership or brought your membership account up-to-date, please do so now to keep our outstanding member benefits. We don't want to lose you!

CBA membership is more valuable than ever.

Renewals may be made online (www.chicagobar.org), by phone (312/554-2020) fax (312/554-2054) or by mail. Questions regarding dues and other charges - call 312/554-2020.

Members wishing to resign/cancel are requested to indicate so in writing stating their reason for resignation to avoid reinstatement fees in the future. Please send your resignation request to kbryan@chicagobar.org or write a short note on your statement and return it.

In-Person • Webcast

CLE

THE CHICAGO BAR ASSOCIATION
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How To... Honestly Answer a Malpractice Insurance Application
March 28 • 1:45-2:45 p.m. • Members Free

Mental Health Issues in Family Law Cases
March 28 • 3:00-6:00 p.m.

Senate Bill 100: Year One of the New School Discipline Law
March 29 • 3:00-6:00 p.m.

Consumer Law in 2017 and Beyond
March 30 • 12:30-2:10 p.m.

Create a Facebook Law Firm Page
March 30 • 2:00-3:00 p.m.

Courtroom Cross Skills: Summary Suspension Volunteer Training
April 4 • 3:00-8:00 p.m.

Social Media Discoverability and Admissibility
April 5 • 4:00-5:30 p.m.

How Lawyers can use Twitter to Connect and Share
April 6 • 2:00-3:00 p.m.

Illinois and Chicago Animal Law Policies
April 6 • 3:00-6:00 p.m.

How To... Search Engine Optimization (SEO)
April 11 • 1:45-2:45 p.m. • Members Free

Distressed Assets: Enforcement and Business Side Perspectives
April 11 • 3:00-6:00 p.m.

Legal Super Powers: Supercharge Microsoft Office with Add-ins
April 12 • 12:00-1:30 p.m.

Consumer Bankruptcy: Pesky Problems and Emerging Issues
April 12 • 3:00-6:00 p.m.

Encore Careers for Seasoned Lawyers
April 13 • 12:00-1:00 p.m. • Members Free

Law and Psychiatry: Role of AOT Programs
April 13 • 3:00-6:00 p.m.

Civil Rights and Police Litigation
April 19 • 1:00-5:15 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
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Chicago Bar Foundation Report



The 2017 Investing in Justice Campaign

Justice People Deserve, Not Just What They Can Afford

By Meredith Mazzuca, CBF Director of Marketing and Communications

March brings to mind several annual traditions—March Madness, St. Patrick’s Day, spring breaks. But for those in the Chicago legal community, March has also come to mean something particularly important to the legal profession: the annual CBF Investing in Justice Campaign.

This month marks the 11th year of the Campaign, a community-wide effort through which thousands of individual attorneys and legal professionals at more than 150 participating law firms, corporations, the CBA and other law-related organizations in the Chicago area come together around our profession’s common cause: ensuring that everyone has access to necessary legal help, not just those who can afford it.

When the Investing in Justice Campaign launched in 2007, it raised more than \$600,000 from about 1,600 individuals at 35 participating law firms and companies. The Campaign has come a long way since that promising beginning. Last year,

The CBA again is one of the organizations participating in the Campaign, and we encourage all CBA members to contribute at chicagobarfoundation.org/campaign.



100% of individual contributions go to work in the community through CBF grants to dozens of outstanding pro bono and legal aid organizations.

Justice People Deserve, Not Just What They Can Afford
chicagobarfoundation.org/campaign

more than 5,000 individuals donated \$1.5 million, bringing the total raised over the first ten years to nearly \$14 million. Each year, one hundred percent of those dollars goes to dozens of Chicago-area pro bono and legal aid organizations through CBF grants, which in turn has leveraged millions more in legal aid funding from the CBF’s foundation and government partners.

In past years, the Campaign has been led by some of the most prominent mem-

bers of our legal community, including Susan Levy, Brett Hart, Patrick Fitzgerald, Dan Reidy, Emily Nicklin, Bill Von Hoene, Jr., Chuck Douglas, Jeff Stone, Dan Webb and Tony Valukas. Following in this tradition, the 2017 Campaign is chaired by Jesse Ruiz, a Partner at Drinker Biddle & Reath LLP.

Today, we can proudly declare the Campaign is the largest and most impactful initiative of its kind anywhere in the coun-

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try. It is a national model, with Chicago's legal community leading by example. The Campaign makes it possible for tens of thousands of Chicagoans in need to get crucial legal help each year. However, while we should take pride in the Campaign's past success, the need to support our community is greater than ever, and we have proven through the Campaign that we can make a big impact in meeting this need.

While we all support a wide variety of worthy causes, ensuring that all people have equal access to the justice system is distinctly important to us as trustees of that system and our common cause as a legal community. If we do not support this cause, there is not another group of people that will understand these issues or respond in the same way.

700,000 low-income and disadvantaged Chicagoans will need legal help over the course of this year. Despite the dedicated efforts of Chicago's many outstanding pro bono and legal aid attorneys, less than half of those people will be able to get often-critical legal help due to a shortage of pro bono and legal aid resources. While we all have important roles to play as individuals, the Campaign has proven that we have the power to significantly expand the capacity of our pro bono and legal aid system when the legal community comes together as one around this issue. Specifically, donations to the Campaign:

- Leverage significantly more money from government and other foundations.
- Benefit from the CBF's rigorous grants process, which strategically allocates the Campaign funds to maximize impact



A Message from the *Campaign Chair*

Dear Colleague:

In this time of change, we hear regularly about the many issues that divide our country today. Wherever we stand on those issues, there is one topic, one ideal, that unifies all of us in the legal community: that everyone should have equal access to justice, regardless of who

they are or how much money they have. This fundamental principle not only binds us together as a profession, it is an inherent part of who we are as Americans.

As the 11th Annual CBF Investing in Justice Campaign kicks off, our collective efforts in this common cause have never been more important. More people than ever today depend on pro bono and legal aid services to protect their families, their housing, their health, their livelihoods and their liberty. Over the Campaign's first ten years, we've helped tens of thousands of people in our community to get that critical legal assistance. Yet for many more low-income and disadvantaged people in the Chicago area, that help remains out of reach because there are not enough pro bono and legal aid services to go around.

The Campaign provides us an opportunity as lawyers and legal professionals to take the lead in closing this gap. By coming together as a legal community, we can make a collective impact through the Campaign that none of us could on our own. Over the course of the Campaign's first ten years, we've already raised nearly \$14 million for pro bono and legal aid services in our community, and those funds have helped leverage millions more to support this critical work.

I am humbled and proud to serve as this year's Campaign Chair. I look forward to working with you to build on all of our success in the Campaign's first ten years, so that many more people can get the legal help they need. Together, we can continue to make our community a fairer and better place. Together, unified in this effort, we can help ensure access to justice for all. Thank you.

Sincerely,

Jesse H. Ruiz
Chair | 2017 Investing in
Justice Campaign
Partner | Drinker Biddle & Reath LLP

and ensures accountability.

- Save hundreds of thousands of dollars in other social services by enabling people to resolve legal problems before they spin out of control.

Campaign grants enable more than 30 pro bono and legal aid organizations to provide legal services to tens of thousands of low-income Chicagoans. From legal aid

hotlines and advice desks to large impact litigation and advocacy work, these organizations provide a continuum of legal services to people who most need help but can't afford it.

Investing in legal aid means investing in our community, and through the Campaign, it is an investment that produces powerful returns. ■

MURPHY'S LAW

BY TERRENCE M. MURPHY, CBA EXECUTIVE DIRECTOR



(L-R) CBA President Daniel Kotin, 2017 Dickerson Award recipients Josie Gough, Robert F. Harris, Graham C. Grady; along with Past CBA President Judge E. Kenneth Wright, Jr. participated in the CBA's Dickerson Award Luncheon at the Standard Club on February 22. The Chicago Bar Association established the Dickerson Award to honor Earl Burrus Dickerson, an outstanding lawyer who was among the first African-American members of the Chicago Bar Association. The Dickerson Award recognizes and honors minority lawyers and judges whose careers at the bar emulate the courage of Dickerson in making the law the key to justice for all in our society. Photo by Bill Richert.

The 2017 Vanguard Awards luncheon will be held on Thursday, April 6 in the Grand Ballroom at the Standard Club. Fifteen Chicago-area bar association presidents will present the Vanguard Award to their honoree at the luncheon. This year's honorees include: **Michael C. Aguhar**, Filipino American Lawyers Association; Illinois Supreme Court Justice **Anne M. Burke**, The Chicago Bar Association; **Chicago Legal Clinic**, Advocates Society of Lawyers; **Susana Darwin**, Lesbian & Gay Bar Association; Justice **Robert E. Gordon**, Decalogue Society of Lawyers; **David Herrera**, Puerto Rican Bar Association; **Sana'a Hussien**, Arab-American Bar Association; **Andrea S. Kramer**, Women's Bar Association; **Sang-yul Lee**, Asian American Bar Association; **James D. Montgomery Sr.**, Cook County Bar Association; **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. A reception for the honorees begins at 11:30 a.m. followed by lunch. Brief video acceptance remarks (2 minutes) from each of the honorees will be shown at the luncheon which is expected to adjourn around 1:30 p.m. Tickets for the luncheon are \$70 per person or \$700 for a table of ten. For more information or to make reservations contact **Tamra Drees** 312/554-2057 or tdrees@chicagobar.org

Herman Kogan Media Awards

The 28th Annual Herman Kogan Media Awards luncheon will be held on Tuesday, May 9 in the Main Dining Room at the Standard Club. This year's luncheon will feature two outstanding speakers, **David Kaplan**, *Sports Talk Live*, and **Scott Simon**, host of NPR's *Weekend Edition*. In addition, the Chicago Cubs World Series

Trophy will be on hand for members/guests viewing and photos. The Kogan Awards are named after legendary Chicago journalist Herman Kogan, whose career spanned 50 years. Kogan was the author of *The Chicago Bar Association's First Century 1874-1974*, and authored or co-authored ten other books, including *Lords of the Levee*; *Give the Lady What She Wants*; *Big Bill of Chicago*; and *The Great Fire: Chicago 1871*. The Kogan Awards will be presented to journalists in the following categories: print, broadcast and online. Tickets for the luncheon are \$70 per person and \$700 for a table of ten. For more information or to make reservations, contact **Karen Highley** at 312/554-2013 or khighley@chicagobar.org.

16th Annual Barristers Big Band Benefit Ball

This year's Barristers Big Band Benefit Ball (BBBBB) will be held on Friday, April 28 in the Grand Ballroom at the Standard Club. The reception and buffet dinner begins at 6:00 p.m. followed by music and dancing. The CBA is the only bar association in the U.S. that has a Symphony Orchestra, Big Band and 100-member Chorus. Join your colleagues from the bench and the bar at this special evening which will also include a silent auction.

Tickets for the Ball are still only \$50 per person and come with a guarantee for a "fun" evening. Information about the silent auction items will be available online at www.chicagobar.org/barristerball. For more information or to purchase tickets contact Tamra Drees at tdrees@chicagobar.org or 312/554-2057

Congratulations

Thomas A. Demetrio was honored as one of the nation's 50 most influential trial lawyers by the National Trial Lawyers Association...the Celtic Legal Society of Chicago honored Judge **Thomas V. Lyons** (Celt of the Year Award) and Judge **William J. Bauer**, U.S. Court of Appeals, Seventh Circuit (James J. Shields Medal of Excellence) at the group's annual St. Patrick's Day Luncheon...**Metropolitan Family Services** is celebrating its 160 Anniversary—last year this outstanding



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

The Moses, Bertha & Albert H. Wolf Fund

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

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



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

– Wolf Fund Recipient



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

Member Appreciation Week

Save the Date—free CLE Seminars, Raffle Prizes and Legal Business/Technology Show during Member Appreciation Week, May 8-12

Details coming soon. Watch for email announcements and postings on our website in early April.

