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ILLINOIS STATE BAR ASSOCIATION

DIVERSITY MATTERS

The newsletter of the Illinois State Bar Association's Task Force on Diversity

Editor's note

By Sandra Blake

This past year has seen tremendous, perhaps even unforeseen, strides in many diversity-related matters. In others, there is still much work to be done. Key to all progress is open and respectful dialogue and education.

The ISBA's definition of diversity is as all-encompassing as the committees and section councils that comprise the Diversity Leadership Council. These working groups address issues and concerns related to women, racial and ethnic minorities, LGBT individuals, disability matters, human rights, international law and immigration. While efforts were made to include articles representative of each of these groups, as well as a variety of viewpoints, the content of this newsletter is limited by the contributions received. Please contact the editor with story ideas and contributions for future issues.

Readers may learn more about the ISBA's diversity initiatives on the Web site at www.isba.org. ■

Standing Committee on Racial & Ethnic Minorities and the Law

By Cory White

As the 2014-2015 bar year draws to a close, I think it is a good time to take stock of where we are and what we have accomplished over the past several months, while considering where we are heading. The Standing Committee on Racial & Ethnic Minorities and the Law (REM) has accomplished a lot, although there is still much work to be done.

A) Renewed Focus on Useful and Effective CLE Programs

We have organized and hosted several successful programs over the course of the year, including:

- Human Trafficking and the Commercial Sexual Exploitation of Children (Presented in association with Baker & McKenzie LLP);
- Race & Sports: Racially Charged Sports Controversies and Legal Concerns; and
- Workplace Discrimination: Current Issues in Employment Law (Presented in association with Taft Stettinius & Hollister LLP).

These programs proved to be useful resources for our legal community while also highlighting wider diversity issues. Our continuing legal education subcommittee members should be applauded for their efforts and success.

B) Gaining Ground

Over the course of the year, we were able to add new members to the Standing Committee who proved to be amazing contributors to our efforts. Our new members Korina Sanchez, Kiki Mosley, Ayesha Patel and Geraldine D'Sousza, have provided new insights and fresh legs for the Committee, and we look forward to their contributions in the fu-

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Standing Committee on Racial & Ethnic Minorities and the Law

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ture.

C) Legislation

We have commented on important diversity related legislation, including initiatives to better help our police officers communicate with and understand the communities they serve. Considering the current climate, we feel that this is extremely important work.

D) The Work that Remains

The importance of diversity and inclusion issues are in a state of flux both within and outside of the ISBA. Complacency usually precedes defeat. We cannot be complacent. In the coming bar year, the Committee and its members will work with the ISBA to improve diversity and diversity related programs within the ISBA, which will ultimately help to create a more diverse legal profession and community. With this in mind, I would like to ask all members of the ISBA to consider diversity issues as you progress through your daily practices. Consider how you can help make our profession more diverse. Consider how you can help make the ISBA more diverse. Consider why diversity is important. Ultimately remember that diversity is about inclusion, whether it be within the legal profession or otherwise. ■

Standing Committee on Women and the Law

By Letitia Spunar-Sheats

Our committee reaches out in many directions: education, service, promotion and recognition of women and women's groups, legislation and networking.

Our subcommittee on legislation reviews all legislation that pertains to women and women's issues. The committee as a whole then discusses it and gives input to the subcommittee chair to relay back to the Legislation Committee of the ISBA.

We are all bully on education of all kinds. We do a number of CLE programs in person and on video every year. The committee members are very talented and smart and produce popular programs with good ratings.

We have reached out to such places as Dwight Correctional and did an on-site tour. It was a good learning exercise for both our committee and the female inmates. We have also gone to Northern Illinois School of Law for a marvelous panel program of judges and their experiences in getting to where they are today. This was a Women's History Month event.

Many of our members have received awards for their leadership and participation in the ISBA and their community. They have also done service activities for the Women Everywhere Program.

While doing all of these activities, the committee has come closer together and enjoys networking for friendship and business. ■

Standing Committee on Disability Law

By Phil Milsk

The Disability Law Committee has submitted and been approved for two CLE studio programs, one on guardianships and the other on service animals. Scheduling of these programs is in progress. In addition, in cooperation with St. Louis University Law School and Land of Lincoln Legal Assistance Foundation, we held a program in March at SLU for law students who might be interested in a career in disability law. Previous programs for law students have been held at SIU-Carbondale Law School and John Marshall. Planning for future law student programs is ongoing. Our thanks to Brandy Johnson, Latasha Barnes and Scott Gertz for the SLU event.

The Disability Law Committee has established a subcommittee on ISBA accessibility and we are currently working with ISBA to schedule training of ISBA staff to ensure that materials and information are sent in a format accessible to persons with disabilities. We continue to discuss the issue of the accessibility of facilities used by ISBA for conferences and meetings. Finally, we continue to review key pieces of legislation pending in the General Assembly and budget issues pertaining to persons with disabilities.

I believe Dr. Milano will be taking over as our chairperson in June. ■

Making airports nursing friendly: Senate Bill 0344 —"Lactation Accommodation in Airports Act"

By Emily N. Masalski

One of the greatest struggles for breastfeeding mothers is to find accommodations to express milk and feed our children in public places. Illinois Senate Bill SB0344 "Lactation Accommodation in Airports" is making its way through the Illinois General Assembly and will positively impact the lives of nursing mothers and their babies. If passed by the Illinois House and signed by the Governor, the Act will require Illinois airports that conduct commercial operations of more than 1,000,000 enplanements a year to update airport facilities on or before January 1, 2017, to provide a clean and private place for nursing mothers to express breast milk. The Act also provides that an airport that conducts commercial operations with fewer than 1,000,000 enplanements a year shall comply with the provisions of the Act upon new terminal construction or the replacement, expansion or renovation of an existing terminal. This Act will not change the current Illinois law which allows mothers to breastfeed their babies in public.

As a nursing mother, I have personally experienced the challenges faced by airport travelers searching for a clean and private place to pump breast milk. In February 2015, I traveled from Chicago O'Hare International airport to Houston, Texas, to attend the American Bar Association Mid-Year Meeting and serve as an ISBA delegate to the ABA House of Delegates. I was excited about the opportunity, yet nervous because it was my first overnight trip away from my 10-week-old son. Due to flight delays, I did not anticipate having significant trouble locating a clean and private place to pump breast milk at O'Hare airport that was not a "family bathroom." It became my mission to ensure that other nursing mothers do not have to hunt for a private space, rush through nursing/pumping, or explain to airport employees why they need a private space accommodation in public airports. Midway Airport recently opened a Mother's Room on Concourse C, and that is a step in the right direction. O'Hare Travelers Aid in Terminal 2 currently allows nursing mothers to utilize their office space upon request.

When I returned from my trip, I contacted my state senator Kimberly Lightford and asked her to introduce the Lactation Accommodation in Airports Act which is similar to recent legislation passed in California. On April 6, 2015, Senator Lightford introduced Senate Bill 0344 and it was voted on and passed by the Illinois Senate on April 22, 2015. On May 13, 2015, the Illinois House Human Services Committee unanimously voted "do pass," and the bill will be favorably reported to the Illinois House of Representatives for a full House vote. As of May 19, 2015, the bill passed both Houses unanimously!

Senate sponsors include Sen. Kimberly A. Lightford, Sen. Jacqueline Y. Collins , and Sen. Toi W. Hutchinson. Chief House sponsors are Reps. Camille Y. Lilly, Emanuel Chris Welch, Elgie R. Sims, Jr., Jehan A. Gordon-Booth, Robyn Gabel, Litesa E. Wallace, Carol Ammons and Kelly M. Cassidy.

Hopefully nursing mothers will not have to wait until 2017 before Illinois airports will provide a room or other location at each airport terminal behind the airport security screening area for members of the public to express breast milk in private that: (1) includes, at a minimum, a chair and an electrical outlet; and (2) is located outside of the confines of a public restroom. Airports across the country offer amenities such as electronic device charging stations and yoga rooms for travelers, we can do better for nursing mothers and their babies.

For more information and updates:

Illinois General Assembly- <www.ilga.gov> (search SB0344)

Fly and Feed Facebook page: <http://www.facebook.com/2015flyandfeed>

Lactation Accommodation in Airports Petition: <https://www.change.org/p/mayor-rahm-emanuel-and-the-city-of-chicago-department-of-aviation-establish-lactation-rooms-in-illinois-airports/u/10745657>.

Airports in the United States: Are they Really Breast Feeding Friendly? <http://online.liebertpub.com/doi/pdf/10.1089/bfm.2014.0112>.

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Diversity Matters

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The ACLU's Illinois Judicial Bypass Coordination Project

By Mary F. Petruchius

When a young woman under the age of 18 in Illinois finds herself pregnant, she can turn to the ACLU for help. The ACLU's Judicial Bypass Coordination Project provides minors with information about the state's parental notice law for those seeking abortions and assistance in obtaining what is called a "judicial bypass."

The ACLU Web site describes in detail what a pregnant female under the age of 18 needs to know about abortion in Illinois. It gives an overview of the Illinois Parental Notice of Abortion Law, explaining that one who is under 18 must **notify** an **adult family member** before she can have an abortion. Notification simply means informing the adult family member and it may be made in person, by telephone, or by certified mail. An adult family member is a person over the age of 21 who is the minor's parent, grandparent, step-parent who lives with the minor, or the minor's legal guardian.

It clarifies that notification is not consent, pointing out that the minor's physician must notify the adult family member of the minor's choice, not seek the adult's permission. The adult family member does not have the right to tell the minor that she cannot have the abortion. The exceptions to the notification requirement are: medical emergency; the adult family member's written waiver of notification; the minor is a victim of abuse; she is married, divorced, or emancipated; or by order of the Court after a successful judicial bypass hearing.

A judicial bypass occurs when a judge enters an order allowing the minor to obtain an abortion without notification to an adult family member. The minor must meet certain criteria in order to have an abortion, absent adult family member notification. The minor must prove to the judge that she is **either** sufficiently mature and well enough informed to make an intelligent decision to abort **or** that notification would not be in the minor's best interest. The judicial bypass hearing is confidential and the minor has the right to free legal counsel. Examples are given of what makes a minor mature and informed and of situations in which notice would not be in the minor's best interest.

The Illinois Parental Notice of Abortion Law states that the minor is to be appointed a *guardian ad litem* for the procedure. If the minor is satisfied with her attorney, she may ask the Court to appoint her attorney as *guardian ad litem*.

In preparation for the judicial bypass hearing, the website recommends that the minor become informed regarding possible alternatives to abortion (parenting and adoption) and presents a thoughtful approach to those options, citing in particular a warning against certain crisis pregnancy centers that falsely purport themselves to be "all options" clinics. It advises the minor to complete the 55-question "Lawyer Meeting Questionnaire" prior to meeting with her attorney, and also discusses abortion costs and payment options.

The judicial bypass hearing process is swift and a decision speedy. Once a petition is filed, a judge must render a decision within 48 hours. Under certain circumstances, the judge may make the decision immediately following the hearing. Should a decision take longer than 48 hours from the time of filing, the judicial bypass is considered automatically granted.

This program is so very important and provides valuable services and great support to those young women in need. If you would like to be a volunteer attorney for the ACLU's Illinois Judicial Bypass Coordination Project, please call **877.44.BYPASS** or **312.560.6607**. ■

Mary F. Petruchius is a solo general practitioner in Sycamore, IL. She is the immediate past Chair of the ISBA Standing Committee on Women and the Law, a member of the ISBA Diversity Leadership Council and Child Law Section Council, and a board member of the Illinois Bar Foundation. She may be reached at marypet@petruchiuslaw.com. Her Web site is www.petruchiuslaw.com.

Tenth Annual 2015 Midwest LGBTQ Law Conference

This past February 20-21, law students, faculty, practitioners and community members from the greater Midwest were invited to Washington University School of Law in St. Louis, Missouri, to discuss contemporary legal issues affecting the LGBTQ community. The Midwest LGBTQ Law conference was free and open to the public. Attendees received 5.0 MCLE hours.

Speakers included Professor Laurence R. Helfer of Duke University School of Law, who spoke on International Human Rights Law; Chase Strangio, staff attorney with the American Civil Liberties Union (ACLU) LGBT & AIDS Project; Marc Solomon, National Campaign Director, Freedom to Marry; Carmen Berkley, Civil, Women, and Human Rights Director, American Federation of Labor and Congress of Industrial Organizations (AFL-CIO); and Ilona Turner, Legal Director, Transgender Law Center.

For more information about past and future events, visit the Website, the conference Facebook page, or send an e-mail through the Contact Us section at outlaw@wulaw.wustl.edu. ■

Now Every Article Is the Start of a Discussion

If you're an ISBA section member, you can comment on articles in the online version of this newsletter

Visit
WWW.ISBA.ORG
to access the archives.

