

# The Catalyst

The newsletter of the Illinois State Bar Association's Standing Committee on Women and the Law

## Chair's column

BY JULIE A. JOHNSON (FORMERLY JULIE A. NEUBAUER)

**I find in life that happenstance rarely occurs** without meaning. I write the Chair's Column for this edition of *The Catalyst* while in reflection upon one particular Illinois woman lawyer, Phyllis Schlafly, just days after her passing. Ms. Schlafly is most well known for her successful grassroots campaign to prevent the ratification of the Equal Rights Amendment to the United States Constitution (ERA) in

the early 1970s. As a result, she will be remembered as one of the most divisive and controversial figures in Illinois and American politics. About a week before Ms. Schlafly's passing, WATL member Kelly Thames-Bennett and I attended a screening of the documentary *Equal Means Equal*, which is described on the film's webpage as, "A groundbreaking exploration of gender inequality in the

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## Thoughts on *Serial* and bias

BY TRACY DOUGLAS

**In 2014, the *Serial* podcast examined the conviction of Adnan Syed in Maryland.** There has been much discussion of what went wrong and mistakes by cops and attorneys. However, there was not a lot of discussion of racial and gender bias that may have played a role.

Research has shown that juror perceptions of attorneys can play a role.<sup>1</sup> Jurors can be influenced by bias against minority defendants, especially when not aware of their bias.<sup>2</sup> Research shows that the race and gender of the attorney may increase the risk of conviction when the lawyer is a woman of color.<sup>3</sup> White

male attorneys are more likely to win than a woman of color.<sup>4</sup> An aggressive male attorney will win more than a passive female one, but defendants with aggressive female attorneys were more likely to be convicted.<sup>5</sup> This bias against minority defendants and minority attorneys can be seen in *Serial*.

*Serial's* host, Sarah Koenig, wondered if racial bias against the defendant played some role.<sup>6</sup> The Muslim community sensed bias when stereotypes of Muslim men being sexist and wanting control were skirted at trial.<sup>7</sup> Koenig concluded stereotypes were lurking because jurors

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## Chair's column

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*USA featuring top women's activists, leaders and survivors. A brutal exposé of a broken system, the film reignites the dialogue on full legal equality for all Americans.*" I would describe it as a comprehensive illustration of the consequences resulting from the failure of our nation to ratify the ERA. The conflagration of emotion stirred in me at the collision of these two events has been profound upon my heart.

The text of the ERA simply stated:

"Equal rights under the law shall not be denied or abridged by the United States or by any state on account of sex".

In 1972, nearly 50 years after Alice Paul first introduced the idea at the 1923 Seneca Falls Convention on women's rights, the ERA had passed both Houses of Congress. However, ratification by at least 38 states was required for the ERA to have become part of the U.S. Constitution. By the end of 1973, 30 states had ratified the ERA, along with five more by the close 1977. However, those final three never materialized. Illinois, in line with the conservative opposition force led by Phyllis Schlafly, was among the holdouts.

Phyllis Schlafly, in her staunch resistance to the ERA convinced the masses that inclusion of the ERA in the constitution would result in dire consequences for American women. Examples included things many Americans now consider commonplace such as women in combat, same-sex marriage, and unisex bathrooms. While she steadfastly advocated that proper women must embrace the roles of only mother and wife and occupy the domain of the home rather than venture into public life, she was arguably one of the most public voices of her time. Ironically, I couldn't even tell you her husband's first name.

For those, like me, who were not yet born or barely walking at the height of

the battle over the ratification of the ERA, we have only had the benefit of learning the *herstory* through storytelling by those who were there. However, as it is so plainly portrayed in *Equal Means Equal*, it is our generation that has carried the burden of its failure. And sisters, that burden is great. From the pay gap to the lack of paid family leave; from domestic violence to sex trafficking, it is clear that women in this country, especially women of color and lower socioeconomic status are suffering as a result of this nation's collective failure to fundamentally recognize women and men as equals under the law.

As the late Justice Scalia<sup>1</sup> made clear in the 2005 U.S. Supreme Court decision *Town of Castle Rock Colo. v. Gonzales*,<sup>2</sup> even existing laws that mandate the protection of the most vulnerable women in our society, the battered and abused, are not *really* mandates after all. He stated,

"Even if the statute could be said to have made enforcement of restraining orders "mandatory" because of the domestic-violence context of the underlying statute, that would not necessarily mean that state law gave [her] an entitlement to *enforcement* of the mandate.

