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TRIAL BRIEFS

The newsletter of the Illinois State Bar Association's Section on Civil Practice & Procedure

Thornton, known for emotional distress, is notable for the Single Recovery Rule and set offs

By John B. Kincaid

Thornton v. Garcini, (2009 WL 3471065) was decided by the Illinois Supreme Court in a concise compact opinion authored by Justice Kilbride on October 29, 2009. The case raises issues unique to the civil practice arena as well as the medical negligence forum. As of the preparation of these remarks, the opinion remains subject to revision or withdrawal.

Factually, Toni Thornton, while expecting childbirth on August 28, 2000, endured a grueling, painful episode due to the failure of Dr. Garcini to attend to his patient in a timely manner. This obstetrician was made aware by telephone that the child was partially born prematurely in a breech position at (24) weeks. During the birth attended only by the nursing staff of Silver Cross Hospital, the baby's head became stuck in the mother's vagina with the remainder of the body outside the body. The doctor was informed of the mother's contractions at 6:35 a.m. and the baby's breech partial delivery took place (35) minutes later. Dr. Garcini had instructed the nurses by phone not to deliver the infant unless it could be done easily due to the risk of decapitation. The doctor arrived at the hospital one hour and (10) minutes after the child's death. The hospital was saddled with a $175,000 verdict for intentional infliction of emotional distress which Silver Cross paid pursuant to a settlement of *all* causes of action. As to Dr. Garcini, the first jury returned a

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eDiscovery issues: Possession, custody or control in the electronic age

By Scott A. Carlson, eDiscovery Practice Group, Seyfarth Shaw LLP and Jay C. Carle, eDiscovery Practice Group, Seyfarth Shaw LLP

This is another article in a series about electronic discovery or "eDiscovery." In this article we will discuss some of the issues that arise when one overlays the general standard of "possession, custody or control" on electronically stored information ("ESI").

Courts across the country have almost universally held that information within the "possession, custody or control" of a party must be produced in discovery if the party has actual possession, custody or control.[1] Importantly, the terms "possession," "custody," or "control" are examined in the disjunctive, and thus *only one* of these requirements need be met.[2] However, many court decisions, including Illinois decisions, are not clear about these disjunctive requirements and routinely mix together all three concepts. In that regard, many opinions use the term "possession, custody *and* control" when in fact any one of the three will be sufficient to trigger the test.

"Possession" and "custody" are simple enough

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defense verdict on an *intentional* infliction of emotional distress count and for wrongful death of the infant. The Third District Appellate Court, at the plaintiff's instance, reversed that judgment and remanded the case for a new trial. 364 Ill.App.3d 612, 846 N.E.2d 989.

The plaintiff thereafter amended her Complaint to add a count for *negligent* infliction of emotional distress and following emotional testimony by the mother that she endured the child's trapped neck for over an hour, the second jury awarded her $700,000 in damages on this count only but found for the obstetrician on wrongful death and survival counts. The count for *intentional* infliction of emotional distress was never resubmitted to the second jury.

Defendant's second appeal raised three (3) arguments: (1) Plaintiff has offered *no* expert testimony in support of the emotional distress count; (2) Based on the Silver Cross payment of $175,000 for the emotional distress count, the "Single Recovery Rule" prohibited a double recovery; and (3) Dr. Garcini should be granted a $175,000 setoff for the Silver Cross settlement. The Third District afforded Dr. Garcini no relief in the second appeal (382 Ill.App.3d 813), but the Supreme Court granted leave to appeal.

This case has received major commentary from the trial bar, so we shall make every effort to avoid repetition. Suffice to say the Supreme Court held that expert testimony was *unnecessary* to establish emotional distress. In doing so, the Court found it necessary to distinguish *Corgan v. Muehling*, 143 Ill.2d 296, 574 N.E.2d 602, 604 (1991) and overrule parts of *Hiscott v. Peters*, 324 Ill.App.3d 114, 754 N.E.2d 839, 850 (2nd Dist., 2001). *Corgan* held that a psychotherapist could be found responsible for a patient's emotional distress following consensual sex without evidence of physical symptoms. Justice Heiple dissented describing the plaintiff's theory as a shakedown.

