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Lessons From Facebook's Record $550 Million Biometric Settlement

BY NICK KAHLON & ELI LITOFF

On January 29, 2020, Facebook, Inc. agreed to pay over half a billion dollars to settle claims that it violated the Illinois Biometric Information Privacy Act ("BIPA")[1] by using facial recognition software to help users "tag" their friends in photographs. The settlement came less than two weeks after the United States Supreme Court refused to review the ninth circuit's decision affirming class certification in *Patel v. Facebook, Inc.,* 932 F.3d 1264 (9th Cir. 2019), which would have set the stage for one of the largest consumer class action trials in history. The settlement also comes almost exactly one year after the Illinois Supreme Court's decision in *Rosenbach v. Six Flags Entertainment Corp.,* 129 N.E.3d 1197 (Ill. 2019), holding that plaintiffs need

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Chicken Dinner Warrants Recusal? Not So Fast!

BY DAVID W. INLANDER & RONALD D. MENNA, JR.

Invariably, judges receive invitations to attend dinners and events celebrating worthy civic, professional and public interest causes. Usually, in addition to being served the ubiquitous chicken dinner, judges are warmly greeted by practicing attorneys, community and religious leaders, and, at times, are even recognized from the dais for their presence. After all, judges should not be asked to shy away from public recognition of their esteemed status, should they? But maybe it is not that straight-forward. How careful must a judge be before accepting an invitation for a seemingly good cause?

Last month, the Seventh Circuit Court of Appeals issued an opinion which analyzed the topic of recusal in just such a setting involving an Illinois federal judge. In ***In re Gibson***[1] the seventh circuit reaffirmed that judges may attend the "rubber chicken" circuit without fear of having to recuse

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not plead any actual injury apart from a statutory violation in order to qualify as "aggrieved" under BIPA.[2] Facebook's settlement is a harbinger of the issues that will be litigated in the next stage of BIPA litigation following the *Rosenbach* decision.

The Facebook Litigation

In 2018, the district court denied Facebook's motion to dismiss the case for lack of Article III standing[3] and, two months later, granted the plaintiffs' motion for class certification over Facebook's objections.[4] Facebook appealed both the denial of its motion to dismiss and the grant of class certification to the ninth circuit, which affirmed both orders.

In the appeal, Facebook renewed its challenge to standing, arguing that the plaintiffs alleged only a bare procedural violation and had suffered no "real-world harm" (such as an adverse employment action, or even just anxiety) as a result of its "tagging" program that could satisfy Article III. The ninth circuit rejected this argument, employing its two-step approach for determining whether a statutory violation causes a concrete injury. First, it held that BIPA was enacted to protect an individual's "concrete interests" in his or her privacy; it was not enacted to protect "merely procedural" rights. Second, the court concluded that the alleged BIPA violations actually harmed those concrete interests. The court reasoned: "Because the privacy right protected by BIPA is the right not to be subject to the collection and use of such biometric data, Facebook's alleged violation of these statutory requirements would necessarily violate the plaintiffs' substantive privacy interests."[5]

The court then turned to Facebook's class certification arguments. Facebook argued that the claims did not satisfy Rule 23's commonality requirement because each class member's claims would pose individualized inquiries concerning whether a class member's claims fell within BIPA's territorial scope.[6] Because BIPA does not apply extraterritorially, and because each of Facebook's servers that stored the plaintiff's biometric information was located outside of Illinois, Facebook argued that individualized proof would be required to show that the challenged conduct took place "primarily and substantially" within Illinois. Facebook asserted that countless min-trials would be required to determine whether, for example, particular class members were in Illinois when their picture was uploaded, when the facial recognition analysis was performed, or when Facebook suggested a tag. The ninth circuit disagreed, finding that the "dispute regarding extraterritoriality requires a decision as to where the essential elements of a BIPA violation take place," which, it found, could be decided on a class-wide basis, subject to the district court's ability to later decertify the class if it determined that the elements required individualized inquiries.

Facebook also argued that a class action was not superior to individual actions given the $1,000 or $5,000 statutory penalties recoverable by plaintiff, which in the aggregate would amount to billions of dollars given the size of the asserted class. But the ninth circuit rejected Facebook's contention that the potential for "a large, class-wide damages award" defeated superiority. The court did not find anything in the statutory language or the legislative history to indicate that the drafters intended to "place a cap on statutory damages."