Many women and men believe that with hard work and gumption, anyone can rise to a place of success without regard to gender. Yet, in all professional arenas, men dominate advancement tracks,<sup>3</sup> occupy more leadership roles,<sup>4</sup> and earn more money.<sup>5</sup> Women are also substantially more likely to have their careers derailed by the responsibilities of parenting and caregiving for others.<sup>6</sup> While we will never know for certain, I cannot help but think that had the ERA become part of our nation's Constitution, the statistical composite of our people would likely look quite different.

Still, there is light in all of this

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darkness. Those who follow the work of the ISBA Standing Committee on Women & the Law know that we spent the greater part of last year, revitalizing fervor in support for Illinois ratification of the ERA so many years later. The ISBA Assembly voted unanimously to support ratification at last year's Mid-Year Meeting in Chicago. It is in that spirit that we look upon our future as a nation. Illinois has its own equal rights provision in the state Constitution<sup>7</sup> and the legislature has addressed and continues to progress toward equality for all one law at a time. One of the newest ways is the currently pending Illinois Paid Family Leave Act,<sup>8</sup> which if passed, will allow for all Illinois workers to better balance the rigors of work and family. As the pivotal events of 2016 come upon us, opportunities to move closer to a reality

that matches the foundational values of equality are in our grasp. It is fitting that as we progress toward this ideal, we also say farewell to the relics and the mistakes of our past. ■

1. Justice Scalia (Born, March 11, 1936; Died, February 13, 2014)
2. 545 U.S. 748 (2005)
3. <http://www.businessinsider.com/women-are-less-likely-to-get-promoted-2015-10>
4. <https://www.americanprogress.org/issues/women/report/2014/03/07/85457/fact-sheet-the-womens-leadership-gap/>
5. <http://www.bls.gov/opub/ted/2016/womens-earnings-83-percent-of-mens-but-vary-by-occupation.htm>
6. <http://www.pewresearch.org/fact-tank/2015/10/01/women-more-than-men-adjust-their-careers-for-family-life/>
7. Il. Const. art. I, pt. 18
8. <https://trackbill.com/s3/bills/IL/99/SB/260/amendments/09900sb0260sam001.pdf>

## Thoughts on *Serial* and bias

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she interviewed said other jurors said things like Arabic men wanted control and women were second-class citizens.<sup>8</sup> That indicates there was at least some racial bias in the jury, but it doesn't have to be conscious bias. The jurors could have been unaware of the biases they held when deliberating the case.

Koenig also discussed Adnan's attorney, Christina Gutierrez, who had been a respected criminal defense attorney but ended up disbarred for mishandling client funds a few years after Adnan's conviction.<sup>9</sup> Adnan's first trial ended in a mistrial because the judge called her a liar.<sup>10</sup> Gutierrez was Hispanic and female, which may have increased Adnan's chance of conviction given the research into race and gender bias.

In the second trial, Gutierrez's cross-examination of the accused accessory was aggressive.<sup>11</sup> Unfortunately, the jury believed the witness.<sup>12</sup> Koenig wondered if the mostly black jury saw a white

woman attacking a black man.<sup>13</sup> At one point, he asked the judge if he could tell her to stop yelling at him.<sup>14</sup> This shows another implicit bias against women: if they're seen as aggressive, then they aren't acting like a woman should act. As research has shown, minority female attorneys suffer a double bias and juries do not like aggressive female attorneys. But Gutierrez likely would have been judged if she was passive. The jury may have been biased against Gutierrez because of her style and because of her race and gender.

Koenig didn't think there was much racial bias on the jury's part, but she was looking for conscious bias. There was likely implicit bias against Adnan and his attorney. Bias against minority and female attorneys present problems in figuring out how they should present a case because they are judged for being aggressive and judged for being passive. But by addressing implicit bias, perhaps people

## Good news

Michele M. Jochner, who was profiled in the 2016 Leading Lawyers Consumer Edition Magazine, has been recognized in the 2016 Edition of Best Lawyers in America, and is a newly-elected member of the Board of Managers of the Chicago Bar Association.

Congratulations to Julie A. Johnson (formerly Julie A. Neubauer) upon her July 22 marriage to Neil Johnson! ■

will be more aware. ■

Tracy Douglas is the Program Coordinator of the 20<sup>th</sup> Circuit Foreclosure Mediation Program. She is a member of the Standing Committee on Women and the Law and the Chair of the Administrative Law Section Council.