The inadvertent advocacy of a transgender litigant

By Vera Sarilyn Verbel

I sit alongside my fiancé, hand in hand, about to hear myself for the very first time speak the words that, from my earliest memories are ever present in my mind. I am fearful and nervous. I know that once uttered, she will no longer want to have anything to do with me, much less want to marry me. The conversation continues, and after several false starts I cringe with the disclosure, "I think I'm a girl and I like to dress as such, but I have it under control. Do you still want to marry me?"

It is February 1974, and to my knowledge, neither the language nor the concept of gender diversity exists. I think to myself that I am the only person like this. I am desperate to hear her reply, "Yes, is that all you wanted to tell me?" My trepidation shifts to elation, and a smile will not leave my face. I need this marriage to assure a life partnership with the love-of-my-life, place me firmly in acceptable social construct and hopefully cure me of this anomaly.

On this Saturday night, the two of us, both Army medics, are alone in the deserted lounge of the Women's Army Corps (WAC) barracks of the US Army Hospital, Occupied Berlin, West Germany. This dark red-brick hospital, encircled by a quaint ivy-covered prison wall, was confiscated from the Nazi SS upon the fall of Berlin near the end of World War II.

Perhaps not the most romantic location to woo for marriage, considering just three decades ago this facility was central to horrific suffering imposed by human medical experiments. Or, perhaps our impending nuptials are not only affirmed, but tainted with a minuscule amount of suffering ultimately to be revealed.

After nearly four decades hence, I will torturously sit on the witness stand in our divorce trial after a lifetime together and after all of the usual occurrences of a marriage: receiving a higher education, raising our two children, purchasing property, being active in community and church, pursuing a career, retiring from the Army Reserves and planning for retirement from a civilian career.

Retirement for us includes my transition of gender, a four-decade-long conversation that eventually brought us to this trial. In private my authentic self is usual, common and accepted between us, but the necessity to promulgate in a sufficient gender transition is not tolerated well by my spouse and becomes the root conflict of the divorce, the basis for the strategy of the litigation and ultimately the reason for advocacy in the Kane County court system.

Vera Verbel

Soon after the divorce filing in January 2012, it is clear that our love is disintegrated and our marriage is irretrievably broken. I lose weeks in a weepy condition with depression very close to overtaking me. For nearly 40 years, I existed in a condition of self-denial to express the love for my spouse, and now that love is no more. I am a wreck until understanding I now have the freedom to step outside of the facade I impose on myself and fully embrace my authentic self.

I already present as a female in grooming, dress and form, but my genitalia are not correct and my legal name is still officially male. Within six months of the irretrievably broken declaration and months before the divorce trial, all of this is corrected. I am thankful for my medical insurance covering nearly all of the medical costs.

I write in my journal on May 10, 2012, two days after my Gender Reassignment Surgery (GRS): "The unveiling of my corrected anatomy, in an instant seemed to correct all the multitudes of deflating disappointments from viewing that area of my body in the past. How is it the world cannot see what I see? There was a surreal sensation that I had been conditioned to expect that didn't occur this glorious time…" and "… the transition years, where, at long last, the world translucently perceives what I see and starts to respond as I approach it as female. Ever-present is the indictment of a penis to convict and prove me a charlatan, but now it is gone! In this idyllically happy moment I see what the world sees. Magnificent me, finally!"

At the pretrial conference the attorneys discuss with the judge what name and what pronouns to use for the trial. The case was filed in my then legal male name, but now I am "Vera." My driver's license and birth certificate confirm I am Vera and I am female. Why is there any issue how I should be addressed in court?

The judge agrees with the opposing counsel to use a male name and male pronouns so as to not confuse the record. Really? What do other courts do with two opposing litigants of the same gender that have the same family name, stay in a state of confusion? Weak at best! My protest is futile. I thought lawyers and judges took an oath to uphold the laws of Illinois. Under the law I am Vera and female. Incredulously, opposing counsel and the judge ignore the law, and in doing so, demean me by insisting I am male and address me as such.

During the months leading up to our divorce trial there were indications of misinformation from the opposing counsel that disappointedly confused my understanding of our marital relationship. I think to myself, "Counsel just misunderstands, because we (spouse and I) know with certainty we didn't do that. That's not an accurate depiction of us."

Hearing my spouse, under oath, testify to the same morphed history of our lives together, is emotional, difficult to believe and gives cause to doubt my own perspective. I am confirmed and take solace from my lifelong habit of journaling. Listening with a stoic demeanor is not possible, as tears uncontrollably flow down my face. The posturing that is obviously a part of litigation has an emotional consequence. It is clear that post-divorce relational considerations are missing from the conduct of these proceedings as verified by my ex's Facebook status of

"widowed."

I still do not understand how we ended up in a trial given the simplicity, though somewhat significant, marital estate. I could not communicate with my spouse after the first meeting with her attorney. The opposing counsel thwarted all attempts of settlement. Even a customary 50/50 split of all assets, to which I contributed 98 percent, was not considered, they wanted considerably more.

There are indications, as disproportionate fees mount up (twice as much for the opposing counsel), that other factors are at play. Could it be that my being actively transgendered, presenting in my preferred female gender, is influencing this litigation? Should it? Whether the opposing counsel is acting on a strategy to ensure his best financial outcome or following the instruction of his client, he masterfully distracts my testimony with a hint of delight.

For three afternoons the trial holds me as an emotional hostage, so despondent about the shocking treatment at the hand of the opposing counsel and allowed by the presiding judge. The first afternoon was difficult, but the subsequent afternoons were worse. The initial pain was numbing, knowing what is to come on days two and three becomes progressively burdensome.

I can tolerate the insinuations that describe me with opprobrium, I can handle the lack of courtroom courtesy that seems all too common in divorce trials, I can maintain composure with the specious statements of financial improprieties and I can even function through the fabrications of our history, but I am vulnerable.

After 50 years of denying my authentic self, I am finally and magnificently me. It is as if I held my breath for 50 years and finally I am able to breath. When the opposing counsel, despite my objections, continually and inappropriately addressed me with contra-gender pronouns, salutations and not by my legal name, it felt like he was suffocating me. He saw me struggling for my breath and tightened his chokehold all the more.

The horror of this event cannot be overstated. It was devastating. Compounding the trauma was the lack of protection for my legal rights from the person I least expected - the presiding judge. Instead he was in alliance with the opposition counsel's bigoted discrimination. I was a non-person at this point, nearly invisible to justice, being punished for daring to not conform to a foundation-less social construct. Not the best performance of the judicial system.

The Illinois Human Rights Act is supposed to protect me. The Act prohibits discrimination against any individual because of sex or sexual orientation, 775 ILCS 5/1-102 (A), (E), (F). Section 1-103 (O) of the Act defines "Sex" to mean the status of being male or female. My status as to being female is incontrovertible, as documented on my birth certificate, passport, professional licenses, driver's license and other forms of identification. The Act specifically addresses my situation, "gender-related identity, whether or not traditionally associated with the person's designated sex at birth."

The Illinois Constitution protects me in Article I, Section 18, which states: "The equal protection of the laws shall not be denied or abridged on account of sex (my female status) by the State or its units of local government (circuit court system) and school districts." We have good laws. It is those who have sworn to uphold those laws who, in this instance, failed.

After the drama of my divorce, I felt the need to do something to correct the mishandling of my gender status with an Attorney Registration and Disciplinary Commission (ARDC) complaint against the opposing attorney. His magniloquent reply regretfully resulted in the ARDC taking no action. Hopefully he learned something, and in the future, will be just a bit more responsible.

After the final orders were issued, I wrote a letter to the presiding judge informing him of my desire for resolution and sent a courtesy copy to Chief Judge Judith Brawka of Kane County. I expressed my preference to informally meet with the presiding judge, believing an educational conversation would suffice, though alternatively a Judicial Inquiry Board (JIB) complaint would be submitted. I heard nothing from him, but was informed he self-disclosed, and proceeded to file the complaint with the JIB. An opportunity for healing was lost for the both of us.

I never intended that the ARDC or the JIB would punish the opposing counsel or the presiding Judge. I simply wanted to educate these two gentlemen, believing if somehow they could be made aware of their indiscretion and made to understand how hurtful their actions were, then acceptance by exposure could occur and save another person from a similar fate. And I, as I define myself, would have a voice, bind my wounds and promote healing from this experience.

The JIB is prohibited from disclosing specifics regarding its decision, findings or information about its deliberations of any matter. Therefore, I do not know if the extraordinary results in Kane County were recommended by the JIB or proactively enacted by Chief Judge Brawka. I suspect the later.

Shortly after the conclusion of both the ARDC and JIB investigations, Chief Judge Brawka initiated an education and training program concerning the response of the justice system to LGBT individuals. This progressive undertaking accomplished for all of the justice partners in the Kane County justice system, far more rigorously, what I hoped to accomplish with two of the users.

On August 6, 2014, the 16th Judicial Circuit Court of Kane County entered into a new era of compassion, understanding and advanced therapeutic jurisprudence by implementing a mandatory diversity training program that dispelled much of the abuse persons of diversity are subjected to all too often.

We are all people deserving of basic human dignity. Illinois has enacted progressive laws that protect the human rights of all of us. With the help of enlightened judges such as Chief Judge Brawka, there is hope that our judicial system will not only be more just, but also be an example to society at large. ■

Race and the Law Symposium

Loyola University Chicago's Race and the Law Symposium is designed to bring awareness to legal issues that affect minority communities. The March 2015 symposium's title was "**A Post Racial Police State: Examining the Role of Racial Bias in Police Action**". In 2008, the *Los Angeles Times* published the article "Obama's Post-Racial Promise," which examined how the election of America's first black president ushered in a new and improved era of race relations in our country. To the contrary, the killings of unarmed African American men by law enforcement officials in the past year has casted more than a shadow of doubt on the premise that we have truly moved past racial bias in our society. Within the last year, the killings of Mike Brown, John Crawford III, Eric Garner, and most recently, 12-year-old Tamir Rice at the hands of law enforcement officials, have made our society question what role racial bias may play in law enforcement actions. Our esteemed keynote speaker and panelists will explore this issue while offering solutions based on their professional and personal experiences.

Attendees of the program received 1.5 hours of general MCLE credit, and at the time of registration, professional responsibility credit was pending approval.

Professor of Law Neil Williams welcomed attendees and made closing remarks. Professor Williams served as law clerk to the Hon. George N. Leighton of the U.S. District Court for the Northern District of Illinois. After his clerkship he joined the Chicago law firm of Sidley & Austin, where he handled general corporate finance and securities law matters. Professor Williams joined the School of Law's full-faculty in 1989. He is the faculty advisor to Loyola's Black Law Students Association.

The symposium featured a special address by Jasson Perez, National Co-Chair of Black Youth Project 100. Perez lives and works in the Chicago community. A firm believer that liberation comes from the bottom up, he is active in labor movements, community organizing, the cooperative agenda, and public education. He is also a member of We Charge Genocide, a grassroots, inter-generational effort to center the voices and experiences of the young people most targeted by police violence in Chicago.

The distinguished group of panelists consisted of Jay Stanley, Cara Smith and Standish Willis. Jay Stanley is senior policy analyst with the ACLU's Speech, Privacy and Technology Project, where he researches, writes and speaks about technology-related privacy and civil liberties issues and their future. He is the editor of the ACLU's "Free Future" blog and has authored and co-authored a variety of influential ACLU reports on privacy and technology topics. Cara Smith (JD '92), is a Loyola law graduate and the executive director of the Cook County Department of Corrections, one of the largest single-site jails in the country. She is also responsible for developing and executing strategies that impact the jail's population with an emphasis on its vulnerable populations, such as those suffering from mental illness and those charged with crimes of survival. Prior to joining the Cook County Sheriff's Office in 2012, Smith served as an assistant attorney general, deputy chief of staff and public access counselor for Illinois Attorney General Lisa Madigan, and also served as legal counsel and chief of staff to the Illinois Department of Corrections. Stan Willis is an attorney specializing in criminal defense and federal rights cases. He has tried numerous federal and state jury and bench trials, and has argued many cases before the Seventh Circuit Court of Appeals. In 2002, Willis was named one of the "30 Tough Lawyers" by *Chicago* magazine. During summer 2005, Willis led a group of lawyers and community activists to internationalize the Chicago police torture scandal, first presenting evidence before the Organization of American States' Inter-American Commission on Human Rights. In February 2008, he testified before the United Nations Committee to Eliminate Racial Discrimination (CERD) in Geneva, Switzerland, and subsequently drafted "The Illinois Torture Inquiry and Relief Commission Bill," which was signed into law August 10, 2009. Willis is co-author of the 2014 stakeholders report, "Torture in the Homeland" for the Committee Against Torture.

