October 3-5, 2013

The Westin Chicago Northwest • Itasca, IL

ILLINOIS STATE
BAR ASSOCIATION

ISBA's 9th Annual
Solo & Small Firm Conference

3 Day Countdown to Jumpstarting Your Practice on Monday!

Solo & Small Firm Conference Planning Committee

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ISBA Solo & Small Firm Conference – 2013
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Course Materials Flash Drives
ISBA Mutual Insurance Company

Thursday Breakfast
ISBA Mutual Insurance Company

Thursday Reception
ISBA Mutual Insurance Company

Friday Breakfast
St. Louis University School of Law

Friday Lunch
Attorneys' Title Guaranty Fund, Inc.

Friday Reception
ISBA Mutual Insurance Company

Refreshment Break
Life's Plan Inc. Pooled Trust
ISBA Mutual Insurance Company

Thank You to Our Conference Sponsors!

ISBA Solo & Small Firm Conference – 2013
Exhibitors

ABA Law Practice Management Section
ABA Retirement Funds Program
Amata Office Centers
Amicus Creative Media, LLC
ATG Legalserve
ATG Trust Company
Attorneys' Title Guaranty Fund
AVVO, Inc.
Clausen Miller PC
CLIO
CourtCall, LLC
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ISBA Mutual Insurance Company
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Law Bulleting Publishing, JuraLaw
LawPay
Legal Document Management, Inc.
Life's Plan Inc. Pooled Trust
Midwest Special Needs Trusts
Mila Carlson & Associates, P.C.
Online Video Concepts, LLC
Postali
Property Insight
RD Legal Funding
Robson Forensic
Smokeball
Tabs 3 / Practice Master
The Bar Plan Surety and Fidelity Company
The Rainmaker Institute
Weblinx, Inc.
Yodle, Inc.

Thank You to Our Conference Exhibitors!

At-A-Glance Agenda

9th Annual Solo and Small Firm Conference – 2013

The Westin Chicago Northwest
400 Park Blvd.
Itasca, Illinois 60143
October 3 - 5, 2013

Earn up to 16.5 hours MCLE credit, including all 6.0 hours of Professional Responsibility MCLE credit

Conference Moderators:

- Legal Technology Track – ***Paul A. Osborn**, Ward Murray Pace & Johnson P.C., Sterling*
- Effective & Ethical Track – ***Shayne L. Aldridge**, Law Office of Shayne L Aldridge, Pleasant Plains;* ***J. Randall Cox**, Feldman Wasser Draper & Cox, Springfield*
- Substantive Law Track – ***Pamela J. Kuzniar**, Attorney at Law, Chicago*
- Nuts & Bolts Track – ***Annemarie E. Kill**, Avery Camerlingo & Kill, LLC, Chicago;* ***Debra L. Thomas**, Attorney at Law, Chicago*

Thursday, October 3	
7:30 a.m.	**Download ISBA Solo & Small Firm Conference App on Your Mobile Device and Customize Your Conference Schedule!**
7:30 a.m. – 5:30 p.m.	**Registration** – *Atrium Alcove*
8:00 a.m. – 9:00 a.m.	**Continental Breakfast** – *Atrium* **Sponsored By: *ISBA Mutual Insurance Company***
8:00 a.m. - 11:15 a.m. *Grand Ballroom I & II* ***(pre-registration required)*** **A $99 VALUE!** ***(Note: If only attending this session – and not the ISBA Solo & Small Firm Conference – there is a registration fee of $99.)***	**iPad for Lawyers** 3.0 hours MCLE credit, including 3.0 hours *approved* Professional Responsibility MCLE credit ***Paul J. Unger,** Affinity Consulting LLC, Columbus, OH*
9:00 a.m. – 10:00a.m. *Lakeshore Ballroom* **10:15 a.m. – 11:15 a.m.** *Lakeshore Ballroom*	**Fastcase: Introduction to Legal Research Training** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Christina L. Steinbrecker Jack**, Legal Content Manager, Fastcase, Washington, D.C.* **Fastcase: Advanced Legal Research Training** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Christina L. Steinbrecker Jack**, Legal Content Manager, Fastcase, Washington, D.C.*
11:00 a.m. – 7:00 p.m.	**Exhibits** – *Atrium*

12:30 – 1:35 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**The iPad Litigator** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Bryan M. Sims**, The Sims Law Firm, Ltd., Naperville* ***Paul J. Unger,** Affinity Consulting LLC, Columbus, OH*
Effective & Ethical Practice *Gallery Ballroom*	**The Happy Lawyer: The Path from Stress to Wellbeing** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Robin Belleau**, Clinical Director, Illinois Lawyers Assistance Program, Chicago*
Substantive Law *Lakeshore Ballroom*	**Criminal Law Update** 1.0 hour MCLE credit ***Hon. Patrick J. Quinn**, Appellate Court Justice, 1st Dist. Chicago*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Landmines in Opening Your Own Practice: What You Should Not Do** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Juliet E. Boyd**, Boyd & Kummer, LLC, Chicago* ***Sarah E. Toney**, The Toney Law Firm, LLC, Chicago*
1:45 – 2:50 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**Microsoft Office 365** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Joshua J. Poje**, American Bar Association, Chicago* ***Catherine Sanders Reach**, Chicago Bar Association, Chicago*
Effective & Ethical Practice *Gallery Ballroom*	**Ethical Considerations of Guardians *Ad Litem*** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Lisa M. Nyuli**, Ariano Hardy Ritt Nyuli Richmond Lytle & Goettel P.C., South Elgin*
Substantive Law *Lakeshore Ballroom*	**Hot Topics in Employment Law** 1.0 hour MCLE credit ***Michael R. Lied**, Howard & Howard, PLLC, Peoria* ***Cathy A. Pilkington**, Law Offices of Cathy A. Pilkington, Chicago*
Nuts & Bolts *Stanford Room, 2nd Floor*	**DUI/Traffic Law: Impact of Drugs & Alcohol on Your Client's Record – Arrest to Expungement** 1 hour MCLE credit ***Hon. Thomas M. Schippers**, 19th Judicial Circuit, Waukegan* ***Sarah E. Toney**, The Toney Law Firm, LLC, Chicago*
2:50 p.m. – 3:10 p.m.	**Break with Exhibitors** – *Atrium* **Sponsored By: *Life's Plan Inc. Pooled Trust***
3:10 – 4:15 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**Storyboarding at Trial** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Paul J. Unger,** Affinity Consulting LLC, Columbus, OH*
Effective & Ethical Practice *Gallery Ballroom*	**Financial Statements: Yours and Your Clients** 1.0 hour MCLE credit ***R. Stephen Scott**, Scott & Scott, P.C., Springfield*
Substantive Law *Lakeshore Ballroom*	**Traveling Employees and Workers' Compensation** 1.0 hour MCLE credit ***David B. Menchetti**, Cullen, Haskins, Nicholson and Menchetti*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Essentials of Estate Planning: An Overview of Estate Planning Tools** 1.0 hour MCLE credit ***Mary A. Corrigan**, Howard & Howard, Peoria* ***Samuel M. Dotzler**, Dotzler Law, LLC, Chicago*
4:25 – 5:30 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**Kanban for Attorneys** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Aaron W. Brooks**, Holmstrom & Kennedy, P.C., Rockford*
Effective & Ethical Practice *Gallery Ballroom*	**Law Firm Marketing Strategies in a Social Media World: Connecting with Clients, Prospects and Referral Sources on LinkedIn and Facebook** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Stephen Fairley**, CEO, The Rainmaker Institute, Gilbert, AZ*

Substantive Law *Lakeshore Ballroom*	**Bankruptcy and Consumer Finance: New Critical Takeaways for General Practitioners** 1.0 hour MCLE credit ***Paul A. Osborn**, Ward Murray Pace & Johnson P.C., Sterling*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Your First Car Accident Case** 1.0 hour MCLE credit ***Matthew L. Willens**, Willens Law Office P.C., Chicago*
5:30 p.m. – 7:00 p.m. ***(pre-registration required)***	**Reception with Exhibitors –** *Atrium* **Sponsored By: *ISBA Mutual Insurance Company***
7:00 p.m. – 9:00 p.m. *Grand Ballroom I & II* ***(pre-registration required)***	**Reel MCLE Series: *Boston Legal* – How Many Ethical Breaches Can You Spot?** 2.0 hours MCLE credit, including 2.0 hours *approved* Professional Responsibility MCLE credit ***Cliff Scott-Rudnick**, The John Marshall Law School, Chicago* ***Richard M. Adler**, Attorney at Law, Northbrook*
Friday, October 4	
7:30 a.m. – 8:30 a.m. ***(pre-registration required)***	**Continental Breakfast** – *Atrium* **Sponsored By: *St. Louis University School of Law***
7:30 a.m. – 5:00 p.m.	**Registration** – *Atrium Alcove*
8:00 a.m. – 2:35 p.m.	**Exhibits** – *Atrium*
8:30 – 9:35 a.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**Acrobat Pro for Power Users** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Trent L. Bush**, Ward Murray Pace & Johnson P.C., Sterling* ***Bryan M. Sims**, Sims Law Firm, Ltd., Naperville*
Effective & Ethical Practice *Gallery Ballroom*	**Social Media, E-Mail and Digital Evidence: From Discovery to Trial** 1.0 hour MCLE credit, including 1.0* hour Professional Responsibility MCLE credit ***Steven N. Peskind**, Peskind Law Firm, St. Charles*
Substantive Law *Lakeshore Ballroom*	**Evidentiary Issues** 1.0 hour MCLE credit ***Hon. Gino L. DiVito**, Tabet DiVito & Rothstein, LLC, Chicago*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Family Law: Top 10 Mistakes in Divorce Settlements** 1.0 hour MCLE credit ***Matthew A. Kirsh**, Law Offices of Matthew A. Kirsh Ltd, Chicago* ***Pamela Kuzniar**, Attorney at Law, Chicago*
9:35 a.m. – 10:15 a.m.	**Break with Exhibitors** – *Atrium* **Sponsored by: *ISBA Mutual Insurance Company***
10:15 – 11:20 a.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**The Frugal Firm** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Marc Matheny**, Attorney at Law, Indianapolis* ***Abra C. Siegel**, Siegel Law Offices Ltd., Chicago*
Effective & Ethical Practice *Gallery Ballroom*	**Dealing With Difficult Clients** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Scott A. Kaplan**, Ph.D., Licensed Clinical Psychologist, Chicago*
Substantive Law *Lakeshore Ballroom*	**Top 10 Things You Need to Know About Family Law** 1.0 hour MCLE credit ***Rory T. Weiler**, Weiler & Lengle, P.C., St. Charles*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Employment Law: It's a Date…Spot the Issues and Know Your Deadlines** 1.0 hour MCLE credit ***Graciela Mata**, Howard & Howard Attorneys, PLLC, Peoria*
11:20 a.m. – 12:50 p.m. – Plenary Luncheon – *Grand Ballroom III, IV & V* **5 Proven Ways to Renew, Restore, and Revive Your Practice…Starting Monday** **1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit** ***(pre-registration required)*** ***Stephen Fairley**, CEO, The Rainmaker Institute, Gilbert, AZ* **Lunch Sponsored By: *Attorneys' Title Guaranty Fund, Inc.***	