Facebook's petition for certiorari asserted that the ninth circuit's standing analysis was deficient in two ways. According to Facebook, the court erred by finding that because BIPA protects a concrete privacy interest, a BIPA violation *necessarily* injures that interest. Facebook asserted that this holding was not only incorrect, but created a split with the second, fourth, sixth, seventh, and eighth circuits, which require plaintiffs to allege that the statutory violation harmed the plaintiff "in a personal and individual way." Second, Facebook argued that the ninth circuit erred and created an additional

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circuit split because it determined that the plaintiffs had standing without finding that risk of future misuse of the plaintiffs' personal information constituted an "imminent" risk of harm.

Separate and apart from the standing issues, Facebook contended that the court erred in its predominance analysis. While the ninth circuit held that the question of where the alleged BIPA violations occurred (*i.e.* where the Plaintiffs were located or where Facebook's servers were located) could be determined by the district court *after* class certification, Facebook argued that this "predicate question of law" affecting predominance had to be decided *before* certifying the class. Facebook asserted that the ninth circuit's decision created a split with the second, eighth, and eleventh circuits, which prohibit courts from certifying a class without answering threshold legal questions central to class certification.

Despite Facebook's assertion of three separate circuit splits, the Supreme Court denied certiorari on January 21, 2020. Just over one week later, the parties disclosed their agreement to settle the case. The parties' motion for preliminary approval of the settlement is expected to be filed around the time of this article's publication.

What Can Companies Learn From Facebook's Settlement?

Facebook's settlement signals a developing circuit split regarding BIPA claims. In the ninth circuit, plaintiffs now may be able to satisfy Article III merely by alleging a violation of BIPA apart from any actual harm. District courts in other Circuits, however, have remanded BIPA actions for failure to show actual harm under Article III. *See, e.g., Hunter v. Automated Health Systems, Inc.,* No. 19 C 2529 (N.D. Ill. February 20, 2020) (concluding that the "plaintiff lacked Article III standing … because there was no allegation of any dissemination, just a claim for a bare procedural violation"). In addition, while Facebook's extraterritoriality challenge to class certification did not persuade the ninth circuit, courts in other Circuits may evaluate these arguments differently, particularly when asked to resolve the question left open by the ninth circuit as to where the elements of a BIPA violation take place. BIPA defendants should carefully monitor these trends when evaluating challenges to personal jurisdiction, forum, standing and class relief.

There also remain a host of other defenses that have yet to be resolved by courts, such as the applicable statute of limitations. BIPA does not contain its own statute of limitations, but Illinois has a one-year limitations period for "publication of matter violating the right of privacy," 735 ILCS 5/13-201, which arguably should apply to BIPA claims. A defendant may also be able to argue that the plaintiff provided implied consent to the collection of biometric information, or that BIPA claims must be resolved in arbitration or another forum because of applicable statutes, collective bargaining agreements or individual contracts.

BIPA itself may be vulnerable to a constitutional challenge. The grocery store chain Albertson's for example, is currently appealing to the Illinois Supreme Court whether BIPA violates its equal protection rights by arbitrarily exempting government contractors and certain financial institutions from BIPA liability.[7] BIPA also may violate the Dormant Commerce Clause by burdening out-of-state companies through its uncertain extraterritorial effects, and it may violate due process by imposing disproportionate and excessive statutory penalties on class action defendants who have not actually injured anyone. The amount of the Facebook settlement suggests just these kinds of effects.

In the end, Facebook's settlement is a warning that companies should not only be careful with regard to their biometric practices, but also remain informed of this rapidly evolving area of law. And it is not just large tech companies like Facebook and that should be on notice. Big and small companies across the economy have found themselves subject to BIPA litigation in recent years, including a photo-sharing company,[8] a rail terminal operator,[9] a die casting company,[10] a cold storage logistics company,[11] an automotive parts supplier,[12] a foodservice company,[13] and a senior living company,[14] just to name a few. No matter their size or industry, companies would be wise to take notice of Facebook's settlement and seriously evaluate their own potential exposure to liability under BIPA.■