The program was moderated by Professor of Law Alexander Tsesis, who speaks and writes extensively on legal issues related to constitutional law, civil rights, and hate speech legislation. He has written six books and numerous law reviews article on these topics. Professor Tsesis has been an expert witness for the Canadian Department of Justice and a legislative advisor to Senator Edward Kennedy. He joined the Loyola University Chicago's full-time law faculty in July 2007. ■

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Remembering Selma: The unfinished journey

On March 25, 1965, 28 Mundelein College students, along with faculty and other supporters, engaged in one of the most compelling issues of our times - ensuring voting rights for African American citizens who had been systematically disenfranchised from full participation in our democracy.

Fifty years later, on March 25, 2015, in recognition of this incredible movement, Loyola University Chicago's Baum lecture featured one of the students who participated in the Selma Freedom March, Adrienne Y. Bailey, PhD., a senior consultant with Panasonic Foundation.

Nationally and internationally recognized for her passionate advocacy of education equity for poor and disadvantaged youth, Dr. Bailey reflected on how the Freedom March transformed her life and shaped her leadership in breaking the links between race, poverty and educational outcomes throughout her career.

The event was complimentary and open to the public. It is available for viewing on YouTube at the following link:

<https://www.youtube.com/watch?v=CsU84PzW4_M>.

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Meet the Diversity Fellows

The purpose of the Diversity Leadership Fellows Program is to increase diversity and meaningful inclusion in the active membership of the ISBA and its section councils and committees; to give further emphasis to ongoing efforts to raise awareness of the importance of diversity and inclusion to the ISBA; and to ultimately develop a diverse group of future leaders of the ISBA. These goals will be achieved by introducing new members (especially young lawyers and under-represented groups) to the work, structure, and policies of the ISBA. This program is intended to complement the newly instituted program of appointive "underrepresented" seats on the Board of Governors.

The three Diversity Fellows made their first official appearance at the ISBA Mid-Year meeting in December 2014, and have been working with their Diversity Leadership Council mentors to increase their involvement in the ISBA.

As they beginning their second year, each of the Fellows will be appointed to a section council or committee, approved by the ISBA President-elect. The Fellows will have full voting rights during meetings and will be expected to fully participate in the work of the section council or committee. The Fellows Program Chair will also assign each Fellow a second year mentor from among the membership of the Fellow's selected section council or committee.

Please welcome to active involvement in your section council or committee KiKi Mosley, Hellin Jang and Inez Toledo, who were selected from the Fellows nominees.

KiKi Mosley graduated from Denison University in 2000 with a Bachelor's degree in Sociology/Anthropology and Black Studies. After she completed her undergraduate studies, she worked for Orbitz.com on the Business Development team and then moved to Tanzania, East Africa, where she taught at several schools over the course of three and a half years. Her interest in working in immigration law came from her own experiences in traversing the immigration system with members of her own family. Mosley graduated from IIT Chicago-Kent College of Law in 2010 with certificates in both International and Comparative Law and Public Interest Law. While at Chicago-Kent, she was a member of the Black Law Students Association (BLSA) and the Immigration Law Students Association (ILSA) She also worked in the Immigration Law Clinic while a second-year student and clerked for an immigration law firm. Before starting her own immigration law practice, Mosley worked as an associate attorney practicing immigration and nationality law. She is licensed to practice law in Illinois and Louisiana.

From left: Diversity Fellow Hellin Jang, ISBA President Rick Felice, Diversity Fellows Program Chair Sandy Blake, Diversity Fellow KiKi Mosley.

An active member of the American Immigration Lawyers Association (AILA), Mosley served on the Fall Conference Committee in 2011. She is also a member of the Louisiana State Bar Association and the Chicago Bar Association. She has experience working on a variety of immigration matters including asylum, removal, family- and employment-based immigration, and naturalization. She devotes approximately 10 percent of her practice to pro bono and volunteer work. She has accepted appointment to the Standing Committee on Racial & Ethnic Minorities and the Law.

Hellin Jang graduated from Cornell University in 2001, with a B.A. in Government, concentration in Law and Society. She then attended Loyola University Chicago School of Law, where she distinguished herself as staff editor of *International Law Review*, president of the Asian American Law Students Association and a Central Region finalist on the Thomas Tang Moot Court Team. She also garnered a variety of practical experience. She served as a project assistant in the Real Estate and Corporate Departments at Jenner & Block in Chicago, a legal assistant in the Asia and Pacific Practice Group at Baker and McKenzie in Chicago, a judicial intern at the U.S. Bankruptcy Court for the Northern District of Illinois, a 711 law clerk with the Cook County State's Attorney's Office, and a law clerk at Kim & Chang in Seoul, Korea. Since June 2010, Jang has been an Assistant Attorney General for the State of Illinois in the General Law Bureau. There she defends the State, its officers, agencies, employees and judges in all aspects of civil trial litigation.

Jang serves as a volunteer Korean/English translator and is a Busan Committee member, City of Chicago Sister Cities International. She is a past president and current board member of the Korean American Bar Association of Chicago, a member of the National Asian Pacific American Bar Association, and a Central Region director of the Thomas Tang International Moot Court Competition.

Inez Toledo is a staff attorney for the Illinois Guardianship and Advocacy Commission, where she represents people with

mental illness who are the subject of civil commitment and involuntary treatment petitions. She is also a board member of several charitable foundations that support people with mental illness and physical and mental disabilities. She is a tireless advocate, holding fundraisers and giving her time to people in any kind of need. She recently spearheaded a project called "The Living Room" which is now underway in Aurora. It will be a safe place for the homeless and/or mentally ill to spend their days and be part of a community.

Admitted to practice in 1987, Toledo previously worked as an assistant state's attorney in Cook County. She is actively involved in the Kane County Bar Association as a member of the organization's Diversity Committee and a leader of the Elder Care, Disability & Mental Health Law Committee. In nominating her for a diversity fellowship, Kane County Public Defender Kelli Childress wrote, "Inez is a role model not only to Hispanic attorneys, but to women as well. In fact, she is a role model to all of humanity. She is kind and generous, passionate about her work and about people. She would be a tremendous asset to the ISBA, and her contributions to our common interests would be unquantifiable. She will rejuvenate those of us who currently participate, and will inspire new members from all walks of life to join and make a difference." ■

Holt v. Hobbs: The compelling interest standard and religious dress and grooming exemptions

By Priti Nemani

The recent Supreme Court decision of *Holt v. Hobbs* sheds some light upon a long line of decisions struggling with the questions of when, where and whether the government may constitutionally interfere with an individual's right to freely exercise his or her personal religious beliefs, especially when such exercise involves adhering to specific grooming guidelines or adorning articles of faith, and what standard applies when making such a determination.[1]

Gregory Holt, a devout Muslim inmate at an Arkansas prison, was wrongfully denied the right to wear a one-half-inch beard in observance of his religious beliefs.[2] Prison officials denied Holt an exemption from the Arkansas Department of Correction's (the DOC) grooming policy prohibiting prisoners from growing beards.[3] Holt challenged the denial of his request to wear a short half-inch beard in federal court as a violation of his rights under the Religious Land Use and Institutionalized Persons Act of 2000, 42 U. S. C. §2000cc, *et. seq*. (RLUIPA).[4]

Section 3 of the RLUIPA "provides that '[n]o government shall impose a substantial burden on the religious exercise' of an institutionalized person absent a demonstration by the government that the burden in question 'is the least restrictive means of furthering [a] compelling governmental interest."[5] A discussion of the RLUIPA requires a brief review of its statutory predecessor, the Religious Freedom Restoration Act of 1993 (RFRA). Congress enacted the RFRA under Section 5 of the Fourteenth Amendment as a reiteration of the First Amendment right to free exercise of religion, to "provide a claim or defense to persons whose religious exercise is substantially burdened by government."[6] The standard set forth in the RLUIPA was originally codified in the RFRA "to provide greater protection for religious exercise than is available under the First Amendment."[7] In 1997, the Court struck down portions of the RFRA in *City of Boerne v. Flores* on the grounds that Congress lacked the authority under Section 5 of the Fourteenth Amendment to apply such a standard generally to the states.[8] The RFRA now applies only to review of federal statutes.[9] In contrast, the RLUIPA focuses on areas of valid congressional authority: land-use regulation and religious exercise by institutionalized persons.[10] The RLUIPA provides prison inmates, like Gregory Holt, with an avenue "to seek religious accommodations pursuant to the same standard set forth in RFRA."[11]

In a unanimous decision reversing the decision of the DOC, the Supreme Court, finding that the parties did not dispute the sincerity of Holt's religious beliefs, looked to whether the grooming policy substantially burdened those beliefs.[12] The Supreme Court reasoned that, if Holt were to disobey the grooming policy, he would likely face severe disciplinary consequences, which would force him to choose between his religious beliefs and his physical and mental well-being and such a choice constitutes a substantial burden on Holt's religious exercise.[13] The burden then shifted to the DOC to show that the grooming policy reflected "the least restrictive means of furthering a broadly formulated interest," which the DOC submitted to be, chiefly, prison safety and security.[14] The Court recalled the recent decision of *Burwell v. Hobby Lobby*, where the Court interpreted the RFRA standard as one mandating a "'more focused inquiry and requires the government to demonstrate that the compelling interest test is satisfied through application of the challenged law to the person—the particular claimant whose sincere exercise of religion is being substantially burdened."[15] The DOC argued the grooming policy had been designed to serve the compelling interests of safety and security by preventing inmates from growing beards with the potential to hide contraband or create an easy disguise following escape from the facility and exempted inmates from its requirements only on the basis of a dermatological condition.[16] The Court found first that the DOC's interest in reducing the possibility of contraband could not "sustain its refusal to allow petitioner to grow a ½- inch beard," noting that "without a degree of deference that is tantamount to unquestioning acceptance, it is hard to swallow the argument that denying petitioner a ½-inch beard actually furthers the Department's interest in rooting out

contraband."[17]

The Court rejected the DOC's argument that permitting religious exemptions to the policy could create a possibility that escaped inmates could create a quick disguise by shaving their beards, noting that to protect against this potential risk, numerous other prisons permitting facial hair utilized specific documentation methods.[18] While declining to mandate that the prison create a rarely enacted religious exemption to its grooming policy, the Court reviewed myriad ways in which prisons may maintain security in harmony with the substantial religious freedoms afforded under the RLUIPA.[19] In reversing the Eighth Circuit Court of Appeals affirmance of the District Court's agreement with the DOC's decision, the Court reminded other courts that they "must hold prisons to their statutory burden, and they must not assume a plausible less restrictive alternative would be ineffective."[20]

The four-part compelling interest test was initially set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963) and *Wisconsin v. Yoder*, 406 U.S. 205 (1972). In *Sherbert v. Verner*, the Court required the government to demonstrate a compelling interest before denying unemployment compensation to a fired employee due to a conflict between her religion and her work schedule.[21] The *Sherbert* opinion admonished those who would provide a mere glance at issues concerning freedom of religious exercise, noting that "it is basic that no showing merely of a rational relationship to some colorable state interest would suffice; in this highly sensitive constitutional area."[22] This holding triggered a line of cases that would struggle with the question of whether and how to apply the compelling interest standard in Free Exercise cases.