1:00 – 2:05 p.m.	Breakout Sessions
Legal Technology *Grand Ballroom I & II*	**Mobile Security** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Aaron W. Brooks**, Holmstrom & Kennedy, P.C., Rockford* ***Shamla T. Naidoo**, The Law Offices of Shamla Naidoo, P.C., Chicago*
Effective & Ethical Practice *Gallery Ballroom*	**The New Requirements for Your Health Insurance Plans** 1.0 hour MCLE credit ***Matthew Arvanites,** Marsh U.S. Consumer, Chicago* ***Wesley Kee**, Marsh U.S. Consumer, Chicago*
Substantive Law *Lakeshore Ballroom*	**The Alphabet Soup of Social Security and Medicare Law** 1.0 hour MCLE credit ***Susan Dawson-Tibbits**, Johnson Bunce & Noble P.C., Peoria*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Navigating the New Closing Landscape in Real Estate** 1.0 hour MCLE credit ***Jerry T. Gorman**, Senior Vice President, Attorneys' Title Guaranty Fund, Inc., Champaign* ***John O'Brien**, Vice President, Attorneys' Title Guaranty Fund, Inc., Arlington Heights*
2:05 p.m. – 2:35 p.m.	**Break with Exhibitors –** *Atrium* **Sponsored By: *ISBA Mutual Insurance Company***
2:35 – 3:40 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**Look Ma, No Hands: Speech Recognition & Digital Dictation for Everyday Use** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Nerino J. Petro**, Practice Management Advisor, State Bar of Wisconsin, Madison, WI*
Effective & Ethical Practice *Gallery Ballroom*	**Self Care for Attorneys** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Scott A. Kaplan**, Ph.D., Licensed Clinical Psychologist, Chicago*
Substantive Law *Lakeshore Ballroom*	**Federal and State Tax Update, including Estate Taxes** 1.0 hour MCLE credit ***Karl B. Kuppler**, Hasselberg, Rock, Bell & Kuppler, Peoria*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Nuts & Bolts of Illinois Foreclosure: Hammering Out the Foreclosure Process** 1.0 hour MCLE credit ***Hon. Mitchell L. Hoffman**, 19th Judicial Circuit, Waukegan* ***Kathleen M. Robson**, Robson & Lopez, LLC, Chicago*
3:50 – 5:00 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**The PDF/Paperless Office** 1.0 hour MCLE credit, including 1.0* hour Professional Responsibility MCLE credit ***Marc Matheny**, Attorney at Law, Indianapolis* ***Nerino J. Petro**, Practice Management Advisor, State Bar of Wisconsin, Madison, WI*
Effective & Ethical Practice *Gallery Ballroom*	**Lawyers as HIPAA Business Associates** 1.0 hour MCLE credit ***Rick L. Hindmand**, McDonald Hopkins LLC, Chicago*
Substantive Law *Lakeshore Ballroom*	**Mortgage Foreclosure: Case Law Update 2013** 1.0 hour MCLE credit ***Steven B. Bashaw**, Steven B. Bashaw, P.C., Lisle*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Fundamentals of Education Law: An Attorney's Role in Discipline Proceedings, IEPs, and Obtaining Other Services** 1.0 hour MCLE credit ***Neal E. Takiff**, Whitted Cleary & Takiff, LLC, Northbrook*
5:00 p.m. – 6:30 p.m. *Atrium* ***(pre-registration required)***	**Reception in Atrium** **Sponsored By: *ISBA Mutual Insurance Company***
Various start times between 6:30 – 8:30 p.m.	**Dutch Dine-In Dinners at Shula's Restaurant, Westin Hotel** (*Optional Event – Not Included in Registration Fee*) Good food and good company! Register on-site to attend a Dutch-treat dinner with fellow conference attendees at Shula's in the Westin Hotel. Space is limited, so stop by the ISBA registration office onsite at the Westin on Thursday October 3 to sign up for your dinner group and time.

Saturday, October 5	
7:30 a.m. – 8:30 a.m. ***(pre-registration required)***	**Continental Breakfast** – *Atrium*
7:30 a.m. – 11:20 a.m.	**Registration –** *Atrium Alcove*
8:30 a.m. – 9:35 a.m. *Grand Ballroom I & II*	**Gizmos & Gadgets** *No MCLE credit* ***Nerino J. Petro**, Practice Management Advisor, State Bar of Wisconsin, Madison, WI* ***Bryan M. Sims**, Sims Law Firm, Ltd., Naperville*
9:45 – 10:50 a.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**Are you Mac-Curious?** 1.0 hour MCLE credit, including 1.0* hour Professional Responsibility MCLE credit ***Brett Burney**, Burney Consultants, Beachwood, OH*
Effective & Ethical Practice *Gallery Ballroom*	**What You Need to Know About E-Discovery** 1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit ***Todd H. Flaming**, KrausFlaming, LLC, Chicago*
Substantive Law *Lakeshore Ballroom*	**Health Care Planning with Advanced Directives** 1.0 hour MCLE credit ***Heather E. Voorn**, Delaney Delaney & Voorn Ltd., Orland Park*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Advising Your Client on Selection of Business Entity** 1.0 hour MCLE credit ***Miriam L. Burkland**, Howard & Howard, Chicago* ***Mark B. Ryerson**, Howard & Howard, Chicago*
11:00 a.m. – 12:05 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**The Wizard of Mac** 1.0 hour MCLE credit, including 1.0* hour Professional Responsibility MCLE credit ***Brett Burney**, Burney Consultants, Beachwood, OH* ***Alan R. Press**, Alan R. Press Attorney at Law P.C., Lincolnshire*
Effective & Ethical Practice *Gallery Ballroom*	**Time Management Tips for the Practicing Attorney** MCLE credit TBD ***Elaine Quinn,** The Solopreneur Specialist, Chicago*
Substantive Law *Lakeshore Ballroom*	**Be Careful What You Ask For: Tips for Real Estate Practitioners in Buying and Selling Condominium or Community Association Properties** 1.0 hour MCLE credit ***Charles M. Keough**, Keough and Moody, P.C., Naperville*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Consumer Bankruptcy Issues** 1.0 hour MCLE credit ***Sean Williams,** The Law Offices of Williams & Assoc. P.C., Rock Island*
12:05 p.m.	**Conference Adjourned**

**Professional Responsibility MCLE credit subject to approval*

Full Agenda

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- Substantive Law Track – ***Pamela J. Kuzniar****, Attorney at Law, Chicago*
- Nuts & Bolts Track – ***Annemarie E. Kill****, Avery Camerlingo & Kill, LLC, Chicago;* ***Debra L. Thomas****, Attorney at Law, Chicago*

Thursday, October 3	
7:30 a.m.	**Download ISBA Solo & Small Firm Conference App on Your Mobile Device and Customize Your Conference Schedule!**
7:30 a.m. – 5:30 p.m.	**Registration** – *Atrium Alcove*
8:00 a.m. – 9:00 a.m.	**Continental Breakfast** – *Atrium* **Sponsored By:** ***ISBA Mutual Insurance Company***
8:00 a.m. - 11:15 a.m. *Grand Ballroom I & II* ***(pre-registration required)*** **A $99 VALUE!** ***(Note: If only attending this session – and not the ISBA Solo & Small Firm Conference – there is a registration fee of $99.)***	**iPad for Lawyers** **3.0 hours MCLE credit, including 3.0 hours** *approved* **Professional Responsibility MCLE credit** The iPad has rapidly gone from being a device used to read books, listen to music or play games, to a real productivity tool that lawyers can use in their everyday practice. Attorneys are increasingly using the iPad to revise/draft documents, conduct legal research, manage email, calendaring, and even use it in the courtroom for presentations. The iPad's slim, sleek lightweight design – combined with its versatility and power – makes it an amazing paperless tool for any attorney. In this session, the speaker demonstrates the many ways lawyers can use the iPad, including: review and revise Word and PDF documents; manage documents in a folder structure; manage and annotate depositions; show PowerPoint presentations; present evidence at hearings and in trial; dictate letters, memos and notes; and use as a portable scanner. ***Paul J. Unger,*** *Affinity Consulting LLC, Columbus, OH*
9:00 a.m. – 10:00a.m. *Lakeshore Ballroom*	**Fastcase: Introduction to Legal Research Training** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** Take advantage of this opportunity to familiarize yourself with Fastcase through this introductory legal research training seminar. Topics include: available research features, advanced search functions, and exclusions (such as secondary and proprietary materials). With unlimited free access to a comprehensive 50-state and federal case law database, this is one benefit ISBA members should learn how to use! *(Please Note: Attorneys cannot claim credit for attending/completing the same course twice within a 12-month period.)* ***Christina L. Steinbrecker Jack****, Legal Content Manager, Fastcase, Washington, D.C.*