Hiscott facts led the Second District Appellate Court to conclude that since plaintiff had failed to offer any proof of emotional distress by an expert, plaintiff could not prevail, although the Court acknowledged that the "negligent affliction" count was viable to a direct victim of a trauma as declared by *Corgan*. The *Hiscott* court took the *obiter dicta* of *Corgan,* which stated that "witnesses such as psychiatrists and psychologists were fully capable of giving the jury an analysis of emotional injuries," as a mandate.

After clarifying *Corgan* and overruling portions of *Hiscott*, this opinion anchors its precedent on *People v. Hudson*, 228 Ill.2d 181, 886 N.E.2d 964 (2008) where a 16-year-old victim of a home invasion was permitted to prevail on lay testimony to establish psychological harm. In the end, the *Thornton* decision holds that based on personal experience alone, a plaintiff can establish the necessary proof to sustain a verdict for emotional distress.

Interestingly, the Court also cited with approval the 1961 case of *Knierin v. I330*, 22 Ill.2d 73, 174 N.E.2d 157, finding physical symptoms unnecessary to establish emotional distress (Mrs. Knierin experienced the defendant's threat to kill her husband and the fulfillment thereof. That plaintiff stated a cause of action for an intentional infliction theory without reference to expert testimony).

In a related argument, Dr. Garcini's counsel complained that the lack of causal connection proof precluded recovery because the jury could have concluded that the mother's emotional distress resulted from the death of the infant. The Court rejected this ancillary argument finding that the jury

could have found her distress was due solely to the defendant's delay in delivery as opposed to the child's loss. The Court did not discuss the requirement in a medical negligence case where expert testimony is necessary to establish standard of care, breach and proximate cause. *Borowski v. Von Solbrig*, 60 Ill.2d 418, 328 N.E.2d 301 (1975); *Johnson v. University Medical Center*, 384 Ill.App.3d 115, 893 N.E.2d 267 (1st Dist., 2008). The Appellate Court opinion pointed out that an emotional distress claim is pure general negligence (888 N.E.2d 1221).

As to the procedural issues more central to this Section Council's interest, the defendant sought relief on the theory that since the plaintiff only suffered a single emotional distress injury and having accepted full compensation for that element from Silver Cross Hospital ($175,000), the Single Recovery Rule prohibited this mother from seeking a second recovery.

The Court found support for the Single Recovery Rule in *Saichek v. Lupa*, 204 Ill.2d 127, 787 N.E.2d 827 (2003), but reasoned that this defendant failed to preserve this issue for review by raising it for the first time in his post-trial motion. Since the basics for application of the Rule arose at the conclusion of the first trial, it was incumbent upon Dr. Garcini to raise the argument by (1) affirmative defense, (2) motion *in limine*, (3) motion for directed verdict or (4) during jury instruction conference, citing *Mid-America v. Charter One*, 232 Ill.2d 560, 905 N.E.2d 839 (2009). Because the defendant failed to establish that the $175,000 payment was attributable to the emotional distress count only, the rule does not apply. See Appellate Court opinion at 888 N.E.2d at 1223.

In dealing with the setoff argument, the Court held that the physician forfeited his right to a credit by waiting to raise the issue until filing his post-trial motion. The Court construed the Code provision of Section 2-608 permitting the filing of a cross-claim for setoff as being more than permissive. The Court again quoted from *Mid-America Bank*, *supra*, holding that a party cannot be afforded relief without a corresponding pleading because a plaintiff must have notice and an opportunity to defend against the claim (232 Ill.2d at 574).

