ILLINOIS STATE BAR ASSOCIATION

JUNE 2019 VOL 62 NO. 11

Family Law

The newsletter of the Illinois State Bar Association's Section on Family Law

Chair's column

BY HEATHER HURST

Summer is here! My year as the chair of the Family Law Section Council ends at our June Annual Meeting in Lake Geneva. Therefore, this is my last chair column for our section of the newsletter. What is about to follow will be a long list of necessary and well deserved "thank yous," so please bear with me.

As my term comes to an end, I would like to first thank President McCluskey for this appointment. It has been my honor and privilege to serve as your chair for the 2018-2019 bar year.

I would like to thank my predecessors, Tamika Walker, our immediate past chair and Lane Harvey, the 2016-2017 chair. Their guidance and assistance has been immeasurable and their leadership a model to follow. Thank you for always answering

Continued on next page

A note from the incoming chair

BY MICHAEL STRAUSS

First of all, a big "thank you" to Heather Hurst for all she did for the Illinois State Bar Association and for the family law section council as the chair for the past year. I also want to thank her for all she has done for me personally over the last few years. I also thank her for her article introducing me to all of you in May.

For those of you who do not know me, I am born and raised in Illinois. I attended the University of Illinois for both undergrad and law school. My undergraduate degree is a bachelor of science in human resources and family studies. I graduated the University of Illinois College of Law in 2004. I truly bleed orange and blue and yearn for a time when the football and basketball teams at least become respectable again.

Upon passing the bar exam, I began working at Shaw, Jacobs & Associates in Kane County. I worked there until 2006 and made many long lasting friendships

Continued on page 3

Chair's column

CONTINUED FROM PAGE 1

my calls and providing sound advice.

I would also like to extend my sincere gratitude to Michael Strauss, the current vice chair, and Sally Kolb, the current secretary of the council for their instrumental support during my term as chair. I look forward to working with both of you in my new role as ex-officio. I am confident that the council will do great work under your leadership.

Melissa Burkholder, our staff liaison. Where would I, or any of us, be without you?! With the degree of activity undertaken by our section council, the constant demands placed upon Melissa have been significant. Melissa's timeliness, cooperation, and assistance are exceptional and irreplaceable. The success of the council is due in large part to Melissa.

As in previous years, this has been a busy year for the council. I would like to thank all of the subcommittee chairs and members who have assisted in reviewing and commenting on legislation. The council's success depends on its members and this year the council was filled with active and productive members. A special thanks to:

- Stephanie Tang. Stephanie is the Subcommittee chair of the Case Law Update. Stephanie has consistently provided the council with vital information on the decisions of the circuit, appellate and supreme courts.
- Pam Kuzniar. Pam is the subcommittee chair of CLE and has once again provided an amazing year of CLE to ISBA members. Not only did she organize another amazing New Orleans CLE this year, but she is working on organizing an International CLE. Pam's work is invaluable and we are lucky to have her continued involvement with our CLE programs.
- Lane Harvey, Hon. Arnold Blockman (ret.), Tamika Walker, Rory Weiler, Richard Zuckerman, and Jim Covington. This group led the council's opposition to House Bill 185 and successfully defeated the bill for a second year.
- Robin Miller, Rory Weiler, and Matt Kirsh. This group reviews, edits, and manages the newsletter for the Family Law Section of the ISBA. Their hard work and dedication has led to the Family Law Section's continued ability to provide quality monthly newsletters to its members.
- Richard Zuckerman and Tamika Walker. Richard is the Legislation Subcommittee chair and is our fearless leader into the world of legislation. Richard and Tamika flawlessly keep track of any and all pending legislation related to family law and make certain that we provide the necessary review and analysis.

There are many more members that I would like to personally thank, and I am certain that I am missing many. Please know that all members and their contributions have been vital to the success of the Council and that they are very much appreciated.

It has truly been an honor to serve as your Family Law Section Council Chair. I am looking forward to continuing the great work of this Council and continuing to advance the objectives of the ISBA. Thank you. ■

Family Law

This is the newsletter of the ISBA's Section on Family Law. Section newsletters are free to section members and published at least four times per year. Section membership dues are $30 per year.To subscribe, visit www.isba.org/sections or call 217-525-1760.