In *Wisconsin v. Yoder*, the Supreme Court invalidated a mandatory school attendance law as applied to Amish families who refused to send their children to school past the eighth grade.[23] Notably, *Yoder* created the "hybrid-right" exception, stating that "when the interests of parenthood are combined with a Free Exercise claim," there must be "more than merely a reasonable relation to some purpose within the competency of the State is required to sustain the validity of the State's requirement under the First Amendment."[24] In deciding to exempt Amish parents from the Wisconsin law, the Court defended a longstanding "tradition of parental concern for the nurture and upbringing of their children."[25]

In *Employment Division, Department of Human Resources of Oregon v. Smith,* the Supreme Court confronted a challenge to a decision by the Employment Division of Oregon to deny terminated employees unemployment compensation after finding that those employees used peyote during the course of a sacred ceremony at the Native American Church in violation of the Oregon controlled substance statute.[26] The employees in question, however, argued that the statute violated the Free Exercise Clause by prohibiting religious use of peyote.[27] The *Smith* Court declined to apply the compelling interest test on the grounds that it was "not remotely comparable" to the facts of the *Smith* case and further stated that it would uphold generally those laws imposing burdens on the free exercise of religious beliefs, so long as the law in question did not single out a religious belief for uniquely unfavorable treatment.[28] The Court went on to remark that the objectives served by the compelling interest test in other areas of law, such as "equality of treatment, and an unrestricted flow of contending speech" are what the Court deemed to be "constitutional norms," but use of the compelling interest standard in the *Smith* case would only produce "a private right to ignore generally applicable laws—is a constitutional anomaly."[29]

The compelling interest test is one that the lower courts have grappled with applying for decades in the context of religious exercise—particularly in the area of regulating religious garb and religious grooming customs in certain public venues, such as the classroom and the courtroom. In *Menora v. Illinois High School Association,* the Illinois High School Association, a private association with a membership comprised mostly of public high schools, enacted a generally applicable, facially neutral rule prohibiting basketball players from wearing hats or other types of headgear while competing.[30] The rule was designed to promote player-safety during games.[31] On appeal, the Seventh Circuit upheld the general rule, but remanded the case to the district court with instructions to allow the Jewish students the opportunity to design a secured head covering that complied with Jewish law.[32] In writing for the majority, Judge Richard Posner found that "free exercise of religion does not mean costless exercise of religion, but the state may not make the exercise of religion unreasonably costly."[33] Despite this allowance, Judge Posner still reasoned that the association policy did not constitute an undue burden on the Jewish student's right to free exercise because the policy was designed in the interests of safety while playing sports.[34]

In *La Rocca v. Lane*, the New York Court of Appeals upheld a trial court's order prohibiting a Roman Catholic priest and lawyer—Father Vincent La Rocca— from wearing his collar while serving as a Legal Aid Society attorney in a criminal trial.[35] The court held that regulating the priest-attorney's attire was "reasonably related to the preservation of order and decorum in the courtroom, the protection of parties and witnesses, and generally to the furtherance of the administration of justice."[36] Despite the ruling against him in *La Rocca v. Lane,* Father La Rocca represented another defendant on behalf of the Legal Aid Society, while wearing his Roman Catholic collar during trial.[37] After a series of conflicting orders regarding Father La Rocca's adornment of his clerical collar in the courtroom, the Second Circuit ruled against the priest-attorney, noting that "a lawyer, unlike a witness or party, does not speak for himself but for his client."[38]

Unlike her attorney, a party to an action does retain the freedom to freely exercise religious beliefs by wearing religious garb in the courtroom.[39] In *Close-It Enterprises, Inc. v. Weinberger*, a trial judge ordered that the defendant, Mayor Weinberger, remove a Jewish skullcap before the jury entered the courtroom, even though Weinberger had been present for jury selection while wearing the same skullcap.[40] When forced to decide between being present for his own trial and wearing his religious garb, Weinberger excluded himself for the remainder of the trial proceedings.[41] In reversing the trial court's verdict against Weinberger and ordering a new trial, the Appellate Court harshly reviewed the lower court's proceedings, noting that the trial was more akin to an "inquest," and that "the defendant's right to the free exercise of religion, under the circumstances presented, was not out-

weighed by the right of all parties to a fair trial."[42] The *Close-It Enterprises* Court further stated that the defendant "should not have been placed in the situation of having to choose between protecting his legal interests or violating an essential element of his faith."[43] *Close-It Enterprises* illustrates how religious garb cases turn on the context of the request. In these cases, while both parties hoped to wear religious garb in the court room, the nature of the individual's role in the courtroom proved definitive.

Before *Holt,* the Court's decision in *Goldman v. Weinberger* arguably illustrates the nearest the Court has come, until now, to addressing the question of when dress code policies which ban religious garb violate the Constitution.[44] There, Captain S. Simcha Goldman, an Orthodox Jew, ordained rabbi, and Air Force captain, served as a psychologist at March Air Force Base.[45] At all times, he wore a yarmulke in accordance with Jewish religious tradition.[46] Pursuant to comprehensive Air Force regulations regarding the service uniform and headgear, Goldman was ordered to cease wearing his yarmulke.[47] Goldman argued that the Air Force was required, pursuant to the Free Exercise Clause of the First Amendment, to make an exception to the dress code unless such an exception created "a 'clear danger' of undermining discipline and *esprit de corps*."[48] The D.C. Circuit Court of Appeals reversed the decision.[49] In a 5-4 decision, the Supreme Court affirmed, finding that Air Force regulations did not violate the Free Exercise Clause because the regulations reasonably and evenhandedly regulated dress in the interest of the military's perceived need for uniformity and discipline.[50]

While the twin notions of religious freedom and secularism, in theory, ideally function together fluidly, the reality is that these two principles do not always strike an accord. What, then, does it mean to provide American people with the freedom to exercise religion? In *Burwell v. Hobby Lobby*, the Supreme Court held that under the RFRA standard, free exercise includes a corporation's right to exclude contraceptive methods from employee health care plans, as required by the Affordable Care Act, on the basis of religious principles prohibiting the use of contraception.[51] In concurring with the *Hobby Lobby* decision, Justice Kennedy speaks broadly of the essential role that the Free Exercise Clause plays in the history and the very fabric of the United States:

> Among the reasons the United States is so open, so tolerant, and so free is that no person may be restricted or demeaned by government in exercising his or her religion. Yet neither may that same exercise unduly restrict other persons, such as employees, in protecting their own interests, interests the law deems compelling.[52]

In a political climate where the delicate interests of religion and government continue to collide both domestically and internationally, the *Holt* decision renews the promise of the First Amendment by demonstrating that all Americans, even prison inmates, are entitled to the right to freely exercise religious beliefs and by reminding our courts to review challenges to this essential American freedom with a particularly careful eye. ■

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1. *Holt v. Hobbs*, 574 U.S. ___, p. 1, No. 13-6827 (2015).
2. *Holt*, 574 U.S. ___, at p. 3, quoting 42 U. S. C. §2000cc-1(a).
3. *Id*. at pp. 1-2.
4. *Id*. at p. 2.
5. 42 U. S. C. §2000cc.
6. 42 U.S. Code § 2000bb-b(2) (2015).
7. *Holt*, at p. 2. 42 U.S. Code § 2000bb-(a) (2015).
8. *Id*. at pp. 1-2, discussing *City of Boerne v. Flores*, 521 U.S. 507 (1997).
9. *Id*. at p. 3.
10. *Id*.
11. *Holt*, at p. 3, quoting *Gonzalez v. Centro Espírita Beneficente União de Vegetal*, 546 U.S. 418, 436 (2006) (internal quotations removed).
12. *Id*., at pp. 6-7.
13. *Id*., at pp. 6-7. The Court discusses the errors in the District Court's interpretation of the RLUIPA and its findings that the grooming policy did not substantially burden Holt's religious exercise, stating that the District Court "misunderstood the analysis of the RLUIPA demands."
14. *Id*. at 8.
15. Id. at 8-9, quoting *Burwell v. Hobby Lobby Stores, Inc.*, 573. U.S. _____, (slip. op. at 39) (2014) (internal quotations removed).
16. *Id*. at pp. 9-12.
17. *Id*. at p. 10.
18. *Id*. at 13.
19. Id. at 15.
20. Id. at 15, quoting *U.S. v. Playboy Entertainment*, 529 U.S. 824 (2000).
21. *Sherbert v. Verner*, 374 U.S. 398, 402 (1963).
22. *Id*. at 406.
23. *See id.; Wisconsin v. Yoder*, 406 U.S. 205 (1972).
24. *Yoder*, 406 U.S. 233; *see* Pls' Brief at 15, Iacono, No. 5:10-cv00416-H.
25. *Yoder*, 406 U.S. at 232.
26. *Emp't Div., Dep't of Human Res. of Or. v. Smith*, 494 U.S. 872, 874 (1990).
27. *Id*. at 874-76.
28. *Id*. at 893.
29. Id. at 888-89.
30. *Id*.
31. *Id*.
32. *Id*. at 1035-36.
33. *Id*. at 1033.
34. *Id*. at 1034.
35. *La Rocca v. Lane*, 37 N.Y.2d 575, 577-580, 376 N.Y.S.2d 93 (1975).
36. *La Rocca*, 37 N.Y.2d 582
37. *La Rocca v. Gold*, 662 F.2d 144, 146 (2nd Cir. 1981).
38. *Id*. at 149.
39. *Close-It Enters. Inc. v. Weinberger*, 64 A.D.2d 686, 687 (N.Y. App. Div. 1978).
40. *Id*. at 686. Part of La Rocca's claims in *La Rocca v. Gold* relied upon the *Close-It Enterprises* opinion, an argument that the *Gold* Court rejected because of the vast differences between one's role as an attorney and one's role as a defendant. *La Rocca v. Gold*, 662 F.2d at 150.
41. *Id*.
42. *Close-It Enters. Inc.*, 64 A.D.2d 687.
43. *Id*. at 686.
44. *See Goldman v. Weinberger*, 475 U.S. 503 (1986).
45. *Id*. at 504.
46. *Id*.
47. *Id*. at 505.
48. *Id*. at 509.
49. *Id*. at 504.
50. *Id*. at 510.
51. *Hobby Lobby,* 573. U.S. _____, (slip. op.) (2014).
52. *Hobby Lobby,* 573. U.S. _____, (slip. op. at 56) (Justice Kennedy, concurring).

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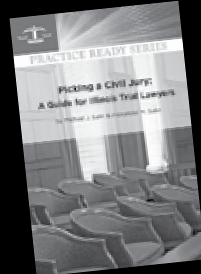

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Defining personhood under the Illinois Gender Violence Act: A summary of the Illinois Gender Violence Act and whether its applicability extends to entities, corporations and municipalities

By Catherine D. Battista and Priti Nemani

The acclaimed film *The Accused* contains one of the most horrific depictions of gender violence ever portrayed on screen.[1] The audience watches as a young woman, Sarah Tobias, played by Jodie Foster, entrapped in a back room of a small town bar, suffers a brutal gang rape by a group of men.[2] Onlookers jeer on the rapists, while neither the bar staff nor onlookers come to Sarah's aid.[3] After much struggle, Sarah manages to escape from her rapists and stumbles into the street outside the bar barely clothed and alone.[4] The film's plot centers around Sarah's fight for justice pursuing criminal charges against not only her attackers but also against the onlookers who utterly failed to come to her aid during the rape.[5]

In 2003, the Illinois General Assembly passed House Bill 436, which permits victims of gender violence, like Sarah Tobias, to seek civil redress against both their attackers and those who perpetuated the violence. In passing House Bill 436, the General Assembly noted that "at the essence of the gender violence Bill is that it would give not only criminal relief, which we have in the current [criminal] statute, but civil relief to people that have been harmed as a result of their particular gender."[6] Upon its passage, House Bill 436 was titled the Illinois Gender Violence Act ("the Act").[7]

The Act is modeled after the Violence Against Women Act of 1994 ("VAWA"), a federal law which allowed civil redress for claims involving gender violence.[8] In 2000, the United States Supreme Court struck down the VAWA provision permitting victims of gender violence to sue their offenders in federal court as an intrusion of states' rights under the Commerce Clause.[9]

In response, the General Assembly created the Act so the intent of VAWA would be available to the victims of gender violence in Illinois. In doing so, the General Assembly stated that "[VAWA] ultimately was overturned and it was the belief that this is something we ought to do at the state level… So not only do we have criminal remedies, we would now under this Bill have civil… remedies and the statute of limitations is a lot longer under this Bill…it's a remedy that many women in this state…will be available to them if they are harmed by spouses, boyfriends, or whomever."[10]

Under the Act:

> Any person who has been subjected to gender-related violence… may bring a civil action for damages, injunctive relief, or other appropriate relief against a person or persons perpetrating that gender-related violence. For purposes of this Section, "perpetrating" means either personally committing the gender-related violence or personally encouraging or assisting the act or acts of gender-related violence.[11]

In drafting the Act, the General Assembly either neglected or elected against defining the words "person" and "personally." Further, there was no discussion in the legislative sessions regarding the intended meaning of "person" and "personally." As a result, the Act is unclear as to whether the relief provided to victims includes bringing suit against corporate entities such as the bar in *The Accused*. For practitioners seeking to file claims on behalf of plaintiffs under the Act, the ambiguity of its definition of personhood creates a troubling problem that, in fact, may hinder the very purpose for which the Act was designed.

Statutory Construction of the Act

The primary rule of statutory construction is to ascertain and give effect to the true intent of the legislature.[12] The Illinois Statute on Statutes provides rules of statutory construction that "shall be observed, unless such construction would be inconsistent with the manifest intent of the General Assembly or repugnant to the context of the statute."[13] One of those rules provides that "'[p]erson' or 'persons' as well as all words referring to or importing persons, may extend and be applied to bodies politic and corporate as well as individuals."[14] When the word "person" is used in a statute, it is construed as applying to corporations and bodies politic as well unless the context, language or legislative history indicates otherwise."[15]

Here, the legislative history is silent on whether the General Assembly intended for the Act to apply to natural persons only. "[T]he available legislative history does not speak to the question [whether the Act extends to corporations]. The debates (to the extent one can call them that, given the bill passed unanimously in both chambers of the General Assembly) reveal only a general intention to…provide 'civil relief to people that have been harmed as a result of their particular gender.'"[16] Rather, the Act uses the term "person" without distinction or limitation as to corporations. "The legislative history is silent, and thus does not remove the presumption that the term 'person' applies to corporations."[17] As such, an argument can be made that based upon a plain reading of the Act the word "person" includes corporations.