A question then arises procedurally, when must a setoff be pleaded? Every trial lawyer knows that a co-defendant may not purchase his peace until the jury files out to deliberate. If the remaining defendant is not aware of the settlement, how can he be held to the standard of raising it in a pleading? The timely initiation of a setoff is scary stuff for the lawyer trying to wind up the case with a cogent closing argument and being required to think that a pleading is required to be filed before it's too late. The question seems to be more fitting to sort out in a post-trial motion where the Court can logically apportion the setoff. Furthermore, what does the plaintiff need to defend against since she was the recipient of this cash settlement from the co-defendant and presumably knows most about the details?

For cases discussing setoff timing due to settlement by co-defendants, see *Decker v. St. Mary's Hospital*, 266 Ill.App.3d 523, 639 N.E.2d 1003 (5th Dist., 1994) (setoff best raised at good-faith hearing before final judgment). In *Star Charters v. Figueroa*, 192 Ill.2d 47, 733 N.E.2d 1282 (2000), Justice Heiple found that motion for setoff based on setting co-defendants may be filed after the (30) day post-trial motion requirement.

Conclusion

The Plaintiff's bar need not go to the expense of an expert in a meritorious negligent infliction of emotional distress case. The Defense bar needs to be timely in asserting the single recovery and setoff defenses. ■

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eDiscovery issues: Possession, custody or control in the electronic age

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terms. One generally possesses or has custody of something if they "have it," whether or not they own it. Where the party is in actual "possession" or "custody" of the requested information, the obligation is fairly straightforward – the party will likely be obligated to preserve and produce the information subject to relevancy, burden and protectable interests, such as privacy of information. This includes, for example, not only ESI owned by the party in its possession, but also ESI that belongs to someone else, such as a client or customer, that is within the party's custody.

The more difficult issues arise when looking at "control." "Control" is broadly construed to include *not only* the possession of information, but also the "legal right" to obtain information upon demand. The legal right to obtain the information can arise from contract or any other device granting a legal entitlement to information. For example, statutory obligations may also provide evidence that a party has control of information, such as where a party had an obligation to produce information maintained by its third-party benefits administrator pursuant to certain record keeping obligations under the ERISA statute.[3] Similarly, a party may be required to produce documents not in his possession where the party has a statutory right to obtain the documents, such as tax records.[4]

In interpreting the "control" element, some courts have expanded "control" beyond a legal right to obtain information to require "production of documents not in a party's possession…if a party has the *practical ability* to obtain the documents from another, irrespective of legal entitlements to the documents."[5] This broader standard enables a party seeking discovery to require production of information beyond the actual possession or custody of a party if such party has retained "any right or ability to influence the person in whose possession the documents lie."[6] Importantly, the Seventh Circuit has rejected the practical ability test; a legal right to obtain the information is required.[7]

Some courts and commentators have attempted to articulate a number of "control" factors, including: (1) who had access to the materials were employed and how they were used; (2) whether the materials were generated, acquired, or maintained with the party's assets or the party; (3) the extent to which the materials serve the party's or non-party's interests; (4) any formal or informal evidence of a transfer of ownership or title; (5) the ability of the party to the action to obtain the documents when it wants them.[8] Courts do not assign any particular weight to any one factor, but rather consider whether there is on balance a sufficiently close connection to justify a finding of control.

The electronic age puts the concept of "possession, custody or control" to the test in a variety of ways. In the case of an individual, if "Bob" stores his information on his personal computer and on his own hard drive, the issues are only slightly more complicated than they would have been in the days when discovery focused on paper productions and the issue of "possession, custody or control" will likely never arise.[9] With increasing regularity, however, information is no longer stored on the individual computer workstation that is actually owned by the individual party. For example, when Bob becomes a party to a lawsuit, he may have relevant information in his personal e-mail account (often maintained by an internet service provider such as Gmail); his social networking pages (maintained by another internet provider such as Facebook); and his word processing and other documents (potentially stored "in the Cloud" such as Google Docs). Some of this information may be maintained in old or closed accounts that Bob no longer accesses regularly or for which he no longer remembers the passwords. In these examples, both

Bob and the Internet service provider are likely in "possession, custody or control" of the information. Bob may have control insofar as he "owns" and has access to the information and the internet service provider has possession of the information.