OFFICE
ILLINOIS BAR CENTER
424 S. SECOND STREET
SPRINGFIELD, IL 62701
PHONES: 217-525-1760 OR 800-252-8908
WWW.ISBA.ORG

EDITORS
Matthew A. Kirsh
Robin R. Miller
Rory T. Weiler

PUBLICATIONS MANAGER
Sara Anderson
sanderson@isba.org

A note from the incoming chair

CONTINUED FROM PAGE 1

from my time in Kane County. In 2006, I joined the Law Office of Gary Schlesinger in Lake County and I also married my wife that year.

Gary and I formed a partnership in 2010 and Schlesinger & Strauss, LLC was born. On top of representing clients in family law cases, I serve as a mediator, GAL, and child representative. I currently practice in Lake County and suburban Cook County in Rolling Meadows and Skokie.

I am an elected board of A Safe Place—an organization dedicated to helping victims of domestic violence in Northern Illinois—and was recently elected vice president of the organization. I also serve as the Director of Umpires for the local little leagues in my hometown.

I am very excited to see what the year ahead brings for the Family Law Section Council. Since I have been a member, we have been super active in legislation. As a law student, I truly never thought I would be involved in the writing and passing of laws in Illinois. However, I joined this section council just after the first round of maintenance changes had occurred. Since that time, we rewrote the child support laws and the maintenance statute a few times… I know that we will be addressing the child support statutes again as well as to work on other family law issues, such as GAL communications with therapists.

I am very open to hearing from anyone with family law issues that they would like to see addressed. I can always be reached at my office or via email at straussfamilylaw@gmail.com. Do not hesitate to reach out to me with any issues or questions you may have. ■

Beware! Drafting tips for post-Jan. 1, 2019 maintenance modification orders

BY RORY T. WEILER

Most practitioners are aware of the fact that effective January 1, 2019, maintenance orders entered on or after that date are no longer taxable to the recipient, nor deductible by the payor. Congress eliminated the so called "divorce subsidy" when it adopted the 2017 Tax Cuts and Job Act (P.L.115-97). That law not only effectively eliminated taxation of maintenance, but also enabled the parties to maintenance orders entered before January 1, 2019 but modified after January 1, 2019 to elect for the new law to apply, or not, to the orders of modification.

However, not as well known, is the fact that if the parties wish to designate maintenance paid pursuant to orders entered prior to January 1, 2019 and modified after January 1, 2019 as being non-taxable to the recipient and non-deductible by the payor, specific reference to the statutory provisions of the Internal Revenue Code is required in order to receive the desired tax treatment. Failure to do so might result in the IRS taking the position that the maintenance paid pursuant to a post January 1, 2019 modification order remains taxable to the recipient.

The salient provisions of Section 11051 of the 2017 Tax Cuts and Job Act are as follows:

> (c) Effective Date.—The amendments made by this section shall apply to—
>
> (1) any divorce or separation instrument (as defined in section 71(b)(2) of the Internal Revenue Code of 1986 as in effect before the date of the enactment of this Act) executed after December 31, 2018, and
>
> (2) any divorce or separation instrument (as so defined) executed on or before such date and modified after such date if the modification expressly provides that the amendments made by this section apply to such modification (emphasis supplied).

The prudent divorce lawyer seeking to take advantage of the new non-taxability law might wish to consider adding language along the lines of the following to any order modifying a maintenance award entered after January 1, 2019:

The parties stipulate and agree that the payment of maintenance to be made pursuant to this order of modification, shall not be taxable to recipient nor deductible by payor for state and federal income tax purposes. It is the intention of the parties to expressly apply the terms and provisions of the amendments made by Section 11051 of the 2017 Tax Cuts and Job Act (P.L. 115-97) to this agreed modification and the payments to be made by payor to recipient to render same non-taxable to recipient and non-deductible by payor as contemplated by said Act.■

Illinois Supreme Court reaffirms the continued viability of *Eckert* in relocation cases after the 2016 statutory amendments

BY ARNOLD F. BLOCKMAN

In *In re Marriage of Fatkin*, 2018 IL App (3d) 170779 (April 25, 2018), 2019 IL 123602 (January 25, 2019) the Illinois Supreme Court reversed the third district and affirmed the trial court granting of a relocation request. This case is significant because it is the first supreme court decision dealing with the parameters of relocation under the January 1, 2016 rewrite of the Dissolution Act.[1]

In order to understand the significance of this case, a little history is necessary.