To date, no Illinois court has ruled that liability under the Act is limited to natural persons. As a result, courts are tasked to consider the statutory language of the Act and whether it may be inclusive of corporate defendants. Plaintiffs can argue that, under a plain reading of the Act and through statutory construction, its ramifications extend to corporations as well as to natural persons. Defendants, of course, can argue the opposite. Plaintiff's attorneys filing a claim under the Act should expect a dispositive motion from the defense seeking to bar any relief against corporate defendants arguing that the words "person" and "personally" as used in the Act do not include corporate entities. However, there are equally sound arguments on the plaintiff's side to justify extending liability under the Act to corporate defendants.

Dismissed on the Pleadings: Perspectives from State and Federal Courts

Illinois Appellate Courts have not yet examined whether the words "person" and "personally" include corporations. On review,

courts reviewing the Act have managed to circumvent an express ruling on the question of corporate liability by resting decisions on procedural and pleading deficiencies.

In *Watkins v. Steiner*, the Fifth District Appellate Court ultimately dismissed claims filed against a municipality for violations of the Act.[18] However, the appellate court did *not* dismiss the claims under the theory that the Act failed to create a cause of action against municipalities. Rather, the claims were dismissed because plaintiff failed to plead sufficient facts to establish that the township personally committed or encouraged the sexual violence. In other words, the claims may have proceeded against the municipality had plaintiff pled sufficient facts in her complaint.

In *Stanfield v. Dart*, the court was asked to consider on summary judgment whether the Act extended to two individuals who allegedly perpetuated acts of gender violence against the plaintiff.[19] In reaching its decision, *Stanfield* discussed *Doe v. PSI Upsilon*, an Illinois appellate court decision which held that the plaintiff failed to adequately allege that the national chapter of the fraternity could be liable under the "encouraging or assisting" provision of the Act.[20] In reaching its decision, *Doe* contrasted the allegations against the national chapter with the allegations against the local chapter.[21] *Doe* implied, in dicta, that the allegations that were insufficient to state a claim under the Act against the national chapter, could be sufficient to state a claim against the local chapter.[22] *Stanfield* went onto say that: "If this implication is correct, the scope of liability under the Act is broader than what is normally covered under a theory of aider and abettor liability."[23]

The Northern District's Perspective on Defining Personhood Under the Act

While the Illinois Appellate Courts have not yet opined whether the Act applies to corporations, the Northern District of Illinois has issued multiple written decisions on the meaning of the words "person" and "personally."

In *Flood v. Wash. Square Restaurant, Inc.,* plaintiff sued her former employer for violations of the Act.[24] On a motion to dismiss, the court considered whether the Act applied to corporations. *Flood* held that the Act's use of the term "person" did not preclude liability for corporations. *Flood* also found that the term "person" can have a different meaning in different parts of the statute.

In looking at the word "personally" as used in the Act, *Flood* stated that "the term 'personally,' however, has no meaning when applied to a corporation." Specifically:

> It is true that the [Illinois] Statute on Statutes leaves open the possibility of applying a word like "personally" to corporations, for it states that "all words referring to or importing persons" may apply to corporations….In this case, however, the court cannot conceive of how a corporation could "personally" perpetrate an act of gender-related violence. Corporations act only through their agents, so it is impossible for a corporation to "personally" do anything.[25]

In *Flood*, plaintiff limited her pleading and her response brief to the motion to dismiss, by only arguing that the corporate defendant was *directly* liable for its actions under the Act. Plaintiff did not argue that the corporate defendant was liable under the Act for the conduct of its agents, which can "personally" act, under a theory of *respondeat superior.* The court, recognizing this distinction, stated:

> At no point prior to the single brief paragraph in the supplemental briefing did [plaintiff] raise the argument that the [defendant] is liable under *respondeat superior* principles for [individual employee] actions. Moreover, the brief paragraph is too short to properly raise the argument. Accordingly, that argument is waived, and the court declines to address it.[26]

In *Fayfar v. CF Mgmt., LLC,* plaintiffs, personal trainers, sued defendant, a health club, for sexual harassment and violations of the Act.[27] Defendant moved to dismiss and argued that the Act does not create a cause of action against corporations. While the court in *Fayfar* ultimately sided with defendant, its decision making in doing so is readily distinguishable.

Fayfar fails to follow proper Illinois procedure of statutory construction. *Fayfar* does not mention at any point in its opinion that the Illinois Statute on Statutes governing the definition of the word "person" and any words referring to or importing persons, such as "personally," may be extended to corporate defendants.[28] Rather than relying on the Illinois Statute on Statutes or case law where the word "person" has been extended to corporations in civil matters, *Fayfar* relies upon a criminal case, namely *People v. Christopherson*, where the Illinois Supreme Court considered whether the word "person" as used in a criminal statute applied to minor persons as well as adult persons.[29] The context of *Christopherson* is inapplicable to violations of the Act, which provides for civil redress. A criminal statute can only apply to natural persons in any circumstance.

Fayfar's discussion regarding the Illinois Consumer Fraud Act's specific definition of the word "person" to include corporate defendants is certainly more persuasive than its rationale under *Christopherson* but even this part of its opinion fall short. There are other statutes in Illinois where a cause of action against corporations has been allowed even where the word "person" has not been defined by the General Assembly to include corporate entities.[30]

Fayfar also provides that the words "person" and "personally" cannot apply to corporate defendants because only a natural "person" can sue under the Act. The court's rationale that using "the term 'person' to describe both those who can sue and those who can be sued…further indicates that only individuals can be sued under the statute."[31] This conclusion is seemingly inapposite to Illinois law in that the word "person" can have different meanings within the same statute.

In *Doe v. Sobeck*, plaintiff, a developmentally disabled adult female, was raped by another disabled adult at defendant's facility, a training center for disabled persons.[32] Plaintiff filed a complaint against defendant for violations of the Act. Defendant moved to dismiss and argued that the Act does not create a cause of action against corporate entities.

Doe does a thorough job of applying Illinois rules of statutory construction to the language of the Act. *Doe* also criticizes *Fayfar* for reaching the conclusion that "person" cannot apply to corporations as permitted by the Illinois Statute on Statutes.[33] *Doe* goes on to agree with the rationale set forth in *Flood* and determines that a corporation cannot "personally" do anything without acting through its agents. Like *Flood*, *Doe* refuses to find "that a corporation cannot be held vicariously liable for its employees' violations [of the Act] committed within the scope of their employment."[34]

While the preceding case law may fa-

vor a defense argument (depending on the distinctions set forth above), *Cruz v. Primary Staffing, Inc.* and *Smith v. Rosebud Farmstand, et al.* support a plaintiff's position that a claim may be filed against corporations for violations of the Act.[35]

In *Cruz*, plaintiff filed a lawsuit against her former employer for violations of the Act. In short, plaintiff was sexually harassed by her supervisor, Ramon Acosta, at work. In her complaint, the *Cruz* plaintiff alleged that "through Acosta, who was working as [defendant's] agent and in the scope and course of his employment, [defendant] subjected [plaintiff] to acts of gender-related violence."[36] The court provided:

> While Cruz's complaint could be more detailed, she has pleaded facts that lead to an inference that [defendant] had received many complaints of sexual harassment or assault by Acosta and that it took no action against Acosta as a result of the complaints, choosing to punish [plaintiff] instead. These allegations are enough to state a claim against [defendant] for encouraging or assisting Acosta's acts of gender-related violence.[37]

In *Smith*, plaintiff filed a lawsuit against his former employer for violations of the Act arising from sexual harassment he experienced during his employment. Defendant moved to dismiss. The court ruled in favor of the plaintiff finding that:

> Plaintiff has pleaded facts that lead to an inference that [defendant] (via its managers and supervisors) received plaintiff's complaints of sexual harassment or assault by its managers and employees and that it took no action against these managers and employees as a result of the complaints, choosing to punish plaintiff instead.[38]

Both *Cruz* and *Smith* provide for the possibility that the Act allows corporate liability against those entities that fail to act in the face of gender-related violence.

Conclusion

As the Illinois Gender Violence Act stands today, it is truly a statute that looks good on its face – but really provides very little relief to the victims it seeks to protect. While it undeniably creates a cause of action against individuals who commit gender violence crimes – it fails to clarify whether that cause of action may be extended against corporate entities that perpetuate that violence, either in the work place, or like in the case of Sarah Tobias, by turning the other cheek when an act of sexual violence is being committed. Until the Illinois General Assembly or Appellate Courts undertake the task of fully interpreting the breadth of personhood under the Illinois Gender Violence Act, victims of gender-related violence, like Sarah Tobias, remain enveloped in ambiguity as to the question of liability for the atrocities suffered. ■

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2. *Id.*
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7. Illinois Gender Violence Act, 740 ILCS 82/1 *et seq.*
8. Title IV, sec. 40001-40703 of the Violent Crime Control and Law Enforcement Act of 1994, H.R. 3355.
9. *United States v. Morrison*, 529 U.S. 598 (2000).
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13. See 5 ILCS 70.1.
14. See 5 ILCS 70/1.05.
15. *McCaleb v. Pizza Hut of Am., Inc.*, 28 F.Supp.2d 1043, 1049 (N.D. Ill. 1998).
16. *Flood v. Wash. Square Restaurant, Inc.,* Case No. 12 C 5729 at 3-4 (N.D.Ill. 2012).
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24. *Flood v. Wash. Square Restaurant, Inc.,* Case No. 12 C 5729 (N.D.Ill. 2012).
25. *Flood*, 12 C 5729 at 5.
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27. *Fayfar v. CF Mgmt., LLC*, Case No. 12 C 3013 (N.D.Ill. 2012).
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29. *People v. Christopherson,* 231 Ill.2d 449, 899 N.E.2d 257 (2008).
30. See the Liquor Control Act of 1934, 235 ILCS 5/6-21 *et seq.*
31. F*ayfar*, 2012 U.S. Dist LEXIS 157940 at 5.
32. *Doe v. Sobeck*, Case No. 12 cv 1222 (S.D.Ill. 2013).
33. See *Doe*, 2013 U.S. Dist. LEXIS, *17.
34. See *Doe*, 2013 U.S. Dist. LEXIS, *21.
35. *Cruz v. Primary Staffing, Inc.,* Case No. 10 C 5653 (N.D.Ill. 2011); *Smith v. Rosebud Farmstand, et al.*, Case No. 11-cv-9147 (N.D.Ill. 2012).
36. *Cruz*, 2011 U.S. Dist. LEXIS 29237, *2.
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Immigration reform and diversifying your workforce

By Edward N. Druck and Tejas Shah

While employers often extoll the virtues of diversity, they also describe the difficulties of achieving greater diversity in their workforce. Employers cite reasons such as their inability to: find qualified diverse applicants; retain diverse employees; identify where to look for candidates of diverse backgrounds; or compete with other companies (in terms of salary, benefits, etc.) for the qualified diverse candidates out there. Several recent immigration reform initiatives, however, may help to decrease such complaints.

America is a country of immigrants. This is particularly true of the state of Illinois, which boasts one of the highest percentages of foreign-born residents of any state. Over 14% of Illinois's population was born in a foreign country. This diverse foreign-born population calling Illinois its home includes immigrants from almost every country on the globe, with a heavy concentration of immigrants from places such as India, Pakistan, China, Poland and Ukraine. Our state's immigrant population includes not only many highly-skilled workers who have migrated to the United States based on their educational qualifications or professional experience, but many undocumented immigrants too. The undocumented population in Cook and the collar counties has traditionally presented a challenge for employers seeking to hire them, particularly if these immigrants either possess a skill that an employer wants or a willingness to work in a position that an employer wants to fill.

Reforms of the immigration laws enacted in 1986 made it particularly risky for employers to hire undocumented aliens by creating the I-9 verification scheme. The Immigration Reform and Control Act ("IRCA"), requires a U.S. employer to verify within 3 days of hire that a worker has authorization to work in the United States. This rule applies to all workers, regardless of race, religion, national origin or citizenship status. Penalties for failing to complete I-9s, or worse, willfully hiring a foreign national lacking work authorization, can be significant. They range from a monetary fine of over $1,000 per I-9 violation (this includes fines for failing to properly complete an I-9, or a substantive violation) to criminal penalties for willfully hiring or employing a foreign national lacking work authorization. Increased audit activity by federal agents in industries with a heavy concentration of blue-collar workers has only heightened the risks for employers.

Against this backdrop, recent executive actions enacted by the President and the Department of Homeland Security (DHS) could alleviate some of these risks. On November 20, 2014, President Obama ordered the DHS to expand an existing program called DACA (Deferred Action for Childhood Arrivals), and to enact a new program called DAPA (Deferred Action for Parental Accountability). These programs are estimated to collectively provide work authorization to 4 million undocumented individuals across the U.S. who meet certain specified criteria. The DHS is also implementing new rules that would expand work authorization to many other individuals, including the spouses of H-1B "specialty occupation visa" holders in selected circumstances. Specifically, these employees will be able to present an employment authorization document (EAD) to satisfy an employer's I-9 responsibilities and will not require visa sponsorship. Together, these programs are expected to impact hundreds of thousands of individuals in the state of Illinois, alone.