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1. BIPA, passed in 2008, generally prohibits companies from obtaining biometric information (such as fingerprints, voice samples, and scans of face or hand geometry) without obtaining consent and disclosing how they use, store and destroy that data. 740 ILCS 14/1 *et seq*. The statute carries penalties of $1,000 for each negligent violation and $5,000 for each intentional or reckless violation. 740 ILCS 14/20(1)-(2).
2. BIPA creates a private right of action only for a "person aggrieved by a violation" of the Act. *See* 740 ILCS 14/20.
3. See *Patel v. Facebook Inc.*, 290 F.Supp.3d 948, 954 (N.D. Cal. 2018).
4. See *In re Facebook Biometric Information Privacy Litigation*, 326 F.R.D. 535, 544-49 (N.D. Cal. 2018).
5. According to Facebook's appellate briefs, one of the *Patel* plaintiffs apparently testified that he thought Facebook's tagging tool was a "nice" feature and had chosen not to opt out of it. The ninth circuit did not address this evidence against harm in its decision.
6. In the district court, Facebook also argued that individualized inquiries would be required to establish whether each plaintiff was "aggrieved by" the alleged BIPA violations, which Facebook argued required some actual harm in addition to the violation itself. By the time it reached the ninth circuit, however, this argument was foreclosed by the Illinois Supreme Court's decision in *Rosenbach*.
7. The case, *Bruhn v. New Albertson's Inc. et al.*, No. 2018 CH 01737, is currently pending in the Circuit Court of Cook County.
8. See *Norberg v. Shutterfly, Inc.*, No. 15 CV 5351 (N.D. Ill.).
9. See *Rogers v. CSX Intermodal Terminals, Inc.*, No. 1:19 C 2937 (N.D. Ill.).
10. See *Colon v. Dynacast, LLC*, No. 19-CV-4561 (N.D. Ill.).
11. See *McGinnis v. United States Cold Storage, Inc.*, No. 17 C 08054 (N.D. Ill.).
12. See *Goings v. UGN, Inc.*, No. 17-cv-9340 (N.D. Ill.).
13. See *Bryant v. Compass Group USA, Inc.*, No. 19 C 6622 (N.D. Ill.).
14. *See Dixon v. Washington and Jane Smith Community-Beverly*, No. 17 C 8033 (N.D. Ill.).

Chicken Dinner Warrants Recusal? Not So fast!

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themselves, can have their children follow them into our profession, and their children's law firms may appear before them. While this case was analyzed under the Federal Judicial Canons, we believe the analysis and outcome would be the same under the Illinois Code of Judicial Conduct.[2]

The court was presented with the question of whether a judge's adult child's employment in a party's attorneys' law firm "creates an appearance of partiality in the eyes of an objective, well-informed, thoughtful observer."[3] It held:

It does not. The fact that a relative works at a law firm representing a party is not enough. There would need to be some aggravating circumstance, and there is none here. The Code of Conduct again provides guidance: "The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge." Cmt. to Canon 3C(1)(d)(ii).[4]

The facts are straightforward. Plaintiff, an Illinois criminal defense lawyer, was tried for the murder of his wife. After being found not guilty, he brought a § 1983 action against the City of Quincy and Adams County in the Central District of Illinois.[5]

The case was originally assigned to Judge Sue E. Myerscough. A year later, it was reassigned to Judge Colin S. Bruce. Plaintiff moved to recuse Judge Bruce as Plaintiff was representing in post-conviction proceedings a federal defendant who had been sentenced by Judge Bruce. Plaintiff's motion was granted, and the case was reassigned back to Judge Myerscough.[6]

At the next status hearing Judge Myerscough informed counsel about several circumstances which may be relevant to her impartiality: (1) her daughter had just been hired as an attorney with the University of Chicago's Exoneration Project, which is partly funded by the Plaintiff's attorneys' law firm and whose lawyers donate time, including those of Plaintiff's attorneys of record; (2) she had recently attended a dinner for the Illinois Innocence Project (affiliated with the University of Illinois Springfield), where her daughter worked prior to joining Exoneration Project, where many "exonerees", including the Plaintiff, were recognized; (3) she was aware of Plaintiff's underlying criminal case from publicity and from brief conversations with other lawyers, given that it involved a murder trial of a local criminal defense attorney; and (4) she had had cases with the City of Quincy and Adams County (defendants in the § 1983 action), with one of the defense attorneys and with the firm of another defense attorney. Plaintiff's attorneys disclosed they had worked with the judge's daughter, Lauren Myerscough-Mueller, they and the Innocence Project preemptively had screened that attorney from working on any cases before Judge Myerscough, and they were not responsible for Ms. Myerscough-Mueller's compensation. Nevertheless, Defendants subsequently moved to disqualify Judge Myerscough pursuant to the general recusal standard in 28 U.S.C. § 455(a).[7] Judge Myerscough denied the motion. Defendants then filed a Petition for Mandamus in the 7th circuit.[8]