1. Steve Wood, Lori L. Sicafuse, Monica K. Miller, and Julianna C. Chomos, "The Influence of Jurors' Perceptions of Attorneys and Their Performance on Verdict," 23, 24, *The Jury Expert*, January 2011.
2. Alexis Robinson, "The Effects of Race and Gender of Attorneys on Trial Outcomes," 1, *The Jury Expert*, May 2011.
3. "Effects of Race and Gender of Attorneys" at 1.
4. *Id.* at 3.
5. *Id.* at 4.
6. *Serial* podcast, season one, episode 10.
7. *Id.*
8. *Id.*
9. *Serial* podcast, season one, episode 10, *Undisclosed* podcast, season one, episode 14.
10. *Serial* podcast, season one, episode 10.
11. *Serial* podcast, season one, episode 8.
12. *Serial* podcast, season one, episode 10.
13. *Serial* podcast, season one, episode 8.
14. *Id.*

# Refining misconduct: Discrimination and harassment within the Illinois Model Rules of Professional Conduct

BY EMILY A. HANSEN

**Reading through *Crain's Chicago Business* recently** I came to an article titled "The Hardest Suit to File." The article reported that a female attorney, Traci Ribeiro, of the Chicago office of Sedgwick is suing the firm for gender discrimination, unequal pay and retaliation.<sup>1</sup> Sedgwick LLP is an international litigation and business law firm that has 26 attorneys in their Chicago office.<sup>2</sup> Ribeiro's suit claims that "Sedgwick's male-dominated culture systematically excludes women from positions of power within the firm, which in turn leads to lower compensation for female attorneys as compared to male attorneys."<sup>3</sup> Ribeiro is a graduate of American University's law school and joined Sedgwick in 2011.<sup>4</sup> In three years, Ribeiro was generating more business than all but two of the firm's lawyers; however, the only lawyer who was promoted to equity partner in 2015 was a man who had "less than 10 percent of Ribeiro's revenues."<sup>5</sup> Despite Ribeiro's book of business and revenue for the firm, she was repeatedly passed over for promotions and her compensation in 2015 was the lowest that she had ever received.<sup>6</sup> The suit describes an instance where Ribeiro was singled out in a meeting by a partner who suggested to lower her pay because Ribeiro "needed to learn to behave."<sup>7</sup> Currently Sedgwick is attempting to keep the suit in arbitration rather than the courts.<sup>8</sup>

Sedgwick is not the first large law firm to be sued for gender discrimination. In January of this year, LeClairRyan, a 380-person law firm providing business counsel and representation in corporate law and litigation, was sued by a former attorney for gender-based discrimination in violation of the provisions of the Civil Rights Act of 1964, retaliation and other

claims.<sup>9</sup> In 2013, Greenberg Traurig LLP settled a proposed \$200 million employee gender bias class action suit brought by its female shareholders.<sup>10</sup>

Despite the media attention to recent suits against large law firms, gender discrimination and pay gaps are not a new phenomenon in the legal profession. Female attorneys earn less and receive fewer promotions than their male counterparts.<sup>11</sup> The National Association of Women Lawyers in Chicago's 2015 survey found that women make up only 18% of equity partners, and those who reached equity status, only earned 80% of what the male equity partners earned.<sup>12</sup> Crain's Chicago Business and the Chicago Network conducted a survey this year and found that 46% of the female responders felt that they were paid less than their male equals.<sup>13</sup>

What made this Crain's article particularly interesting was the mention of the American Bar Association's recent passage of the amendment to Model Rule 8.4 of the Model Rules of Professional Conduct. For all of the readers who attended the Illinois State Bar Association's Annual Meeting this year, the proposed amendment to Rule 8.4 was the inclusion in the definition of professional misconduct as conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of sex, race or other personal characteristics in conduct related to the practice of law. The official comments to this amended rule define "conduct related to the practice of law" as "representing clients; interacting with witnesses, coworkers, court personnel, lawyers, and others while engaged in the practice of law; operating or managing a law firm or law practice; and participating in bar association, business or social

activities in connection with the practice of law."<sup>14</sup> The American Bar Association House of Delegates met on August 8, 2016 and voted to adopt the amended Model Rule.<sup>15</sup>

The broad strokes and reach of this amended rule made me think, is this a possible solution to what Ribeiro and thousands of other female attorneys are facing? And, if so, should Illinois adopt such a rule?

Certainly the preamble of the Illinois Rules of Professional Conduct provides that "[a] lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having a special responsibility for the quality of justice."<sup>16</sup> Illinois lawyers also "play a vital role in the preservation of society."<sup>17</sup> The scope of our Rules of Professional Conduct instruct us to conduct ourselves accordingly so our profession retains respectability. With this special responsibility assigned to male and female attorneys, it follows that we do not want the legal profession to be tarnished with claims of harassment or discrimination.