Chicago institution helped more than 72,000 adults, children and Chicago families...**Cecilia A. Horan** was appointed to the Circuit Court of Cook County by the Illinois Supreme Court to fill the vacancy of **Russell W. Hartigan**...Kirkland & Ellis is hosting the Center for Conflict Resolution's 38th Anniversary on March 30...**Edward I. Grossman** has retired as Executive Director of the Chicago Legal Clinic. Ed co-founded the CLC with Bishop **Thomas J. Paprocki** 36 years ago and will continue as senior counsel...**Adam M. Salzman** was selected to succeed Ed as the Chicago Legal Clinic's new Executive Director...past president **Kerry R. Peck**, Peck Ritchey LLC, was a recent guest on WTTW's *Chicago Tonight's* program on elder abuse...**Kathryn Carso Liss**, Chair of the Young Lawyers Section, has authored the *Military Family Law Guide*...past president **David C. Hilliard** was honored as one of two Intellectual Property Luminaries in Illinois and Pattishall partners, **Brett A. August**, **Phillip Barengolts**, **Thad Chaloeontiarana**, **Bradley L. Cohn**, **Jonathan S. Jennings**, **Janet A. Marvel**, **Robert W. Sacoff**, **Joseph N. Welch II** and **Belinda J. Scrimenti**, were designated Illinois Super Lawyers for 2017, and partner **Ashly I. Boesche** was named as an Illinois Rising Star and top rated e-discovery lawyer.

Travis Richardson was appointed to the Circuit Court of Cook County...**Myron F. Mackoff** was appointed to the Circuit Court of Cook County in the 8th Subcircuit...the CBA's **LGBT Committee** is celebrating its 20th anniversary on April 19...**James C. Pullos** has become a partner at Clifford Law Offices and **Charles R. Haskins** is a new associate at the firm...**Kimball** and **Karen Anderson** will chair the Public Interest Law Initiative's 40th anniversary gala in November...**Elizabeth**

Jensen is PILI's new Program Director...**Phillip J. Sprouse** was named CARPLS Champion at the Justice Entrepreneurs Project's first annual Awards Night...CARPLS will hold its Golden Gavel Awards Celebration on May 16...**Baker & McKenzie** hosted the Center for Disability & Elder Law's Winter Awards event - - honorees were: Corporate Partner of the Year, **Elena Kraus**, Senior Vice President & General Counsel, Walgreens; Impact Award, **Theresa Jaffe**; and the Volunteer of the Year Award was presented to **Linda Ochsenfeld**...The **Chicago Committee on Minorities in Large Law Firms** has relocated its offices to Bryan Cave, LLP...**Maureen Beacom Gorman**, partner at Marshall Gerstein Borun LLP, received the 2017 International Law Office, Intellectual Property and Trademarks Illinois Award...**Charles D. Katz**, Polsinelli P.C., was recognized by BTI Consulting Group as a 2017 Client Service All-Star...**Kelly M. Cronin** and **Joseph Andrew Konrad** are new associates at Sanchez Daniels & Hoffman, LLP...**Bradley M. Cosgrove**, partner at Clifford Law Offices, will be a speaker at ITLA's damages seminar.

Howard P. Zweig will chair Taft Stettinius & Hollister's new higher education practice...**David Sugar**, partner at Arnstein & Lehr, spoke about the reconversion of condominium buildings at the Community Association Institute...**Sommer R. Luzynczyk** was named a partner at Pretzel & Stouffer, Chtd...**David W. Inlander**, Managing Partner, Fischer & Kahn, Ltd., introduced **Cardinal Blase J. Cupich** at the 22nd annual Cardinal Bernardin Jerusalem Lecture at DePaul University...**Sean Powell** is a new associate at Faegre Baker Daniels, LLP...**Andrew P. Stevens** is a new associate at Corboy & Demetrio, P.C....**Philip N. Fluhr** will lead LeClairRyan's new Chicago office...**Josie M. Gough**, Loyola University School of Law, **Graham C. Grady**, Taft Stettinius & Hollister, and **Robert F. Harris**, Cook County Public Guardian, were recipients of the CBA's 2017 Earl Burrus Dickerson Award...**Paula Hudson Holderman** was elected President of The John Marshall Law School...**Jerry Esrick** has opened his own firm concentrating exclusively in arbitration

and mediation services...The Advocates Society of Lawyers was recently honored by the Polish National Alliance...**G. A. Finch**, partner at Hoogendoorn & Talbot LLP, presented a seminar on "Rezoning Property in Chicago" to the Chicago Housing Authority. G. A. is also a member of the Illinois Civil Service Commission...**Kelly A. Anderson** is a new partner at Lavelle Law, Ltd...**Matthew J. Piers**, **Catherine Reiter**, **Joshua Karsh**, **Donna Kaner Socol** and **Daniel A. Waitzman**, Hughes Socol Piers Resnick & DYM, Ltd., were selected as Rising Stars in the 2017 edition of *Illinois Super Lawyers*.

The **Advocates Society of Lawyers** dedicated the Annex of the Copernicus Center in honor of the late **T. Ron Jasinski-Herbert**...Hon. **Patricia Banks**, Presiding Judge of the Circuit Court's Elder Law & Miscellaneous Division, has retired...**Markus Funk**, partner at Perkins Coie, has published the 2nd edition of "Child Exploitation and Trafficking: Examining Global Enforcement and Supply Chain Challenges and U.S. Responses"...**Barry Kozak** has become associated with October Three Consulting and will provide clients and law firms with guidance on retirement issues...**Lauren J. Wolven**, Levenfeld Pearlstein partner, spoke to the Association's Trust Law Committee...**Stephanie C. Saladino** and **Mary Van Cleef**, are new associates at Polsinelli, P.C....**Howard L. Teplinsky**, Beermann Pritikin Mirabelli Swerdlove LLP, has been appointed Chair of the Illinois Attorney Registration & Disciplinary Commission's Inquiry Board...**Beth D. Vogel** has become a partner at Jones Day...**Caroline Kane** is a new associate at Tristan & Cerantes...**Michael R. Brancheau** is a new associate at Higgins Law.

Anthony J. Jacob, Hinshaw & Culbertson partner, was a recent speaker at the State Bar of Wisconsin on Legal Principles for Effective Drafting...**Brinks Gilson & Liono** celebrated its Centennial Anniversary...**Nicholas A. Casto** is a new associate at Ice Miller, LLP...**Antonio M. Romanucci**, Romanucci & Blandin LLC, was reappointed Vice Chair of the Illinois Supreme Court's Rules Committee...**William R. Pokorny** was named an

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

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equity partner at Franczek Radelet P.C.... **Rachel S. Stern** was named partner at Brennan Burtker, LLC...**James Litow** is a new associate at Dussias Skallas Wittenberg, LLP...**David M. Loring**, **Henry Lee Mann** and **Lauren S. Novak** were named partners at Schiff Hardin, LLP...Judge **Debra B. Walker** is the recipient of the 2017 National Conference of Bar Foundation's Excellence Award...**Adam S. Garber** is a new partner at

Levenfeld Pearlstein, LLC...**Jenni Fenton** is a new associate at Zulkie Partners LLC...**Michelle M. Wahl** has become a partner at Swanson Martin & Bell LLP...**Joshua W. Mahoney** has become a partner at Barack Ferrazzano Kirschbaum & Nagelberg, LLP...**Marc A. Taxman**, **Bradley N. Pollock**, **Sean P. Murray** and **Gerald Bekkerman** have formed Taxman, Pollock, Murray and Bekkerman LLC...**Andrew S. Williams** has become a shareholder in Simmons Hanly Conroy, LLC...**Michael A. Brandess** has become a partner at Sugar Felsenthal Grais & Hammer, LLP...**Bryan J. Johnson** was added to Dykema Gossett's litigation department...**Daniel S. Kirschner**, partner, Corboy & Demetrio, was a recent speaker on "Internet Service Providers Liability in Civil Cases"...**Vishal K. Chhabria** is working with Lavelle Law's new immigration practice group...**Theodore M. McGinn** was named managing partner of Lavelle Law, Ltd...**Shannon M. McNulty**, Clifford Law Offices, was a recent speaker on class actions at an ITLA seminar. **Lauren M. Loew** was named partner at Foley & Lardner, LLP...**David J. Alfini**, a partner at Hinshaw & Culbertson LLP, spoke about "Final Rulings to New Beginnings"...**John C. Lillig** was named a partner at Hoogendorn & Talbot, LLP...**Chuhak & Tecson** celebrated the firm's 30th anniversary...**Gretchen L. Schmidt** is an

associate at Vitale, Vickrey, Niro & Gasey LLP...**Robert J. Napleton**, Motherway & Napleton LLP, recently spoke at ITLA's medical malpractice seminar...**Conor S. Hunt** has been named partner at Fitch, Even, Tabin & Flannery LLP...**Keith A. Hebeisen**, Clifford Law Offices, spoke at the American Board of Trial Advocates mock medical-malpractice trial...Judge **Lorna E. Propes** presided over a mock trial at IIT Kent College of Law...**Anna S. Morrissey** has joined SmithAmundsen's health care practice group...**Robin Drey Maher** has been named an equity partner at Levin Schreder & Carey, Ltd...**Newton C. Marshall**, capital partner at Karbal Cohen Economou Silk & Dunne LLC, was inducted into the Society of Illinois Construction Attorneys...**Robert E. Kenzie**, partner at Arnstein & Lehr, is the new president of the American College of Tax Counsel...**Kiley C. Keefe**, associate at Arnstein & Lehr, was added to the environmental and litigation practice groups...**Oluwafemi Masha**, Brinks Gilson & Lione, spoke at the African Tech Summit...**Kristi L. Nelson** is a partner at Gair Eberhard Nelson Dedinas Ltd...**Kristen A. Jones** is a principal at Goldberg Kohn...**Peter J. Strand**, Leavens Strand & Glover LLC, moderated multimedia and entertainment law programs at the South by Southwest Conference and Festivals in Austin, Texas...**Terrence J. Sheahan** is an equity partner at Freeborn & Peters...**Thomas B. Fullerton** was named partner at Ackerman LLP...**David M. Cummings**, Steptoe & Johnson LLP partner, co-authored an article titled: "Differential Diagnosis and *Daubert*: Preventing the Misuse of Differential Etiology to Prove Causation in Toxic Tort Cases"...**Saul E. Rudo**, a partner at Katten Muchin, Rosenman LLP, presented a seminar on "Maximizing Value in M&A Tax Structures."

Condolences

Condolences to the family and friends of Hon. **John J. Stamos**, former Justice of the Illinois Supreme Court, **James W. Ryan**, **Penny Nathan Kahan**, **Robert F. Fuchs**, **Robert Brent Pennington** and **Robert J. Agostinelli**. ■

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How Communities Can Help Curb Child Abuse & Neglect

By Kathryn Carso Liss

Child abuse and neglect knows no boundaries. It can affect any child regardless of race, age, or socioeconomic status. Abuse can be physical abuse (i.e., hitting, kicking, shaking, burning, etc.), sexual abuse, or emotional abuse (i.e., threats, rejection, criticism, etc.). Neglect is the failure to provide for a child's basic needs. Even though child abuse and neglect transcend all demographics, some factors do increase the risk of child abuse and neglect: young parents; a lack of knowledge of average child development or behavior; outside stressors (i.e., poverty, divorce, unemployment); substance use/abuse; intergenerational trauma; and isolation.