As suggested above, the most common and most sought after ESI for individuals today is probably e-mail, which is often accessed from home computers and smart phones whether at the local library or a coffee shop. Many civil litigants, in the belief that their opponent may have relevant e-mail, will seek the e-mail from the internet service provider (e.g. Gmail, Yahoo!, etc.) by issuing a civil subpoena to that provider. In this instance, while the information may be in the "possession, custody or control" of the internet service provider various federal statutes will come into play, such as the Stored Communications Act[10] and the Electronic Communications Privacy Act,[11] which make it improper to utilize a civil subpoena to obtain the "content" of e-mail. Instead, a party must seek to obtain that information directly from the other party by either: (1) obtaining the party's "consent" to obtain the e-mail from the service provider; or (2) utilizing that party's "control" over the e-mail and to produce it as responsive to a discovery request.

Even where statutory requirements may not prohibit a third-party service provider from responding to a civil subpoena, non-parties who are in "possession, custody or control" of other person's electronically stored information often raise legitimate objections. The burdens and costs on a third party of preserving and producing electronically stored information can be significant. Also, third parties will rightly claim that they have no interest in the outcome of the litigation and the request is best served on Bob who is a party to the case.

In the corporate context, similar issues arise. Corporations and other organizations routinely use third-party providers to process retirement accounts and to manage their payroll, benefits, and human resources information. In each of those instances there are often two entities that are in the "possession, custody or control" of the ESI – the company itself and the third-party service provider, which will have similar objections as those noted above.

Yet another issue that arises is where an organization is a party to a case and the possibility is raised that a former employee may have retained electronic information that is relevant to the matter. At first blush it would seem apparent that company information held by a "former employee" is outside of the company's "possession, custody or control," and many judges have appropriately stopped the analysis there. However, some courts have pushed beyond a straightforward application of "possession, custody or control" and have required at least some inquiry and investigation to determine whether former employees have responsive relevant information. For example, one court has recognized that "[u]nder some circumstances, a court could determine that an employer has control over documents maintained by a former employee," suggesting that an employer may have "control" over information in the possession of a former employee if that individual is still receiving economic benefits from the employer.[12] Furthermore, insofar as the employer owns the information in the former employee's possession, the employer can be said to have a legal right to the information and thus be found in "control" of the information. As with most discovery issues, the factual circumstances surrounding the particular case will guide the court's analysis.

While these few examples are by no means all the issues that arise in the electronic age, it does reinforce that the technical aspects of how and where electronically stored information may be located raises novel issues that have not yet been litigated. For example, it is not clear whether one who can "access" their company's data for work purposes is in "possession, custody or control" of the employer's information if they are served with a personal subpoena. Additionally, issues may arise where one has encrypted data in their possession but does not have the password or the encryption key gain access to the information contained within. Alternatively, a party may have possession or control of data but not have access to the application or program to give that data meaning. Cases to date have simply not addressed these complexities brought about by the technical aspects of electronically stored information and parties litigating these issues must understand the technical as well as the legal aspects of the electronically stored information they seek to obtain. ■

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1. *Petrik v. Monarch Printing Corp*, 150 Ill App 3d 248, 258 (1982).

2. *Central Nat Bank in Chicago v. Baime*, 112 Ill App 3d 664, 669 (1982) ("A party may be required to produce documents which are in the possession of third parties, where he has custody or control of those documents.").

3. *Tomlinson v. El Paso Corp,* 245 FRD 474, 476-77 (D Colo 2007).

4. *Hawkins v. Wiggins,* 92 Ill App 3d 278, 282 (1980).

5. *Goodman v. Praxair Svcs*, 632 F Supp 2d 494, 515 (D Md 2009) (emphasis added).

6. *Tomlinson*, 245 FRD at 477.