10:15 a.m. – 11:15 a.m. *Lakeshore Ballroom*	**Fastcase: Advanced Legal Research Training** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** Take your Fastcase knowledge and knowhow to a new level with this advanced legal research training seminar! Topics include: staying organized; selecting/maximizing keywords; sorting your results; interactive timeline and authority check; and interpreting statutes that are not annotated. Onscreen examples highlight each topic, ensuring that you get the most out of this advanced training seminar with. *(Please Note: Attorneys cannot claim credit for attending/completing the same course twice within a 12-month period.)* ***Christina L. Steinbrecker Jack**, Legal Content Manager, Fastcase, Washington, D.C.*
11:00 a.m. – 7:00 p.m.	**Exhibits –** *Atrium*
12:30 – 1:35 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**The iPad Litigator** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** Don't miss this intermediate-level session in which our experts explore the many uses of iPads in the courtroom! From the opening statement to closing argument in a typical litigation case, the iPad can help you gather information, present/rebut evidence, access documents, engage in legal research, and format your presentation. ***Bryan M. Sims**, The Sims Law Firm, Ltd., Naperville* ***Paul J. Unger,** Affinity Consulting LLC, Columbus, OH*
Effective & Ethical Practice *Gallery Ballroom*	**The Happy Lawyer: The Path from Stress to Wellbeing** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** Lawyers have one of the highest rates of suicide, are two times more likely to abuse alcohol than the general population, and are one of three professions with elevated rates of depression…so is it any wonder that less than half of all attorneys describe themselves as happy? Join us for a look at stress and its affect on your life, as well as rumination, errors in thinking, the contributing factors of compassion fatigue, solutions to each of these problems, and asking for help. The segment closes with tips for becoming a happy lawyer! ***Robin Belleau**, Clinical Director, Illinois Lawyers Assistance Program, Chicago*
Substantive Law *Lakeshore Ballroom*	**Criminal Law Update** **1.0 hour MCLE credit** Get the information you need with this in-depth review of current cases from the Illinois Supreme Court and U.S. Supreme Court that are affecting the courts or the criminal law practice. ***Hon. Patrick J. Quinn**, Appellate Court Justice, 1st Dist. Chicago*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Landmines in Opening Your Own Practice: What You Should Not Do** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** Opening your own law firm is both exciting and nerve-wracking. Don't miss this discussion on the various landmines to avoid, including a top ten list of things you should not do when opening your own law firm. ***Juliet E. Boyd**, Boyd & Kummer, LLC, Chicago* ***Sarah E. Toney**, The Toney Law Firm, LLC, Chicago*
1:45 – 2:50 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**Microsoft Office 365** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** Meet the "new kid" on the block – Microsoft Office 365 – a new hosted service for productivity and email! This comprehensive, introductory overview examines the online and offline cloud features of Office 365, discusses how the new subscription may impact your upgrade decisions, examines the benefits of hosted MS Exchange for Outlook, and explores why you may want to make the move to this hosted solution. ***Joshua J. Poje**, American Bar Association, Chicago* ***Catherine Sanders Reach**, Chicago Bar Association, Chicago*
Effective & Ethical Practice *Gallery Ballroom*	**Ethical Considerations of Guardians *Ad Litem*** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** It is easy to lose sight of ethical boundaries when acting on behalf of a child who is in a difficult situation. This session offers an ethical roadmap for attorneys serving as guardian *ad litem* in family law, adoption, and guardianship cases. Topics include: the Illinois Rules of Professional Conduct, a review of statutes – and the case law that interprets them both. Helpful reminders that can prevent you from crossing the line are also included. ***Lisa M. Nyuli**, Ariano Hardy Ritt Nyuli Richmond Lytle & Goettel P.C., South Elgin*

Substantive Law *Lakeshore Ballroom*	**Hot Topics in Employment Law** **1.0 hour MCLE credit** The past two years have brought new court decisions in the labor and employment area – at the state, federal and local levels – that will dramatically affect how you draft documents and litigate claims. Don't miss this presentation on new statutes and recent decisions that will affect your practice in a variety of areas, including Title VII retaliation, arbitration, overtime, employee misclassification, FMLA leave, ADA reasonable accommodation, worker safety, drugs in the workplace, restrictive covenants, discrimination, social media, and more. ***Michael R. Lied**, Howard & Howard, PLLC, Peoria* ***Cathy A. Pilkington**, Law Offices of Cathy A. Pilkington, Chicago*
Nuts & Bolts *Stanford Room, 2nd Floor*	**DUI/Traffic Law: Impact of Drugs & Alcohol on Your Client's Record – Arrest to Expungement** **1 hour MCLE credit** Are you an attorney practicing in the area of DUI and misdemeanor traffic law? Then don't miss this informative presentation in which our speakers – an experienced DUI trial judge and DUI defense attorney – come together to discuss a myriad of issues facing the practitioner! Topics include: motion practice, summary suspension hearings, trial, and the collateral affect that pleas and judgments may have on your client. ***Hon. Thomas M. Schippers**, 19th Judicial Circuit, Waukegan* ***Sarah E. Toney**, The Toney Law Firm, LLC, Chicago*
2:50 p.m. – 3:10 p.m.	**Break with Exhibitors** – *Atrium* **Sponsored By: *Life's Plan Inc. Pooled Trust***
3:10 – 4:15 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**Storyboarding at Trial** **1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit** A picture really *is* worth a thousand words, and storyboarding takes advantage of this fact to explain your client's position to the jury! This advanced-level presentation shows you how PowerPoint, Key Note, Mind Mapping, and other like-minded software can help you create a successful presentation and summary of evidence at your next trial. ***Paul J. Unger,** Affinity Consulting LLC, Columbus, OH*
Effective & Ethical Practice *Gallery Ballroom*	**Financial Statements: Yours and Your Clients** **1.0 hour MCLE credit** This presentation is designed to help non-accountant attorneys understand and properly complete personal Financial Statements for submission to banks, other lenders and the IRS. Learn how to read and understand corporate and other business financial statements, obtain and produce financial testimony; and learn the proper presentation and use of financial data in bankruptcy schedules. ***R. Stephen Scott**, Scott & Scott, P.C., Springfield*
Substantive Law *Lakeshore Ballroom*	**Traveling Employees and Workers' Compensation** **1.0 hour MCLE credit** Get the answers you need regarding Workers' Compensation and the "traveling employee," including whether or not the Workers' Compensation Act covers employees going to and from work, what makes an employee a traveling employee, and if traveling employees are covered under all circumstances! ***David B. Menchetti**, Cullen, Haskins, Nicholson and Menchetti*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Essentials of Estate Planning: An Overview of Estate Planning Tools** **1.0 hour MCLE credit** Get the tools you need to oversee your next estate planning case with this informative session. ***Mary A. Corrigan**, Howard & Howard, Peoria* ***Samuel M. Dotzler**, Dotzler Law, LLC, Chicago*

4:25 – 5:30 p.m.	Breakout Sessions
Legal Technology *Grand Ballroom I & II*	**Kanban for Attorneys** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** Kanban (Japanese for "signboard") is a visual productivity system originally designed by Toyota for just-in-time manufacturing. Join us for an overview of Kanban adaptations for managing paper and information-based workflow, as well as the cloud-based Kanban application "Trello." Google Docs integration and the privacy/security considerations for using cloud-based applications are also discussed. ***Aaron W. Brooks**, Holmstrom & Kennedy, P.C., Rockford*
Effective & Ethical Practice *Gallery Ballroom*	**Law Firm Marketing Strategies in a Social Media World: Connecting with Clients, Prospects and Referral Sources on LinkedIn and Facebook** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** Social media is one of the fastest growing areas where attorneys can generate high quality leads, while simultaneously building relationships with potential referral sources. This session demystifies social media, teaches you the "Rainmaker Social Media Blueprint," and uncovers specific strategies you can use to connect with clients, prospective clients, and referral sources on LinkedIn and Facebook. ***Stephen Fairley**, CEO, The Rainmaker Institute, Gilbert, AZ*
Substantive Law *Lakeshore Ballroom*	**Bankruptcy and Consumer Finance: New Critical Takeaways for General Practitioners** **1.0 hour MCLE credit** Join us for this informative session that offers guidance and an insightful perspective on the changes in bankruptcy law, as well as the recent actions of the Consumer Financial Protection Bureau. ***Paul A. Osborn**, Ward Murray Pace & Johnson P.C., Sterling*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Your First Car Accident Case** **1.0 hour MCLE credit** Get the guidance you need for handling your first car accident litigation case! ***Matthew L. Willens**, Willens Law Office P.C., Chicago*
5:30 p.m. – 7:00 p.m. ***(pre-registration required)***	**Reception with Exhibitors –** *Atrium* **Sponsored By: *ISBA Mutual Insurance Company***
7:00 p.m. – 9:00 p.m. *Grand Ballroom I & II* ***(pre-registration required)***	**Reel MCLE Series: *Boston Legal* – How Many Ethical Breaches Can You Spot?** **2.0 hours MCLE credit, including 2.0 hours** *approved* **Professional Responsibility MCLE credit** The first day winds down with this unique program in which the hit TV show "Boston Legal" (Season 1, Episode 4) is used as a sounding board for identifying, understanding, and analyzing the Illinois Rules of Professional Conduct. The show is presented as an alternative approach to traditional CLE with the speakers stopping the tape each time the attorney is faced with an ethical dilemma. A look at the recent changes to the Illinois Rules of Professional Responsibility, the recent Supreme Court decisions on IARDC recommended findings, and a discussion on the differences between real practice and the television episode is included. ***Cliff Scott-Rudnick**, The John Marshall Law School, Chicago* ***Richard M. Adler**, Attorney at Law, Northbrook*
Friday, October 4	
7:30 a.m. – 8:30 a.m. ***(pre-registration required)***	**Continental Breakfast** – *Atrium* **Sponsored By: *St. Louis University School of Law***
7:30 a.m. – 5:00 p.m.	**Registration** – *Atrium Alcove*
8:00 a.m. – 2:35 p.m.	**Exhibits** – *Atrium*