In 2014, there were an estimated 646,261 children abused and/or neglected within the U.S. and Puerto Rico (72.3% suffered neglect and 41.3% suffered physical abuse exclusively or in combination with another maltreatment). Of those children, 1,580 children unfortunately died as a result of this abuse and/or neglect.

However, with awareness and support from communities, many of these abuse and neglect cases can be prevented. My husband and I have three young children, and I admit parenting is not an easy job. Parents know that limits will be tested and you will feel defeated at times. I say this not to scare people, but instead to confirm that this is normal and it's okay to ask for help when you need it. By providing resources, support, or coping strategies to help parents manage, learn, and form social support groups to address these concerns which often times are not discussed or taught before children are born, parents will be less likely to feel stressed or alone when raising a child. This, in turn, will increase the odds of a child being protected from neglect and/or abuse, which is never okay.

Several states have great programs aimed at helping at-risk parents and children. For example, Oregon has a Family Support and Connections Program that helps families receiving temporary assistance identify critical needs and create solutions to those needs with the assistance of a service provider. Some examples of the assistance that may be provided include: parent mentoring; crisis services and emergency funds; information and referral to community resources to enhance family stability (i.e., housing services, domestic violence shelters, legal aid, mental health services, clothing donations, food pantries, and recreation opportunities); and transportation to parenting classes or support groups.

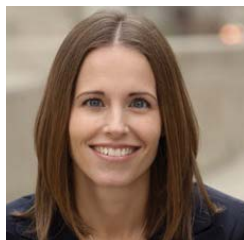
Hawaii has a program called Family Hui Hawaii which coordinates peer-to-peer support groups ("hui") for families based on their neighborhood and the age of their children from birth to age five. Families can build relationships with other families and discuss parenting strategies and child development through a twelve-week course. This program, which aims to build social support and therefore reduce isolations and depression amongst parents, has expanded to California, North Carolina, and Virginia through the help of former Hui members who have moved from Hawaii to new communities.

Parent to Parent of Pennsylvania links families with children and adults with disabilities or special needs to more than 1,700 volunteer peer supporters via phone for support and information. Parent to Parent helps these families cope with the everyday stresses of raising children with disabilities or special needs.

Georgia's Second Step program is a classroom-based curriculum for children, which is to promote children's social and academic success by decreasing problem behaviors, increase students' school success, and promote self-regulation. Children are grouped in classrooms by grade and are taught to identify and understand their own and others' emotions, set and achieve positive goals, and make good decisions when emotional. There are also take-home materials to help engage parents and build support for these children at home.

Here at home, the YLS recently partnered with the Chicago Alliance Against Sexual Exploitation (CAASE) to help present their brand new "Know Your Rights Training: Advocating for and Educating Survivors of Prostitution and Sex Trafficking" to members of the Chicagoland community. The first training took place on February 22, 2017 at Breakthrough Urban Ministries' family shelter in Garfield Park.

The more support a community has for parents, the more children within that community will be protected from abuse and neglect. ■



Kathryn Carso Liss began practicing law in May, 2007 and has practiced exclusively in the area of family law. Katie is currently an attorney at the Law Offices of Jean Conde, PC. She competently assists families through difficult transition periods while putting the interests of the children first. She represents clients in adoption, divorce, paternity, and order of protection proceedings as well as serves as a Cook County court appointed Child's Representative, Guardian ad Litem, and Attorney for the Child. Katie teaches adoption law as an adjunct professor at DePaul University College of Law and serves on DePaul's Family Law Center Advisory Board.

By Jody Raphael

Combatting Trafficking for Sexual Exploitation

Lawyers are Key



As they are a hidden population in a clandestine and illegal industry, the number of victims of trafficking for sexual exploitation cannot ever be counted or ascertained. That trafficking exists cannot be doubted by the fairly large number of cases coming to the attention of law enforcement and the national Hotline, and as awareness increases, in future years we can expect additional instances. Due to the hidden nature of the problem, it has become obvious that elimination of trafficking for sexual exploitation

cannot be achieved by law enforcement's apprehension of traffickers alone. Happily, the actions of private attorneys are effectively supplementing law enforcement efforts.

Primarily, trafficking for sexual exploitation exists because of the demand for paid sex from customers. In addition to customers, there is an infrastructure that also profits from such trafficking and must also be dismantled. Parts of the infrastructure include the Internet, used to advertise trafficked persons; hotels and motels used

by traffickers for assignments; and cab drivers who ferry traffickers and their victims. Finally, a culture currently exists that asserts prostitution is inevitable, which leads to the normalization of the practice of paying for sex and the belief that all prostitution should be legalized. These attitudes create an atmosphere of acceptance, allowing traffickers to operate with impunity.

For years now I have been researching and investigating how this infrastructure operates and what legal tools can be used to dismantle it. A recent seminar sponsored

ILLINOIS TRAFFICKING FOR SEXUAL EXPLOITATION STATISTICS

126 Sex trafficking cases charged in Cook County since 2010. 32% of victims in cases charged were minors.

198 Reports of human trafficking cases from Illinois in 2016 to the National Human Trafficking Resource Center hotline. 30% were minors, 79% U.S. citizens.

1,004 Human trafficking cases in Illinois have been identified by the Hotline since 2007.

National Statistics

7,572 Human trafficking cases reported to the Hotline in 2016. The vast majority involved sexual exploitation.

31,659 Cases identified by the Hotline since 2007.

2,310 Cases of human trafficking between 2009-2014 confirmed by federally-funded local task forces (covering only a fifth of the country).

by the CBA Young Lawyers Section during the 2017 Human Trafficking Awareness Week was subtitled, “Learn how you can take meaningful action to help protect children and make a difference.” The problem has been that up until now it has been difficult for those concerned about human trafficking to take action other than calling law enforcement or the hotline when they see something suspicious. Once, however, the spotlight is put on the infrastructure of trafficking, there is plenty of room for action, and audience members at the seminar had many important suggestions. This article summarizes some of the legal and extra-legal efforts now underway to dismantle the infrastructure that supports trafficking for sexual exploitation. Lawyers have been front and center in the recent efforts and have a large part to play.

The Internet

An undercover officer responded to an advertisement in the Casual Encounters section of Craigslist in 2015 which read “Come Sleep with Daddy’s Little Girl.” He was offered two hours with the four-year-old daughter of the advertiser in exchange for \$1,000. When the officer arrived at the assignation, he was shown the young girl lying naked under a blanket in a groggy state, perhaps drugged with sleeping pills (Salinger, 2015).

The current market leader in commercial sex advertising is Backpage.com, (hereinafter Backpage), netting more than 80% of such advertising revenue in the United States Permanent Subcommittee on Investigations, United States Senate, Backpage.com’s Knowing Facilitation of Online Sex Trafficking: Staff Report (2017), available at <http://bit.ly/2iP6cZP>; reportedly internal revenue reports demonstrate that from 2013 to early 2015 99% of Backpage’s worldwide income was directly attributable to the “adult section.” K.D. Harris, Attorney General Kamala D. Harris Announces Criminal Charges against Senior Corporate Officers of Backpage.com for Profiting from Prostitution and Arrest of Carl Ferrer, CEO (2016), available at <http://bit.ly/2m2AZ7i>. For years now, law enforcement officials, including our own Cook County Sheriff Tom Dart, have lobbied Backpage to do more to remove ads of minors from its site. When Backpage remained adamant, they brought lawsuits. Due to federal law (Telecommunications Act of 1996, Pub. L. No. 104-104, (110 Stat.) 56 (1996).) that the courts have said provides near complete criminal and civil immunity to Internet providers for the content others have created (Permanent Subcommittee on Investigations, 2017), all plaintiffs have failed.

Sheriff Dart then successfully lobbied

major credit card companies to prohibit use of their cards on Backpage. Subsequently Backpage sued *Dart* in federal court and, because of a finding that the sheriff had violated its First Amendment rights, obtained an injunction against Dart’s contacting credit card companies or financial institutions in the future.

Following a multi-year subpoena enforcement effort, early in 2017 a Senate subcommittee (cited earlier) issued an analysis of the long sought after documents. The subcommittee found that Backpage was editing the ads in the adult section manually, looking for the use of forbidden words and easing them, eliminating the necessity of rejecting entire ads (and thus losing money). Such words included “little girl,” “teen,” innocent, “Lolita,” and “school girls.” This practice, which changed nothing about the real age of the person being sold on the site, implicates Backpage in creating the content of the ads. Early in 2017, the California Attorney General filed criminal charges against Backpage owners and operators (Backpage.com hit with new pimping, money-laundering charges in California (Dec. 27, 2016), available at <http://reut.rs/2lE7bS9>.) based on the findings of money laundering in the report (earlier charges had been dismissed due to federal Internet immunity). In January 2017.



Backpage announced it had closed down the adult section of the site (J. Gerstein, Under Senate Pressure, Backpage Shuttters Adult Section, Politico.com (Jan. 9, 2017), available at <http://politi.co/2igZ3nx>), but experts allege the ads have merely moved to other parts of Backpage (D. Hawkins, Backpage.com Blocks Prostitution Ads in U.S. Under Pressure for Sex Trafficking: Statement (2017), available at <http://bit.ly/2mj31w6>).

In 2015 Congress amended federal anti-trafficking law with the SAVE Act, which makes knowingly running advertisements that cause prostitution by force or coercion or with those underage criminal (SAVE Act, 2015, 18 U.S.C. § 1591(a)). Although experts believe that enforcement of this provision would be difficult because of the “knowing” requirement, the documents secured from Backpage demonstrate that the Internet provider was put on notice of potential trafficking and did nothing but hide the evidence in the edited ads. Now Backpage finds itself in the crosshairs, facing criminal charges that may deter other Internet providers as well. Thanks to the persistence of Senators

Claire McCaskill and Rob Portman, and the actions of several state attorney generals and Sheriff Dart, we may be reaching the beginning of the end of Internet advertisements for sold sex, which would be a large step against trafficking for sexual exploitation. We now can probably expect more lawsuits against Backpage by trafficking survivors, like the one discussed below.

Hotels

Early in 2017, attorneys filed a lawsuit on behalf of a formerly trafficked teen in the Circuit Court of Houston County, Alabama against Choice Hotels International and Backpage (*K.R. v. Backpage.com*, No. 38-CV-2017,-900041.00 (Cir. Ct. of Houston Cnty., Ala. Jan. 25, 2017)), complaint available at <http://bit.ly/2neKQH1>. Choice Hotel holdings include Quality Inn, Comfort Inn, Econo Lodge, Sleep Inn, and Rodeway Inn. The victim, K.R., a runaway from Mississippi, was kidnapped by the trafficker, who placed ads for her sexual services on Backpage. K.R. ultimately escaped from the hotel and walked 8 miles before finding someone who alerted

police. The trafficker was found guilty of human trafficking and distribution of drugs to a minor in a Houston County court and sentenced to 50 years in prison.