7. *Chaveriat v. Williams Pipe Line Co*, 11 F3d 1420, 1427 (7th Cir 1993) ("[T]he fact that a party could obtain a document if it tried hard enough… does not mean that the document is in its possession, custody, or control.").

8. *Ice Corp v. Hamiltion Sundstrand Corp*, 245 FRD 513, 518 (D Kan 2007), citing Moore's Federal Practice and Procedure § 15.16 (2007); *New York v. AMTRAK,* 233 FRD 259, 268 (NDNY 2006); 7-34 Moore's Federal Practice - Civil § 34.1 (Matthew Bender 3d ed.)

9. We say only "slightly more complicated" because electronically stored information does raise certain issues including but not limited to the form of production, the method by which one searches for information and the potential importance of associated metadata.

10. 18 USC § 2701 et seq (2006).

11. 18 USC § 2510 et seq (2006).

12. *Cache La Poudre Feeds, LLC v. Land O' Lakes, Inc,* 244 FRD 214 (D Colo 2007).

Decisions illustrate difficulties of slip and fall cases

By Robert T. Park; Snyder, Park & Nelson, P.C.; Rock Island, IL

Two recent decisions illustrate the requirements and attendant difficulties of successfully prosecuting a plaintiff's personal injury claim arising from a slip and fall accident in Illinois.

In *Reid v. Kohl's Department Stores, Inc.*, 545 F.3d 479 (7th Cir. 2008), Lenora Reid was shopping for men's dress shirts when she slipped and fell on a milkshake spilled on the floor of the defendant's store. She filed suit in circuit court, but the defendant removed the case to federal court based on diversity jurisdiction. Applying Illinois law, Judge Zagel granted defendant's motion for summary judgment.

The Seventh Circuit Court of Appeals affirmed. Although businesses have a duty to maintain their premises in a reasonably safe condition and avoid injuring their invitees, liability for falling on a foreign substance is imposed only if plaintiff can show that the business had actual or constructive knowledge of the dangerous condition that caused the fall. 545 F.3d at 481.

The evidence, including the testimony of Ms. Reid and the store manager, failed to indicate with any certainty how long the milkshake had been on the floor or the consistency of the shake when dropped. There was no expert testimony "on the dynamics of melting objects or the viscosity of milk-based frozen beverages." 545 F.3d at 482. The store manager testified that she had inspected the area no more than ten minutes before the fall and had seen nothing on the floor. This set the outside limit for the length of time the shake had been present before plaintiff's fall. *Id.*

The court ruled that no reasonable person could find ten minutes was enough time to give the defendant constructive notice of the spilled substance. While there is no bright line time limit, there were few customers the store. If customer traffic were heavy, the burden would have been on the defendant "to provide frequent and careful patrolling." 545 F.3d at 482, citing *Peterson v. Wal-Mart Stores, Inc.,* 241 F.3d 603, 604-05 (C.D. IL 2001). The court also relied on *Hresil v. Sears, Roebuck & Co.,* 82 Ill.App.3d 1000, 1002, 38 Ill.Dec. 447, 449, 403 N.E.2d 678, 686 (1st Dist. 1980), which held ten minutes is insufficient time to establish constructive notice in a self-service store.

Because plaintiff failed to show constructive notice of the dangerous condition, the grant of summary judgment to defendant was proper.[1]

The second, more recent case is *Strutz v. Vicere,* 2009 WL 1175107 (1st Dist. April 29, 2009). Henriette Strutz sued for the wrongful death of her husband, who slipped and fell on defendants' staircase. The Cook County Circuit Court[2] entered summary judgment, which the appellate court upheld.

The Strutzes lived in a two-flat owned by defendants. On the day in question, Henriette went to look for her husband and found him at the bottom of the back stairs. He told her he had fallen over the railing. He advised the responding paramedics that he was taking out the garbage, walking backwards, slipped and fell down the stairs. Mr. Strutz sustained multiple spinal fractures, became paralyzed and died three weeks later.