Initially, the 7th circuit noted that since its decision in *Fowler v. Butts*[9] it permits reviews of a denied recusal motion under any section of 28 U.S.C. § 455 only through appeal of the final judgment. It then discussed the appropriate standard of review but did not decide whether it was de novo or the deferential "clear and indisputable" standard for mandamus petitions, as the result would be same under either standard.[10] Thus, this is still an open question.

The court then turned to the grounds for recusal. To the extent the ordinary standard for a writ of mandamus applies, under 28 U.S.C. § 455(a), the petitioner must show: (1) that review after final judgment will not provide an adequate remedy for the appearance of partiality; (2) the objective appearance of partiality is "clear and indisputable"; and (3) mandamus is otherwise appropriate under the circumstances.[11] Despite Defendants' failing to address the first or third prongs, the court addressed "the central issue of apparent partiality because the standard of review is debatable and because we are reluctant to leave an unnecessary cloud hanging over the proceedings in the district court. We find that there was no reasonable question as to Judge Myerscough's impartiality on either ground offered by defendants."[12]

Defendants' first ground for recusal was Judge Myerscough's attendance at the March 30, 2019, Illinois Innocence Project fundraiser. At that time, she was not assigned this case and had no expectation she would have any further involvement. Her daughter had interviewed with the Exoneration Project but had not yet been offered a job. The judge did not attend the fundraiser in an official capacity, and "many state and local officials and judges" also attended. She was briefly acknowledged from the podium, as were other dignitaries. Plaintiff and about thirty other "exonerees" (not judges) were invited on stage to be honored. While some of the exonerees were named in the program book, Plaintiff was not.[13]

Additionally, when this case was first filed, it was inadvertently filed in the wrong division and not corrected for almost three months. As such the court found this provides evidence that no judge-shopping occurred. Further Defendants did not suggest that the reassignment to Judge Bruce occurred based on any partiality.[14] Given these facts, the 7th Circuit concluded "that no 'objective, disinterested observer' could 'entertain a significant doubt that justice would be done in the case' based on the Innocence Project fundraiser"[15], and held:

To be sure, under quite different circumstances, a judge's more extensive involvement with charitable fundraising efforts and with organizations that regularly engage in litigation can present disqualification issues. Canon 4 of the Code of Conduct for United States Judges states: "A judge may engage in extrajudicial activities that are consistent with the obligations of judicial office." Several more

detailed provisions of Canon 4 are relevant here. Canon 4C allows a judge to assist in planning fundraising activities for non-profit law-related, civic, charitable, educational, religious or social organizations. A judge may even be listed as an officer, director, or trustee. But a judge may not actually solicit funds for such an organization except from members of the judge's own family and other judges over whom the judge exercises no supervisory or appellate authority. *Id*. A judge may attend fundraising events for such organizations but may not be a speaker, guest of honor, or featured on the program of such an event. Cmt. to Canon 4C.[16]

Thus, serving as a member, officer or director of a public interest entity will not automatically lead to recusal. Nor will mere attendance at a fundraiser- no matter what is served for dinner! This is true even if a close relative, who happens to be a lawyer is merely employed by an interested party, but is not an owner (equity) of such firm.[17]

The second ground for recusal was the judge's daughter's salaried employment by the Exoneration Project, a public interest entity partially funded by Plaintiff's counsel. Ms. Meyerscough-Mueller was offered the job shortly after the fundraiser. Before the judge's daughter started, the Judge Meyerscough was reassigned this case. Defendants did not question the timing of Plaintiff's motion to recuse Judge Bruce and disclaimed any notion that the Exoneration Project hired Ms. Meyerscough-Mueller in an effort by Plaintiff's attorneys to ingratiate themselves. Judge Meyerscough daughter never represented the Plaintiff and she had been screened from any involvement in any of the judge's cases, including this one. However, even if the court were to disregard the distinction between Plaintiff's attorneys' law firm and the Exoneration Project, the 7th Circuit, as quoted above, held that "without more", this is not a basis for recusal.[18]