The 2016 Amendments to the Removal Provisions

As part of the comprehensive rewrite of the Dissolution Act, effective January 1, 2016, the old removal provisions were substantially rewritten. Removal is now called "relocation" and means a change of residence of the child's primary residence of more that 25 miles in Cook and collar counties or more than 50 miles in the rest of the state or more than 25 miles outside of Illinois.[2] A parent seeking to relocate must provide notice to the other parent 60 days before relocation.[3] If the non-relocating parent agrees and signs the notice and the relocating parent files the signed notice with the court, no further action is necessary.[4] If a parent objects or fails to sign the notice, a parent must file a petition seeking leave of court to relocate.[5] After a hearing, the court is authorized to modify the parenting plan and grant relocation if it is in the child's best interest applying 11 specified statutory factors.[6] The relocation decision is now a *de novo* best interest analysis, and there is no burden of proof on the relocating parent as in the old removal provisions.[7]

The Second and Third District Opinions Deviating from *Eckert*

In 2017 and 2018 the second district and third district muddied the waters of a relocation analysis and cast doubt on the continued validity of the two most important supreme court cases interpreting the old removal statute, *Eckert* and *Collingbourne infra*., in light of the new relocation statute.

In *In re Parentage of P.D.*, 2017 IL App (2d) 170355 (October 13, 2017), the trial court denied permission for the mother to relocate filed after January 1, 2016. The mother sought to remove with the 4½ year old child to New Jersey. The judgment entered in 2013 incorporated a parenting agreement that awarded joint custody of the child to both parties with the mother designated as the primary custodial parent. The mother testified that her husband has to work in the New York City area for his new better paying job, that her employment is with a New York City based company so she can keep her present employment, and that she planned to live in New Jersey, 20 miles from her employment. The trial court discussed all the factors under the new relocation statute in section 609.2(g). A key factor in the trial court denial of relocation was that the mother did not show a willingness to facilitate a positive relationship between the father and the son. The guardian ad litem, although favoring the proposed move, did indicate concerns about the attitude of the mother and the lack of respect shown the father. It was also true that all grandparents and other extended family members lived in Illinois. The second district affirmed noting that the trial court's focus on whether the general quality of the child's life was likely to be enhanced was the correct approach given the recent enactment of section 609.2(g), which, in the enumerated statutory factors to consider, omits the first *Eckert* factor, references only the best interest of the child, and does not mention the custodial parent.[8]

This case casts doubt on the continued viability of *In re Marriage of Eckert*, 119 Ill. 2d 319 (1988) under the new statute and, particularly, the entire essence of *In re Marriage of Collingbourne*, 204 Ill. 2d 522 (2005) regarding weighing of direct benefits and indirect benefits to the child. The court's discussion in this regard is instructive and troubling because of the second district's restrictive approach to relocation, quite reminiscent of its historical hostility to removal that was genesis for the *Collingbourne* decision:

> Joan further contends that the court erred in not giving enough weight to the first factor enunciated by the supreme court in *Eckert*, which Joan asserts is "the likelihood of enhancing the general quality of life of the custodial parent." In fact

the first *Eckert* factor directs the court to consider the proposed move in terms of likelihood for enhancing the general quality of life for both parent *and the child*." (emphasis added). *Eckert*, 19 Ill. 2d at 326-27. The trial court was presented with a great deal of evidence suggesting that Joan's quality of life was likely to be enhanced. The court chose to focus, however, on whether the general quality of P.D.'s life was likely to be enhanced. We believe this was the correct approach given the recent enactment of section 602.2(g), which omits the first *Eckert* factor, references only the best interests of the child, and does not mention the custodial parent. See 750 ILCS 5/609.2(g) (West 2016).

