

The Public Servant

The newsletter of the Illinois State Bar Association's Committee on Government Lawyers

New Illinois MCLE requirements

BY EMILY R. VIVIAN

Beginning with the reporting period ending June 30, 2019, attorneys in Illinois have new professional responsibility CLE requirements. On April 3, 2017, the Illinois Supreme Court announced changes to the mandatory professional responsibility CLE for Illinois attorneys. While the total number of professional responsibility CLE credits remains unchanged (that being six hours), the requirements constituting those six hours have been modified. Specifically, based on a recommendation from the Illinois Supreme Court Commission on Professionalism, the Illinois Supreme Court has amended Supreme Court Rule 794(d)

to require that, as part of their 6-hours of professional responsibility, lawyers must complete one hour in diversity and inclusion and one hour in mental health and substance abuse.

Although the Illinois Rules of Professional Responsibility previously *allowed* attorneys to meet their 6-hours of professional responsibility CLE through courses including diversity issues and mental illness and addiction issues, few attorneys actually opted to take courses in these subject matters. In fact, while courses offered in the area of professional

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What's app?

Lawyers are servants to time. They have deadlines set by clients or courts, they have to bill, research and argue. Here are some helpful apps to save you time.

Reminders

If you have an Apple phone, there's a built-in To Do list in the Reminders app that was factory installed on your iPhone. But there are other apps that can help you remember to call the client back at a certain time or log your briefing schedule

on the dispositive motion that is due. With Reminders, you can add info and be reminded to make that important call. Free.

Docket Reminders

Court Days Pro will calendar dates/deadlines for your specific jurisdiction. You customize for your local rules and statutes and the app does the rest. You can choose to add the dates to your calendar as well. \$2.99. **DocketLaw**

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responsibility have been steadily increasing over the past decade, the number of courses addressing diversity and mental health issues has remained relatively stagnant. This is especially disconcerting given our profession's well-documented problems in both of those areas.

While statistics prove that our population is becoming increasingly diverse, such statistics do not correlate well with the composition of our profession. As I am sure you will learn when you take a course offering in diversity, creating a diverse workplace increases productivity and creativity. When you gather a group of diverse individuals, you expose yourself to different outlooks and perspectives and untapped opportunities. Our profession should set an example and make it a priority to diversity itself.

As research has continuously shown, lawyers suffer from alcoholism, depression and anxiety at an alarming rate, more so than comparable high-stress professions. While there are many programs and services available to attorneys to help combat these issues, there is still a stigma attached with issues involving mental health. The existence of such a stigma may hinder an attorney's desire to seek services to assist him or her in confronting mental health problems.

The Court believes that requiring courses in these underrepresented areas will encourage lawyers to seriously reflect on ways in which our profession can address diversity and mental health related issues. While Illinois is one of the few states that now requires diversity and mental health courses as part of its professional responsibility CLE, I suspect more states will soon be following. Earlier this year, the American Bar Association House of Delegates adopted a revised Minimum Continuing Legal Education Model Rule, which requires lawyers to earn credit hours in ethics and professionalism programming, mental health and substance use disorders programming, and diversity and inclusion programming.

To assist attorneys in fulfilling their MCLE requirements, the Lawyers' Assistance Program offers several 1 to 1-½ credit hours online, mental health CLE programs at no cost. <<http://illinoislap.wpengine.com/online-cle-2/>>. In addition, the Illinois Attorney Registration & Disciplinary Commission is offering a free online course entitled "Diversity and Inclusions: A Blueprint for 2017 and Beyond." <<http://iadc.fastcle.com/store/provider/provider09.php>>. I believe the Illinois Supreme Court Commission on Professionalism will also be offering a one-hour diversity and inclusion online course in the near future. <<https://www.2civility.org/>>.

As an alternative to the mental health and diversity credits described above, an attorney can satisfy the six hours of professional responsibility CLE credits by completing the Rule 795(d)(11) yearlong Lawyer-to-Lawyer Mentoring Program.

The new requirements became effective July 1, 2017, and are implemented beginning with the 2-year reporting period ending June 30, 2019. We should all work together to improve our profession by increasing its diversity and supporting those with mental health needs. ■



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What's app?

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is another calendar app, which calculates event dates and deadlines for free based on the Federal Rules of Civil Procedure. Free. With a monthly fee, additional calendars for state courts are available. Prices vary.

FastCase: don't forget that your ISBA membership entitles you to free use of FastCase. So many members are leaving their paid Westlaw or Lexis accounts behind and just using FastCase. While it may not be ideal on your phone, it will help

you in a pinch! Free.