Thus, *without more*, a judge's adult child's salaried employment by a law firm which appears before that judge is not a basis for an automatic recusal. A recusal is called for when the adult child acts as an attorney in the case or has an interest that could be substantially affected by the outcome of the proceeding, such as being an equity partner.[19] Ultimately, each case will rise or fall on the specific facts assessing whether an appearance of partiality in the eyes of an objective, well-informed, thoughtful observer, is elevated to a level to warrant recusal. Here, the 7th circuit held it did not.■

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1. *In re Gibson*, ___ F.3d ___, 2019 U.S. App. LEXIS 39089, 2019 WL 8017895 (7th Circuit, No. 19-2342, published February 25, 2020).
2. Illinois Supreme Court Rules 61-67.
3. *Gibson*, *supra*, 2019 U.S. App. LEXIS 39089, *16-17, *citing In re Mason*, 916 F.2d 384, 386 (7th Cir. 1990).
4. *Id*. at 17.
5. *Id*. at 2-3.
6. *Id*. at 3.
7. 28 U.S.C. § 455. *Disqualification of justice, judge, or magistrate judge* (a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. While Illinois does not have a statute equivalent to 28 U.S.C. § 455, its concepts are found in Illinois Canon 3(C)(1), Illinois Supreme Court Rule 63, 735 ILCS 5/2-1001(a)(3) and 725 ILCS 5/114-5.
8. *Gibson*, *supra*, 2019 U.S. App. LEXIS 39089, * 3-5.
9. *Fowler v. Butts*, 829 F.3d 788, 793 (7th Cir. 2016).
10. *Gibson*, *supra*, 2019 U.S. App. LEXIS 39089, * 5-8.
11. *Id*., 2019 U.S. App. LEXIS 39089, * 8-9, *citing United States v. Sinovel Wind Group Co*., 794 F.3d 787, 793 (7th Cir. 2015).
12. *Id*., 2019 U.S. App. LEXIS 39089, * 9-10.
13. *Id*., 2019 U.S. App. LEXIS 39089, * 10-12.
14. *Id*., 2019 U.S. App. LEXIS 39089, * 10-11.
15. *Id*., 2019 U.S. App. LEXIS 39089, * 12, *citing United States v. Herrera-Valdez*, 826 F.3d 912, 917 (7th Cir. 2016).
16. *Id*., 2019 U.S. App. LEXIS 39089, * 12-13. Illinois Judicial Canon 4(C), Illinois Supreme Court Rule 64, incorporates the rules in Federal Judicial Canon 4, 4(A)(3), 4(B) and 4(C). However, compare Federal Canon 4 – "A Judge May Engage in Extrajudicial Activities That Are Consistent With the Obligations of Judicial Office" – with Illinois Canon 5, Illinois Supreme Court Rule 65 – "A Judge Should Regulate His or Her Extrajudicial Activities to Minimize the Risk of Conflict With the Judge's Judicial Duties".
17. *Id*. See also Illinois Judicial Canon 4(C), Illinois Supreme Court Rule 64 ("A judge may serve as a member, officer or director of a bar association, governmental agency, or other organization devoted to the improvement of the law, the legal system, or the administration of justice."); and Illinois Judicial Canon 5(B), Illinois Supreme Court Rule 65 ("A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties", and "may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members ….").
18. *Gibson*, *supra*, 2019 U.S. App. LEXIS 39089 at * 13-15.
19. 28 U.S.C. § 455(b)(5)(ii) and (iii). See also *Jenkins v. Arkansas Power & Light Co*., 140 F.3d 1161, 1165 (8th Cir. 1998) (recusal not required where judge's son was "a salaried associate who would not be substantially affected by the outcome"); *Nobelpharma AB v. Implant Innovations, Inc*., 930 F. Supp. 1241, 1267 (N.D. Ill. 1996) (recusal not required where judge's daughter was salaried partner, not equity partner, in law firm representing party before judge); *People v. Saltzman*, 342 Ill.App.3d 929, 931 (3rd Dist.), *appeal denied*, 206 Ill.2d 640 (2003), *quoting People v. Craig*, 313 Ill.App.3d 104, 105 (2nd Dist.), *appeal denied*, 191 Ill.2d 540 (2000) ("A judge should disqualify himself if he knows he has a substantial financial interest in the subject matter in controversy or is a party to the proceeding where such an interest might affect the outcome of the proceeding. 203 Ill. 2d R. 63 C(1)(d). 'The mere fact that a judge has some relationship with someone involved in a case, without more, is insufficient to establish judicial bias or warrant a judge's removal.' "). *But see, In re Hatcher*, 150 F.3d 631, 638 (7th Cir. 1998) (recusal required where judge's child worked on the linked prosecution of a co-conspirator); *SCA Services, Inc. v. Morgan*, 557 F.2d 110, 116 (7th Cir. 1977) (recusal required where judge's brother was an equity partner in a firm litigating before the judge); and Illinois Judicial Canon 3(C)(1)(e)(iii), Illinois Supreme Court Rule 63 ("A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where: … the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person: … is known by the judge to have a more than *de minimis* interest that could be substantially affected by the proceeding ….").