8:30 – 9:35 a.m.	Breakout Sessions
Legal Technology *Grand Ballroom I & II*	**Acrobat Pro for Power Users** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** Learn to do more with Acrobat Pro (and its alternatives) to take your paperless practice to the next level! This advanced-level demonstration shows you the ins-and-outs of Acrobat Pro, including how to create signature stamps, digital signatures and security certificate. Additional topics include: controlling how your PDF opens; Bates numbering; redaction; text reflow; embedding multimedia files; securing your PDF documents; and creating portfolios. ***Trent L. Bush**, Ward Murray Pace & Johnson P.C., Sterling* ***Bryan M. Sims**, Sims Law Firm, Ltd., Naperville*
Effective & Ethical Practice *Gallery Ballroom*	**Social Media, E-Mail and Digital Evidence: From Discovery to Trial** **1.0 hour MCLE credit, including 1.0* hour Professional Responsibility MCLE credit** Social media and other digital evidence provide a fountain of information for trial lawyers. This presentation addresses the various ethical and evidentiary considerations confronting lawyers as they obtain and admit (or block) digital evidence. ***Steven N. Peskind**, Peskind Law Firm, St. Charles*
Substantive Law *Lakeshore Ballroom*	**Evidentiary Issues** **1.0 hour MCLE credit** This segment focuses on specific rules in the Illinois codified Rules of Evidence that address hearsay – specifically Rules 801, 803, and 804. Topics include: hearsay, non-hearsay, hearsay exclusions, and exceptions to the hearsay rule (the knowledge of which must be mastered by trial attorneys). ***Hon. Gino L. DiVito**, Tabet DiVito & Rothstein, LLC, Chicago*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Family Law: Top 10 Mistakes in Divorce Settlements** **1.0 hour MCLE credit** Two experienced family law practitioners offer personal practice tips to address common drafting mistakes in Marital Settlement Agreements, which includes a discussion on how the mistakes may impact the litigants and their families. ***Matthew A. Kirsh**, Law Offices of Matthew A. Kirsh Ltd, Chicago* ***Pamela Kuzniar**, Attorney at Law, Chicago*
9:35 a.m. – 10:15 a.m.	**Break with Exhibitors** – *Atrium* **Sponsored by: *ISBA Mutual Insurance Company***
10:15 – 11:20 a.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**The Frugal Firm** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** Being frugal has never been more popular than in today's tough economy! Join us for this introductory exploration of alternative solutions that can save you big bucks, including low-cost substitutes for the products and services everyone assumes are necessary and free web-based services. Protecting your system from attack and determining when to upgrade – all without thinning your wallet – are also discussed. ***Marc Matheny**, Attorney at Law, Indianapolis* ***Abra C. Siegel**, Siegel Law Offices Ltd., Chicago*
Effective & Ethical Practice *Gallery Ballroom*	**Dealing With Difficult Clients** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** Increasingly so, attorneys are dealing with clients who struggle with mental health issues. This session offers a comprehensive look at the types of mental health issues your clients may have and how you can effectively relate to them in order to provide the best services possible. Recommendations, best practices, and ethical considerations are included throughout the discussion. ***Scott A. Kaplan**, Ph.D., Licensed Clinical Psychologist, Chicago*

Substantive Law *Lakeshore Ballroom*	**Top 10 Things You Need to Know About Family Law** **1.0 hour MCLE credit** Join us for this presentation in which an experienced family law attorney discusses the top ten things every lawyer should know before undertaking a divorce case! Starting with the initial consultation and tips for recognizing problem clients before they become clients through the entry of the judgment for dissolution and beyond – every aspect of handling a divorce case will be touched upon throughout this session. Effective use of discovery, how to analyze and value your client's claim, client relations before/during/after the process, negotiations, settlement, trial, and judgment are all examined in an effort to alert the diligent practitioner to the potential problems and pitfalls that can arise in the family law practice. The session is structured as an interactive exchange of information and ideas, including a brief discussion on some of the latest cases and legislation that you need to know. ***Rory T. Weiler**, Weiler & Lengle, P.C., St. Charles*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Employment Law: It's a Date…Spot the Issues and Know Your Deadlines** **1.0 hour MCLE credit** This nuts-and-bolts session offers a basic introduction to the employment laws that prohibit discrimination, and is designed to assist attorneys in identifying violations in various areas, including sexual, racial and other forms of harassment in the workplace. The Family Medical Leave Act is also discussed. ***Graciela Mata**, Howard & Howard Attorneys, PLLC, Peoria*

11:20 a.m. – 12:50 p.m. – Plenary Luncheon – *Grand Ballroom III, IV & V*

5 Proven Ways to Renew, Restore, and Revive Your Practice…Starting Monday

1.0 hour MCLE credit, including 1.0 hour *approved* **Professional Responsibility MCLE credit**

(pre-registration required)

Tired of wasting your time and money on marketing efforts that produce lack-luster results? Join us as Stephen Fairley, a nationally recognized law firm marketing expert, discusses practical tips and tactics he has discovered from working with over 9,000 attorneys across the nation! Cut through the myths and misconceptions about business development, while learning several specific strategies you can immediately put to work on MONDAY. Topics include: the three critical areas law firms must focus on this year to grow revenues; two of the biggest reasons your legal marketing efforts are failing and what you can do to change it; best practices in business development for small firms, including what works and what doesn't; the most cost-effective strategy you can use to keep in touch with all your former clients and referral sources; and case studies from small and solo firms who doubled their revenues during the recession.

***Stephen Fairley**, CEO, The Rainmaker Institute, Gilbert, AZ*

Lunch Sponsored By: ***Attorneys' Title Guaranty Fund, Inc.***

1:00 – 2:05 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**Mobile Security** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** With each new model, mobile devices grow more sophisticated, run increasingly complex applications, and are capable of storing larger and larger amounts of sensitive information. Although attorneys have embraced the many benefits that come with using mobile devices, a certain level of responsibility comes with keeping these devices secure. This session provides both a practical and legal overview of what this means, along with step-by-step instructions for making your mobile technology as secure as it can be. ***Aaron W. Brooks**, Holmstrom & Kennedy, P.C., Rockford* ***Shamla T. Naidoo**, The Law Offices of Shamla Naidoo, P.C., Chicago*
Effective & Ethical Practice *Gallery Ballroom*	**The New Requirements for Your Health Insurance Plans** **1.0 hour MCLE credit** Beginning in 2014, small businesses and individuals can access Health Insurance Exchanges to compare and buy health plans. These exchanges are an online marketplace offering an array of qualified health insurance plans – the goal of which is to reduce the burden and costs associated with small group/individual health plans and provide the cost advantages and choices enjoyed by large employers. Join us for a comprehensive discussion on your client's healthcare options beginning in 2014. ***Matthew Arvanites,** Marsh U.S. Consumer, Chicago* ***Wesley Kee**, Marsh U.S. Consumer, Chicago*

Substantive Law *Lakeshore Ballroom*	**The Alphabet Soup of Social Security and Medicare Law** **1.0 hour MCLE credit** Just about all elderly and disabled clients rely upon programs from the Social Security Administration and the Centers for Medicare and Medicaid Services. This presentation explores the various aspects of the safety net that has been in place for decades – which most of our clients (and ourselves) will rely upon at some point in our lifetime. Learn the differences between SSDI and SSI, how much a recipient of Social Security Retirement benefits can earn without those benefits being taxed, what services Medicare Part A, B, C, and D cover, and whether or not Medicare picks up the cost of long-term care in a nursing facility. ***Susan Dawson-Tibbits**, Johnson Bunce & Noble P.C., Peoria*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Navigating the New Closing Landscape in Real Estate** **1.0 hour MCLE credit** This in-depth review explores the changes to the real estate closing process caused by the September 2013 release of the Consumer Financial Protection Bureau's (CFPB) Final Rule. The new Closing Disclosure form (replacing the HUD-1) is reviewed in detail, including implementation. ***Jerry T. Gorman**, Senior Vice President, Attorneys' Title Guaranty Fund, Inc., Champaign* ***John O'Brien**, Vice President, Attorneys' Title Guaranty Fund, Inc., Arlington Heights*
2:05 p.m. – 2:35 p.m.	**Break with Exhibitors –** *Atrium* **Sponsored By: *ISBA Mutual Insurance Company***
2:35 – 3:40 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**Look Ma, No Hands: Speech Recognition & Digital Dictation for Everyday Use** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** Explore the newest versions of speech recognition software with this informative session. Topics include: new stand-alone applications; custom commands; apps that are built into new operating systems; and speech recognition solutions for mobile devices. Find out what's new in the world of digital dictation and why tape is dead! ***Nerino J. Petro**, Practice Management Advisor, State Bar of Wisconsin, Madison, WI*
Effective & Ethical Practice *Gallery Ballroom*	**Self Care for Attorneys** **1.0 hour MCLE credit, including 1.0 hour** *approved* **Professional Responsibility MCLE credit** It's hard to help others when you're struggling with your own stress! Learn how to recognize when your abilities are compromised, know your limitations, and identify the signs of burnout, stress, and frustration, which may interfere with your job performance. Healthy self-care behaviors, techniques for coping with stress, and time management strategies are addressed. ***Scott A. Kaplan**, Ph.D., Licensed Clinical Psychologist, Chicago*
Substantive Law *Lakeshore Ballroom*	**Federal and State Tax Update, including Estate Taxes** **1.0 hour MCLE credit** This session explores a selection of tax topics, including the recent estate and gift tax changes at both the Federal and Illinois level, as well as the planning alternatives for Illinois estates. ***Karl B. Kuppler**, Hasselberg, Rock, Bell & Kuppler, Peoria*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Nuts & Bolts of Illinois Foreclosure: Hammering Out the Foreclosure Process** **1.0 hour MCLE credit** Don't miss this complete overview of the foreclosure process – from start to finish! Topics include: navigating the lawsuit; affirmative defenses and counterclaims; new Illinois Supreme Court rules; the mediation process; and other loss mitigation options, including deed in lieu of foreclosure and short sales. ***Hon. Mitchell L. Hoffman**, 19th Judicial Circuit, Waukegan* ***Kathleen M. Robson**, Robson & Lopez, LLC, Chicago*