EzPDF Reader: This app allows you to read pdf documents more clearly on your portable device. Inexpensive.

Billing

lawyers spend so much time on billing (or avoiding it). There are apps to help you keep track of your billing wherever you are, as long as you have your phone. One app, **iTimeKeep** allows you to keep your time

or even integrate with your firm's billing software. **Time Master + Billing** is the mobile component for Bill4Time. **Hour Tracker** operates on a timer. Prices vary. There are many others available – who can resist making the chore of time-keeping easier?

Have some issue eating your time? Do a search for a helpful app! There are many out there! ■

Jury instruction update: “Do you hear what I hear?”

BY JUDGE BARB CROWDER, EDWARDSVILLE

Whether we are talking about a universal desire for peace as the 1962 song did,¹ or a universal desire for the ability of all litigants to have meaningful access to justice, the importance of meaningful communication cannot be overlooked. Interpreting court proceedings for litigants and jurors should be one of the areas that the legal system stresses. Fortunately for all of us, the Supreme Court and its Access to Justice Commission have been addressing the needs of self-represented litigants, jurors and witnesses through policies, forms, articles, and new jury instructions.² This article will discuss the 2017 changes made thus far to Illinois Pattern Jury Instruction for Civil Cases since the revisions focus on language access.

The first change is in IPI – Civil 1.07. Gone are the days when attorneys and judges may have excused a hearing-impaired juror. A truly representative jury panel should be able to accommodate adults with many disabilities. This instruction addresses the presence of an interpreter for a hearing-impaired juror

and how an interpreter is an exception to the Jury Secrecy Act. (705 ILCS 315/1). The new instruction provides:

“1.07 Interpreter for a Hearing-Impaired Juror

One of the jurors in this case is hearing impaired and has the right to be accompanied by a court-appointed interpreter during the trial and deliberations. When addressing the hearing-impaired juror, you should speak directly to the juror, and not to the interpreter. Although the interpreter is not a juror, and you may not discuss the case with the interpreter, [he] [she] will keep strictly confidential all matters discussed during deliberations. If you have reason to believe that the interpreter is doing more than interpreting, let me know immediately by writing a note and giving it to the [clerk]

[bailiff] [deputy].”

This instruction should be read to the courtroom at the start of the trial so that all present are clear that the interpreter is there to help the juror and will remain through deliberations but is NOT the juror. Plus, trial judges appreciate this instruction so that we can point it out to counsel as further support for the importance of including more individuals in juries so that the juries are truly representative of the community.

In making the above instruction number 1.07 in March of 2017, the prior 1.07 was moved to number 2.05. That newly-numbered instruction is worthy of review here as it deals with witnesses who have interpreters either because the witness is using sign language or a language other than English. It provides:

“2.05 Testimony through Interpreter

You are about to hear testimony from _____ who will be testifying in [language to be

used] through the interpreter. You should give this testimony the same consideration you would give it had the witness testified in English.

Although some of you may know [language to be used], it is important that all jurors consider the same evidence. Therefore, you must accept the English translation of [his] [her] testimony.

If, however, you believe the interpreter translated incorrectly, let me know immediately by writing a note and giving it to the [clerk] [bailiff] [deputy]. You should not ask your question or make any comment about the translation in front of the other jurors, or otherwise share your question or concern with any of them. I will take steps to see if your question can be answered and any discrepancy can be addressed. If, however, after such

efforts a discrepancy remains, you must rely only on the official English translation as provided by the interpreter.”

Obviously the court reads this instruction to the jury and others present before the witness testifies. And if a juror knows the language the witness is using, it is important that the juror understands he or she cannot translate for the other jurors. If the juror thinks the interpreter failed to interpret correctly, the juror needs to raise it at the time so that any problem can be resolved. As the court has adopted rules for certifying interpreters, the hope is erroneous translations will be less frequent or eliminated.

Communication is a two-way street. The Supreme Court is addressing the myriad ways that persons using court may fail to understand what is expected and what is happening. Plain language forms, assistance in courthouses and greater responsibilities placed on lawyers and judges are helping. The use of interpreters to bridge the communication gap aids

everyone when language is a barrier to meaningful communication. Interpreters may be needed because of an individual with a hearing impairment or because of a witness who uses a language other than English. Whatever the reason, standardized jury instructions guarantee that the law and rules governing the use of interpreters are explained and all “hear” the same thing. ■

This article was originally published in the August 2017 edition of *Trial Briefs* (Vol. 62, no. 2), the newsletter of the ISBA’s Section on Civil Practice & Procedure.