In 2009 a young child was raped and killed at a Comfort Inn in Fayetteville, North Carolina, and the holding company had to be aware of the fairly large number of recent trafficking arrests that occurred within their hotels across the country, the complaint alleges. It also claims that the Alabama Quality Inn should have known that trafficking was occurring when K.R.’s trafficker stayed at the hotel for 40 nights a year, paid using cash, reserved two rooms next to each other for an extended stay, and checked in with a young girl who was visibly under the influence of drugs and/or alcohol who was not allowed to leave the hotel.

Choice Hotels International, the complaint asserts, has benefited from the trafficking, and has failed to take reasonable efforts to stop the crime; K.R. seeks damages for this negligence. The complaint maintains that as the vast majority of sex trafficking occurs in hotels and motels, these should be the “first line of defense against illegal prostitution and sex trafficking of children.” Hotels do have warning signs of trafficking: payment by cash only, older men or women with a younger female, reservation of two rooms close to each other, a lack of luggage, refusal of cleaning services, regular requests for towels, and numerous men coming and going from the rooms or congregating at the door (George, E. R. & Smith, S. R., In good company: How corporate social responsibility can protect rights and aid efforts to end child sex trafficking and modern slavery, 46 Int’l L. & Polit. 55-113 (2013)). Mandatory employee training programs and protocols for employees on trafficking are an urgent need. Again, lawyers, through suits like these, have been in the forefront of efforts to hold those negligently supporting trafficking accountable.

Hotel rooms are often used in Cook County for prostitution assignments that may involve trafficked individuals. In reviewing 56 stings the Cook County

Sheriff Vice Unit conducted between 2010 and June 2012, girls and women selling sex were found in 41 different area hotels and motels. Schiller Park, Schaumburg, and Lansing were the most frequent venues, and major hotel chains were often the sites used. (J. Raphael & L. LaPointe, *The Cook County sheriff's human trafficking response team: A law enforcement model* (2013), available at <http://bit.ly/2mmp1b9>).

Recently enacted legislation in Prince George's County, Maryland holds landlords and property managers accountable for prostitution and human trafficking at their rental sites. The bill makes it a misdemeanor to "knowingly" allow use of an apartment or home for prostitution or trafficking, punishable with a \$1,000 fine or 6 months in jail. (A. R. Hernandez, *New law could make landlords liable for sex trafficking at their rentals*, *Washington Post* (Nov. 18, 2016), available at <http://wapo.st/2mFT5zi>). When mothers complained that units in their apartment buildings were being used as brothels and the property managers had been put on notice about it, without any action taken, the new law was the result. Critics wondered how prosecutors would be able to prove landlords or property managers knew about the prostitution or trafficking. The County Council responded it hoped that property owners, faced now with the possibility of criminal charges, would be motivated to act early when so informed.

Taxi Drivers

Cab drivers also transport underage girls, accompanied by traffickers, to assignments on a regular basis. They also provide information to customers after being asked about where to find young girls available for sale. For these reasons, taxi drivers are another first line of defense against trafficking of children. In New York City, every licensed driver must watch a training video on trafficking before he or she can proceed with a new (or renewal) of a license (George & Smith, 2013).

WHAT ATTORNEYS CAN DO

- Ask your clients with domestic violence issues about forced prostitution;
- If you represent any hotels, educate yourself about International Codes of Conduct, like the Resolution against the Sexual Exploitation of Children of the International Hotel and Restaurants Association, and available training programs from Business Ending Slavery & Trafficking (BEST);
- Lobby for mandatory training programs for taxi drivers before license issuance or renewal;
- In your place of business advocate against company-sponsored visits to strip clubs where trafficked individuals can be found;
- Educate the boys and men in your life about trafficking for sexual exploitation and the presence of trafficked individuals in strip clubs and bachelor parties;
- Resist calls for legalizing prostitution, which normalizes and accepts the buying of bodies, providing the cover traffickers need to operate;
- Memorize the national hotline (1-888-373-8888); and
- Volunteer to provide legal services to trafficking survivors. Contact Brian Gilbert, GilbertB@metrofamily.org or Christine Evans, cme@caase.org

Customers: Normalization of Sexual Exploitation of Youth

Customers are, of course, the main reason for trafficking; without paying customers there would be no reason to coerce individuals into sexual services. Drying up demand for paid sex is imperative. Customers who buy sex, especially those paying for sex from minors, need to be criminally charged. Most men do not buy sex in the United States. Reputable survey research (M. A. Monto & C. Milrod, *Ordinary or Peculiar Men? Comparing the Customers of Prostitutes with a Nationally Representative Sample of Men*, 58 *Int'l J. of Offender Therapy & Comp. Criminology*, 802-820 (2014) finds that only 13.9% of men aged 18-75 report having paid for sex during their lifetime and only 1% during the previous year. As one expert concludes, "There is no credible evidence to support that hiring prostitutes is a common or conventional aspect of masculine sexual behavior among men in the United States." Thus law enforcement efforts to prioritize arrests of customers, only a small percentage of men in the U.S.,

is a major anti-trafficking strategy. For this reason, we must revise our thinking about legalization of prostitution and its harmfulness. All customers are in some way responsible for trafficking for commercial sexual exploitation. ■

Jody Raphael is a Senior Research Fellow at Schiller DuCanto & Fleck and is on the staff of the DePaul University College of Law's Family Law Center

By Katherine Kaufka Walts

Efforts to Combat Child Trafficking in the US

Victims and Victim-Witnesses



Most experts and attorneys working in the human trafficking field are familiar with the Trafficking Victims Protection Act and its subsequent reauthorizations, yet may be less familiar with another powerful legal instrument to keep the United States accountable in combatting child trafficking--the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Pornography (“OPSC” or the “Protocol”). OPSC prohibits the “sale of children, child prostitution, and child pornography” and defines “sale of children”

as “any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any consideration” including forced labor.

While the United States continues to be the remaining nation in the world to not ratify the UN Convention on the Child, it has ratified the OPSC. As part of its obligations as a signatory to the OPSC, the US government is required to periodically (every 4 to 5 years) submit a report on its activities under the Protocol, specifically addressing ways in which it is ensuring perpetrators of child trafficking

are punished, that victims are protected, and that that meaningful efforts are made to prevent these heinous crimes.

Non-governmental organizations are invited to respond to the governmental reports and submit their own research, findings, and recommendations. The UN Committee on the Rights of the Child considers all governmental and non-governmental submissions it receives, and then issues final “concluding observations” or recommendations. These recommendations can be powerful policy tools for advocates working in the child trafficking field.

An “Alternative” Report to the UN

Last fall, the Center for the Human Rights of Children at Loyola University Chicago, in collaboration with the Young Center for Immigrant Children’s Rights at the University of Chicago, along with over 50 organizations and experts from around the country submitted our “alternative” report to the United Nations Committee on the Rights of the Child (CRC), with a focus on the sale of children for the purpose of forced labor as defined under Articles 2-3 of the OPSC. Our recommendations addressed three larger thematic areas in which the US government could improve its efforts to combat human trafficking, emphasizing issues facing children who are victims of labor trafficking. Our report acknowledged that victims of both labor and sexual trafficking face similar challenges and emphasizes the importance of advancing efforts to address both labor and sexual exploitation of all children equally, regardless of nationality or legal status.

First, we emphasized that while there has been much progress since the last reporting period, child labor trafficking continues to remain largely hidden, unidentified, and misidentified. Documented cases in the United States include children working as domestic servants, in restaurants, in agriculture, in factories, peddling on the streets, and in forced criminality. Yet many first responders make little to no effort to identify child labor trafficking. Current data collection, research, training, and policy efforts focus overwhelmingly on child sex trafficking.

For example, the Preventing Sex Trafficking and Protecting Families Act, mandates that child welfare professionals create screening instruments, data collection tools, and services for victims. This is a seminal piece of legislation that has tremendous impact on child protection systems working with at-risk and vulnerable youth in every state, but it focuses *exclusively* on child sex trafficking. Similarly, many states, including Illinois have passed important Safe Harbor laws that decriminalize and protect children who are being commercially sexually exploited.

While these laws advance the rights of child sex trafficking victims and improve opportunities to identify sex trafficked children, they ignore children who are trafficked for labor. This exclusion of child labor trafficking creates a false hierarchy of crimes and victims contrary to the principles of the OPSC and TVPA, which seek to combat all forms of human trafficking.

Second, our alternative report identified the need for greater protections for vulnerable youth populations to human trafficking. For example, unaccompanied and separated migrant children are extremely vulnerable to trafficking and exploitation. Often smuggling arrangements turn into trafficking arrangements, with the burden of paying a large debt incurred for the transport of the child to the US falling on the child. The US government projects record number of children will arrive this fiscal year—more than 70,000, which is an increase of over 60% from the surge in 2014. Under the current legal system, unaccompanied immigrant children have the burden of establishing their eligibility for relief from deportation—the US immigration system for children is not protection based (in contrast to domestic child welfare systems for children).

Vulnerable Groups

Groups vulnerable to child trafficking including “system-involved” youth, homeless and runaway youth, LGBTQ youth, and children engaged in forced criminality. Recent research indicates that trafficked children suffer higher incidents of neglect and of physical and sexual abuse.

In one study, at least one-third of young people receiving services as trafficking victims had been involved in the child welfare system and nearly two-thirds of one NGO’s clients had been involved in the juvenile justice system.

Homeless youth are often targeted by labor traffickers because they lack access to shelter, food, and personal connections. A survey conducted by the National Network for Youth in 2013 found that runaway and homeless youth had been targeted by door-to-door trafficking sales rings. These youth

To see a full text of our alternative report and its ten recommendations, visit <http://bit.ly/2k15qZz>.

were lured by the promise of housing, employment, and food but found themselves living in overcrowded motel rooms with other labor-trafficked youth, receiving little or no pay, and given unreasonable sales quotas. National Network for Youth, Human trafficking and the runaway and homeless youth population (2014), available at: <http://bit.ly/1KpKC5O>. Research shows that LGBTQ youth are at higher risk of both homelessness and exploitation, including both sex and labor trafficking.

The Need for Attorneys

Our final overarching recommendation was the need to provide all vulnerable children legal representation and advocacy to ensure their rights are protected.

For unaccompanied, migrant children, there are no special courts for children in immigration proceedings, no special judges, and no statutory best interest standard for foreign national children who are victims of child trafficking. While there have been modest improvements to provide unaccompanied children attorneys, children continue to appear in adversarial immigration proceedings, alone, without legal representation. For children who are not represented by counsel, less than 20% receive some form of legal protection. This is compared to cases of children who are represented, in which over 70% receive protection. Unaccompanied children should be provided attorneys and independent child advocates to ensure their rights are being protected, and that they have a better chance of being identified as a crime victim under the OPSC and TVPA.

Under federal anti-trafficking laws and state Safe Harbor statutes, more children are being identified as victims. This is a positive step forward. This also means that more children are not just being identified as victims, but are also serving as *victim-witnesses* in legal proceedings against their accused perpetrators. As victim-witnesses,

HUMAN TRAFFICKING VIDEO SERIES

YLS Chair Katie Liss recently sat down with Chicago-area experts to take a deeper dive into the devastating human trafficking problem, both abroad and within the United States. The interview series was a part of Katie's greater initiative to raise awareness about human trafficking, with a specific focus on how children are impacted. The video series is now available at www.youtube.com/chicagobar. Kaethe Morris Hoffer of Chicago Alliance Against Sexual Exploitation (CAASE), Professor Jody Raphael of DePaul University College of Law and Elyse Dobney, Program Manager of the STOP-IT program of The Salvation Army are featured. Also available on the channel are a series of Public Service Announcements created in collaboration with the Cook County Human Trafficking Task Force. The English language versions aired on WBBM radio station during the month of January to inform members of the greater Chicago community about resources available for trafficking victims. The PSAs are also available in Chinese, Russian, Spanish and Ukrainian.

children risk being identified by their trafficker who may then retaliate against the child and his or her family members. Their participation in criminal justice proceedings, which may include multiple interviews by investigators and attorneys, and testifying in court against their perpetrator, can be highly traumatic. Therefore, children identified as victim-witnesses require additional protections.