3:50 – 5:00 p.m.	Breakout Sessions
Legal Technology *Grand Ballroom I & II*	**The PDF/Paperless Office** **1.0 hour MCLE credit, including 1.0* hour Professional Responsibility MCLE credit** Would you like to make it easier to find files, cut down on the storage cabinets around the office, and be on the leading edge (rather than the trailing edge) for once? Then don't miss this introductory session in which our speakers explain what "going paperless" means and shows you what you need to get started! Learn how to reduce the amount of paper in your practice, which electronic file format is best, what equipment and software you need, and how to use them with your everyday software. ***Marc Matheny**, Attorney at Law, Indianapolis* ***Nerino J. Petro**, Practice Management Advisor, State Bar of Wisconsin, Madison, WI*
Effective & Ethical Practice *Gallery Ballroom*	**Lawyers as HIPAA Business Associates** **1.0 hour MCLE credit** Stay apprised of the HIPAA Privacy, Security and Enforcement Rules amendment, which expands the obligations and potential liability for anyone accessing protected health information (PHI) while representing health care providers, organizations, and health plans. This session addresses the business associate responsibilities of attorneys, including how to determine whether an attorney or law firm is a business associate (and, therefore, subject to regulation under the HIPAA rules); business associate obligations, including requirements to enter into business associate agreements with clients; and the interplay of HIPAA and ethical issues for attorney business associates. ***Rick L. Hindmand**, McDonald Hopkins LLC, Chicago*
Substantive Law *Lakeshore Ballroom*	**Mortgage Foreclosure: Case Law Update 2013** **1.0 hour MCLE credit** As the recession continues and solo and small firm attorneys "reinvent" the focus of their practice, the prospect of mortgage foreclosure defense work becomes more realistic and the opportunities more frequent. Join us for an exploration of the fundamentals surrounding the mortgage foreclosure arena, including the most recent case laws affecting mortgage foreclosure issues. ***Steven B. Bashaw**, Steven B. Bashaw, P.C., Lisle*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Fundamentals of Education Law: An Attorney's Role in Discipline Proceedings, IEPs, and Obtaining Other Services** **1.0 hour MCLE credit** Learn how to advocate on behalf of parents with special needs children to obtain educational services with this informative segment. Topics include: appropriate educational placement; protecting children who are facing an expulsion or suspension; and obtaining student school records and mental health records in an educational context. ***Neal E. Takiff**, Whitted Cleary & Takiff, LLC, Northbrook*
5:00 p.m. – 6:30 p.m. *Atrium* ***(pre-registration required)***	**Reception in Atrium** **Sponsored By: *ISBA Mutual Insurance Company***
Various start times between 6:30 – 8:30 p.m.	**Dutch Dine-In Dinners at Shula's Restaurant, Westin Hotel** (*Optional Event – Not Included in Registration Fee*) Good food and good company! Register on-site to attend a Dutch-treat dinner with fellow conference attendees at Shula's in the Westin Hotel. Space is limited, so stop by the ISBA registration office onsite at the Westin on Thursday October 3 to sign up for your dinner group and time.
Saturday, October 5	
7:30 a.m. – 8:30 a.m. ***(pre-registration required)***	**Continental Breakfast** – *Atrium*
7:30 a.m. – 11:20 a.m.	**Registration –** *Atrium Alcove*
8:30 a.m. – 9:35 a.m. *Grand Ballroom I & II*	**Gizmos & Gadgets** ***No MCLE credit*** Back by popular demand, this fast-paced conference favorite is sure to bring a smile to your face by offering you a look at the lighter side of technology, including tips and overviews of the gizmos and gadgets that are most useful for your law practice and your life! ***Nerino J. Petro**, Practice Management Advisor, State Bar of Wisconsin, Madison, WI* ***Bryan M. Sims**, Sims Law Firm, Ltd., Naperville*

9:45 – 10:50 a.m.	Breakout Sessions
Legal Technology *Grand Ballroom I & II*	**Are you Mac-Curious?** **1.0 hour MCLE credit, including 1.0* hour Professional Responsibility MCLE credit** Have you ever wandered into an Apple store and wondered if iPad, iPhone, and Mac users are really more productive? If you've ever thought about making "the switch" – or are just a bit Mac curious – then you need to attend this introductory session! Our Apple experts walk you through the Mac experience by showing you what to expect and how to get the most from your transition to the wonderful world of Mac. ***Brett Burney**, Burney Consultants, Beachwood, OH*
Effective & Ethical Practice *Gallery Ballroom*	**What You Need to Know About E-Discovery** **1.0 hour MCLE credit, including 1.0 hour *approved* Professional Responsibility MCLE credit** Do you worry you're getting a ton of irrelevant junk, but missing the key email? Are you torn between keeping your client's costs down and avoiding sanctions for mistakes in e-discovery? Do you wonder what e-discovery is and how it works? Then don't miss this session in which Todd Flaming examines key case law and rules, important new sources for discovery (like Facebook pages), practical guidance coming from the courts and technical experts, and preferred strategies for how to handle e-discovery. ***Todd H. Flaming**, KrausFlaming, LLC, Chicago*
Substantive Law *Lakeshore Ballroom*	**Health Care Planning with Advanced Directives** **1.0 hour MCLE credit** This segment examines the use of advanced directives in health care planning, including living wills, health care power of attorneys, DNR orders, and the Physician Orders for Life-Sustaining Treatment (POLST) form, as well as the Illinois Health Care Surrogate. ***Heather E. Voorn**, Delaney Delaney & Voorn Ltd., Orland Park*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Advising Your Client on Selection of Business Entity** **1.0 hour MCLE credit** This overview gives you the information you need to effectively advise your clients on selecting a business entity. Topics include: the business entity choices available in Illinois; knowing which entity best fits your client now; and understanding how today's business entity choice could affect your client's future. ***Miriam L. Burkland**, Howard & Howard, Chicago* ***Mark B. Ryerson**, Howard & Howard, Chicago*
11:00 a.m. – 12:05 p.m.	**Breakout Sessions**
Legal Technology *Grand Ballroom I & II*	**The Wizard of Mac** **1.0 hour MCLE credit, including 1.0* hour Professional Responsibility MCLE credit** Don't miss this intermediate-level discussion on why a Mac computer may be right for you and how it can enhance the way your law practice functions. Topics include: best practices on automated form creation; workflows; document styles; mastering PDFs; and understanding how Automator and Apple Scripts can turn your Mac into a thinking machine! ***Brett Burney**, Burney Consultants, Beachwood, OH* ***Alan R. Press**, Alan R. Press Attorney at Law P.C., Lincolnshire*
Effective & Ethical Practice *Gallery Ballroom*	**Time Management Tips for the Practicing Attorney** **MCLE credit TBD** We all make to-do lists because they make us feel in control, like we've accomplished something through sheer *intention*…but lists are only helpful for remembering what you need to do, *not* for actually getting anything done. Join us to discover a better system that will make your days infinitely more productive and less stressful, and learn how to delegate tasks to others (who will take care of them professionally and up to your most exacting standards) even if you don't have staff! ***Elaine Quinn,** The Solopreneur Specialist, Chicago*

Substantive Law *Lakeshore Ballroom*	**Be Careful What You Ask For: Tips for Real Estate Practitioners in Buying and Selling Condominium or Community Association Properties** **1.0 hour MCLE credit** Representation should begin with a review of the scope of representation to confirm that the expectations are mutual, specifically as it relates to the extent of the document review. This segment helps you to ensure that the buyer has a full understanding of the transaction by knowing which statute(s) govern the transaction and the property to which the buyer is taking title, what documents should be requested, and which sections of those documents may need a closer look. ***Charles M. Keough**, Keough and Moody, P.C., Naperville*
Nuts & Bolts *Stanford Room, 2nd Floor*	**Consumer Bankruptcy Issues** **1.0 hour MCLE credit** Are you a new practitioner wanting to file simple Chapter 7 and Chapter 13 cases on behalf of consumer debtors? Then don't miss this crash-course on the basics of consumer bankruptcy! Topics include: the initial interview; filing requirements; the means test; automatic stay issues; redemption and reaffirmation; and drafting effective Chapter 13 Plans. This session also highlights some of the issues that general non-bankruptcy practitioners should be aware of when advising clients. ***Sean Williams,** The Law Offices of Williams & Assoc. P.C., Rock Island*
12:05 p.m.	**Conference Adjourned**

**Professional Responsibility MCLE credit subject to approval*

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THURSDAY, OCTOBER 3, 2013

FRIDAY, OCTOBER 4, 2013

SATURDAY, OCTOBER 5, 2013

TAB 42

Gizmos & Gadgets

- ***Nerino J. Petro**, Practice Management Advisor, State Bar of Wisconsin, Madison, WI*
  npetro@wisbar.org
- ***Bryan M. Sims**, Sims Law Firm, Ltd., Naperville*
  bsims@simslawfirm.com

This segment includes all materials received by the ISBA by the course book publication deadline.
Please contact the speaker for any other materials used at the program.

NOTES

TAB 43

Are You Mac-Curious?

- ***Brett Burney**, Burney Consultants, Beachwood, OH*
  burney@burneyconsultants.com

Are You Mac Curious?