Plaintiff sued the defendants, claiming that the indoor common stairway and its railing violated the Chicago building code. Defendants asserted a contributory negligence defense and, after depositions had been taken, they filed a motion for summary judgment, which was granted.

The appellate court noted that there were no eyewitnesses to the fall and that plaintiff attempted to prove her case through expert testimony. Decedent's doctor testified that his injuries were consistent with a headfirst fall. An architect's affidavit asserted that, in addition to violating the building code, the stairs were dangerous because the treads were too small, which made the stairs excessively steep, the risers' height and tread widths were inadequate and uneven, the staircase was inadequately lit, the handrail was too low and uneven, and there was no railing on the wall side of the stairs.

Defendants testified that they were unaware of any problem with the stairs and had never had any complaints about them or any occasion to change or repair them before decedent's fall. There was also testimony that decedent had a problem with the circulation in his legs and would sometimes walk backwards on the stairs.

The court noted that none of the affidavits addressed the issue of what caused the decedent's fall. Even if the stairs were dangerous, this was insufficient to show a causal connection between defendants' alleged negligence and decedent's fall. Assuming the decedent's statement that he had fallen over the railing was admissible as an excited utterance, there were still no evidentiary facts on causation.

The court also rejected plaintiff's claim that there was a genuine issue of fact because evidence showing Mr. Strutz was a man of careful habits raised the presumption of due care. Plaintiff asserted this established he was exercising care for his own safety at the time he fell. While this presumption might be admissible to rebut a claim of contributory negligence, it failed to provide the necessary proof of proximate cause. Thus, the appellate court affirmed summary judgment for defendants.

The *Reid* and *Strutz* cases illustrate that, for plaintiff to succeed in a slip and fall case, that there must be affirmative evidence to show the fall was proximately caused by a dangerous condition of the premises and that the defendant had either actual or constructive knowledge of that dangerous condition. Absent either of those necessary elements, the court is likely to summarily dismiss plaintiff's case long before trial. ■

1. See also *Richardson v. Bond Drug Co. of Illinois*, 387 Ill.App.3d 881, 327 Ill.Dec. 240,901 N.E.2d 973 (1st Dist. 2009), where summary judgment for the defense was upheld because plaintiff failed to show the defendant store had constructive notice of a dangerous condition that caused him to slip and fall.

2. The presiding circuit judge was Elizabeth Budzinski, a former member of the Civil Practice and Procedure Section Council.

Supreme Court Rule update: "You've got mail"

By Hon. Barbara Crowder

The U.S. Postal Service has apparently lost business since the days it was touted as an efficient, successful, authoritative branch of government in *Miracle on 34th Street*. The Illinois Supreme Court has now amended Supreme Court Rules 11, 12, 361, 267, 373, 381 and 383 in recognition of the popularity and efficiency of third-party commercial carriers. Attorneys will no longer run afoul of the rules by accidentally using a commercial carrier over the Postal Service when filing documents with courts or applying the mailbox rule to deadlines. In addition to enlarging the services counsel can use, the Supreme Court also has improved the gender neutrality of the language in the Rules.

According to Supreme Court Rule 11, entitled "Manner of Serving Papers Other Than Process and Complaint on Parties Not in Default in the Trial and Reviewing Courts," the big change is the allowance of delivery by commercial carriers. It states that papers are served…:

> (4) by delivering them to a third-party commercial carrier--including deposit in the carrier's pick-up box or drop off with the carrier's designated contractor—enclosed in a package, plainly addressed to the attorney's business address, or to the party at the party's business address or residence, with the delivery charge fully prepaid;

The changes in the Rule also convert the outdated use of "his" clerk or "his" residence to *the attorney's* clerk or *the party's* residence.

In the remaining rules, such as Rule 12 that deals with proof of service, the change is reflected by adding the option after the word mail to add "or by delivery to a third-party commercial carrier." Perhaps a further reflection on the efficiency of the Postal Service, the effective date of service by mail is four days after mailing but is the third business day after delivery of the package to any third-party carrier. (Supreme Court Rule 12 (d)).