Illinois Rule 8.4 of Professional Conduct includes within its definition of professional misconduct for a lawyer to "violate a federal, state or local statute or ordinance that prohibits discrimination based on race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status by conduct that reflects adversely on the lawyer's fitness as a lawyer."<sup>18</sup> Illinois' Rule provides several factors to weigh in determining if misconduct occurred in this nature: for example, the seriousness of the facts or whether the act was committed in connection with the lawyer's professional activities. Further, "[n]o charge of

professional misconduct may be brought pursuant to this paragraph until a court or administrative agency of competent jurisdiction has found that the lawyer has engaged in an unlawful discriminatory act, and the finding of the court or administrative agency has become final and enforceable any right of judicial review has been exhausted.”<sup>19</sup>

Note the key distinctions between the existing Illinois Rule and the new American Bar Association Model Rule. First, Illinois only includes discrimination; whereas the American Bar Association includes both discrimination and harassment. Second, the American Bar Association broadens the reach of misconduct to conduct related to the practice of law, which includes social gatherings in connection with the practice of law or Bar Association functions. Illinois’ rule reaches only to conduct that would reflect on the lawyer’s fitness as a lawyer and would be weighed by factors and the totality of the circumstances. Third, the Illinois rule requires that a court or administrative agency find discrimination has occurred prior to a charge of professional misconduct for discrimination. The American Bar Association’s rule does not require such a finding to determine misconduct.

As a female attorney, I can appreciate the goals of the American Bar Association’s amended rule. I certainly do not want any attorney, whether male or female, to endure harassment and discrimination within the legal profession. Despite my appreciation, I find that the American Bar Association’s amended rule is too broad. The reach of “conduct related to the practice of law” touches situations that may not effect an attorney’s fitness without the safeguards of a finding by a court of law or administrative agency that discrimination or harassment exists. Further, although the terms “discrimination” and “harassment” are defined in the model rule, we are now bringing employment law into governing professional misconduct. Those individuals who are employed by a governing agency of professional misconduct have not become the judge and jury for determining employment law violations.

If Illinois believes it is necessary to

amend Rule 8.4 of the Illinois Rules of Professional Conduct to align it more to the American Bar Association’s Model Rule, then I think we need to strike a balance. If Illinois were to amend and expand the rule, I think it should retain “discrimination” and include “harassment” within the definition of misconduct. I believe that whether or not an individual engaged in discriminatory or harassing conduct should be weighed by the totality of the circumstances. I also firmly believe that a finding of harassment and/or discrimination by an administrative agency or court of law of competent jurisdiction should be a prerequisite to filing a complaint under the rule. I believe that this is an essential safeguard so the judges and juries in employment law claims can make the appropriate findings prior to a complaint being heard before the Illinois Attorney Registration and Disciplinary Commission.

In conclusion, I commend the American Bar Association for addressing a problem that affects female attorneys. I believe that this is a step in the right direction to identify and end gender-based discrimination endured by Ribeiro and thousands of other female attorneys practicing in the State of Illinois. Illinois Rule 8.4(j) of Profession Conduct provides additional remedies to individuals who have endured this type of discrimination. I believe that Illinois can go further and protect individuals who have also been subject to harassment provided the existing safeguards contained in Rule 8.4(j). As more and more female attorneys are being admitted to the bar each year, there will come a point where the number of female attorneys will equal if not outnumber male attorneys. It is never too soon to fix the problems of the past and present to make the future better for our incoming attorneys. ■

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1. Claire Bushey, *The Hardest Suit to Follow*, Crain’s Chicago Business, August 22, 2016.

2. *Our Firm*, 2016, <http://www.sedgwicklaw.com/firm/>

3. Claire Bushey, *The Hardest Suit to Follow*,

Crain’s Chicago Business, August 22, 2016.

4. Biography of Traci M. Ribeiro, 2016, <http://www.sedgwicklaw.com/traci-m-ribeiro/>

5. Claire Bushey, *The Hardest Suit to Follow*, Crain’s Chicago Business, August 22, 2016.

6. *Id.*

7. *Id.*

8. *Id.*

9. Kathryn Rubino, *Biglaw Partner Alleges Sexism Derailed Her Career in a New LawsUIT*, January, 12, 2016, <http://abovethelaw.com/2016/01/biglaw-partner-alleges-sexism-derailed-her-career-in-a-new-lawsuit/>

10. David McAffe, *Greenberg Traurig Settles Atty’s \$200M Gender Bias Action*, May 24, 2013, <http://www.law360.com/articles/445037/greenberg-traurig-settles-atty-s-200m-gender-bias-action>