Reflections on Ethics, Morality, and Codes of Personal Conduct

BY J. D. JORDAN & JUDGE MICHAEL S. JORDAN (RET.)

Retired Judge Michael S. Jordan, Mediation & Arbitration Services, Glenview, Illinois.

I was reading the reflections of my son, Jeff Jordan, regarding ethics and having a moral compass which is essential for every lawyer, judge, or other person in a position of trust. I obtained my son's permission to share his thoughts with all of you and hope this article brings each of us insights into the path we each choose to take.

Jeff Jordan is a public arbitrator hearing securities and employment matters and has also been on the staff of Mediation & Arbitration Services, which is my arbitration and mediation company.

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My personal code of ethics is extraordinarily important to me as a salient grounding force, an indispensable polestar by which I navigate the blizzard of daily life and a means to effectively resolve cranial conflict when external factors are diametrically opposed or otherwise violate that which I think is righteous and honorable. I believe that an individual's personal code of ethics and associated perception of morality has components that are developed both intrinsically as well as via external forces including parenting, education, role-modeling, peers, social cuing, unique interpersonal or transactional interactions in addition to philosophical introspection mediated by both direct and indirect catalysts.

My career as an arbitrator mandates that I pay particular deference to social responsibility by way of adhering to externally prescribed codes of ethical conduct in conjunction with the global positioning system of moral imperatives that remain steadfastly cemented deep within the recesses of my cerebral cortex. As I will contemplate below, I hold no moral attributes in higher esteem than the eminent concepts of integrity and empathy; I believe this moral tandem represents the umbrella under which all other moral components dynamically cascade and interact amidst a perennial onslaught of situational responsibilities that require ethical decisions.

I resolutely believe that my personal, ethical disposition was primarily influenced by the curiosities and peculiar whims of genetic happenstance and — far more notably — exceptional, outstanding parents who journeyed to the farthest reaches of the universe in order to teach me about the importance of treating everyone with as much courtesy, dignity and respect as possible. Moreover, my parents concurrently instilled the significance of habitually applying integrity, honesty and responsible deliberation to all personal and professional aspects of my daily interaction with individuals and entities.

For your edification I must preface the following statements by informing you that I was adopted at birth. My parents' delightful fiftieth anniversary celebration occurred two years ago and in their honor I crafted a two-sentence statement on a commemoration card that encapsulated my profound appreciation of their ceaseless efforts that continue to this day to foster and continuously emphasize behavior that is consistent with integrity; the words I chose prompted my mom and dad to emote tears of joy: "If I could have hand selected my parents I would have chosen both of you. How fortunate for me that you chose to adopt me."

My dad is a retired circuit court judge who enthusiastically continues to work full-time as a mediator and arbitrator, my mom is a retired Chicago Public School System teacher who passionately continues to serve as a social worker, my older sister is an incredibly gifted special needs educator who taught me how to read when I was four years old, my younger sister is an exemplary office manager and master multitasker and my younger brother is a courageous and noble firefighter.