Under the TVPA children are entitled to privacy, safety, information about their case, the opportunity to be heard, and restitution, but these are rarely able to secure these rights without legal assistance.

For example, not all children will have an adult advocating for their interests to ensure they are being interviewed instead of interrogated. When children are not provided an attorney or trained advocate, the request for restitution is often overlooked, resulting in these children foregoing an important financial resource which can contribute to their recovery.

Considering the enormous difference proper representation can make for the well-being of a child, we recommended that all children identified as potential victim-witnesses in a child trafficking case be assigned an attorney, Guardian Ad Litem, or child advocate to protect their

best interests. These legal advocates should be trained on child trafficking for both sex and labor, and on how to advocate for the rights and interests of children engaged as witnesses in the criminal justice system.

While our report focuses on US governmental efforts, these recommendations can be applied to all agencies, including both public and non-governmental, including those in Chicago and Illinois to better integrate child labor trafficking into all of its anti-trafficking initiatives and policies. This should include research and data collection, legislation, development of screening tools and protocols, training of first responders, and outreach and education.

All advocates concerned with protecting child trafficking victims should think about ways in which we can provide attorneys and independent child advocates for all unaccompanied children, and to all potential child victim-witnesses to ensure they receive protections afforded to them under international, federal and state laws.

Katherine Kaufka Walts is the Director of the Center for the Human Rights of Children at Loyola University Chicago. She can be reached at kkaufkawalts@luc.edu.

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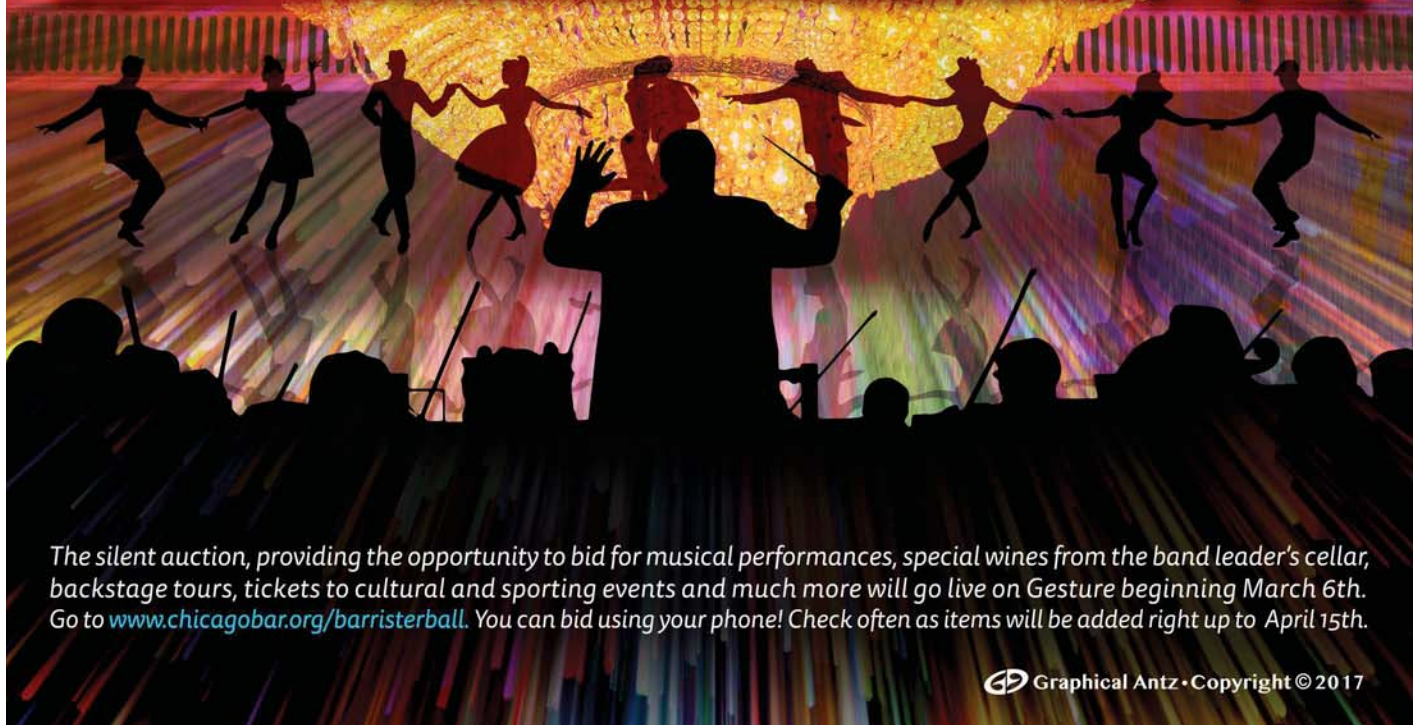
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By Oliver Khan

If You See Something, Say Something

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A person stands at the heart of every story of human trafficking. A person who, through coercion and violence, is forced into prostitution or slave labor. Each individual's story is one of heartbreak, desperation, and abuse.

On January 23, as part of Human Trafficking Awareness Week, the Young Lawyers' Section of the CBA held a seminar entitled *Every Person has a Voice: Exposing, Examining, and Eradicating Human Trafficking*. Speakers included Donna Fishman of the Jewish Coalition Against Sex Trafficking Chicago, Kaethe Morris Hoffer of Chicago Alliance Against Sexual Exploitation (CAASE), Professor Jody Raphael of

DePaul University College of Law, Detective Al Krok formerly of the Chicago Police Department, Judge Virginia M. Kendall of the Northern District of Illinois, and T. Markus Funk of Perkins Coie LLP. More than 170 individuals registered for the seminar.

Understanding Trafficking

Most human trafficking takes place in the darkest corners of our society. So statistics regarding the number of victims are very difficult to come by. The National Human Trafficking Resource Center, whose hotline number is in the title of this article, reports that it received over 9,000 reports

of human trafficking between 2007 and 2012. Human Trafficking Trends in the United States (Nov. 2013) <http://bit.ly/2kxVJq3>. Twenty-nine percent of those cases involved children, and of those cases, 74% involved in sex trafficking. These numbers likely represent only the tip of the iceberg. Globally, there are an estimated 21,000,000 victims of human trafficking. Human Trafficking by the Numbers (Jan. 2016), <http://bit.ly/2jHAcLW>; see List of Goods Produced by Child Labor or Forced Labor, U.S. Department of Labor, <http://bit.ly/1RXGSd5>. In Chicago alone, between 16,000 to 25,000 women and girls are trafficked for sex every day.

International law, specifically the Palermo Protocol, broadly defines “trafficking in persons” as “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” G.A. Res. 55/25, Art. III (Nov. 15, 2000) (available at <http://bit.ly/1BwBlZN>). Notably, it is not possible to consent to be trafficked under international law.

US law more narrowly defines “sex trafficking” as “the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act,” 22 USC § 7102(10), and defines “human trafficking” as sex trafficking of a minor or “the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.” 6 USC § 641(2); 22 USC § 7102(9).

U.S. law impliedly permits adult consent to be prostituted; a situation that would more likely be considered human trafficking under international law. As such, our law has yet to step away from the myth that prostitution is a victimless crime. Any hint of consent is likely a veneer, and, in reality, the vast majority of those caught in sex trafficking rings do not stay by choice. A. Cotton et al., *Attitudes Toward Prostitution and Acceptance of Rape Myths*, J. of Applied Social Psych. (Sept. 2002) (“There is a growing literature that documents the human-rights abuses intrinsic to prostitution, which include sexual harassment, economic servitude,

educational deprivation, job discrimination, domestic violence, racism, classism, vulnerability to frequent physical and sexual assault, and being subjected to body invasions that are equivalent to torture.”). Illinois law does, however, provide immunity from prosecution to prostituted minors. 720 ILCS 5/11-14(d).

The perpetuation of the attitude (that prostitution is largely voluntary or that demand is the inevitable result of male libido) is why U.S. prostitution laws have focused on the prosecution of women rather than men. To counteract these attitudes, organizations like CAASE educate young men in an effort to decrease the demand that leads to the sexual slavery of so many, and to disrupt the stereotype that men who purchase sex are “just doing what men do.” L. Janson et al., ‘Our Great Hobby’: An Analysis of Online Networks for Buyers of Sex in Illinois (Jan. 2013), <http://bit.ly/2kCRPeV>.

It is the huge disparity between supply and demand that drives sex trafficking. This is especially troubling in light of an Atlanta area study that concluded “42% of men who purchase sex either specifically seek out young females, or are willing to ignore all warning signs that the female they are about to have sex with is an adolescent.” The Schapiro Group, *Men Who Buy Sex with Adolescent Girls: A Scientific Research Study* (2010), <http://bit.ly/2kyQ7LS>.

What Lawyers Should Do

There are many things lawyers can do to help victims of human trafficking. Attorneys can volunteer at organizations like CAASE to provide pro bono legal counsel to trafficking victims.

Lawyers who feel ill-equipped to represent trafficking victims should counsel their corporate clients to ensure that they are not aiding and abetting human trafficking. See 18 U.S.C. § 1593A (“Whoever knowingly benefits, financially or by receiving anything of value, from participation in a venture which has engaged in any act [], knowing or in reckless disregard of the

fact that the venture has engaged in such violation, shall be fined under this title or imprisoned in the same manner as a completed violation of such section.”); 18 U.S.C. § 1595 (“An individual who is a victim of a violation of this chapter may bring a civil action against the perpetrator (or whoever knowingly benefits, financially or by receiving anything of value from participation in a venture which that person knew or should have known has engaged in an act in violation of this chapter) in an appropriate district court of the United States and may recover damages and reasonable attorneys fees.”).

For example, manufacturing clients should ensure that their supply chains are free from trafficked labor. Also, certain industries are much more likely to indirectly support human trafficking. Those industries include hotels, landlords of residential real estate, and taxi cabs and ride-sharing companies. A client’s employees should be trained to recognize and respond to suspected human trafficking. All too often, persons in those industries are not only aware of human trafficking, but directly and intentionally benefit from it.

While only 10% of men purchase sex, men still almost exclusively drive the demand that causes sexual slavery. A client with male employees who frequently travel (e.g., truckers or salesmen) should take steps to educate their employees on the destructive nature of sex trafficking to ensure that no employee participates in it.

While the problem of human trafficking seems monumental, remember the individual human that each statistic represents. You can contribute to giving that one person freedom. For a list of recommendations on the State Department’s list of 15 ways you can combat human trafficking, visit <http://bit.ly/2hZG79s>. ■

Oliver Khan is Assistant Counsel at the American Association of Insurance Services, Inc. and a Co-Editor-in-Chief of the YLS Journal

By Adam J. Sheppard

1910 Law Still Used as a Prosecution Tool

The “Mann Act” Lives



The federal government still uses the “Mann Act,” enacted in 1910, as a major tool to combat human trafficking. The Act’s official name is the “White Slave Traffic Act;” however, it is more commonly referred to as the “Mann

Act,” named after its author, Illinois Congressman James R. Mann (he had also practiced as a lawyer in Chicago). The law initially prohibited, *inter alia*, the interstate transportation of women for purposes of prostitution, “debauchery,” or “any other

immoral purpose.” See White-Slave Traffic (Mann) Act, ch. 395, 36 stat. 825 (1910) (codified as amended at 18 U.S.C. §§ 2421–2424). The broad language of the initial version of the Act allowed the government to prosecute individuals for a wide

array of activity that it deemed “immoral.”