11. Claire Bushey, *The Hardest Suit to Follow*, Crain’s Chicago Business, August 22, 2016.

12. *Id.*

13. *Id.*

14. American Bar Association, Resolution 109, Model Rules of Professional Conduct, Rule 8.4

15. [http://www.americanbar.org/news/reporter\\_resources/annual-meeting-2016/house-of-delegates-resolutions/109.html](http://www.americanbar.org/news/reporter_resources/annual-meeting-2016/house-of-delegates-resolutions/109.html)

16. Preamble: A Lawyer’s Responsibilities, Illinois Rules of Professional Conduct

17. *Id.*

18. Illinois Rule of Professional Conduct, Rule 8.4(j)

19. *Id.*

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# Legal comedy: 101

BY JENNY R. JELTES

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**This is not an article about how to improve your trial skills** by taking an improvisation theater class. It is also not an article about how to use icebreaker games for teambuilding in the workplace. Although these things are useful and fantastic, I want to talk about something else. In the legal profession, women deal with a lot of pushback and diluted sexism.

I am a family law practitioner. In other words, I deal with extreme stress and drama on an almost daily basis. This is the reality of being a divorce/family law attorney. I did not choose this profession; rather, it chose me. Do I like it? Absolutely. I genuinely love helping people move on with their lives and helping them get back to a place where they can find happiness again. The work is absolutely stressful. But at the same time, I am meant to do this kind of work. The reward is that I help people move on, I do it with compassion, and I genuinely feel good about it. The downside? Feeling drained and depleted. Cynicism. Burnout. I did not go to law school for those things! So how does one cope? Women lawyers deal with these concerns for their entire careers.

At the age of 35, I was lucky to find something that truly helped: Comedy. I'm not talking the "Let's sit down and watch Anchor Man" type of comedy, I'm saying the "Let's take a class, tell jokes, discover our voice, and embrace vulnerability." That is where there is power! I had no idea that signing up for an improv class, and then standup classes, would help me in my profession of being a lawyer. The reality is that it has helped immensely. The other day, I was standing in the elevator on my way up to the office. With my coffee in hand and mind focused on my upcoming potential client consult, I was looking at my phone to see if I missed something on my to-do list. I had forgotten to push the button to my floor in the building in which I work. The assertive gentleman next to me took it upon himself to exclaim: "M'am,

it seems you forgot where you are going!" This was not said in a respectful, friendly, or even flirty manner, by the way. It was said in a condescending, sort of: "I'm better than you and you are an idiot, kind of way." Come on. Us women know the difference.

The old me would have awkwardly giggled, said "Silly me," or even apologized. Now that I've been out a few years I have realized that women can be viewed as inferior, especially if they are shorter in height or younger in age. Wow, I WAS naïve! (I do admit that.) I was naïve in the sense that I thought I would be treated fairly and equally- especially when standing in an elevator. Comedy taught me something: Women need to change their approach. Some men, especially in this profession, expect us to apologize, awkwardly laugh, and realize our "silliness." You know what we need to do? Flip the script. That particular moment in the elevator was memorable for me. In response to this gentleman, I simply said: "Wow, I've been so busy lately! This is what happens when you are such an awesome lawyer!" Was that an exaggeration? Probably not! Did it do the trick? Yes! It put his sour attitude in place, made me feel amazing to start my day, and it made the rest of the elevator ride much more tolerable. When I exited to my floor, he simply said: "Have a nice day." You know what? I had a fantastic day. His day was probably not as swell. What a bitter man. Maybe he'll be calling me for a consultation soon.

If I had not taken improvisation or comedy classes, I am not sure I would have handled this elevator situation the same way. In 2014/2015, I completed 15 months of improvisation classes through iO theater in Chicago, Illinois. The tenet of improv is "Yes, and!" (Example: "Wow, you were kind of ditz in forgetting to push the elevator button." Response: "Yes! And it gives me more time to think about how I'll get this next big client!") How does one go down

from there? They do not, In February 2016, I decided to veer from improv and REALLY find my voice: standup.

Standup is terrifying. But so is being a lawyer. If I've already done one, why not try the other? Stand up is like nothing I ever experienced. To be funny, one must be vulnerable. To be vulnerable, this means to share one's weaknesses, doubts, and insecurities. This is the antithesis of being a lawyer. Lawyers are strong. They know everything. They succeed. To do standup, you risk losing everyone and everything. It's possible you will go on stage and no one will laugh. You may put all of your work out there and you may receive nothing in return. You may fail. This is scary! However, by putting oneself out there, one grows. One learns to handle disappointments and respond to a less than ideal situation. Stand-up puts these skills front and center. It is scary for a reason.