Perhaps, given the constitutionally unwavering ethical pedigree I was colossally fortunate to internalize, incorporate and subsequently employ, I have absolutely no tolerance for ethical predilections that transgress integrity in any perpendicular manner. Therefore, I stand tall for tolerance, kindness, inclusion, acceptance, respectfully articulated alternative viewpoints and, regally perched atop the zenith of ethical conduct, empathy. Conversely, I place no worth or practical social value of any kind on either actions or inactions involving corruption, fraud, dishonesty, manipulation, duplicity, abdication of responsibility or any behavior that knowingly and nefariously takes advantage of other human beings, animals or Earth.

The ethical framework I espouse for making decisions is an amalgamation of the aforementioned reciprocity of nature and nurture in addition to a kinetic, fluid journey of introspection, refinement and administration of my personal, ethical code that continues to bloom and bear fruit to this very moment in time; I expect such beneficial augmentation to persist until the frequently discombobulating roller coaster of life arrives at its final destination. With respect to the manner in which my ethical architecture informs my decisions, I find myself judiciously, contemplatively and vigilantly considering whether or not a particular course of action I ultimately select would make my parents, sisters and brother proud.

If I encounter so much as a gossamer, Lilliputian inkling of moral friction, which typically manifests itself as visceral, internal disharmony, I tenaciously reassess, reevaluate and reapply principled

mathematics until Goldilocks locates the appropriate port of call. Although some situations are by nature fraught with tangential complexities or ride the inevitable social lightning of endgame uncertainty, I annex and embrace immense pleasure in my ability to sleep peacefully knowing that my circumspect, deliberated perception of virtue and subsequent implementation of actions consistent with integrity and empathy will, to the consummate vertex of my capability and in honor of my family, remain indispensable, imperative and inviolable.■

Recent Appointments and Retirements

1. Pursuant to its constitutional authority, the supreme court has appointed the following to the supreme court:

- Hon. Michael J. Burke, 2nd Dist., March 1, 2020

2. Pursuant to its constitutional authority, the supreme court has assigned the following to the appellate court:

- Hon. Liam C. Brennan, 2nd Dist., March 2, 2020

3. Pursuant to its constitutional authority, the supreme court has appointed the following to be circuit judge:

- Hon. Thomas C. Berglund, 14th Circuit, January 1, 2010
- Christopher P. Threlkeld, 3rd Circuit, February 1, 2020

4. The circuit judges have appointed the following to be associate judges:

- Amee Alonso, Cook County Circuit, January 6, 2020
- Hon. Marina Amendola, Cook County Circuit, January 6, 2020
- Frank J. Andreau, Cook County Circuit, January 6, 2020
- Hon. Frederick H. Bates, Cook County Circuit, January 6, 2020
- John A. Fairman, Cook County Circuit, January 6, 2020
- Hon. Michael A. Forti, Cook County Circuit, January 6, 2020
- Michael Hogan, Jr., Cook County Circuit, January 6, 2020
- Hon. Celestia L. Mays, Cook County Circuit, January 6, 2020
- Jennifer J. Payne, Cook County Circuit, January 6, 2020
- Diane M. Pezanoski, Cook County Circuit, January 6, 2020
- Geri Pinzur Rosenberg, Cook County Circuit, January 6, 2020
- Rouhy J. Shalabi, Cook County Circuit, January 6, 2020
- John A. Simon, Cook County Circuit, January 6, 2020
- Hon. Levander Smith, Jr., Cook County Circuit, January 6, 2020
- Daniel O. Tiernan, Cook County Circuit, January 6, 2020
- Christopher M. Kennedy, 19th Circuit, January 31, 2020
- Daniel Dalton, 14th Circuit, February 14, 2020

5. The following judges have retired:

- Hon. David A. Hylla, 3rd Circuit, January 1, 2010
- Hon. James J. Gavin, Cook County Circuit, 4th Subcircuit, January 30, 2020
- Hon. Jay W. Ukena, 19th Circuit, Associate Judge, 1st Subcircuit, January 30, 2020
- Hon. Robert R. Thomas, supreme court, 2nd Dist., February 29, 2020

6. The following judges have resigned:

- Hon. Ronald M. Duebbert, 20th Circuit, January 9, 2020
- Hon. Casey Bloodworth, 1st Circuit, January 17 , 2020 ■