Perhaps the most controversial Mann Act prosecution was that of Jack Johnson, the first African-American heavyweight-boxing champion. The case occurred in Chicago in 1913. Johnson was convicted by an all white jury of transporting a white woman from Pittsburgh to Chicago for the “immoral purpose” of having sexual intercourse with her. He had sent her \$75 in travel expenses to make the trip. She was an adult. She admitted that her travels were wholly consensual. She was also a “spurned lover” of Johnson’s and testified against him. See Kevin R. Johnson, *The Legacy of Jim Crow: The Enduring Taboo of Black-White Romance Dear Senator: A Memoir by the Daughter of Strom Thurmond*, by Essie Mae Washington-Williams & William Stadiem. New York: Regan Books, 2005. Pp. 223., 84 Tex. L. Rev. 739, 752 (2006); See also *Johnson v. United States*, 215 F. 679 (7th Cir. 1914). Many commentators viewed the prosecution as a pretext for targeting interracial relationships.

Historians have also viewed other celebrity Mann Act prosecutions as politically motivated. In 1944, Charlie Chaplain was charged with a Mann Act violation stemming from a paternity suit. Chaplain was later acquitted. “Some believe the case was motivated by Chaplin’s left-of-center political views.” Eric Weiner, *The Long, Colorful History of the Mann Act*, <http://n.pr/1zoDfHV> (last visited 2/6/17). J. Edgar Hoover, who instigated the prosecution, had called Chaplain one of Hollywood’s “parlor Bolsheviki.” *The Mann Act*, <http://to.pbs.org/2kkG5uJ> (last visited 2/7/17).

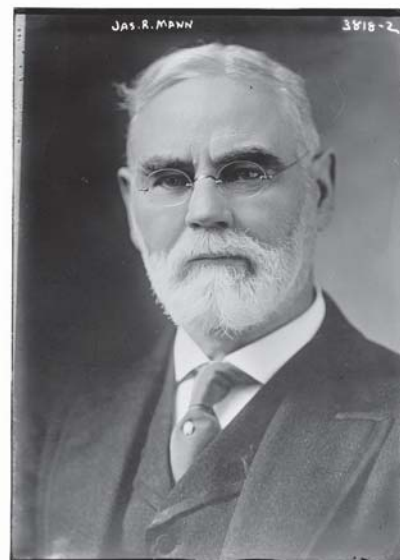
In 1961, Chuck Berry was twice convicted of a Mann Act violation. (His first conviction was overturned on appeal and he was reconvicted at his second trial). Berry was convicted of transporting an underage Apache girl across state lines for an “immoral purpose.” Berry had apparently taken the girl on tour with him. According to Berry, the woman had claimed to be 21 years old. 1961: *Chuck*

Berry goes on trial for the second time, <http://bit.ly/2k12Tyv> (last visited 2/7/17). She only complained to authorities after she had a falling out with him. Berry served about 20 months in prison. Among the songs that he wrote from prison were “No Particular Place to Go” and “You Never Can Tell.” *Id.*

In 1986, Congress made the statute gender neutral (it applies regardless of whether men or women are transported), added further protections for minors, and deleted any reference to the ambiguous terms “debauchery” or “immoral purposes.” As currently constituted, the Act criminalizes knowingly transporting “any individual” with the intent that the individual engage in prostitution or “any sexual activity for which any person can be charged with a criminal offense,” 18 U.S.C. §§ 2421–2424. The law also criminalizes knowingly persuading, inducing, enticing, or coercing any individual to travel in interstate or foreign commerce for the aforementioned purposes. *Id.* at § 2422. It also provides for enhanced penalties—specifically a mandatory minimum of 10 years’ imprisonment—when minors are transported. *Id.* at §§ 2242, 2243.

Even under its current, narrower, version, the Mann Act remains a prevalent prosecution tool. In 2008, prosecutors who investigated former Governor Elliot Spitzer used the Mann Act to prosecute individuals associated with the Emperor’s Club, the prostitution service that Mr. Spitzer allegedly frequented. (Mr. Spitzer was not formally charged but others were). See Danny Hakim et al., *Spitzer Is Linked to Prostitution Ring*, <http://nyti.ms/2liLfLO> (last visited 2/6/17). In 2015, this author represented an individual in a Mann Act prosecution involving a conspiracy to transport women to the Mission District of San Francisco to work in brothels. In *United States v. Holland*, 381 F.3d 80, 82 (2d Cir. 2004), prosecutors used the Mann Act to charge a Vermont–New York prostitution ring.

Many modern Mann Act prosecutions



Illinois Congressman James R. Mann

stem from online activity, such as chat rooms or postings on Craigslist or backpage.com. See e.g. *United States v. Key*, No. 13 CR 726, 2016 WL 6599933, at *1 (N.D. Ill. Nov. 8, 2016) (“[The defendant] found girls for his prostitution ring through backpage.com.”). Internet-related Mann Act prosecutions often involve an adult attempting to locate a minor for purposes of engaging in sexual activity. See e.g. *United States v. Joseph*, 542 F.3d 13 (2d Cir.2008). Many times, a law enforcement officer is posing as a minor on the Internet. See also *United States v. Spencer*, No. 2:13-MJ-129, 2013 WL 2417976, at *3 (S.D. Ohio June 3, 2013).

Consent of the individual who travels to engage in the prohibited act is not a defense. *United States Key*, 13 CR 726, 2016 WL 6135666, * 5 (N.D. Ill. 2016). The best defense is typically a mental state defense—i.e., the defendant did not act “with intent that the individual [who was transported] engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense.” §§ 2421–2423.

In cases involving on-line activity, some defendants have argued that they were merely “role-playing;” they never actually would have gone through with the prohibited act in real life. Expert testimony

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on the issue of role-playing in the context of sexually explicit conversations on the Internet may be admissible. See *United States v. Joseph*, 542 F.3d 13, 21 (2d Cir. 2008)(recognized as abrogated on other grounds).

Sentencing hearings in Mann Act cases also present special challenges. Most notably, whether an enhancement for a “vulnerable victim” applies (U.S.S.G. § 3A1.1(b)) or whether a district court may depart upward from the advisory sentencing guideline range if the conduct was unusually “degrading” to the victim. See U.S.S.G. § 5K2.8; see also e.g. *United States v. Long*, 185 F.3d 30, 51 (D.D.C. 2001).

In summary, the Mann Act, a law born out of progressive-era attempts at legislating sexual morality, remains a prevalent prosecution tool today. On the one hand, it helps combat forced prostitution and human sex trafficking. On the other hand, commentators have argued that using a federal criminal law to prosecute consensual acts of prostitution between adults may be overreaching. See e.g. *Michael Conant, Federalism, the Mann Act, and the Imperative to Decriminalize Prostitution*, CNLJLPP5 Cornell J.L. & Pub. Pol’y 99 (1996). For the immediate future, however, Mann Act prosecutions remain relevant and practitioners must remain up-to-speed on strategies for defending against them. ■

Adam Sheppard is a partner at Sheppard Law Firm, P.C. which concentrates in criminal defense and a member of the CBA Record Editorial Board



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www.chicagobar.org/careercenter

By Jason Marcus Waak

The Work of CASA with Children in Foster Care

Chicago Volunteers Create a Better Future



At any time, there are more than 5,700 children in Cook County's foster care system. Experiencing forms of abuse and neglect, these children have found themselves in the foster care system by no fault of their own. For many, their CASA volunteer will be the only constant adult figure in their lives while they are in foster care. Court Appointed

Special Advocates or "CASA" was started in Seattle in 1977 by Judge David W. Soukup. Research has shown that a child with a CASA volunteer spends less time in the foster care system than children without one. Once assigned to a case by a judge, CASA volunteers spend 10-15 hours a month visiting children they are assigned to, collaborating with caseworkers

and attorneys, meeting with therapists and teachers of the children, and talking with natural and foster parents. These activities are then compiled into a court report that is submitted to the judges and all parties on a child's case. Judges rely on these reports when making decisions about the future of these children.

Unfortunately, only 1% of the children



CASA of Cook County is continuing to grow as an organization thanks to the efforts of Beatriz Valdez, Lafayette Young, and the rest of the CASA of Cook County team. However, with only 1% of children in foster care having a CASA, the work is far from over. For more information visit www.casacookcounty.org or call 312/433-4928.

in Cook County's foster care system are currently assigned a CASA.

Efforts to expand CASA's reach are underway. Recently arrived Executive Director Mark Dinglasan and his team are working around the clock to build stronger relationships with the courts and DCFS, create sustainable funding, and create awareness for CASA's work in Cook County. Dinglasan is passionate about this: "What I think is important to understand is the kind of trauma our kids go through leads to a lot of what we see in the papers. There is a correlation between kids not having a good foundation and what we're seeing in our city." Helping lead the charge to grow CASA of Cook County are Beatriz Valdez, Director of Programs, and Lafayette Young, Director of Recruitment and Training. Being former caseworkers gives Valdez and Young increased credibility.

Young's focus is on expanding the volunteer pool and providing continuing education training for existing court appointed advocates. Forward thinking, he is actively raising awareness of CASA at local law schools such as Loyola, John Marshall, and DePaul as well as at several social work programs. By working with law students and social work students, Young is able to educate diverse pools of potential volunteers that would be interested in exposure and experience in the courtroom.

Since becoming a court appointed special advocate is also a unique volunteer opportunity, Young has also worked to enhance CASA of Cook County's screening and training procedures for volunteers to include such aspects as understanding cultural bias, diversity, and understanding trauma.

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Valdez possesses a legal background that serves CASA of Cook County very well in her role as director of programs. Acting as the primary contact between CASA and its partners in the courtroom Valdez meets often with the judges in the child protection division as well as other key leaders within DCFS and the juvenile justice system to keep them abreast of CASA's work and ensure that the organization is aligned with the overall work in the juvenile justice system as a whole. Valdez emphasizes, "All lawyers should be aware of CASA. They advocate for the whole family in the best interest of the youth." A misnomer is that only family law practitioners will intersect with CASA. The reality is that lawyers of all facets should be aware and become informed as to the work of CASAs. Valdez also leads CASA of Cook County's CITY or Creating Independent Transitions for Youth program, a program that provides key life skills for older foster youth. ■

Jason Marcus Waak is historian and contributing editor for UIC Alumni Magazine. He researches and writes on various aspects of UIC, and naval and political history.

By Katy Sikich and Tricia A. Rooney

Mercy Home for Boys and Girls

Helping Youth in Crisis Since 1887



Mercy Home for Boys & Girls has been a solution for youth in crisis since 1887 and currently serves more than 600 young people each year. Mercy Home operates at three locations in Chicago: in Chicago's West Loop, the campus serves primarily as a home for boys; a home for girls on the far South Side Beverly-Morgan Park community; and a

home on the South Shore for former youth residents in transition who benefit from supportive housing to prevent returning to or falling into homelessness.

Through its residential, aftercare, and mentoring programs, Mercy Home offers a safe home, therapeutic healing, and education and career resources to help its young people make positive life decisions and

allow them to realize their full potential. The organization also assist many families with referrals to qualified social services throughout greater Chicago if they present needs that would be more appropriately addressed elsewhere.