Illinois State Bar Association
2013 ISBA Solo and Small Firm Conference

Brett Burney
Burney Consultants LLC

October 5, 2013

Have you ever wandered into an Apple store and wondered if iPad, iPhone, and Mac users are really more productive? If you've ever thought about making "the switch" – or are just a bit Mac curious – then you need to attend this introductory session! Our Apple experts walk you through the Mac experience by showing you what to expect and how to get the most from your transition to the wonderful world of Mac.

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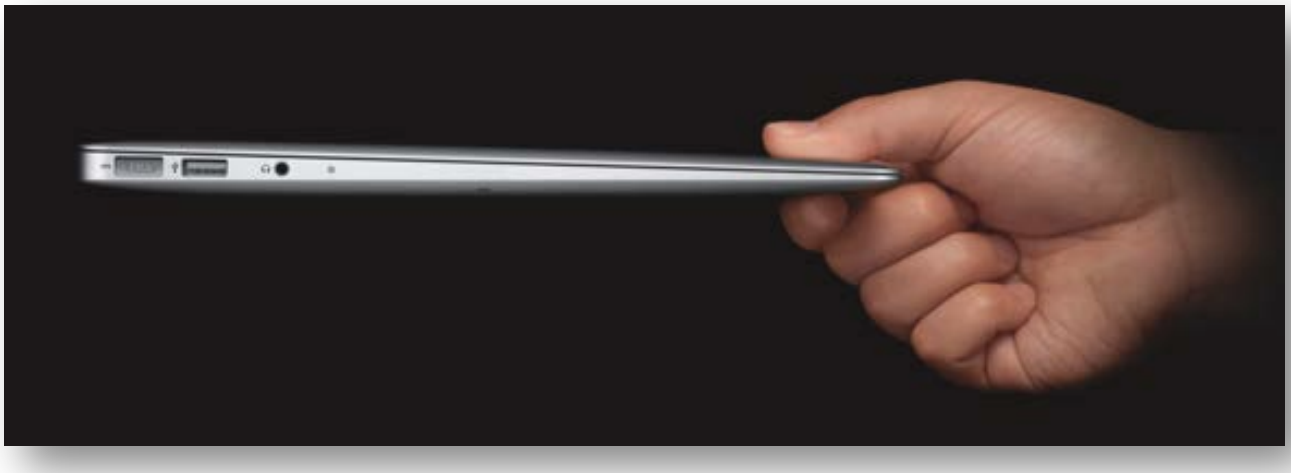
Why People Switch to a Mac

There are many reasons why people switch from a computer running Microsoft Windows to one running the Mac operating system.

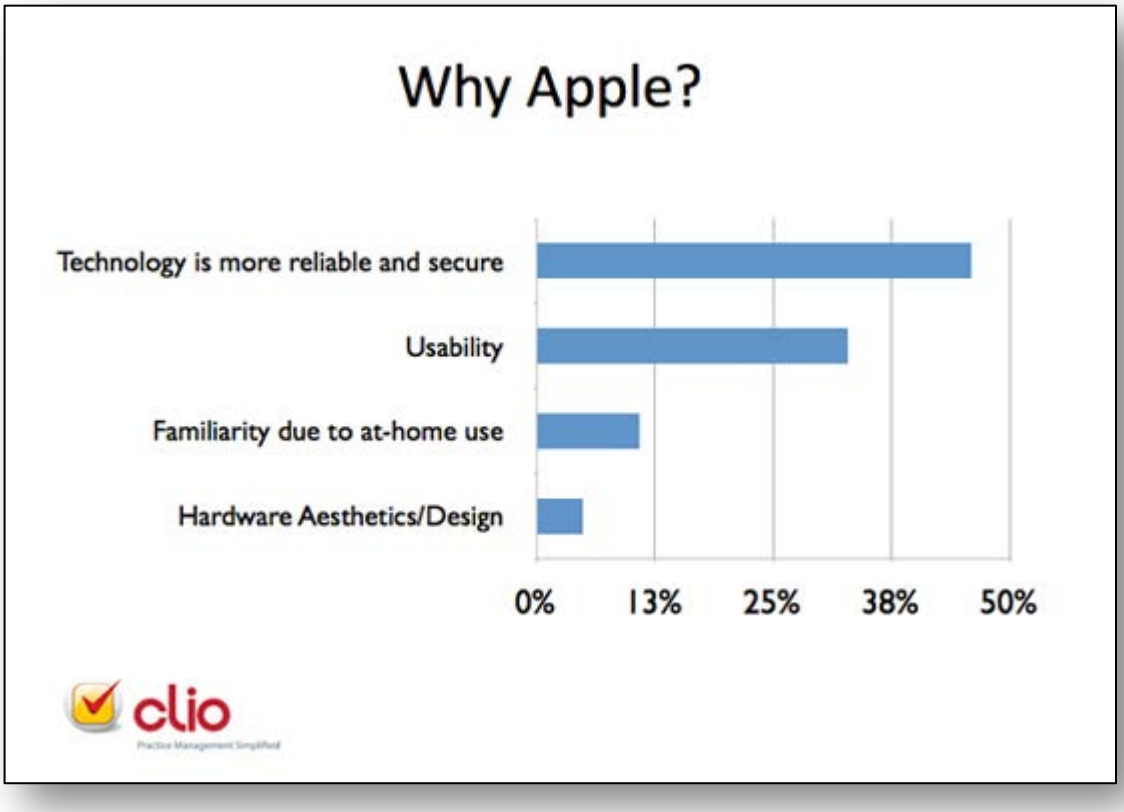
Here are the main reasons I've observed from most Mac-using lawyers:

- Macs are more stable
- Macs are more reliable
- Macs are more secure
- Macs are just beautiful machines



The MacBook Air which tapers to 0.11 inches at the front

The reasons above as to why people switch to a Mac were reflected in the 2010 Clio Apple in Law Firms Survey Results (http://www.goclio.com/blog/2010/11/2010-apple-in-law-firms-survey-results/). The survey received a total of 835 responses and gave a useful sampling of responses across law firm of all sizes as well as from law students.



For some follow-up comments, the authors of the survey (Clio) stated:

> *"Most people, ourselves included, figure people choose Apple products over Windows-based machines because Macs just look better, or more aesthetically appealing, than Windows-based devices. Prevailing wisdom is also that people choose Macs over PCs because Macs are easier to use right out of the box. The interface is clean and more intuitive than that of Windows. As our survey results demonstrate, however, usability and aesthetics take a back seat to reliability and security."*

http://www.goclio.com/blog/2010/12/digging-into-survey-why-apple/

The Problems with Switching to a Mac

While many people think their computing life will be easier when they switch to a Mac, there are several issues that Mac-using lawyers must overcome to successfully and smoothly switch to a Mac:

- Understand and realize that there is very little legal-specific software for the Mac.
- You must always be cognizant that you are using a "different" computing platform and take that into consideration when purchasing software, sending files to others, etc.
- You will find it a little more difficult to find technical support and consultants aware of the rigors of a law practice.
- There is a "learning curve" for users switching from Windows to Mac.

The Biggest Hurdle with Lawyers Switching to Mac: The Lack of Legal-Specific Software

The biggest hurdle for lawyers that want to switch to a Mac is that there is barely any legal-specific software for the Mac OS compared to what you will find available for computers running Microsoft Windows.

The main reason for this is that software manufacturers know that the great majority of lawyers (around 95%) are running Microsoft Windows, and so it makes sense that software developers will devote their resources to creating software for Windows.

For example,

- there are no Mac versions of time & billing software such as Tabs3, PCLaw, or Timeslips;
- there are no Mac versions of document management systems like Worldox;
- there are no Mac versions of practice management software like PracticeMaster, TimeMatters, or Amicus Attorney;
- there are no Mac versions of litigation software products such as Summation or Concordance.

That does not mean, however, that there is no software available for Mac-using lawyers; it just means that some concessions will be required to fit some "square" software into the "round" holes of a Mac-using law practice.

For example,

- for time & billing software, many lawyers will use Billings from Marketcircle (www.marketcircle.com) or iBiz from IGG Software (www.iggsoftware.com);
- for document management systems, many lawyers will simply use the Mac OS built-in search capabilities of Spotlight (http://en.wikipedia.org/wiki/Spotlight_(software)) or a simplified databases such as DEVONthink (www.devon-technologies.com) or FileMaker (www.filemaker.com);
- for practice management software, many lawyers will use Daylite from Marketcircle (www.marketcircle.com) or a SaaS-based service like Rocket Matter (www.rocketmatter.com) or Clio (www.goclio.com);
- for litigation software, many lawyers will use a database such as FileMaker (www.filemaker.com) or a SaaS-based service like Lexbe (www.lexbe.com) or NextPoint (www.nextpoint.com).

Features of a Mac that you can't get on Windows

- **Mission Control** - takes the best parts of Exposé, Dashboard, and Spaces and creates a new interface for accessing running applications

- **"Print to PDF"** is built into Mac OS

- **Dock** instead of Windows Taskbar

- **"Quick Look"** for files

- **Mac App Store** – a built-in method for purchasing software for your Mac right on your desktop

- **Multi-Touch Gestures**

What to Buy – Hardware

There are not a lot of options when it comes to buying a Mac. This is due to the fact that Apple produces "closed" systems where Apple is the sole manufacturer. There are no other manufacturers of Mac computers such as there are on the Windows side (e.g. Dell, HP, Toshiba, etc.).

On the other hand, this can be a refreshing change in that you don't have to spend a long time trying to decide what model is best for your needs.