Joan asserts that "the case law required the courts to consider… the 'trickle down effect' of benefits upon the family's child"…by definition trickle down benefits are indirect…Moreover, whether…a trickle down effect will occur is speculative…We do not believe that "trickle-down" benefits are what the *Eckert* court contemplated when it requires Court to consider the "likelihood" for enhancing the quality of life for the child as well as the custodial parent…

The legislative presumably had knowledge of the supreme court decisions in *Eckert* and *Collingbourne*, and yet chose not to include the first *Eckert* factor in the new statutory directions for determining a child's best interests. The legislature evidently intended to emphasize the child's best interests over those of the custodial parent. Given the new statutory directions, we find the reasoning of *Eckert* and *Collingbourne* and progeny, to the extent it requires weighing the likelihood that the move will enhance the custodial parent's quality of life is unhelpful in evaluating the trial court's best interest determination in the case before us…[9]

In *In re Marriage of Fatkin*, 2018 IL App (3d) 170779 (April 25, 2018), the trial court entered in 2015 a custody and visitation order under the old custody statute awarding joint custody of the 2 minor children (12 and 6) to both parties with the father as "primary custodial parent." The father lived with the children in Galesburg. In February of 2017 the father filed a notice under the new Act of his intent to relocate with the children to live with his parents in Virginia Beach, Virginia, and the wife filed her objection to the relocation. After a three-day trial the trial court on November 13, 2017 granted relocation finding it to be in the best interest of the minor children. The wife appealed. The third district reversed finding the trial order granting relocation to be an abuse of discretion and against the manifest weight of the evidence. The court noted that while the father wanted to move to improve the children's standard of living and quality of life, he was clearly voluntarily under-employed in Illinois. Although the children would have extended family in Virginia, they would be leaving their longtime friends, their childhood home, and their mother who was allocated 44 percent of their parenting time. The court also noted the long distance involved and long gaps in parenting time for the mother if relocation was granted would limit the mother's involvement and influence in parental decision-making, particularly during the school year. The third district cited only two relocation/removal cases, *In re Parentage of P.D.* and *In re Marriage of Eckert*. The *Eckert* case is noted for the proposition that the paramount issue is whether the move is in the best interest of the child and that such determinations are made on a case by case basis with a "strong and compelling" presumption in favor of the trial court decision unless it is against the manifest weight of the evidence and a manifest injustice has occurred. The reversal here was based on the third district finding that the decision was against the manifest weight of the evidence in light of the distance involved, the long gaps in mother's parenting time, and the reduction of mother's influence and involvement in parental decision making during the school year. *Parentage of P.D.* was cited but was not discussed. *Collingbourne* is neither cited or discussed.

A Different Panel of the Second District Refuses to Follow *P.D.* and Reaffirms *Eckert* and *Collingbourne*

In *In re Marriage of Kavchak*, 2018 IL App (2d) 170853 (May 15, 2018), the trial court on February 24, 2017 entered an allocation judgment providing for joint allocation of decision making and divided parenting time with the six-year-old child on an alternating 2 week schedule. The mother, two weeks later, filed a motion for relocation of the child to North Carolina so she could work at a university there. The petition stated that the university would pay for her Ph.D., the child would attend a private school, and her mother would move from Ohio to assist in caring for the child. The father testified that he was very active in all aspects of the child's life, that he would miss the day-to-day interactions with the child, and that a large block of uninterrupted parenting time in the summer is not a substitute for being a "day-to-day Dad." Both parties presented their own expert testimony supporting their position, but both experts said it was a close case. The trial court granted the request to relocate discussing in detail each factor specified in section 609.2(g) of the new relocation Act.[10] The trial court stated that this was a "close case" that solely had to be focused on the child's best interests. The court found that the child would benefit, both directly and indirectly, if relocation were permitted, including "daycare and college and benefits and housing." The father filed a motion to reconsider citing *In re Parentage of P.D.*, a decision from the same second district that came out three weeks after the trial court decision. The trial court denied the motion to reconsider, and the father appealed. A different panel of the second district than in *P.D.* affirmed finding no abuse of discretion and that the decision was not against the manifest weight