At the heart of Mercy Home's services are residential treatment programs for youth ages 11 to 24. The children and

young adults who come to Mercy Home have experienced poverty, housing instability, community violence, intergenerational trauma, substance abuse, loss and other hardships. In some instances, Mercy Home works with youth placed in the care of the State. However, the majority of youth under the age of 18 at Mercy Home have parents and/or guardians who maintain their rights and responsibilities during the youth's stay. While living in Mercy Home's full-time care, youth receive therapeutic, academic, and vocational services to develop the skills they need to heal, grow, and succeed. Mercy Home supports youth and families who come from a variety of faith traditions by offering them an opportunity to explore their spirituality.

The approach to care is based first and foremost on the understanding that all of the youth who live at Mercy Home have been exposed to significant traumatic events at early ages that may have impacted their neurodevelopment. By appreciating the ways trauma can impact a youth's growing brain and relationships with others, themselves, and the world around them,

Mercy Home's staff is able to customize the most effective treatment plan for each young person. They also work hard to engage families and other individuals in a youth's support network in the treatment plan based on a belief that a strong partnership with those individuals is one of the most important factors in helping young people create long-term success.

Mercy Home's residential treatment model has evolved throughout the course of its 130-year experience in caring for society's most vulnerable youth, and Mercy Home continually explores and introduces the best evidence-based practices in working with at-risk youth and families. The Mercy Model incorporates ARC, an acronym that stands for: Attachment, Regulation, and Competency. Mercy Home adapted the ARC framework, which was developed by the Trauma Center at the Justice Resource Institute in Massachusetts, for intervention with youth and families.

Mercy Home's ability to innovate is aided by its unique funding structure. Mercy Home raises 99.9% of its operating resources privately, which allows greater

flexibility in determining treatment plans and length of stay based on a youth and family's needs. It also gives Mercy Home the ability to provide residents with a wide variety of resources and therapeutic experiences to enable them to grow and thrive despite challenges and traumas experienced early on in life.

In addition to its full-time residential treatment programs, Mercy Home's After-Care program helps prior Mercy Home residents and their families build on their growth and success by extending support to them long after youth have left Mercy Home. Further, our community based volunteer mentoring program, known as Friends First, allows Mercy Home to work with children who live in the greater community by matching at-risk youth with responsible adult role models.

Katy Sikich, J.D., LCSW, CADC, is Director of Young Adult Programs at Mercy Home for Boys & Girls, and Tricia A. Rooney, J.D., is Philanthropic Advisor at Mercy Home.



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Human Trafficking



YLS Human Trafficking Awareness Week kicked off successfully with a seminar entitled, "Every Person has a Voice: Exposing, Examining, and Eradicating Human Trafficking" after which Judge Virginia M. Kendall and Markus Funk stayed for a reception and to sign copies of their book *Child Exploitation and Trafficking: Examining Global Enforcement and Supply Chain Challenges and U.S. Responses*. They are pictured on the left with YLS Chair Katie Liss. Photos by Bill Richert.



Awareness Week



Judge Virginia M. Kendall and Markus Funk discussed the role of the Court in the prosecution of trafficking crimes and their research findings on how trafficking laws are being enforced globally and in the U.S.



As an introduction to a screening of the documentary *A Path Appears, Episode One: Sex Trafficking in the USA*, CBA Past President Laurel G. Bellows shared her thoughts on how trafficking can be reduced by consuming products that are "slavery free, and encouraged attendees to visit slaveryfootprint.org to assess the products they consume on a daily basis.

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LEGAL ETHICS

BY JOHN LEVIN

Attorney Advertising and Solicitation— a New Look

Times change. Advances in technology (as well as changes in what behavior is considered to be professional and dignified) are prompting revisions to the ABA Model Rules concerning advertising and solicitation. When I first began practicing law, attorneys could not and did not advertise. Since then, a series of Supreme Court decisions mandated granting attorneys limited rights to advertise. I recall contentious meetings of the CBA Professional Responsibility Committee at which current Illinois Rules of Professional Responsibility 7.1–7.5 (and their predecessors) were debated. The very idea of lawyers engaging in an “active quest for clients” was felt to be unprofessional and undignified. Nevertheless, the “active quest” was permitted.

The June 22, 2015 Report of the Regulation of Lawyer Advertising Committee of the Association of Professional Responsibility Lawyers (APRL) stated: “The basic problem with the current state patchwork of lawyer advertising regulations lies with the increasingly complex array of inconsistent and divergent state rules that fail to deal with evolving technology and innovations in the delivery and marketing of legal

services. The state hodge-podge of detailed regulations also present First Amendment and antitrust concerns in restricting the communication of accurate and useful information to consumers of legal services.” In response to this concern, the APRL has recommended amendments to ABA Model Rules 7.1 through 7.5.

Importantly, Rule 7.1—“A lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services”—remains unchanged. However, many of the specific technical provisions of Rules 7.4 (Communication of Fields of Practice and Specialization)—7.5 (Firm Names and Letterheads) have been reduced to comments to Rule 7.1. Most of the recommended changes bring the Model Rules into compliance with various court decisions concerning advertising. The proposed new rules also recognize the advancements in the use of electronic advertising and the social media. The procedural effect of these consolidations may be to reduce the penalties for violation of technical advertising requirements.

A somewhat more substantive change involves the (renumbered) Rule 7.2 (Solicitation). The APRL considered the issue of solicitation of clients in the context of internet communication and social media. The prohibition against direct client solicitation is that lawyers, by training, may be able overwhelm the potential client by persuasive argument. The current rule prohibits direct solicitation by “in-person, live telephone or real-time electronic” contact. In its 2016 Supplemental Report,



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

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

ETHICS QUESTIONS?

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

the APRL stated: “when considering other means of solicitation, for example, through chat rooms, social media, text messaging, instant messaging, etc.,” regulation of those contacts is justified only if the solicitation occurs under circumstances that are “inherently conducive to overreaching or other forms of misconduct.” The proposed new rule omits “real-time electronic” contact from the prohibited list, though the comments reflect a concern over possible abuse.

Space does not permit discussion of all of the subtleties of the proposed changes. By and large, they would have little effect in Illinois other than to bring our rules more into compliance with current case law and the state of current communication technology. The ABA is considering whether to adopt the proposals. The proposals and background materials are available on the ABA’s website. It behooves us to pay attention to the ongoing discussion. ■

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

ETHICS EXTRA

BY KIMBERLY GLEESON

Warning: Sealing An Entire Court File is Never Appropriate

In *Khan v. Gramercy Advisors, LLC*, Justice Robert J. Steigmann, in his concurring opinion, warned the bar that sealing an entire court file is never appropriate. 2016 IL App (4th) 150435.

Background

Plaintiffs Shahid and Ann Khan, and limited liability companies in which Shahid had a majority interest, sued defendants Jay Johnson and four limited liability companies. Plaintiffs alleged that defendants fraudulently induced them to buy and use tax shelters that caused plaintiffs to incur financial loss.

The court wrote an extensive opinion on specific personal jurisdiction. However, Justice Steigmann's special concurrence is of particular interest. He wrote separately to voice his strong disapproval of the sealing of the court file at the trial and appellate level.

The trial court had entered a stipulated protective order, sealing all filed documents. On appeal, the parties filed a joint motion moving the Fourth District Appellate Court to take the same action as the trial court and seal all filed documents. The court granted the motion, allowing the parties to file their briefs under seal. However, the court later issued a rule to show cause against both parties to justify why the order sealing the briefs should continue to stand. The court vacated its

order when the parties failed to justify the continued sealing of the briefs.

Justice Steigmann's Concurrence

Justice Steigmann found that neither statutory nor case law supported the sealing of the court file in the trial or appellate courts.

Section 16(6) of the Clerks of Courts Act states that all records required by law to be kept by court clerks are public records and that such records shall be accessible to the public. Justice Steigmann noted that section 16(6) "carries a strong presumption that all court records shall be public and open to inspection."

Justice Steigmann analyzed over 23 years of case law supporting his conclusion that an entire court file should never be sealed. In *In re Marriage of Johnson*, the Fourth District Appellate Court addressed the issue of the public's right to access court records and transcripts. 232 Ill. App. 3d 1068 (4th Dist. 1992). In *Johnson*, the trial court approved a settlement agreement including a provision that all documents in both a marital dissolution and personal injury case were to be sealed. On appeal, the *News-Gazette* challenged the trial court's impoundment orders, arguing that common law, statutory provisions, and the First Amendment support the public right to access the court files in both cases. The court agreed with the *News Gazette's* argument and reversed the trial court's impoundment orders.

Justice Steigmann's special concurrence in *Khan* emphasized that the *Johnson* case was not close. He explained that regardless of a party's reason for wanting to seal a court file—including want of privacy, fear of embarrassment, or facilitating

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settlement—those reasons "can never demonstrate the compelling interest required to overcome the strong presumption in favor of total access to all documents of whatever nature in a court file." However, Justice Steigmann did recognize that some documents in a court record may be sealed if the documents are both privileged and "seriously damaging or embarrassing." Such documents might include psychiatric records revealing abnormal thoughts or behaviors, or psychiatric treatment and medical records revealing the contraction of a sexually transmitted disease.

Nevertheless, Justice Steigmann emphasized that an entire court file can never be sealed, even if some documents in the file contain sensitive information. For instance, in *A.P. v. M.E.E.*, the First District Appellate Court refused to seal court records concerning litigation involving Pritzker family trusts. 354 Ill. App. 3d 989 (1st Dist. 2004). Moreover, the Illinois Supreme Court, in *Skolnick v. Alzheimer & Gray*, refused to place a counterclaim under seal because it contained a party's financial records. 191 Ill. 2d 214 (Ill. 2000).

Furthermore, the public's right to access court records has constitutional underpinnings. In addressing the sealing of court files in *Skolnick*, the Illinois Supreme Court cited *Johnson*. In refusing to place the record under seal, the supreme court found that "the availability of court files for public scrutiny is essential to the public's right to 'monitor the functioning of our courts, thereby insuring quality, honesty,

continued on page 57

Kimberly Gleeson, a Francis D. Morrissey Scholar at the John Marshall Law School, will receive her J.D. in the spring of 2017

LPMT BITS & BYTES

BY CATHERINE SANDERS-REACH

Sore Thumbs in the Paperless Office

Many law firms are moving towards a paperless environment. However, for firms looking to go paperless (or use less paper) there are many considerations to be made, but dealing with email and properly archiving digital files may seem complex, so the firm defaults to printing the documents. So what can be done?

Email as a Record

Email itself is often a record, and often documents and versions attached to the email may never be saved even to the most carefully constructed DIY document management system. There are a number of ways to save important emails into a shared document repository. One way is to have the IT administrator create group folders in Outlook or LotusNotes so that the users can drag/drop emails that need to be shared to one folder. Users can also save individual emails as a .msg or .html and save them in the appropriate folder in the file/folder structure on the network or cloud storage. For users with the full version of Adobe Acrobat, or similar 'convert to PDF' functionality, you can save the emails to a PDF format.

But, what about the attachments? Avoid attachment problems by sending internal email recipients a file path instead of an attachment. The file path will take the

recipient directly to the document on the server or cloud service without creating a new version. This helps with version control AND helps ensure that the document location and file name conform to the firm's naming standards. When you receive a document attached to an email, make it a habit of "right" (alternate) clicking on the document and choosing "save as" to save it with the appropriate name and folder right away. A simple add-on for MS Outlook called EZ Detach from TechHit automates the process of saving and categorizing attachments. The product is \$39.95 per user, though bulk licensing and site licensing are available.