1. Song Released in November 1962. Composer Gloria Shayne Baker, Lyrics by Noel Regney. Written in response to the Cuban missile crisis, this song became a holiday hit urging “pray for peace people everywhere.”

2. Hopefully, everyone is aware that the court system has a monthly newsletter, *Illinois Courts Connect*. It started in April, 2017. The April issue outlined four programs dealing with access to justice. The June issue includes an article, “The Silent Injustice of Ineffective Interpreting and How Courts Can Prevent It” by Sophia Akbar. Go to www.illinoiscourts.gov under the Media tab to read the issues and sign up to receive them.

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- How to address a cyberattack if it occurs.

Looking ahead: A reflection on the emerging diversity in the law profession

BY MORGAN HESS

As Judge Debra B. Walker's summer extern, I had the opportunity to attend the "The Future Is Now: Legal Services 2.017" conference, hosted by the Illinois Supreme Court Commission on Professionalism, on Thursday, May 18th. After, I came away with a better understanding of the legal profession and the challenges it currently faces.

Dennis Garcia's presentation, entitled "Diversity is the Future of the Legal Workplace", brought to light that the future of the legal profession not only involves progression in terms of how the law is practiced, through technological advances and steps to increase efficiency throughout the legal process; but the legal profession is also experiencing progression in the makeup of the profession, in terms of who is practicing law. Anyone who has been involved in the legal profession can tell you that change certainly occurs slowly. Similarly, it is often the case, not just within the legal world, that individuals are reluctant to change in general. We all become set in our ways and accustomed to our own routine that develops through habit and what feels most comfortable to us, as do professionals. However, without change, there can be no progression. Inevitably, although success may have occurred, it will halt. A lawyer or law firm will reach a point of success maximization if they remain stagnant in their method or practice, as the competition will undoubtedly outperform and surpass those unwilling to embrace change.

One of the most notable points from Garcia's presentation was when he discussed the need for diversity in the makeup of attorneys practicing law, as different life experiences are paramount to confronting the various client needs and challenges faced while practicing law. In addition, Garcia highlighted that there

needs to be a change in the mentality of the legal profession from a "know it all" attitude, to a "learn it all" mentality. Since their law school enrollment, lawyers have been bred to accept the competitive "know it all" culture of the legal world. This is an overused and failing approach, it is now time for a "learn it all" mentality that fosters progression and comports with the emerging diversity within the law profession. Without change, individuals will be less likely to admit their own biases, to move past them, and to welcome perspectives and ideas different from their own.

You might be asking yourself, "what do I know, as a law student? How could my opinion be relevant, since I haven't stepped foot into the actual practice of law?" That is correct, I haven't had a chance to flap my wings and soar out on my own into the law profession just yet, but I have dipped my toes into this unique, time-capsuled world. Ultimately, my individual experience in the legal profession bears no discreditation on my ability to study the law, observe actual practice, and report my findings. The truth of the matter is that the benefits of diversity are realized whenever one individual must work in coordination with another, no matter what the profession or underlying activity may be. Take sports for example: A soccer team would not be successful if every player had the skill set of a goalie, it would be much more difficult for the ball to reach the back of the opponent's net. A basketball team full of Shaquille O'Neals might seem like a great idea, as Shaq was a successful player recognized for his on-court accomplishments, but the opposing team would simply push the fast break and outrun the big-bodied O'Neals for the entire night. It is diversity that allows a team to succeed by bringing various sets of skills, perspectives from

different life-experiences, and alternate approaches to problem solving.

In a world that is constantly looking for the "next-best thing," it is the innovators that experience success. We must push past our comfort zone towards change, incorporating differences as various tools needed to achieve progression. Without change we are ultimately left at a standstill, watching those capable of incorporating diversity and accepting the challenge to reach beyond what is comfortable pass us by. The same is true for the legal profession. ■

This article was originally published in the ISBA's Bench & Bar newsletter, August 2017, Vol. 49, no. 2.

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Upcoming CLE programs

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October

Wednesday, 10-04-17 LIVE Webcast—
Issues to Recognize and Resolve When Dealing With Clients of Diminished Capacity. Presented by Business Advice and Financial Planning. 12-2 pm.

Thursday, 10-05-17 - Webinar—
Introduction to Legal Research on Fastcase. Presented by the Illinois State Bar Association – Complimentary to ISBA Members only. 12:00-1:00 pm.