of the evidence, citing as authority the supreme court decisions, both under the old statute, in *In re Marriage of Eckert* and *In re Marriage of Collingbourne*, the court further notes that effective January 1, 2016 the old statute was repealed, and the trial court now is required to decide if relocation is appropriate based upon the child's best interests using 11 statutory factors.[11] The court found that the reduction in parenting time under the totality of the circumstances did not make the decision reversible, citing *In re Marriage of Dameret*, 2012 IL App (1st) 111916 (acknowledging that reduced visitation by the noncustodial parent might be an unavoidable consequence of granting a removal petition), and the travel times and hotels stays necessitated by the revised parenting schedule were not unreasonable. Most importantly, the appellate court directly addressed the father's argument that the trial court erred in considering the improvement of the quality of mother's life (and the indirect benefits to the child therefrom), because it is no longer a factor under the new section 609.2(g), relying upon the recent second district opinion in *In re Parentage of P.D.* This panel on the second district (three different judges in this case) rejected this argument of the reading of *P.D.* "In *P.D.*, this court simply recognized that, in enacting section 609.2 of the Act [citation omitted], the legislature "intended to emphasize the child's best interests over those of the custodial parent. [citation omitted]…nothing in *P.D.* prohibits a court from considering an enhancement to the custodial parent's quality of life. In fact in deciding a motion to relocate, section 609.2(g)(11) [citation omitted] directs the court to consider any other relevant factors bearing on the child's best interests."[12] The court concluded by noting that there is no language in *P.D.* that would prohibit a court "from considering an enhancement to the custodial parent's quality of life under section 609.2(g)(11) as long as the court is satisfied that it has a bearing on the child's best interest."[13]

The Supreme Court Decision in *Fatkin*

In *In re Marriage of Fatkin*, 2019 IL 123602 (January 25, 2019), the Illinois Supreme Court reversed the third district and affirmed the trial court order permitting relocation. The court first noted the trial court entered a 13-page opinion explaining his decision, specifically discussing and citing each of the 11 statutory factors in the new relocation statute, specifically 750 ILCS 5/609.2(g) (West 2016). The court further noted that both sides were given a full opportunity to present evidence and testimony. The court specifically notes the trial court findings that the father made a good-faith decision to relocate to give his children a better quality of life in Virginia, that the ex-wife had a good-faith concern about relocation diminishing her relationship with the children, that the children's relationship to the father is exceptional, that the children would benefit from Virginia Beach's ethnic and cultural diversity, the children have no extended family in Illinois and would be living with the paternal grandparents in Virginia, relocation's impact on the son would be insignificant, relocation's impact on the daughter would be greater because of her stronger bond with the mother, that after relocation a reasonable allocation plan can be fashioned and the son, the older child, expressed a clear preference for relocation and that the children's quality of life would be improved by allowing relocation. The supreme court then reaffirmed its prior decision in *Eckert*, that best interests determinations must be made on a case by case basis depending on the circumstances of each case and that "a trial court's determination of what is in the best interest of the child should not be reversed unless it is clearly against the manifest weight of the evidence and it appears that a manifest injustice has occurred."[14] The Court concluded that the trial court's best interest conclusion was reasonable and "we see no reason to dispense with what we have consistently characterized as a 'strong and compelling' presumption of the result reached by the trial court in such cases."[15]

Significance of *Fatkin* Supreme Court Opinion

This decision on relocation is significant because it is the first supreme court opinion dealing with the parameters of relocation under the 2016 rewrite of the dissolution act. Interesting enough, there is no discussion in the *Fatkin* supreme court opinion of *P.D.* where the court, citing new language in the 2016 relocation statute, casts doubt on the continued viability of *Eckert* and the entire essence of the *Collingbourne* weighing of direct and indirect benefits to a minor child of relocation. Likewise, there is no discussion or cite to *Collingbourne*. The supreme court does, however, strongly reaffirm its prior holding in *Eckert* as the proper analysis in deciding a relocation case with its strong deference to trial court determinations. It can also be clearly inferred that *Collingbourne* is also still good law in light of its explanation of direct and indirect benefits referencing and explaining *Eckert*. Indeed, it is clear that the supreme court has, once again, rejected the second district's historic restrictive approach to relocation and now the third district's similar approach.

Advice on Arguing and Deciding Relocation Cases After *Fatkin*

It is this writer's opinion that after the 2016 relocation changes and after the supreme court opinion in *Fatkin*, it should be somewhat easier to get a relocation order from a trial court because there is no longer a burden of proof under the new statute in order to obtain relocation and because of the reaffirmance of the *Eckert* analysis to relocation cases and, by implication, the *Collingbourne* weighing of direct and indirect benefits in making a relocation decision as to best interests.