So what does immigration reform have to do with diversity? First, it should be noted that the expanded DACA and DAPA programs are currently subject to an injunction issued by a federal court in Texas. But the administration has moved for an emergency stay of this injunction in the Fifth Circuit Court of Appeals. So although there is uncertainty over the DACA and DAPA initiatives at the time of writing this article, at a minimum, it is still safe to assume that rules such as those impacting the work authorization of H-4s will make it easier for employers to achieve the goal of a more diverse workforce.

Second, while many of the foreign nationals expected to benefit from these reforms to our immigration system are undocumented, many of them are highly educated. Indeed, Illinois is one of the few states to offer in-state

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tuition to undocumented students (H.B. 60 passed in 2003). The State extended these benefits in 2011 through the Illinois Dream Act, which made certain Illinois state college savings programs available to immigrant youth, regardless of their immigration status in the United States. These changes address many of employers' most commonly cited and perceived barriers to a more diverse workforce.

Our country and state's workforce is rapidly changing due not only to these programs but also as a result of long-term trends, such as decade-long waves of legal immigration to the U.S. and many first-generation Americans becoming a part of the workforce. This diversification of the workforce has produced benefits for business. As a result, more employers are now striving to achieve greater diversity in their labor forces. Indeed, Mead Johnson Nutrition, a baby formula maker, recently decided to move to Chicago from north suburban Glenview at least, in part, due to the city's diverse talent pool. Archer Daniels Midland, one of the world's largest agricultural processors, moved its headquarters last year from Decatur, IL, to Chicago for similar reasons. These moves are a growing recognition of the value of diversity in the workforce, and demonstrate that cities and communities with a welcoming attitude towards diversity and immigration stand to experience great economic benefit.

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Affirmative action, then and now

By Julianne Gerding

The end of affirmative action and/or positive discrimination in universities. Is this to be praised or abhorred? Over 60 years ago, President Truman emphatically declared that Congress should "correct the remaining imperfections in…democracy" by "restor[ing] hope to those who have already lost their civil liberties."[1] Shortly thereafter, numerous executive orders ensued, prohibiting discrimination in employment practices, the armed services, the defense industry, and the government.[2] It was not long before this concept shifted into the academic arena and evolved into a determining factor in the university admissions process.

Regents of the University of California v. Bakke

As with any new policy, legal complications arose. The United States Supreme Court first analyzed the issue of affirmative action in an academic setting in *Regents of the University of California v. Bakke* in 1978.[3] In that case, the University of California at Davis Medical School (hereinafter "Davis") developed a special admissions program that focused on educationally and/or economically disadvantaged applicants, or those from distinct minority groups.[4] If the applicants were found to fall into one of these categories, they were not ranked against the other candidates, nor were they required to meet the same qualifications as the candidates of the general admissions program.[5] Bakke, an applicant of Davis's program, did not qualify for special admissions; he was denied entry to Davis two years in a row, despite the simultaneous admission of candidates from the special admissions program with lower benchmark scores.[6] Initially, Bakke sought relief in state court, arguing that Davis' special admissions program violated the Equal Protection Clause of the Fourteenth Amendment.[7] The California Supreme Court agreed with Bakke and proclaimed that the program was unconstitutional, but the United States Supreme Court partly reversed this finding: the highest court held that considering race in admission decisions should not be prohibited.[8] Nevertheless, Davis' special admissions program was invalidated because the university could not establish that Bakke would not have been admitted to the university if the special admissions program did not exist.[9]

In his opinion, Justice Powell emphasized that Davis only commenced its special admissions program after the school administration noticed the distinct absence of a diverse class; the first 100-person class consisted of white and Asian students, but no blacks, Mexican-Americans, or American Indians.[10] The special admissions program was developed in order to increase the school's representation of disadvantaged applicants and/or candidates of a minority group.[11] In fact, the program fulfilled its purpose. After the special admissions program began, 63 minority students were admitted to Davis over a three-year period.[12] However, Justice Powell presented a general warning regarding the ethics of such a program.[13] "[T]here are serious problems of justice connected with the idea of preference itself….preferential programs may only reinforce common stereotypes holding that certain groups are unable to achieve success without special protection."[14] Not only that, but "there is a measure of inequity in forcing innocent persons in [Bakke]'s position to bear the burdens of redressing grievances not of their making."[15] Thus, while attaining a diverse student

body is a constitutionally permissible goal for institutions of higher education, steps taken to enact such a goal must be performed with extreme caution.[16] However, following this case, ethnic diversity became a factor that universities could consider in achieving genuine diversity.[17]

Grutter v. Bollinger

Almost 30 years later, the United States Supreme Court revisited this issue. This time, affirmative action appeared in a law school atmosphere. In that case, the University of Michigan Law School (hereinafter "Michigan") developed an admissions policy that evaluated applicants based on their undergraduate grade point averages, Law School Admission Test (hereinafter "LSAT") scores, talents, experiences and essays.[18] In addition to these qualifications, Michigan's admissions department considered race as a "potential plus factor" in order to affirm the school's commitment to diversity.[19] As a result of this policy, Michigan admitted a "critical mass" of underrepresented applicants from minority groups.[20] Grutter, a white applicant, was denied entry to Michigan, despite her satisfactory grade point average and LSAT score.[21] Like Bakke, Grutter claimed that Michigan's use of race in its admissions process was unconstitutional.[22] The District Court held in Grutter's favor, but this decision was ultimately reversed by the Sixth Circuit and the United States Supreme Court.[23] In her opinion, Justice O'Connor stressed that universities cannot establish quotas to achieve their goal of maintaining diverse a student body; they may merely consider race as one factor, amongst many, in a candidate's application.[24] Nevertheless, Justice O'Connor heartily echoed Justice Powell's words from *Bakke*: "[t]he 'nation's future depends upon leaders trained through wide exposure to the ideas and mores of students as diverse as this Nation."[25]

Schuette v. Coalition to Defend Affirmative Action

Another 10 years passed, and affirmative action was challenged once more. In response to heavy opposition to positive discrimination, the state of Michigan amended its constitution to include provisions proscribing prejudice and/or preferential treatment to any individual or group by any state school or government entity.[26] In other words, affirmative action was banned statewide. The Coalition to Defend Affirmative Action (hereinafter the "Coalition") strongly reacted against Michigan's decree and filed suit against Michigan's Attorney General Schuette.[27] Yet, instead of challenging the constitutionality of "race-conscious admissions policies in higher education," the Coalition claimed that voters, not the courts, should have the ability to admit or prohibit race-conscious admissions policies.[28] The United States Supreme Court agreed that "the courts may not disempower the voters from choosing which [of these] path[s] to follow."[29] In his decision, Justice Kennedy elaborated that Michigan's new law was surely pre-determined by its voters before its enactment.[30] Consequently, the Supreme Court Justices did not believe they had the authority to set aside such constitutional amendments.[31] The potential ramifications of this holding are significant: Essentially, going forward, states may altogether ban affirmative action as long as their voters see fit to mandate as such.

Some agree that positive discrimination should be banned nationwide. California, Washington and Nebraska have joined Michigan in banning affirmative action.[32] Those that oppose positive discrimination argue that future generations should not have to recompense for the inequities fostered in the past.[33] Not only that, but affirmative action may only be effective when it targets all socially disadvantaged groups, including those founded in ethnicity, gender, poverty and race, instead of race alone.[34] Similar arguments maintain that minority students admitted into schools through affirmative action policies become otherwise incapable of attending classes, fail, become discouraged and ultimately leave universities.[35] For example, a 2012 Texas study indicates that black law school students were four times as likely to fail the bar exam as whites.[36] Furthermore, the same survey estimated that approximately half of black college students were in the bottom 20% of their class.[37]

On the other hand, some believe that positive discrimination is necessary to balance the scales rendered uneven by race and class-based obstacles. Between 2007 and 2011, approximately 25% of blacks and 23% of Hispanics and Latinos lived below the poverty line, compared to only 11% of whites.[38] Pro-affirmative action individuals assume that members of minority groups cannot always access education and employment to the same degree as others. Thus, without higher education, levels of poverty become closely intertwined with the unemployment rate. As of January 2015, the unemployment rate for individuals who had completed high school or less was at 8.5%, while only 2.8% of those with a bachelor's degree or higher were unemployed.[39] The unemployment rate was made up of 10.3% black, 6.7% Hispanic or Latino, 4.9% white, and 4.1% Asian American.[40] Research suggests that the existence of positive discrimination plays a sizeable role in these rates. For example, Texas outlawed affirmative action programs in 1995.[41] Since the new law's enactment, the Latino enrollment at the University of Texas Law School has been cut in half.[42] Will these numbers continue to dwindle as more states proscribe positive discrimination?

Perhaps affirmative action itself is not the answer. Perhaps another policy is needed to ensure equal access to education and employment amongst all groups. Regardless of the policy, though, action needs to be taken; be it affirmative or otherwise.

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3. See generally *Regents of the University of California v. Bakke,* 438 U.S. 265 (1978).

4. *Id.* at 265.

5. *Id.*

6. *Id.* at 266. A benchmark score consisted of an overall grade point average, a science courses grade point average, a Medical College Admissions Test score, letters of recommendation, extracurricular activities, and other data about the applicant. *Id.*at 265.

7. *Id.* at 266.

8. *Id.* at 266-67.

9. *Id.* at 266.

10. *Id.* at 272.

11. *Id.*

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13. *See id.* at 298.

14. *Id.*

15. *Id.*

16. *Id.* at 311-12, 314.

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Whistling Dixie not the smartest trial strategy, nor racially sensitive, nor consistent with due process and equal protection

By Paul J. Glaser

Prosecutors say the darnedest things in closing arguments, and sometimes those things amount to reversible error.[1] Telling the jury in a murder case: "I didn't go to law school for four years at night to put innocent men in the penitentiary . . . [t]his man is guilty," was held improper.[2] In another case, it was wrong for the prosecutor to characterize a defendant as an "animal," "even where that characterization is based upon the evidence."[3]

On the other hand, it was acceptable for a prosecutor to call the defendant's conduct during the offense "pure evil." Although a prosecutor may not characterize the defendant as an "evil" person or cast the jury's decision as a choice between "good and evil," the prosecutor's statements in that case referred to specific actions by the defendant during the offense and argued that the facts proved the defendant's guilt.[4] But a prosecutor in another case committed plain error by calling the defendant a "liar" and by saying that he wished the jury had a "built-in-shockproof B.S. detector" when the defendant's testimony was not really inconsistent with that of other witnesses; thus, the argument had "no basis in the record."[5]

Reviewing courts in Illinois have wisely paid close attention to prosecutors' attempts to inject racial issues in closing arguments. Where the prosecutor stated the (white) defendants went "to the Negro bars [and] I think . . . that a person who frequents those kind of places is going to be a person different than reasonable persons . . . [and] is a kind of person who would carry a pistol into those places, and if there was trouble the first thing he'd go for would be his pistol," our Supreme Court found the comments improper, albeit not reversible error. "[A]ppeals to racial prejudice, whether open or oblique, discredit our justice and are to be condemned," the Court held.[6] More recently, the Fifth District Appellate Court noted repeated condemnation of prosecutors' attempts to introduce race into closing arguments. Plain error was held where a consistent theme of the prosecutor's argument in both opening and closing statements to the jury was the "culture of the black community," where people were raised to believe that the police and prosecutors are the "enemy" and the biggest sin one could commit was to be a snitch. These arguments, the Court found, arbitrarily injected race into the jury's deliberations and had no bearing on the credibility of the State's witnesses. The comments were seen as "naked prejudice" with no basis in the evidence.[7]

Thus, one can only shake one's head to wonder what century a prosecutor thought she was living in when, in a prosecution of a black man accused of lewdly assaulting two white teenagers, Canyon County (Idaho) Deputy Prosecutor Erica Kallin decided to forgo the usual prosecutorial shibboleths of "red herring" and "smoke and mirrors" to paraphrase lyrics from that anthem of the antebellum South, "Dixie." In her final argument to the jury, she argued:

> Ladies and gentlemen, when I was a kid we used to like to sing songs a lot. I always think of this one song. Some people know it. It's the "Dixie" song. Right? Oh, I wish I was in the land of cotton. Good times not forgotten. Look away. Look away. Look away. And isn't that really what you've kind of been asked to do? Look away from the two eyewitnesses. Look away from the two victims. Look away from the nurse and her medical opinion. Look away. Look away. Look away.[8]

Her comments were challenged in the defendant's appeal as a denial of due process and equal protection.[9]

As a parenthetical, it must be noted that passions invoked by the use of the song "Dixie" have been discussed in a number of published decisions in both criminal and civil cases.[10] For example, a white supervisor's whistling of "Dixie" at the workplace was one of the complaints alleged by an African-American plaintiff in at least one civil rights lawsuit.[11] As the Court in the Idaho appeal observed:

> [T]his Court does not require resort to articles or history books to recognize that 'Dixie" was an anthem for the Confederacy, an ode to the Old South, which references with praise a

> time and place of the most pernicious racism. The prosecutor's mention of the title, "Dixie," as well as the specific lyrics recited by the prosecutor, referring to "the land of cotton," expressly evoke that setting with all its racial overtones.[12]

While allowing that prosecutor Kallin's reference might well have been made innocently and not intended to appeal to racial bias, the Court reasoned: "[T]he message received by the jurors or their individual responses to it" were the real issues. "An invocation of race by a prosecutor, even if subtle and oblique, may be violative of due process or equal protection," the Court recognized.[13]

Since the defendant's trial attorney did not object to Ms. Kallin's comment, to prevail on appeal, he had to convince the Appellate Court that Kallin's error was plain and not harmless. But, ultimately, those obstacles did not constrain the Court. "Like racial discrimination in the selection of jurors or grand jurors, the injection of racial considerations in closing arguments 'casts doubt on the integrity of the judicial process,' and 'impairs the confidence of the public in the administration of justice,'" the Court found.[14]

There was nothing in the record to suggest the Idaho jurors were in fact racially prejudiced, or that they were in fact influenced by the reference to "Dixie." And the State's case "was a strong one." But the Court concluded that given the circumstances of the case (where no physical evidence corroborated the sensitive sexual allegations), "both the constitutional obligation to provide criminal defendants a fundamentally fair trial and the interest of maintaining public confidence in the integrity of judicial proceedings," outweighed a focus on the strength of the State's evidence. There was a reasonable possibility that the error affected the outcome of the trial, so the conviction was reversed and the case was remanded for a new trial.[15]

So what are the lessons to be learned here? Well, first, this is 2015, not 1860. It's way past the time to get used to a more diverse world and respect the sensitivities of all people. Second, there is such a thing as being too clever. Sometimes what one might think to be clever is, in actuality, just plain rude. From the perspective of trial strategy, closing argument is not the time to test the limits of good taste. ■

This article was originally published in the Kane County Bar Association's *Bar Briefs* April 2015 Diversity issue.

Since 1977, Paul J. Glaser has been an attorney with the Office of the State Appellate Defender in Elgin, where he has served as principal attorney in more than 965 cases, and appeared before all five Appellate Districts, the Illinois Supreme Court, the United States District Court, and the Seventh Circuit Court of Appeals. He is currently the Assistant Deputy Defender of the Elgin Office. He is also a member of the Bar Briefs Editorial Board and a member of the KCBA Criminal Law and Diversity Committees.

1. A prosecutor's improper closing argument can be found to be reversible error when it constituted a material factor in the conviction or resulted in substantial prejudice to the defendant. *People v. Lucas*, 132 Ill.2d 399, 437 (1989).
2. *People v. Caballero*, 126 Ill.2d 248, 272 (1989)
3. *People v. Johnson*, 119 Ill.2d 119, 139 (1987)
4. *People v. Nicholas*, 218 Ill.App.3d 104, 121-122 (2005)
5. *People v. Strange*, 125 Ill.App.3d 43, 46 (1st Dist. 1984)
6. *People v. Dukett*, 56 Ill.2d 432, 443 (1974); see also, *People v. Turner*, 52 Ill.App.3d 738 (4th Dist. 1977) (plain error when prosecutor said that a black witness was "going to have a good time watching two black girls beat up whitey"); and *People v. Johnson*, 114 Ill.2d 170, 199 (1986) (prosecutor's reference to defendant as "that black man" was "unnecessary and potentially offensive" but not reversible error).
7. *People v. Marshall*, 2013 IL App (5th) 110430 (it is noteworthy –and admirable– that the State filed a confession of error in the appeal)
8. *State v. Kirk*, 2014 WL 7201726 (Dec. 19, 2014), *2
9. 2014 WL 7201726, *2
10. A more complete telling of the history of the song "Dixie" than the author will attempt here can be found in *Tate v. Board of Education of the Jonesboro, Arkansas, Special School District,* 453 F.2d 975, 980-981 (8th Cir. 1972).
11. *Holt v. Roadway Package Sys., Inc.*, 506 F. Supp. 2d 194, 203 (W.D.N.Y. 2007)
12. 2014 WL 7201726, *3
13. 2014 WL 7201726, *3
14. 2014 WL 7201726, *5, quoting *Rose v. Mitchell*, 443 U.S. 545, 556 (1979)
15. 2014 WL 7201726, *6

Pioneers and prosecutor honored at the Hispanic Lawyers Association of Illinois Gala 2015

By Hon. Mark J. Lopez, Emily N. Masalski, and Spiridoula (Litza) Mavrothalasitis

On May 14, 2015, the Hispanic Lawyers Association of Illinois (HLAI) held its 2015 Spring Gala at Prairie Production in Chicago's West Loop neighborhood. The long-awaited event was a tremendous success for the organization, providing the perfect setting for new friends to be made and for old ones to reconnect, strengthen bonds, and reflect upon HLAI's past accomplishments and future challenges. The joyous event honored trailblazers within the Hispanic bar and judiciary, including pioneer attorneys Leo J. Aubel, Honorable David Cerda, and Honorable Saul Anthony Perdomo. HLAI also presented Cook County State's Attorney Mercedes Luque-Rosales with the Aguila Award.

Illinois Senate President John J. Cullerton provided the Keynote Address and highlighted his proposed Senate Bill 23, which will amend the Attorney Act to provide that no person shall be prohibited from receiving a law license solely because he or she is not a citizen of the United States. Senate President Cullerton, and Senators Antonio Munoz and Iris Y. Martinez are the Chief Co-Sponsors of this Bill. Currently, Illinois law prohibits non-citizens from being granted a professional license to practice law. If passed, this law would affect students who fall within the Deferred Action for Childhood Arrivals.

Honorable Mark J. Lopez shared the vibrant history of HLAI and introduced the HLAI Pioneers. Each of the honorees had a unique story about their pathway to the practice of law and vision for the future.

Pioneer Honoree: Leo J. Aubel

One of three Pioneer's honored was Leo

J. Aubel, a Chicago patent attorney for nearly 60 years, who was one of the founding members of the Mexican American Lawyer's Association, one of the HLAI's predecessor organizations. Aubel, who is 88 and a Navy veteran of WWII, could not be at the presentation. His son, attorney Leo G. Aubel, a partner at Howard & Howard in Chicago and a member of the HLAI, accepted the award on behalf of his father. The presenter, Judge Lopez, said that he had read some of the titles of the technically complex patent applications filed by Aubel, Sr. on his own behalf, as well as those of his business partners and clients, joking that he could not often pronounce them.

Aubel was born and raised in Alamogordo, New Mexico, where he was the valedictorian of his high school class. Later a graduate of the University of Nebraska, Rensselaer Polytechnic Institute, and New York Law School, his education was sometimes interrupted by his Naval service on the USS Allegheny and the USS Mellette. He was admitted to the New York Bar in 1956, after which he worked in-house at IBM, and was subsequently admitted to the Illinois Bar in 1963, and remained in private practice until his retirement in 2013, most recently with Wallenstein, Wagner, Hattis, Strampel & Aubel. In brief heartfelt remarks, his son noted Aubel's commitment to the highest legal, ethical and scientific standards and his devotion to his family.

Pioneer Honoree: Honorable David Cerda

Honorable David Cerda was the first Latino Illinois Appellate Court Justice to serve on the Appellate Court when he was assigned to the review court in 1982. He retired from the Judiciary in December 2002. He is a founding member of the Mexican American Lawyers Association, a member of the Illinois State Bar Association, the Chicago Bar Association, and also a member of the Illinois Judicial Council.

Justice Cerda was born on June 17, 1927 in Chicago, the oldest of two sons born to a father from Angamacutiro, Michoacán, and a mother from the State of Guanajuato in Mexico, who settled in Chicago in 1917. He was reared on the west side of Chicago at 1810 South Trumbull and graduated from Farragut High School in Lawndale in 1945. He then enlisted in the U.S. Navy at age 17, is a WWII Navy veteran—Seamen-1st class ('45-'46). After his honorable discharge, he received his college education on the G.I. Bill, earning a Business Administration degree from the University of Illinois in 1948. He then attended one year of law school at Universidad Nacional Autónoma de México in 1950. Thereafter he earned his law degree from DePaul University, College of Law in 1955. He was admitted to the Illinois Bar on November 29, 1955. Justice Cerda began his legal career with the firm of Panarese & Cerda. He was a solo practitioner in Chicago's South Chicago community at 9223 S. Commercial Ave., until he was appointed a Magistrate of the Circuit Court of Cook County in 1965. He was elected an Associate Judge in 1966 and elevated to Circuit Court Judge in 1971 by operation of law by virtue of Article XIV, Section 4 of the 1970 Illinois Constitution becoming the first Latino Circuit Court judge in Cook County and the State of Illinois.

Early in his career, together with Honoratus Lopez, Manuel Reyes and Mario Perez, he organized many chapters of the League of United Latin American Citizens (LULAC) throughout Illinois, Michigan, Iowa, Indiana and Wisconsin, encouraging Latino voter registration and raising scholarship funds for college bound Latinos. He has served as a role model and mentor to young Latino lawyers throughout his career and he continues to mentor in his retirement.

Pioneer Honoree: Honorable Saul Anthony Perdomo

Honorable Saul Anthony Perdomo was born in Havana, Cuba, on July 2, 1936. He was an only child who was raised in the tiny town of San Antonio de las Vegas in the Province of Havana. His parents were Cuban- born, but his maternal ancestors came from Corsica, Italy, and his paternal ancestors were Sephardic Jews from Turkey and the Canary Islands. His family emigrated to the U.S. in 1949 when the future judge was 13 years old. His father was a medical doctor and his mother a homemaker. His paternal grandfather, Octavio Perdomo, was a Judge in the Cuban Province of Villa Clara's capital of Santa Clara, located near the geographic center of the island. His family first settled in Miami where Perdomo attended Miami Edison High School before his family relocated to Tampa and he graduated from H.B. Plant High School. He attended one summer semester at DePaul University in Chicago before transferring to the University of Miami, Florida, where he earned a degree in Government Studies. He became a U.S. citizen in 1958 and served in the U.S. Air Force reserves from 1959 to 1964. He attended Cumberland School of Law at Samford University in Birmingham, Alabama, where he earned his law degree in 1962. He also attended one summer semester of law school at Northwestern University Law School. He gained admission to the Illinois Bar on November 15, 1962, and was admitted to the District of Columbia Bar in 1980.

He began his legal career as an Assistant States Attorney for Cook County, both at the trial and appellate levels ('64-'66) before beginning his solo career in private practice concentrating in criminal defense ('67-'79). He represented clients in both state and federal courts in Illinois, as well as federal cases in New York and Florida. While in private practice he also served as legal counsel for the 9th Congressional District Delegation and co-moderated the City of Chicago's investigation into the civil disorder occurring on the West Side in 1966. He also served as a delegate to the Democratic National Convention in 1972, 1974 and 1976. He was elected as an Associate Judge for the Circuit Court of Cook County in 1979 where he spent his entire judicial career in the Municipal division until his retirement in 1996. He was a member of the Latin American Bar Association, the Chicago Bar Association, and the American Bar Association where he served on the Criminal Law committee.

Aguila Award Honoree: Mercedes Luque-Rosales

Mercedes Luque-Rosales grew up in the Humboldt Park Community on the west side of Chicago and attended grammar school in the Chicago Public School system. In fact, many people are surprised to learn that Mercy, as everyone calls her, only spoke Spanish when she started school, and that English is her second language. At a young age, Luque-Rosales's parents taught her that education was the key to everything in life. Armed with this advice, Luque-Rosales worked hard and received a scholarship to attend Loyola University in Chicago. As a student she worked with Loyola's Upper Bound Program, helping to encourage inner city students to attend college. Due to her commitment to public service and social justice Luque-Rosales was awarded a Patricia Roberts Harris Fellowship to attend Creighton University School of Law in Omaha, Nebraska.

Upon her return to Chicago, Luque-Rosales continued her dedication to public service. A 25-year veteran of the Cook County State's Attorney's Office, she is currently a

Felony Trial Specialist at the Leighton Criminal Court's Building at 26th and California. In addition, Luque-Rosales has spent her entire career trying to improve the legal profession by making it more reflective of the Latino/a community at- large. She has accomplished this goal by being one of the founders of two bar associations--the Hispanic Lawyers Association of Illinois and the National Hispanic Prosecutors Association. Luque-Rosales was elected President of HLAI in 2005, the first prosecutor to be elected to lead the organization, and in 2011 was elected the National President of the National Hispanic Prosecutors Association. ■

Hon. Mark J. Lopez is an Associate Judge in the Circuit Court of Cook County. Pioneer Honoree biographies are included herein with his permission. Unpublished work © 2015 Mark J. Lopez.