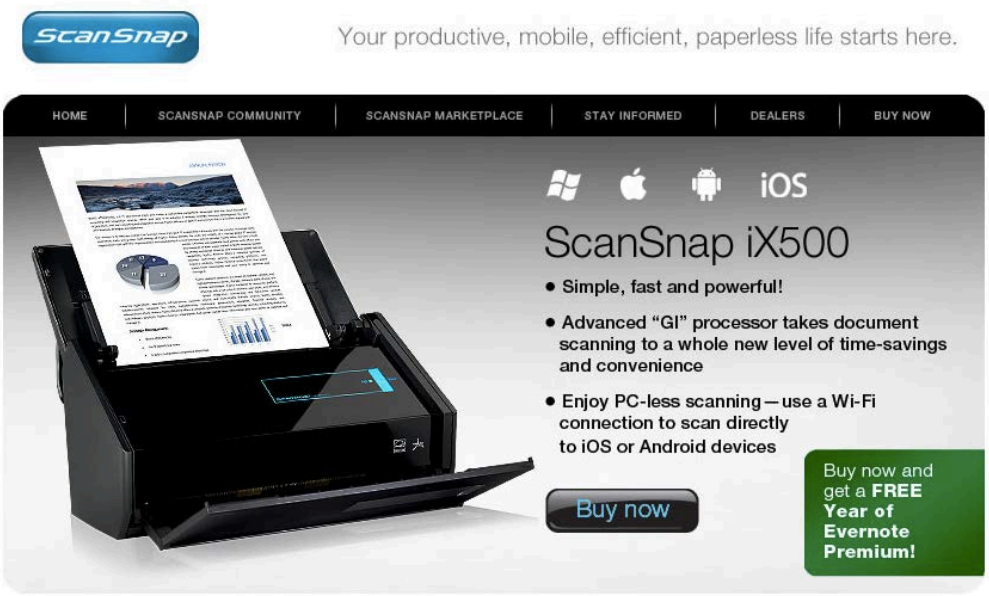
For most lawyers, I recommend:

- **Laptops:** the MacBook Pro 15" with Retina Display - http://www.apple.com/macbook-pro/

Close runner-up: MacBook Air 13" – http://www.apple.com/macbook-air/

- **Desktops:** the iMac, either 21.5" or 27" - http://www.apple.com/imac/

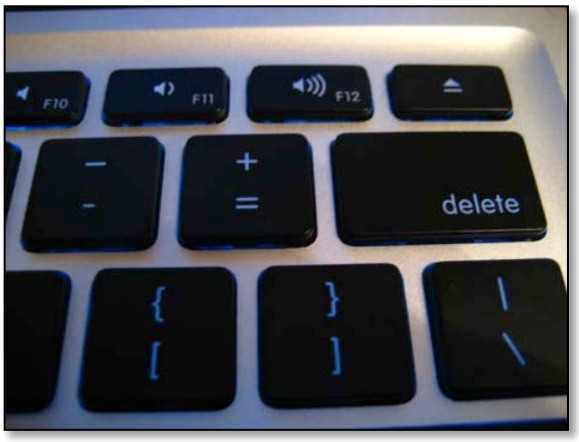
I also recommend purchasing a **Fujitsu ScanSnap iX500** (http://scansnap.fujitsu.com/) as an excellent desktop scanner.



Tips for Those Switching from Windows to Mac

Here is a non-exhaustive list of tips for folks switching from Windows to Mac:

- **Backspace v. Delete** – there is a "Delete" key on most Mac keyboards in the upper right corner, but it functions like a "Backspace" key on Windows machines. To "delete forward" (similar to a Delete key on Windows) you must hold down the Function (or Control) key on a Mac keyboard and then hit the "Delete".



- **Dock vs. Taskbar** – Mac OS provides the "Dock" which functions as 1) a place to launch applications and 2) a place to access running applications. The Windows taskbar is usually used only for running applications, although Windows 7 changes this slightly.

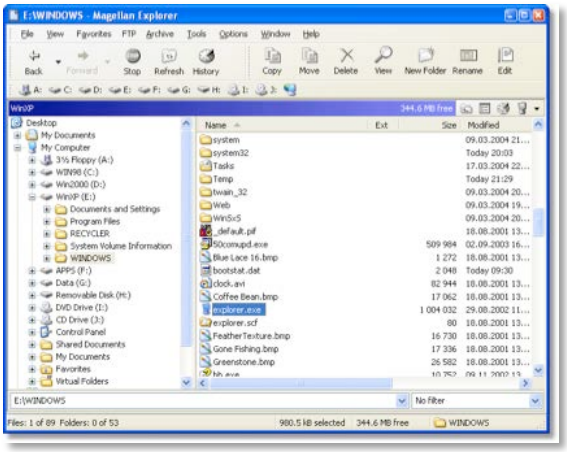
- **Command Key** – this is a special key on Mac keyboards that has no real equivalent on Windows machines (except some would argue that it functions similar to the "Windows key"). The Command Key is used for many shortcuts on the Mac OS.

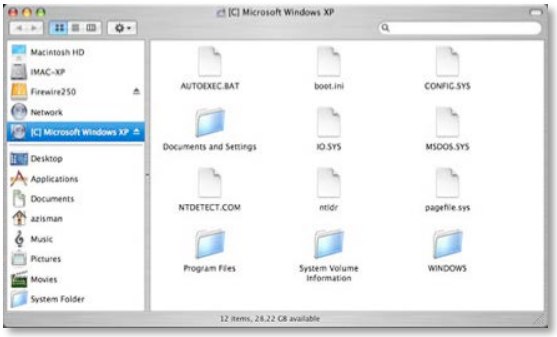
- **Menu Bar** – in the Mac OS, there is a constant "menu bar" at the top of the screen that changes according to the software currently in use. In Windows, each software application has its own menu bar (i.e. File, Edit, View, etc.).

- **Close vs. Quit** – in Windows, when you click the "X" in the upper right corner, the software application shuts down. In Mac OS, there is a difference between "closing" an application and "quitting" an application.

- **No Start Menu** – there is no "Start Menu" in Mac OS such as what you find in Windows. Instead, the Dock takes the place of most functionality found in the Start Menu.

- **Finder vs. Explorer** – In Mac OS, the "Finder" replaces much of the functionality found in the "Explorer" in Windows.





Mac Software for a Law Practice

Here is a non-exhaustive list of software that should be considered for every Mac-using lawyer:

- Microsoft Office 2011 for Mac (www.mactopia.com) which includes Word, Excel, and PowerPoint for Mac.
- iWork '09 from Apple (http://www.apple.com/iwork/) which includes Pages, Numbers, and Keynote. All of these apps can now be purchased separately in the Mac App Store.
- Adobe Acrobat XI Professional for Mac (http://www.adobe.com/products/acrobatpro/)
- Circus Ponies Notebook (www.circusponies.com)
- PDFpen & PDFpenPro (www.smileonmymac.com)
- Evernote (www.evernote.com)
- Default Folder X (www.stclairsoft.com)
- BEEDOCS 3D Timeline (www.beedocs.com)
- TextExpander (www.smileonmymac.com)
- 1Password (www.agileswebolutions.com)

Tips on How to Work with your Windows-Using Brethren

Here are a few tips for working with files that are sent to or received from Windows users:

- **Converting WordPerfect Files** – at one time, there was a version of WordPerfect for Macs, but Corel no longer supports the Mac OS. Many lawyers, however, still work with WordPerfect files and Mac-using lawyers must convert these documents so they can be used on the Mac. AbiWord (www.abisource.com) and NeoOffice (www.neooffice.com) are both free and will easily convert WordPerfect files so they can be used in iWork or Microsoft Office 2008 for Mac.

- **Microsoft Office 2011 for Mac** – while Apple's Pages (iWork) and TextEdit will open Microsoft Word documents just fine, I recommend that Mac-using lawyers obtain a copy of Microsoft Office 2011 for Mac (Home and Business) because Word, Excel, and PowerPoint files will open easier and more efficiently.

- **Sending E-Mail Attachments** – if you use the Mail.app that is built into Mac OS (which most people do), you need to make sure you check "Send Windows Friendly Attachments" so that your Windows-using recipients can receive your attachments.

Running Windows on a Mac

This may sound contradictory, but ever since Apple switched to using Intel processors for their Mac computers, Macs have been able to run the Windows operating system flawlessly. And while the whole point of switching to a Mac is probably to get away from Windows, there are many times when Mac-using lawyers will need to fire up Windows. Fortunately, you can do this all on a Mac.

Apple itself has built in a tool called "Boot Camp" to enable this functionality. Boot Camp allows you to partition part of your hard drive to be devoted to the Windows operating system so that when the computer boots up, you have the option of either booting into Mac or Windows.

Rather than having to re-boot your Mac, you can use VMware Fusion (www.vmware.com) or Parallels (www.parallels.com) to create "virtual" Windows environments running on your Mac. Both of these tools allow you to run a full Windows operating system on your Mac where you can launch and work on Windows-specific software.

To use any of these solutions, you will need to have a fully licensed copy of Windows in your possession. Your copy of Windows can be XP, Vista, or 7.

Resources

Blogs:

- Macs in Law – www.macsinlaw.com
- The Mac Lawyer – www.themaclawyer.com
- MacSparky – www.macsparky.com
- iPhone J.D. – www.iphonejd.com

E-Mail Listservs:

- Macs in Law Offices - http://groups.google.com/group/milogroup

TAB 44

What You Need to Know about E-Discovery

- ***Todd H. Flaming**, KrausFlaming, LLC, Chicago*
  todd@krausflaming.com

This segment includes all materials received by the ISBA by the course book publication deadline.
Please contact the speaker for any other materials used at the program.

Electronic Discovery In Limited Resource Cases

Todd H. Flaming

Overview

Electronic discovery is now a part of every case. It is important for an attorney to understand what is required, the general approach to handling it, and where to turn for guidance.

Explanation of Electronic Data

Electronic data, or what we now call "electronically stored information" ("ESI" for short), is information stored on a computer.

Why is it complicated to address?

Here are some extremely important concepts that you should understand before handling e-discovery.

First, it is hard to access. Merely copying a file changes the data, and in some cases that data can be important to the case. For example, if you copy a file from the hard drive of a computer to a new file from a Microsoft Windows system, you will have certain file system dates that change. They will be set to the date that the file itself was copied to the new disk.