It would be quite instructive for lawyers and judges to follow the roadmap established in the second district opinion in *Kavchak* for determining relocation cases. The supreme court decision in *Fatkin* makes Judge McJoint's trial court order and handling of relocation look brilliant and the standard to be followed. First, the court should conduct a relocation hearing and discuss in detail all 11 statutory factors under the new statute. Second, the court should follow *Eckert* and *Collingbourne*, consider all the *Eckert* factors, and weigh both the direct and indirect benefits to the

relocation. Finally, the court must make a *de novo* determination of whether or not relocation is in the best interest of the minor child.

In conclusion, any analysis in arguing a relocation case under the 2016 provisions should start with a close reading of the *Kavchak* and *Fatkin* opinions.■

Arnold F. Blockman (ret.) was the presiding circuit judge of the Champaign County family law division for 16 years. He is presently an adjunct professor at the University of Illinois College of Law and is a member of the Family Law Section Council.

1. 750 ILCS 5/609.2 (West 2016).
2. 750 ILCS 5/609.2 § 600(a).
3. 750 ILCS 5/609.2.
4. 750 ILCS 5/609.2(e).
5. 750 ILCS 5/609.2(f).
6. 750 ILCS 5/609.2(g).
7. 750 ILCS 5/609(a).
8. *In re Parentage of P.D.*, 2017 IL App (2d) 170355 at ¶ 34.
9. *Id.* at ¶ 36.
10. 750 ILCS 5/609.2(g) (West 2016).
11. *Id.*
12. *In re Marriage of Kavchak*, 2018 IL App (2d) 170853 at ¶ 88.
13. *Id.* at 89.
14. *In re Marriage of Fatkin*, 2019 IL 123602 at ¶ 32.
15. *Id.* at ¶ 34.

Burned out? Overwhelmed? Meet Dr. Diana Uchiyama and the Illinois Lawyers' Assistance Program

BY MARY F. PETRUCHIUS

The Illinois Lawyers' Assistance Program, or LAP, was founded in 1980. It is a not-for-profit organization that offers free, confidential help to Illinois attorneys, law students, judges, and their families whose lives are affected by substance abuse, addiction, and/or mental health issues. In late 2018, LAP opened an office in Geneva. I recently interviewed Dr. Diana Uchiyama, LAP's executive director, about LAP and her role in the Geneva office.

Mary: Diana, before we discuss LAP and what you do, I'd like our readers to get to know you. Where did you grow up? What's your educational history?

Diana: I grew up on the north side of Chicago after my parents immigrated here from Germany with my two older siblings. I attended public grammar school until the eighth grade and graduated from St. Scholastica Academy, an all girls' college preparatory high school in Chicago. I received my undergraduate degree from the University of Illinois in Champaign and my Juris Doctorate from Pepperdine University School of Law. I attended Benedictine University for my MS in Clinical Psychology and Midwestern University for my PsyD in Clinical Psychology.

Mary: Who were your role models growing up? The influences in your personal and professional life?

Diana: I would say my parents and younger brother were the greatest role models in my life. My parents immigrated to the United States with two small children because my parents wanted to provide their children with a better quality of life than they had in Germany. My father was Assyrian from a Catholic family in Iraq, and they were a minority group that was persecuted because of their religion. He moved to England to attend college and met my mother, who was from Germany, and they eventually got married in Germany. They had two children but neither of my siblings were German citizens, due to my father being a foreigner. My parents decided to move to the United States so that their children would have a national identity and more opportunities than in Germany.

My younger brother and I were born in Chicago and he was born with Down Syndrome. My parents always pushed all of us to become educated, to work hard, to speak up against injustice, and to give back through acts of public service and charity, which has been my biggest motivation in life. And because I have a brother with a disability, I was motivated to provide him with all of the opportunities that I had and to push him to rise above his disabilities, to be an independent human being with a purpose in life.

I think that growing up with parents who were from other countries and who gave so much of their lives to better their own children's lives, made me want to pay it forward in my own career and my own sense of identity. I understand what it means to be poor, to work hard to get ahead, to have a sense of purpose, and to work for the greater good. My parents instilled in me a desire to be motivated not just by money and title, but to better the lives of as many people as you can, regardless of who they are and where they are born.

Mary: Why did you decide to become lawyer?

I think that the circumstances of my childhood, including growing up with parents who were from other countries and often being judged by the fact that my parents had accents, influenced me greatly because I often felt different and like an outsider.