Rule 361 also now allows motions in the reviewing courts to be transmitted by third-party commercial carrier. There is no distinction between the times a response to a motion must be filed. The response is due within 10 days after a motion was sent by regular mail or "10 days after delivery to a third-party commercial carrier if service is by delivery to a third-party commercial carrier…" (Supreme Court Rule 361(b) (2).

According to Rule 367, petitions for rehearing may be delivered by third-party commercial carrier now or counsel may continue to use first class mail. Rule 373 still maintains that the time of filings in the reviewing courts is the date the documents are actually received unless they time is after the due date. If the documents are late, then the clerk uses the time of mailing with the Postal Service or *the time of delivery to a third-party commercial carrier for delivery to the clerk within three business days*. Counsel must provide a proof of mailing or proof of delivery to the third party commercial carrier.

Actions filed in the Supreme Court as original actions (Rule 381) or motions for supervisory orders (Rule 383) may also be transmitted via third-party commercial carrier instead of regular mail. Either method of transmittal gives 14 days after regular mail or after delivery to a third-party commercial carrier for opposing parties to respond.

Thanks to the Supreme Court's amended rules, attorney will not suffer an adverse outcome for failure to use the US mail as occurred *Baca v. Trejo, 388 Ill.App.3d 193, 327 Ill.Dec. 722 (2d dist. 2009)*. There, defendant filed a motion to vacate more than 30 days after entry of a default judgment. Defendant tried arguing that he sent the document via UPS and that giving it to UPS was the same as having it delivered by the U.S. Postal Service. The Court stated: "Although we agree that the motion would have been timely had defendant consigned it to the United States mail on the thirtieth day after the judgment, such a mailbox rule does not apply to consignment of a motion to a private carrier." 388 Ill.App.3d at 195. The court ruled the motion was untimely.

With these amendments, the Supreme Court now allows parties and counsel to choose the U.S. Postal Service, FedEx, UPS, or any other third-party commercial carrier. These amendments may be considered to reflect the miracle of modern delivery services and technology. The new Supreme Court rules do not go so far as allowing delivery via magic sleighs and flying reindeer, however. Counsel may choose to believe in that method for delivery of toys and other parcels; just avoid sending legal documents to other attorneys or courts with Kris Kringle unless he becomes licensed as a third-party commercial carrier! ■

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Thursday, 4/8/10- Webcast—Durable Powers of Attorney. Presented by the ISBA. <https://isba.fastcle.com/store/seminar/seminar.php?seminar=3564>. 12-1.

Thursday, 4/8/10- Springfield, INB Building 307 E. Jackson—Key Issues in Local Government Law: A Look at FOIA, OMA, Elections and Attorney Conflicts. Presented by the ISBA Government Section. 12:30-4:45. Cap 55.

Thursday, 4/8/10- Chicago, ISBA Regional Office—Resolving Financial Issues in Family Law Cases. Presented by the ISBA Family Law Section. 8:30-4:30.

Friday, 4/9/10- Chicago, ISBA Regional Office—Civil Practice Update- 2010. Presented by the ISBA Civil Practice Section. 9-4

Monday - Friday, 4/12/10 - 4/16/10 – Chicago, ISBA Regional Office—40 hour Mediation/Arbitration Training. Master Series Presented by the Illinois State Bar Association and the ISBA Alternative Dispute Resolution Section. 8:30-5:45 each day.

Friday, 4/16/10- Chicago, ISBA Regional Office—Legal Trends for Non-Techies: Topics, Trends, and Tips to Help Your Practice. Presented by the ISBA Committee on Legal Technology ; co-sponsored by the ISBA Elder Law Section Council. 1-4:30 p.m.

Saturday, 4/17/10 – Lombard, Lindner Learning Center—DUI, Traffic, and Secretary of State Related Issues- 2010. Presented by the ISBA Traffic Law Section. 9-4. Cap 250.