Emily N. Masalski is Counsel at Rooney Rippie & Ratnaswamy LLP (R3) and a member of the firm's environmental and natural resources, health and safety, and litigation practice groups. Emily can be reached at emily.masalski@r3law.com.

Spiridoula (Litza) Mavrothalasitis is an Assistant Inspector General with the Office of Executive Inspector General for the Agencies of the Illinois Governor. She is the current President of the Hispanic Lawyers Association of Illinois and can be reached at president@hlai.org.

For additional information about HLAI's Immigration and Legislative Committees, visit www.hlai.org.

Sonni Choi Williams: 2015 ISBA Diversity Leadership Award recipient

At the ISBA Awards Luncheon on June 19, 2015, Sonni Choi Williams, Deputy Corporation Counsel for the City of Peoria, will be awarded the 2015 ISBA Diversity Leadership Award. This is not the first time that Sonni Williams has been recognized for her service and contribution to the Illinois legal community. In 2010, she was awarded the ISBA Board of Governors Award that recognizes lawyers for exemplary service to the profession and the ISBA.

When presenting her with the 2010 Board of Governors Award, then-ISBA President John G. O'Brien noted that Sonni Williams was the former chair of the ISBA Standing Committee on Racial and Ethnic Minorities and the Law, a member of the Commission on Professionalism, a member of the ISBA Assembly, and a leading organizer of the highly respected Peoria County Bar Association's Diversity Luncheon.

From the beginning of her legal career and active participation in the ISBA since 1999, Sonni Williams has devoted her passion and commitment to pushing for diversity in the legal profession. Her work on the Peoria County Bar Association's Diversity Committee has continued beyond her years of chairing the Committee from 2005 through 2007, and she has been instrumental in garnering a number of keynote speakers for the annual Diversity Luncheon including Honorable Diane Wood from the 7th Circuit Court of Appeals; Honorable Lisa Holder White from the 4th District Appellate Court; and NIU College of Law Dean Jennifer Rosato-Perea, just to name a few.

Sonni Williams not only talks the talk, but also walks the walk when it comes to promoting diversity. She has mentored a number of

Sonni Choi Williams

minority students whom she has supervised through her office's internship and has assisted many of them obtain scholarships with the support from her letters of recommendation. In addition to being the top sponsor for the PCBA Diversity Scholarship since inception, her dedication and work on promoting diversity are encompassed in the following list of initiatives and services:

- Current member of the Supreme Court Commission on Professionalism since 2006 and its newly formed Diversity Committee.
- Current member of the Peoria County Bar Association's Diversity Committee since 2004, past chair: 2005-2007.
- ISBA Diversity Leadership Council, 2009-2011.
- ISBA Task Force on Diversity, 2007-2008.
- Past chair, ISBA Standing Committee on Racial and Ethnic Minorities and the Law, 2009-2010.
- Past member of the City of Peoria Race Relations Commission, 2008.
- Past chair, PCBA Standing Committee on Mentoring, 2012-2013.
- Co-chair for the PCBA professionalism seminar, "Expand Your Awareness and Improve Your Business" on diversity sensitivity awareness, 2013.
- Facilitator for the PCBA professionalism seminar on "Raising the Bar Through Diversity" in 2010.
- Coordinator and co-presenter for the ISBA program, "Seek Power! A Law Student's Guide to Authentic Self Promotion" in 2010.
- Presenter before the Winnebago County Bar Association on "Diversity Issues Facing the Legal Profession Today" in 2009.
- Facilitator for the PCBA seminar, "Professionalism in Your Diverse Office: Fostering the Good Start" in 2009.
- Presenter for the PCBA ethics seminar, "Maximizing Marketability Through Diversity" in 2007.
- Coordinator and co-presenter for the ISBA program, "Changing the Face of the ISBA: Tips on Running for Offices in the ISBA" in 2007.

Sonni Williams has also authored articles on diversity issues including "The Commitment to Diversity Should Be a Badge Worn Every Day"[1] and "Square Peg in a Round World,"[2] highlighting her insightful views of the importance of diversity in the legal pro-

fession. She credits Alice Noble-Allgire and E. Lynn Grayson,[3] the co-chairs of the ISBA Task Force on Diversity, for laying the groundwork on establishing the ISBA Diversity Leadership Council and Annmarie Kill[4] for laying the foundation for the Diversity Fellows program to identify diverse future ISBA leaders and provide them with the opportunity to learn about the ISBA through mentorship and immersion.

Sonni Williams's dedication to the legal profession not only includes diversity initiatives, but she serves various roles in the following committees: ARDC Hearing Board, chair member (2012-present); ISBA Board of Governor for Area 4; ISBA Assembly member for the 10th Judicial Circuit (2003-2009); ISBA Committee on Judicial Evaluation-Outside Cook County; Illinois Bar Foundation Gold Fellow; PCBA's Young Lawyer's Committee, past chair (2003); and Master Member of the Abraham Lincoln Inns of Court. She has been awarded the 2006 Young Alumnus of the Year Award by NIU College of Law Alumni Council and the 2008 Annual Achievement Award by the Illinois Local Lawyers Association. During her career with the Office of the Corporation Counsel for the City of Peoria, she has submitted briefs and argued before the 7th Circuit Court of Appeals, the 3rd District Appellate Court and the Illinois Supreme Court.

Her service to the community includes serving eight years on the governing Board and three years on the Foundation Board for EP!C, f/k/a Parc, whose mission is to enrich the lives of children and adults with developmental disabilities. Currently, she serves on the Board for Peoria Friendship House of Christian Services that provides relief, respect and renewal to Peoria's most vulnerable individuals and families. In addition, Ms. Williams has shared her story of being a poor immigrant overcoming obstacles to obtain the "American Dream" at swearing-in ceremonies for new citizens. Ms. Williams is a member of Kiwanis Club of Peoria; Rotary Club of Peoria-North; and League of Women Voters of Greater Peoria.

As stated by Jennifer Wolfe, who nominated her for the ISBA Diversity Leadership Award, "You can tell from the significant contributions listed above, Sonni does more than just consider diversity important, she is a successful leader and advocate at convincing others that diversity is an important and worthy cause."■

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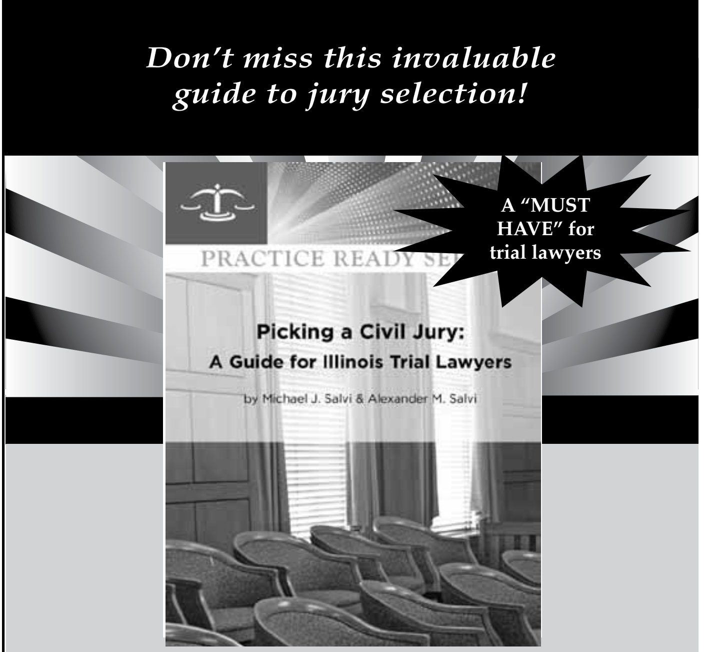
1. *The Challenge*, a newsletter of the ISBA's Standing Committee on Racial and Ethnic Minorities and the Law, November 2009, vol. 20, no. 1.
2. *Diversity Matters*, the newsletter of the ISBA's Diversity Leadership Council, June 2008, vol. 2, no. 1.
3. 2012 Diversity Leadership Award recipient.
4. 2014 Diversity Leadership Award recipient.



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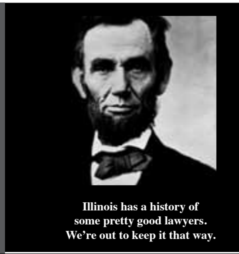

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Thursday, 7/9/15- Teleseminar—Settlement Agreements in Litigation- LIVE REPLAY. Presented by the ISBA. 12-1.

Thursday, 7/9/15- Webinar—Advanced Tips for Enhanced Legal Research on Fastcase. Presented by the Illinois State Bar Association – Complimentary to ISBA Members Only. 3-4 pm.

Tuesday, 7/14/15- Teleseminar—Tax Planning for Real Estate, Part 1. Presented by the ISBA. 12-1.

Tuesday, 7/14/15- Webinar—Fastcase Boolean (Keyword) Search for Lawyers. Presented by the Illinois State Bar Association – Complimentary to ISBA Members Only. 3-4 pm.

Wednesday, 7/15/15- Teleseminar—Tax Planning for Real Estate, Part 2. Presented by the ISBA. 12-1.

Tuesday, 7/21/15- Teleseminar—Restrictive & Protective Covenants in Real Estate. Presented by the ISBA. 12-1.

Wednesday, 7/22/15- Teleseminar—Fiduciary Duties & Liability of Nonprofit/Exempt Organization Directors and Officers. Presented by the ISBA. 12-1.

Thursday, 7/23/15- Teleseminar—Ethics and Digital Communications- LIVE REPLAY. Presented by the ISBA. 12-1.

Friday, 7/24/15- Teleseminar—Estate Planning for Farms and Ranches- LIVE REPLAY. Presented by the ISBA. 12-1.

Tuesday, 7/28/15- Teleseminar—Business Planning with S Corps, Part 1. Presented by the ISBA. 12-1.

Wednesday, 7/29/15- Teleseminar—Business Planning with S Corps, Part 2. Presented by the ISBA. 12-1.

Thursday, 7/30/15- Teleseminar—Eminent Domain, Part 1- LIVE REPLAY. Presented by the ISBA. 12-1.

Friday, 7/31/15- Teleseminar—Eminent Domain, Part 2- LIVE REPLAY. Presented by the ISBA. 12-1.

August

Tuesday, 8/4/15- Teleseminar—Construction Agreements, Part 1. Presented by the ISBA. 12-1.

Tuesday, 8/4/15- Webinar—Introduction to Legal Research on Fastcase. Presented by the Illinois State Bar Association – Complimentary to ISBA Members Only. 11-12.

Wednesday, 8/5/15- Teleseminar—Construction Agreements, Part 2. Presented by the ISBA. 12-1.

Thursday, 8/6/15- Webinar—Advanced Tips for Enhanced Legal Research on Fastcase. Presented by the Illinois State Bar Association – Complimentary to ISBA Members Only. 11-12 pm.

Tuesday, 8/11/15- Teleseminar—Estate Planning with Annuities & Financial Products. Presented by the ISBA. 12-1.

Tuesday, 8/11/15- Webinar—Fastcase Boolean (Keyword) Search for Lawyers. Presented by the Illinois State Bar Association – Complimentary to ISBA Members Only. 11-12 pm.

Thursday, 8/13/15- Teleseminar—2015 in Age Discrimination Update. Presented by the ISBA. 12-1.

Friday, 8/14/15- Teleseminar—Ethical Issues in Buying, Selling, or Transferring a Law Practice. Presented by the ISBA. 12-1.

Tuesday, 8/18/15- Teleseminar—Business Divorce: When Business Partners Part Ways, Part 1. Presented by the ISBA. 12-1.

Wednesday, 8/19/15- Teleseminar—Business Divorce: When Business Partners Part Ways, Part 2. Presented by the ISBA. 12-1.

Thursday, 8/20/15- Teleseminar—Easements in Real Estate. Presented by the ISBA. 12-1.

Monday, 8/24/15- Teleseminar—Like-Kind Exchanges of Business Interests- LIVE REPLAY. Presented by the ISBA. 12-1.

Tuesday, 8/25/15- Teleseminar—Estate Planning for Guardianship and Conservatorships. Presented by the ISBA. 12-1.

September

Tuesday, 9/1/15- Teleseminar—Estate & Trust Planning With the New 3.8% on Income. Presented by the ISBA. 12-1.

Wednesday, 9/2/15- Teleseminar—Drafting Service Agreements in Business. Presented by the ISBA. 12-1.

Thursday, 9/3/2015- CRO and LIVE WEBCAST—The Basics of LLC Operating Agreements. Presented by the ISBA Business and Securities Section. 1:00-4:45 pm.

Thursday, 9/3/15- Teleseminar—Drafting Effective Employee Handbooks- LIVE REPLAY. Presented by the ISBA. 12-1.

Friday, 9/4/15- Teleseminar—Rights of First Refusal/Rights of First Offer in Transactions. Presented by the ISBA. 12-1. ■