In my family what was really valued

was education and hard work, instead of superficial things. Then, having a brother with a significant disability and watching my family fight to get him equal treatment in school and in life, made me passionate about being a voice for the voiceless or for those treated as "less than."

I felt passionate about making sure that people were treated fairly and with a sense of justice and equality, regardless of where they were born. I had a strong desire to pursue a degree in law, specifically in criminal law as an Assistant Public Defender. I wanted to make sure that everyone's rights were honored regardless of education, economic status, or nationality or race.

Mary: Diana, take us down through your career path and where it has led you.

Diana: After graduating from law school, I first practiced in international health care law, due to the fact that I speak fluent German, while I was waiting to find out if the Cook County Public Defender's Office was hiring. I then applied for a position there and happily was hired. I worked as an Assistant Public Defender for about 12 years assigned to various felony courtrooms, mostly at 26th and California.

I then decided to get my master's degree in clinical psychology and, after that, my doctorate. I have blended my work as an attorney and clinical and forensic psychologist. I previously worked at the Kane County Diagnostic Center doing forensic evaluations for the Court and as the Kane County Juvenile Drug Court Coordinator. I have also worked for the Cook County Juvenile Detention Center with adolescents who were charged criminally as adults. I was the Administrator of Psychological Services for DuPage County, working with a court-mandated population of clients who had substance use, mental health and/or domestic violence and anger management problems. I am now the Assistant Deputy Director of LAP.

Mary: What brought you to LAP?

Diana: There were a number of reasons that I came to LAP. I had several former legal friends and trial partners who were struggling with mental health and/or substance use issues and, when a few of them or their family members began reaching out to me regarding the problems they were facing, I thought initially that it was an isolated problem. After doing a presentation with a member of the ARDC, however, I found out that the substance use and mental health problems in the legal community were pretty common and very complicated.

Additionally, we had quite a few attorneys seeking mental health, domestic violence, and/or substance use assistance when I worked at DuPage County. Sometimes those attorneys had a difficult time in group settings with other group members. They often felt a great sense of shame at needing mental health or substance use services. That made me feel tremendous empathy for them.

And finally, I have personally known attorneys with whom I was acquainted or worked with, who committed suicide. I felt great distress and sadness that this was happening to my legal community. As a result, I felt that all my education and training was well suited to understanding the specific needs of the legal community and appreciating how hard it is to reach out and access services to get the help needed.

I owe a lot of gratitude to people in the legal community who shared their passion, knowledge, and patience with me as I was learning to become a lawyer. I felt this great desire to give back to the legal community in general because that community had been so good to me when I was a practicing attorney.

Mary: What does LAP do?

Diana: LAP is a not-for-profit organization that helps Illinois lawyers, judges, law students, and their families concerned about alcohol or substance use or dependency, mental health issues including depression, anxiety, and suicidal thinking, or stress-related issues such as compassion fatigue and burnout.

LAP's services include individual and group therapy, assessments, education, peer support, and interventions. Our mission is threefold: To help lawyers, judges, and law students obtain assistance with substance abuse, addiction, and mental health problems; To protect clients from impaired lawyers and judges; To educate the community about addiction and mental health issues.

Everything at LAP is free and confidential and many of the staff are attorneys/clinicians or specialize in substance abuse issues. We have offices in Chicago, Park Ridge, Geneva, and satellite offices throughout the State of Illinois. LAP has a board of directors, an advisory committee, and an associate board comprised of lawyers and judges from all over the state.

Mary: Have you seen the wellness issues faced by attorneys change since you became an attorney in 1989?

Diana: In some ways, yes.

Mary: In what ways have those issues changed?

Diana: Honestly, looking back I think that the problems in the legal profession with substance use and mental health problems were significant even when I practiced law. I believe, however, that I normalized it as a professional hazard. I felt that it was not unusual for members of my profession to drink heavily or to struggle with relationship issues, burnout, and compassion fatigue. I was surrounded by it on the bench, with my colleagues, and at legal functions I attended.