No one likes rejection. For example, what if I diligently prepare all of my jokes and no one laughs? I will walk off stage and move on, I guess. And do better next time? In the law, we are too hard on ourselves. We do our best, but still beat ourselves up. What if that's not who we are? What if it means we need to simply tweak some things and do better next time? What if next time everyone laughs and I feel amazing? What if next time I win for my client? If anything, putting oneself on stage helps one realize that one's humanity. We may fail. But we may also make the entire crowd respond. And that is what keeps me doing comedy. ■

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Jenny Jeltis is the managing partner at Law Offices of J. Jeltis, Ltd, concentrating in Family, Guardianship, and Probate Law

If anyone is interested, Feminine Comique is a standup comedy class for women, taught by Chicago's Kelsie Huff. Information can be found at: [www.femininecomique.com](http://www.femininecomique.com).

# Spotlight on Kelly Thames Bennett

BY CINDY G. BUYS

**Kelly Thames Bennett has a lot of new things to adjust to in her life.** She married her husband in March in Riviera Maya, Mexico and moved to a new law firm in July.

Always on the go, Kelly has had an interesting and unusual path to law. She is originally from a small town outside of Houston, Texas. She moved to New York for college to pursue an interest in theatre. She studied to be an actor and a dramaturg, earning a bachelor's degree in theatre and public communications at the State University of New York in New Paltz. Kelly developed an interest in law, originally thinking she might practice entertainment law and represent theatres. Once she got to law school, though, she realized the real drama was in family law and she could exercise creative thinking in that career. Working in the Family Law Clinic at DePaul University College of Law solidified her

interest in that area of the law.

Upon graduation from DePaul in 2010, Kelly spent a year working in the Law Office of Marcia Lipkin, then moved to the Chicago Family Law Group, where she spent five years representing clients in divorce and parentage proceedings, child custody, minor guardianship matters, and adoption cases. She believes family law combines her interests in people, stories, research, and writing. Kelly says one of her goals is to develop more expertise in adoptions.

Kelly also gives back to the community by engaging in pro bono work as a Child Representative in the Domestic Relations Division and acting as a Guardian Ad Litem for Minor Guardianship in Probate. In her free time, Kelly likes to practice beach yoga and run by the lakeshore.

Through her practice, Kelly developed a friendship with another attorney, who was

originally one of her opposing counsel. This past July, she left the Chicago Family Law Group to practice with her friend and is now practicing in the Law Offices of J. Jeltos, Ltd.

Kelly was appointed to the ISBA's Women and the Law Committee in 2014. She was recruited by former WATL Chair, Mary Petrucci. She has since become an invaluable member of the WATL Committee, serving as the co-editor of the Catalyst newsletter and assisting with other WATL activities, such as the service project at the Teen Living Center this past spring. Kelly joined WATL because she believes it is important to be a mentor who leads the way for other female attorneys coming into the profession. She sees the WATL Committee as a group that is dedicated to mentoring and helping other women attorneys in a challenging world. ■

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# Interview with Judge Clare J. Quish

BY MARGARET MANETTI

**Let me introduce you: Judge Clare J. Quish**—Cook County’s newly appointed judge who inspires a love of the law.

I recently had the pleasure of meeting with the newly appointed Judge Clare J. Quish. At first impression, Judge Quish strikes you as someone not atypical for the judiciary of Cook County: Irish, with South-side roots; active member of the legal community; and, well respected by judges and lawyers alike. But then, after spending just a little time with her, I quickly realized she’s remarkable in quite another way—she inspires a love of the law and that inspiration makes you believe in it.

Judge Quish in personal history is identifiable. She is the eldest of four and grew up in the North Shore suburbs, being predominately raised by a South-Side Irish mother. Close to her family, she enjoys their support, excitement, and loving pride in her and her accomplishments.

She commenced what became an ongoing love of travel early on—with trips that placed her in France and Ireland during her high school years. The subsequent variety of travels encouraged an awareness and first-hand experience of various cultures and politics, which she believes she brings to the bench today. She pursued law at Loyola and took her first position as a law clerk due to her—self-admitted—nerdish love of researching, writing and the law.

Her most meaningful experience is becoming a judge. Judge Quish’s appointment to the Circuit Court of Cook County became effective on June 28, 2016. And poignantly, she has already inspired such a love of the law that her very proud, and quite awed seven-year-old nephew, is writing a story about her—which commences with the day he enjoyed the privilege of holding the Bible as his aunt was sworn in.