Tuesday, 4/20/10- Bloomington, Double Tree Hotel—Intellectual Property Counsel from Start-up to IPO. Presented by the ISBA Intellectual Property Section. 8:30-3:30. Cap 80.

Wednesday, 4/21/10- Bloomington, Double Tree Hotel—Construction Law- What's New in 2010? Presented by the ISBA Special Committee on Construction. 9-4. Cap 80.

Friday, 4/23/10- Champaign, I- Hotel and Conference Center—Practice Tips & Pointers on Child-Related Issues. Presented by the ISBA Child Law Section; co-sponsored by the ISBA Family Law Section. 8:25-4. Cap 70.

Tuesday, 4/27/10- Chicago, ISBA Regional Office—Construction Law- What's New in 2010? Presented by the ISBA Special Committee on Construction. 9-4.

Wednesday, 4/28/10- Chicago, ISBA Regional Office—Intellectual Property Counsel from Start-up to IPO. Presented by the ISBA Intellectual Property Section. 8:30-3:30.

Thursday, 4/29/10- Chicago, ISBA Regional Office—Key Issues in Local Government Law: A Look at FOIA, OMA, Elections and Attorney Conflicts. Presented by the ISBA Government Section. 12:30-4:45.

Friday, 4/30/10- Chicago, ISBA Regional Office—Anatomy of a Trial. Presented by the ISBA Tort Section Council. Time TBD.

May

Tuesday, 5/4/10- Chicago, ISBA Regional Office—Boot Camp- Basic Estate Planning. Presented by the ISBA Trust and Estates Section Council. 9-4.

Wednesday, 5/5/10- Chicago, ISBA Regional Office—Price Discrimination: Dead or Alive? Robinson Patman after Feesers. Presented by the ISBA Antitrust Council. 12-2 p.m.

Wednesday, 5/5/10- Chicago, The Standard Club—Tips of the Trade: A Federal Civil Practice Seminar. Presented by the ISBA Federal Civil Practice Section Council. 9-4:30.

Thursday, 5/6/10 – Chicago, ISBA Regional Office—Law Practice Strategies to Weather a Stormy Economy. Master Series Presented by the Illinois State Bar Association. 8:30-12:45.

Friday, 5/7/10 – Bloomington, Bloomington-Normal Marriott—Law Practice Strategies to Weather a Stormy Economy. Master Series Presented by the Illinois State Bar Association. 8:30- 12:45. Cap 130.

Friday, 5/7/10- Bloomington, Bloomington-Normal Marriott—DUI, Traffic and Secretary of State Related Issues-2010. Presented by the ISBA Traffic Laws/ Courts Section. Time TBD. Cap 125.

Wednesday, 5/12/10- Chicago, ISBA Regional Office—Mental Health Treatment in Illinois: Time for a Change. Presented by the ISBA Committee on Mental Health Law. Time TBD.

Thursday, 5/13/10- Friday, 5/14/10- Chicago, ISBA Regional Office—2010 Annual Environmental Law Conference. Presented by the ISBA Environmental Law Section. 8:30-5; 8:30-12:15.

Friday, 5/14/10- Chicago, ISBA Regional Office—Legal Ethics in Corporate Law. Presented by the ISBA Corporate Law Department Section. 1-5:15.

Thursday, 5/20/10- Bloomington, Hawthorn Suites—Resolving Financial Issues in Family Law Cases. Presented by the ISBA Family Law Section. 8:30-4:30.

Friday, 5/21/10- Chicago, ISBA Regional Office—2010 Labor and Employment Litigation Update. Presented by the ISBA Labor and Employment Section. 9-12:30.

Friday, 5/21/10- Chicago, ISBA Regional Office—Roth Conversions in 2010- A Window of Opportunity. Presented by the ISBA Employee Benefits Committee. 2-4 p.m.

Friday, 5/21/10- Moline, Stoney Creek Inn—Civil Practice Update- 2010. Presented by the ISBA Civil Practice Section. 9-4. Cap 100. ■

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