Until I stepped out of the field and entered into a different working arena, I never recognized that the work attorneys do---the tragedies and traumas we see on a daily basis, the win/lose attitude we all encounter, and the high case volumes we endure would cause a wear and tear and erosion of our physical and mental health. It was not until I began hearing stories about disastrous outcomes of people I worked with or knew, or was asked for treatment assistance or help, that I recognized that something was wrong and unhealthy with our profession.

I also knew that I had the educational ability and expertise to go back and help people with whom I strongly identify, relating to the personal qualities I share with them. Those qualities include perfectionism, competitiveness, being a problem solver, and possessing an inability to ask for help due to shame and fear. I feel very blessed to be able to do this work and help people realize that asking for help is a

strength and not a weakness.

Mary: What issues do we as a profession face today that we may not have faced 20 years ago?

Diana: The level of stress and anxiety is dramatically increasing. We cannot turn off our brains. We are having higher levels of mental health issues in general, including depression. This is most likely due to poor sleep habits, the presence of social media, and the inability to separate work from home, due to the accessibility of people via email or text. The suicide rate for attorneys is very high and that means that people are suffering alone and in isolation. We need to do a better job of helping people, collectively and individually, in the legal profession, so that no one feels that suicide is the only option to escape the hopelessness and sadness they may be experiencing.

Mary: Do the younger lawyers take advantage of LAP?

Diana: Younger people in general access LAP services more readily and this may be due to the lower levels of stigma associated with seeking help for mental health and substance use issues in this age group. It is also related to LAP's incredible outreach in the law schools, including staffing every law school in Illinois with monthly office hours using staff or volunteers to identify individuals who may be struggling, and offering them help before they enter the legal field. Forty percent of our clients are now coming from the law student population and over fifty percent of LAP clients are under age 40.

Mary: What issues do younger lawyers have that differ from the issues of more seasoned lawyers?

Diana: Young lawyers have significant financial issues related to educational debt. They are also just starting their careers, transitioning from being students to being adults with full-time work responsibilities, forming permanent relationships, having children, purchasing houses, and trying to establish themselves in their legal community. They often feel as though they lack the knowledge or expertise, despite their educational training. They face significant stressors that may increase mental health and substance use issues.

Mary: How did the Geneva LAP office come to be?

Diana: The Geneva office came to be due to increased demands for services in the western suburbs, including DuPage and Kane Counties. LAP recognized that the legal community there and in the far west, including Rockford and DeKalb, would not be able to easily access services in the downtown Chicago or Park Ridge areas due to distance. We received increased requests for services and felt we needed to meet the demand for an area that was underserved and needing significant assistance.

Mary: What services does LAP offer?

Diana: We offer assessments, evaluations, and individual therapy in Geneva. I staff that office one or two days a week by appointment. We also provide peer support mentors and refer people to outside agencies as needed, including psychiatrists, therapists, and substance use providers.

Mary: What are your goals for the Geneva LAP office?

Diana: We hope to provide group therapy in the future as the demand increases and the desire for these types of services is requested. We also want to increase the involvement of the judiciary and the training of people in DuPage, Kane, and surrounding areas who want to volunteer with LAP. Individuals will be able to go to those volunteers and ask them questions about what LAP can do for them.

Mary: How do you envision your future?

Diana: I love my job and feel passionate about what I do, so I hope to be a part of LAP for a long time. I hope to increase LAP's ability to assist more people in the legal profession by expanding services statewide, creating more volunteer outreach, involving members of the judiciary and local legal communities with LAP, and increasing financial support for LAP through fundraising and donations.

I want to help people struggling with mental health and/or substance use issues to recognize LAP as a safe place to seek assistance and access services. We are in the business of aiding legal professionals in need, providing hope for people who are hopeless, and helping people become healthy and optimistic about their work and their futures. I am honored to be serving in this capacity.

Mary: Diana, it has been a pleasure and a privilege to interview you and learn about the great work you and LAP are doing for our legal community. How can our readers contact LAP?

Diana: They can call LAP's main telephone line at: 312.726.6607 or 1.800. LAP.1233. They may also email me directly at duchiyama@illinoislap.org. ■

Mary F. Petruchius serves on ISBA President James McCluskey's Special Committee on Health & Wellness. She is the PAI (Private Attorney Involvement) Plan Coordinator for Prairie State Legal Services' St. Charles Office. Mary came to Prairie State in July, 2018, after 26 years practicing criminal defense, juvenile, and real estate law.