But more unusual of Judge Quish is the ability to not only achieve partnership by diligent lawyering, but also manage

networking and the building of a reputation that gained recognition and widespread respect in the legal community at an unusually young age. She attributes much to her role model mother who has always been a “constant source of strength and example of perseverance.” From such instilled-in attributes, and mentorship of the late Judge Jean Prendergast Rooney, Judge Quish acted on determinable belief that the time-consuming work of networking and building a reputation is not only very useful, but provides opportunities that can often be better than your plans.

And when I asked what advice she would give female attorneys, she offered that your reputation is everything in this small community: conduct yourself as if everything would be transcribed in a deposition; be nice, helpful, and confident—and seek advice. “Success is somewhat plans and goals and hard work, but things doesn’t always go the way you plan, so some of it is being open to other situations and a slightly different path.”

“Multi-tasking, time management, and taking advantage of time you have” are great skills. Established attorneys would get value from a mentorship role, and she recommends seeking out younger attorneys and taking them under their wings. Younger attorneys should “seek out leadership roles within their firms or companies” and strive to “ask for what they want,” but recognize balancing life and career will get “easier with establishing yourself.”

As my conversation with Judge Quish freely flowed from structured question and answer dialogue to experiences and with it, the natural flushing out of personalities, I began to realize a sheer exuberance and excitement of just talking law again in a most general all-encompassing way. And that’s the truly remarkable thing about Judge Quish—she reminds you of that law nerd you, who had dreams of any possibility; and she inspires you to believe that yes, you can do it too. ■



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ILLINOIS STATE BAR ASSOCIATION



# Oh, the laws I'd offer if I were an Illinois state legislator. Part I: The civil fix

BY SHIRA TRUITT

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**I often wonder what if...** What if I had pursued my dream of becoming a singer and actress? What if... What if I went back home to Louisiana instead of staying in St. Louis? What if... What if I worked for a large firm? What if... What if I was an Illinois legislator? So, let's talk about that for a moment. If I were an Illinois legislator, here's what I'd offer in a legislative session:

## Children & Families

Illinois children and families deserve the care and respect of the governmental system with which they interface. While daily interaction cannot be legislated, some policies make sense to aid in the well-being of Illinois families and children.

### Foster Child Bill of Rights

In a progressive move, Illinois adopted a Foster Parent Bill of Rights and enshrined it in 20 ILCS 520/1-15. It's time, now, to adopt a Foster Child Bill of Rights. It should include the right to have a bank account in the child's own name at a financial institution. The website for the National Conference on State Legislators has a wonderful comparative compendium, by state, of the various different policies. It would be a good place to gain a national perspective of state laws on the matter, find clear language for drafting, and get some great new ideas.

### Parity on leave policies between state and private employers

As it relates to time away from the job, whether FMLA or other, Illinois is half in and half out. And, depending on your point of view, Illinois' generous state leave policy incentivizes state employment or serves as a reason the state's spending is disproportionate. What seems to be true is that at least some state employees have leave longer than FMLA, have the opportunity for unpaid leave, and have expanded access to leave for workers with less time on the job.

No matter the size or the revenue, private employers don't have *that*. One thing's for sure—if I *did* work in a large firm, I'd certainly want *that*. FMLA and other leave policies are seen as leveling the playing field for women since it allows women to return to a job after pregnancy or caregiving at the same level of employment. From this perspective, having parity between public and private employers makes good sense. From an economic standpoint, having a threshold number of employees or even a base amount necessary to trigger these provisions seems a prudent addition to such a policy.

### Prohibit Child Identity Theft

Of all the bad things to do to a child, stealing their identity is quite high on my list. It's like stealing their future; they're explaining themselves before they even get a chance to move forward as adults. And, for children born with significant risk factors and low protective factors, child identity theft can further exacerbate an already challenging situation. Maryland has an interesting approach to deal with child identification theft. Written with the help of the reporting agencies, Maryland's law requires the credit bureaus to create and then freeze a child's credit report. In that way, they get around the practical conundrum of trying to freeze the credit account of a person with no credit account. I would amend 720 ILCS 5/16-30 to include children under eighteen (18) as a member of the class whose identity theft is labeled aggravated. I would certainly consider amending 720 ILCS 5/16-32 to affect relatives and caregivers (think foster child) who use or allow others to use a child's information to receive utilities.