Another method of dealing with email in MS Outlook is to keep it in a folder structure that mimics the network folder structure and to use Adobe Acrobat to save the entire folder when the matter is closed. Each email in the folder will be converted to PDF, and can be sorted, searched, and extracted as needed. The attachments to the emails are stored within this PDF repository as well, though they are not converted to PDF. Nuance PDF Converter Pro also provides this option, but you can also save attachments as PDF as well.

Archiving Electronic Documents

Nearly 100% of documents are created electronically. These documents are created in many different types and versions of software. Many have already experienced the difficulties of opening a Microsoft Office 95 document or converting an older WordPerfect document to a current version of Microsoft Word. Older digital documents suffer as formatting is lost, characters don't display, and files become corrupted. Long term storage of digital

records poses so many challenges that law firms may consider printing the records to avoid dealing with migration issues. One option is to convert documents to PDF, as the format is a de facto standard due to the popularity of the free Reader and its backwards compatibility. However, for entities such as the government and the courts, a de facto standard is not enough. The Association for Information and Image Management (AIIM) has developed an International Organization for Standardization (ISO) standard called PDF/A. This standard creates assurances of long-term compliance and readability. There are two types of PDF/A. The full type, PDF/A-1a, is intended for electronic documents such as word processing, spreadsheets, etc. The minimal type, is for scanned documents and is called PDF/A-1b. The specifications for PDF/A is that the documents should be self-contained, unfettered, device independent, and tagged. Simply put, the PDF/A document will use embedded font and standard colors, cannot be secured, contains metadata, and does not allow external links, embedded files or multimedia elements. These restrictions allow a PDF/A document to be opened by a Reader many years into the future.

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There are many things to contemplate-and conquer-as firms move away from printing the digital file to becoming paperless. ■

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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NOTA BENE

BY AMY COOK

INVIGORATE YOUR WRITING

Lessons from Creative Nonfiction

You may not think creative writing has a place in our search-for-truth profession, but the more you engage your audience, the better you can convince them of your argument. Adding some color to your writing can help you do that. “Creative” doesn’t mean making things up. It has to do with how the writer conceives ideas, summarizes situations, defines personalities, and describes places says Lee Gutkind, author, professor, and editor of *Creative Nonfiction* magazine. It’s simply “true stories well told.”

The CBA is onboard with this concept, recently sponsoring a CLE “Storytelling for Lawyers,” featuring Keith Grant of the Lake County Public Defenders Office. He noted that humans are natural born storytellers, telling tales around the campfire for eons. His October talk focused primarily on verbal communication but many tips apply to written as well. You can’t get away from your client’s case, he said, but you can focus on the story of your client’s case. There’s a difference between reporting what took place and telling the most interesting, engaging version of what happened. “You want a sense of place, of character, of movement.” Grant said.

Set the Scene

When you catch an adjective, kill it. Kill most of them, then the rest will be valuable.

—Mark Twain

In general, use simple, straightforward words. Another favorite Twain-ism: Don’t

use a five-dollar word when a 50-cent word will do. However, there can be occasions for more colorful words. Describe what happened. What did people see, hear, smell, taste or touch? Don’t just say the alley was smelly, what did it smell like? If a noise was loud, was it howling, screeching, or rumbling? Don’t just tell us what she said: did she shout? Was her voice trembling? Did the man walk or did he stagger? You want reader buy-in. Make the readers feel they are a part of this story.

Tell Us (Only) What We Need to Know

Leave out the parts that readers tend to skip.

—Elmore Leonard

Grant advised to avoid prologues and introductions (The evidence will show...). To the extent you can, skip the backstory. Lawyers are thorough. But does the audience need to know the police officer’s training or just what the officer found? Grant said we get caught up in what we think the audience needs to know. Instead, figure out what is essential to your story and then connect the dots. Before writing, chart how you are going to get from the starting point to the final destination where there is only one possible ending: Your argument wins.

Tell your story to your friends or colleagues. Pay attention to when they get bored—you need to know where you are losing your audience. For each element of your narrative, ask: Why is this significant? Why might it matter to your reader? What will they learn from the experience? How did this event change someone’s life?

Hook ‘Em

The best way get your reader into the action as soon as possible is to have a hook. “The faster you involve the reader in the

scene, the more successful you’ll be,” says Gutkind.

Grant also discussed the need for a hook and pointed to the Tim O’Brien book, “The Things They Carried” which, of course, is not really about the objects Vietnam War soldiers carried. It’s the story behind the things: the can opener, the matches, the pocketknives, the bible, the chewing gum. The list of “things” is the hook that introduces and reveals his characters.

Find Your Voice

The search for your “voice” when writing business and legal documents can be difficult. This kind of writing tends to be formulaic. If you’re stuck or your writing is sounding dry, Grant advised to write your first draft quickly like you’d write an email. It will loosen you up.

Your voice is unique but you can make some choices depending on the situation and audience. Choose light and humorous—or serious and grave. Do you want to be personable or reserved? Impassioned or controlled? Plainspoken or elaborate?

Use Repetition and Rhythm

Some writers are afraid to repeat the same word and cast about desperately—and awkwardly—for synonyms. However, repetition can work for you when used creatively. It can hammer home a point—exactly what’s needed in persuasive writing.

Consider this passage from Dr. Martin Luther King Jr.’s *I Have a Dream* speech:

But one hundred years later, the Negro still is not free. One hundred years later, the life of the Negro is still sadly crippled by the manacles of segregation and the chains of discrimination. One hundred years later, the Negro lives on a lonely island of poverty in the midst of a vast ocean of material prosperity. One hundred years later, the Negro is still languished in the corners of American society and finds himself an exile in his own land. And so we’ve come here today to dramatize a shameful condition.

Amy Cook is Managing Editor of the CBA Record and runs a legal communications firm.

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This Case is a Shamilton

The 93rd Annual Bar Show—
“This Case is a Shamilton”



Reviewed By **Jasmine V. Hernandez**

Inspired by local and national news events during the past year, head writers Cliff Berman and David Miller breathed new life into the Chicago Bar Association’s 93rd Annual Bar Show, “This Case is a Shamilton.” While the Bar Show always highlights the musical and acting talents of CBA members, the 93rd Bar Show incorporated new and classic material, as well as featured a more diverse cast, setting this Bar Show apart from previous years.

In true Hamilton fashion, Daniel Campbell kicked the performance off with a rap that welcomed audience members to the show while simultaneously teasing them for only attending since they did not score tickets to the actual Hamilton production. After that cast members and The Company opened the show with a humorous glimpse inside Chicago politics in “Read Him His Miranda Rights.” Attorneys Larry Aaronson, Ron Balfour, Nyshana Sumner-Dowlen, Stan Slovin, and Millicent Willis portrayed Rahm

Jasmine V. Hernandez is a State’s Attorney and a member of the CBA Record Editorial Board.



Emmanuel, Garry McCarthy, Karen Lewis, Chuy Garcia, and Barbara Byrd-Bennet, respectively, as the city’s dignitaries lamented their future.

Next came some great performances celebrating the Cubs’ World Series win. In particular was “Heaven in Seven” in which baseball legends, Joe Maddon, Ernie Banks, Harry Caray, and Jack Brickhouse (Danny Teinowitz, Marc Augustave, L. Steven Platt, Joe Moore, and Jeffrey Marks, respectively) celebrated the end of a 108 year World Series win drought.

Performances then began to address more national issues including a media personality (John King), a CEO (Elon Musk), a Supreme Court nominee (Merrick Garland) and the Obama sisters. As Malia and Sasha, Mghonon Martin and Ebony Smith, gave a rousing and crowd pleasing

performance as the First Daughters. In “Go on and miss the girls,” (an adaptation “Go on and Kiss the Girl” from Disney’s The Little Mermaid) they sang about their time living in the White House and what they look forward to enjoying in private (hanging out with friends and twerking). Most interesting, during the song Martin and Smith also quipped that Condoleezza Rice assuming a political role in the future was their only avenue of making a Bar Show

appearance again.

Obviously Martin and Smith sang that line in jest, but that single line pretty much sums up why I left the 93rd Annual Bar Show with a smile on my face. For the first time, that I can recall, the Bar Show writers, producers and team acknowledged where their production fell short and poked fun *at themselves* for it. This Bar Show production rises above the rest for me because it highlighted and played to the strengths of its *entire* diverse cast. It ceased being a fun holiday show featuring a handful of select individuals and has evolved into a production that better represents and truly draws upon the talent of its broad membership base. I can’t wait until next year! ■

Ethics Extra
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and respect for our legal system.” In acknowledging that “there is a parallel right of access to court records embodied in the [F]irst [A]mendment,” the court found that the First Amendment presumes it to be the public’s right to access and inspect court records.

Even if a court grants a motion to seal a court record, the parties may later be required to show cause to keep the file sealed. In *Linn v. Department of Revenue*, the Fourth District Appellate Court initially granted the appellant’s motion for leave to file his briefs under seal. 2013 IL App (4th) 121055. However, 10 months later, the court issued a show cause ruling requiring the appellant to demonstrate why the order sealing the briefs should remain in effect. The court vacated the order when the appellant failed to justify the continuance of the order.

Nota Bene
continued from page 54

Here is one of literature’s best known beginnings: It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair.
—*Tale of Two Cities*, Charles Dickens

The elegance and rhythm of these passages demands our attention and captivates us.

Legal writing, by necessity, can be very serious. But serious can equal dull, dry and distant. Borrow a page from the creative nonfiction writers’ playbook to hook your readers, keep them, and persuade them. ■

Similarly, in *Khan*, even though the appellate court originally granted the motion to seal the briefs, the court later issued a rule to show cause against both parties to justify the continuance of the order. Justice Steigmann found it was unsurprising that neither party’s response attempted to justify continuing the order because neither party ever possessed a “colorable basis” to justify “the extraordinary step” of sealing the court file.

Justice Steigmann reprimanded the attorneys for their disservice to the trial and appellate courts for even requesting that the court file be sealed. He underscored that the attorneys should have known better, and that sealing an entire court file “can never be appropriate.” ■

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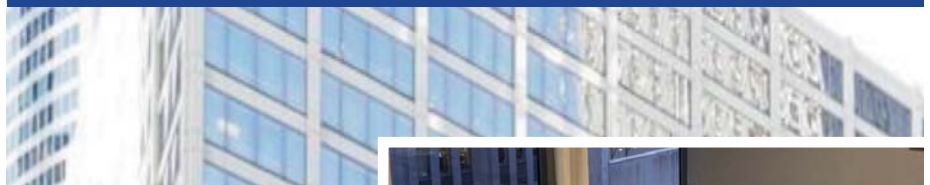
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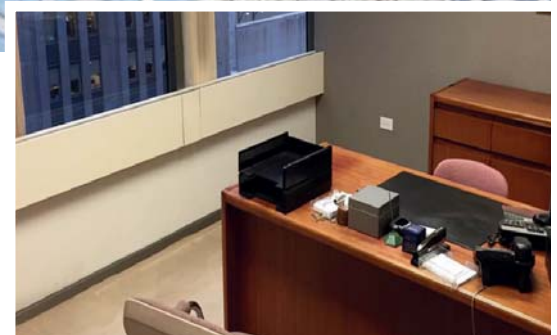
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