Thursday, 10-05-17 – Chicago, ISBA Regional Office—The New Bankruptcy Rules and Advanced Topics in Consumer Bankruptcy. Presented by Commercial Banking, Collections & Bankruptcy. 8:55am – 4pm.

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Friday, 10-06-17 – Holiday Inn and Suites, East Peoria—Fall 2017 Beginner DUI and Traffic Program. Presented by Traffic Law. Time: 8:55 am – 4:45 pm.

Friday, 10-06-17 – Holiday Inn and Suites, East Peoria—Fall 2017 Advanced DUI and Traffic Program. Presented by Traffic Law. Time: 8:55 am – 4:30 pm.

Friday, 10-06-17 – Chicago, ISBA Regional Office—Pathways to Becoming Corporate General Counsel and the Issues You Will Face. Presented by Corporate Law. Time: 9:00 am – 12:30 pm

Monday, 10-09-17 – Chicago, ISBA Regional Office—Workers' Compensation Update – Fall 2017. Presented by Workers' Compensation. Time: 9:00 am – 4:00 pm.

Monday, 10-09-17 –Fairview Heights—Workers' Compensation

Update – Fall 2017. Presented by Workers' Compensation. Time: 9:00 am – 4:00 pm.

Tuesday, 10-10-17 – Webinar—
Outlook for Mac. Practice Toolbox Series. 12:00 -1:00 p.m.

Wednesday, 10-11-17 – LIVE Webcast—Enforcing Illinois' Eviction Laws: A Basic Guide to Landlord Remedies and Tenant Rights. Presented by Real Estate Law. 12-1 pm.

Wednesday, 10-11-17 – LIVE Webcast—Working Effectively with Interpreters. Presented by Delivery of Legal Services. 2-3:30 pm.

Thursday, 10-12-17 – Chicago, ISBA Regional Office—Illinois Medicaid Rules and Procedures Bootcamp. Presented by Elder Law. 8:15 am – 4:30 pm.

Thursday, 10-12-17 - Webinar—
Advanced Tips for Enhanced Legal Research on Fastcase. Presented by the Illinois State Bar Association – Complimentary to ISBA Members only. 12:00-1:00 pm.

Monday-Friday, 10-16 to 20, 2017 – Chicago, ISBA Regional Office—40 Hour Mediation/Arbitration Training Master Series. Master Series. Monday, Wednesday, Thursday and Friday 8:30-5:45. Tuesday 8:30-6:30.

Tuesday, 10-17-17 – Chicago ISBA Regional Office (ISBA Mutual Classrooms)—Mediation Roundtable: The Discussion of Hot Topics in the Mediation of Disputes. Presented by Alternative Dispute Resolution. 12:15 – 1:15 (lunch served at noon).

Thursday, 10-19-17 - Webinar—
Fastcase Boolean (Keyword) Search for Lawyers. Presented by the Illinois State Bar Association – Complimentary to ISBA

Members only. 12:00-1:00 pm.

Thursday, 10-19-17 – Bloomington—
Real Estate Law Update – Fall 2017. Presented by Real Estate.

Tuesday, 10-24-17 – Webinar—Law Firm Accounting 101. Practice Toolbox Series. 12:00 -1:00 p.m.

Wednesday, 10-25-17 – Webinar—
Working with Low Income Clients. Presented by Delivery of Legal Services. 12-1:30 pm.

Thursday, 10-26-17 – LIVE Webcast—
Diversity and Inclusion in the Practice of Law. Presented by LOME. 12-1 pm.

Friday, 10-27-17 – Chicago, ISBA Regional Office—Solo and Small Firm Practice Institute. All Day.

Friday, 10-27-17 – LIVE Webcast—
Solo and Small Firm Practice Institute. All Day.

November

Wednesday, 11-01-17 – ISBA Chicago Regional Office—Anatomy of a Medical Negligence Trial. Presented by Tort Law. All Day.

Thursday, 11-02-17 - Webinar—
Introduction to Legal Research on Fastcase. Presented by the Illinois State Bar Association – Complimentary to ISBA Members only. 12:00-1:00 pm.

Friday, 11-03-17 – NIU Naperville—
Real Estate Law Update – Fall 2017. Presented by Real Estate.

Thursday, 11-09-17 - Webinar—
Advanced Tips for Enhanced Legal Research on Fastcase. Presented by the Illinois State Bar Association – Complimentary to ISBA Members only. 12:00-1:00 pm. ■

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