### Civil Reform

Even though Illinois is somewhat progressive when it comes to civil law, areas

for improvement still exist. Some of them are quick fixes; others require deliberation and precision. Still, all are prime for legislation. They include the following:

#### **Amend 720 ILCS 5/26 (b)(1), the surveillance statute to:**

1. Specifically allow by-standers to record police. THIS is a NO-BRAINER. I will agree with anyone who posits that by-standers should not interfere with the on-going work of the police. I would further agree that by-standers should keep a certain distance. However, *no* confusion should exist about a citizen's right to record services rendered in their name, and a law on the books would make it very clear. Moreover, any record made by by-standers cannot be seized by police; if police want access they can go through the usual channels to get it. Those changes go a long way in re-calibrating the scales of justice so that it better balances the interests it weighs.

2. Craft a better law regarding the interception of data from surveillance. This is a very small tweak that needs to occur so that the spirit and letter of the law are more precisely enabled. Currently, it is not against the law to intercept data from surveillance, whether the initial surveillance was lawfully obtained or not. Likewise, there seems to be no prohibition in the rules of evidence prohibiting a party from using such information. This affects everything from down-blousing and up-skirting to lawful police surveillance. Without a fix, the enterprising person could intercept the data from lawful police surveillance and rebroadcast it without violation of the law. Somehow, that just doesn't seem right; and neither are the other scenarios an enterprising mind could envision.

### **Amend 725 ILCS 150/ civil forfeiture statute**

This is a national situation with state and local implications. The timing is perfect and the public is ready to give clarity to Illinois civil forfeiture laws. First, the ACLU has done a tremendous job researching the issue and I would adopt most—if not all—of the provisions they offer. But, lawmaker that I am, I would raise them one. The money from any civil forfeiture would, in my bill, be split in three ways between the governmental entity (county, city, muni) that took the collateral, the public defender system, and legal aid. This would give all three under-funded agencies a sorely needed revenue source. This is especially necessary for the public defender and legal aid systems, since money obtained from the sale of unclaimed property goes to the state pension system which, seemingly, will always need to be capitalized. I have to confess, though... The small perk for me, if I get some version of this bill passed, is that

I'll gain new "friends" in my re-election bid, something I'll need to keep this dream alive!

### **Ban hunting and fishing with drones**

This is just good business. Anyone should understand that unnatural advantages should not occur in hunting, fishing, and sports. Just in case there are people who don't believe/understand/are waiting for the law to change, I would author this one and get ahead of the curve.

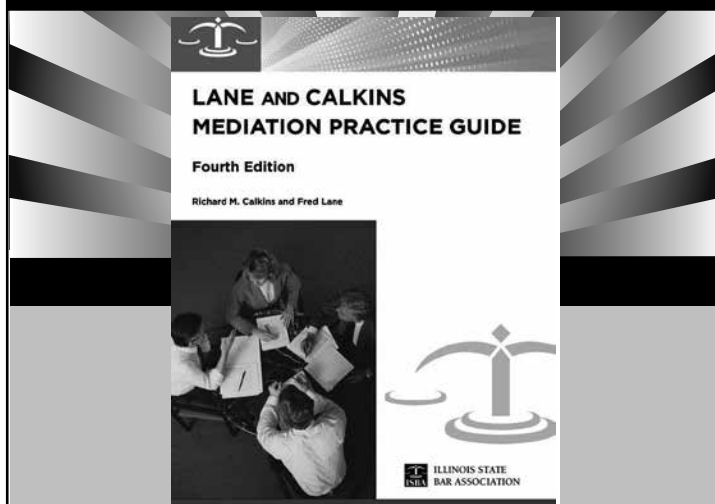
### **Pay prisoners who work for private industry a minimum wage**

Catchy one, isn't it? And, it has the benefit of having your mind race all over the place! The drab meaning is simple: Private firms should not substantially profit from mass incarceration. If an inmate makes clothing, furniture, or other things for an industry that gains a profit—whether the corporation is for profit or not-for profit—the inmate

should be paid a minimum wage. This is distinguishable from inmates whose job entails prison upkeep or where the labor benefits the prison directly (agriculture, electrician). The corporation already gets a break— Human Resources, discrimination disputes, worker's compensation, overhead, and facilities readily come to mind. Inmates need the money to transition from incarceration and have the ability to immediately sustain themselves without increasing the risk of recidivism.

Well, there you have it! If... If I were an Illinois legislator, these are the civil laws I'd offer. Yes, I'd have to trade, I'd have to work, and I'd have to plan. But, I think I could parlay most of these into respectable bills with a decent shot of passing—even in THIS legislative environment! But you... What are your amendments? Your counter proposals? What will you champion? How can we work together? ■

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