Second, it is in thousands of different formats. Most traditional information was stored on pieces of paper, usually letter-sized paper. Data was easy to copy. Now there are file formats for each individual computer program, such as Word, WordPerfect, and Excel, to name a few. And to make things worse each has many different versions, complicating things.

Third, much of the data is amorphous. Take email for an example. When you open "an email message," you are not usually opening a single document. You are asking a complicated database server to pull together several pieces of information and display them a certain way. There are other ways to organize it, and the data can be sliced and diced differently.

Fourth, there is a lot of it. Owing to the ease of creating electronic information, the volume of information being produced now is exponentially larger than what many of us used to see when we practiced before the computer and Internet revolution took off.

Fifth, it is highly technical and confusing without expertise. This means you often must rely on an expert or vendor to handle discovery for you. Thus, it is expensive. Because of the size and complexity of handling e-discovery, the cost of gathering, producing, and reviewing it often, perhaps usually, could dwarf the amount in dispute.

Sixth, it is changing. Data changes, and it is easy to delete.

Seventh, the law is still playing catch-up. We are working off of a set of rules and case law that were built for the paper world and are trying to adapt to this new world. The law has not caught up with the technology.

E-Discovery Rules and Law

Owing to the significance of discovery in litigation, there are thousands of opinions and the number is growing rapidly. To understand e-discovery, it is important to understand some basic rules and principles and be aware of some of the major cases to address it.

I. Rules

A. Federal Rules

The Federal Rules of Civil Procedure now address e-discovery. The important ones are:

FRCP 16 and 26(f)—in 2006 they were amended to encourage early discussions of handling ESI.

FRCP 34—now covers ESI, not "documents" as it used to.

FRCP 37—addresses sanctions differently to account for the difficulty in maintaining data that might accidentally be deleted.

Federal Rule of Evidence 502—provides some protection for inadvertent disclosure of privileged material in recognition of the problems of large-scale electronic document review.

B. State Rules

The state rules have not been updated specifically with the changes the Federal Rules. But state judges will consider federal law and opinions in addressing ESI. There is also a collaborative effort involving both federal and state judges sponsored by the Seventh Circuit Bar Association.

II. Case Law

E-discovery case law has exploded, much like the data it is meant to address.

A. Zubulake

The seminal case law for modern e-discovery comes from the Southern District of New York in a series of opinions written by Judge Shira Scheindlin in a dispute between Laura Zubulake and UBS Warburg. They are summarized in several places, including on Wikipedia. *See* http://en.wikipedia.org/wiki/Zubulake_v._UBS_Warburg.

The series of opinions address most of the major issues in dealing with electronic discovery. They are difficult to summarize without going into a great deal of detail, but big parts of the cases are as follows.

First, Judge Scheindlin adopted a new test for determining whether to shift the cost of production to the other side:

- The extent to which the request is specifically tailored to discover relevant information;
- The availability of such information from other sources;
- The total cost of production, compared to the amount in controversy;
- The total cost of production, compared to the resources available to each party;
- The relative ability of each party to control costs and its incentive to do so;
- The importance of the issues at stake in the litigation; and
- The relative benefits to the parties of obtaining the information.

Second, the court used sampling from backup tapes to see if they contained relevant data.

Third, the court held that attorneys have duties with respect to ESI, including monitoring and working to ensure compliance.

Fourth, the court issued an adverse inference instruction to the jury due to data the court found UBS lost when it should not have.

The jury found for Zubulake, awarding compensatory and punitive damages.

B. Resources

Rather than summarize a few cases, this outline links to resources that should be helpful to you.

First, probably one of the best resources is the Seventh Circuit Bar Association's Discovery Pilot program web site. It is at http://discoverypilot.com. On that page are the following:

1. The discovery principles adopted by the committee. They are a useful guide for managing e-discovery for judges and lawyers.

2. Cases. The link at the top to "Cases" points to a page that has discovery opinions from courts in the Seventh Circuit. Those include useful case summaries of individual cases.

3. Resources. Under the "Resources" tab (which may change to a more user-friendly name) are links to Webinars, Cases (above), Other Materials, and ECRM.net.

Second, consider the Sedona Conference publications, located at https://thesedonaconference.org.

Third, consider the K&L Gates summary of cases. It is located at http://www.ediscoverylaw.com.

III. Practical steps

The following are the practical steps to take when handling electronic discovery.

A. Early assessment

Assess what your client has and what your client needs to win the case. That means interview the relevant people, find out on what computers and systems data is stored, and make a map of them for future reference.

Consider retaining an e-discovery vendor.

B. Preservation

Instruct your client to preserve all potentially relevant data, taking into consideration the cost of doing so and how likely a particular source is to have relevant data.

This may require some early preservation efforts that are out of the ordinary, such as making an image of a disk. Doing so would require using a vendor.

C. Negotiation

To effectively handle e-discovery, both sides should cooperate. Early negotiation and agreement on how to handle it and what to preserve will avoid problems later.

D. Requests

See below – this may require some back and forth, using search term.

E. Collection

Getting data requires either using simple copying techniques, something for which it is not a bad idea to have agreement on, or more careful collection using the special tools and expertise of a vendor.

F. Review

Review includes privilege review and review for relevance.

The first can be burdensome. At this stage you may agree to do a broad-scope review for, say, attorney e-mail addresses and hold back those emails for further review.

You may also agree to an inadvertent production waiver, using FRE 502.

The second can be burdensome, but is made easier if done by using search terms. In some cases you may try searching to see the number of hits you get with a term, then refining it.

G. Production

You should agree on a format for production and a manner of producting.

H. Repeat

You may go back to earlier steps.

7th CIRCUIT ELECTRONIC DISCOVERY COMMITTEE

PRINCIPLES RELATING TO THE DISCOVERY OF ELECTRONICALLY STORED INFORMATION

(Rev. 08/01/2010)

General Principles

Principle 1.01 (Purpose)

The purpose of these Principles is to assist courts in the administration of Federal Rule of Civil Procedure 1, to secure the just, speedy, and inexpensive determination of every civil case, and to promote, whenever possible, the early resolution of disputes regarding the discovery of electronically stored information ("ESI") without Court intervention. Understanding of the feasibility, reasonableness, costs, and benefits of various aspects of electronic discovery will inevitably evolve as judges, attorneys and parties to litigation gain more experience with ESI and as technology advances.

Principle 1.02 (Cooperation)

An attorney's zealous representation of a client is not compromised by conducting discovery in a cooperative manner. The failure of counsel or the parties to litigation to cooperate in facilitating and reasonably limiting discovery requests and responses raises litigation costs and contributes to the risk of sanctions.

Principle 1.03 (Discovery Proportionality)

The proportionality standard set forth in Fed. R. Civ. P. 26(b)(2)(C) should be applied in each case when formulating a discovery plan. To further the application of the proportionality standard in discovery, requests for production of ESI and related responses should be reasonably targeted, clear, and as specific as practicable.

Early Case *Assessment Principles*

Principle 2.01 (Duty to Meet and Confer on Discovery and to Identify Disputes for Early Resolution)

(a) Prior to the initial status conference with the Court, counsel shall meet and discuss the application of the discovery process set forth in the Federal Rules of Civil Procedure and these Principles to their specific case. Among the issues to be discussed are:

(1) the identification of relevant and discoverable ESI and documents, including methods for identifying an initial subset of sources of ESI and documents that are most likely to contain the relevant and discoverable information as well as methodologies for culling the relevant and discoverable ESI and documents from that initial subset (see Principle 2.05);

(2) the scope of discoverable ESI and documents to be preserved by the parties;

(3) the formats for preservation and production of ESI and documents;

(4) the potential for conducting discovery in phases or stages as a method for reducing costs and burden; and

(5) the potential need for a protective order and any procedures to which the parties might agree for handling inadvertent production of privileged information and other privilege waiver issues pursuant to Rule 502(d) or (e) of the Federal Rules of Evidence.

(b) Disputes regarding ESI that counsel for the parties are unable to resolve shall be presented to the Court at the initial status conference, Fed. R. Civ. P. Rule 16(b) Scheduling Conference, or as soon as possible thereafter.

(c) The attorneys for each party shall review and understand how their client's data is stored and retrieved before the meet and confer discussions in order to determine what issues must be addressed during the meet and confer discussions.

(d) If the Court determines that any counsel or party in a case has failed to cooperate and participate in good faith in the meet and confer process or is impeding the purpose of these Principles, the Court may require additional discussions prior to the commencement of discovery, and may impose sanctions, if appropriate.

Principle 2.02 (E-Discovery Liaison(s))

In most cases, the meet and confer process will be aided by participation of an e-discovery liaison(s) as defined in this Principle. In the event of a dispute concerning the preservation or production of ESI, each party shall designate an individual(s) to act as e-discovery liaison(s) for purposes of meeting, conferring, and attending court hearings on the subject. Regardless of whether the e-discovery liaison(s) is an attorney (in-house or outside counsel), a third party consultant, or an employee of the party, the e-discovery liaison(s) must:

(a) be prepared to participate in e-discovery dispute resolution;

(b) be knowledgeable about the party's e-discovery efforts;

(c) be, or have reasonable access to those who are, familiar with the party's electronic systems and capabilities in order to explain those systems and answer relevant questions; and

(d) be, or have reasonable access to those who are, knowledgeable about the technical aspects of e-discovery, including electronic document storage, organization, and format issues, and relevant information retrieval technology, including search methodology.

Principle 2.03 (Preservation Requests and Orders)

(a) Appropriate preservation requests and preservation orders further the goals of these Principles. Vague and overly broad preservation requests do not further the goals of these Principles and are therefore disfavored. Vague and overly broad preservation orders should not be sought or entered. The information sought to be preserved through the use of a preservation letter request or order should be reasonable in scope and mindful of the factors set forth in Rule 26(b)(2)(C).

(b) To the extent counsel or a party requests preservation of ESI through the use of a preservation letter, such requests should attempt to ensure the preservation of relevant and discoverable information and to facilitate cooperation between requesting and receiving counsel and parties by transmitting specific and useful information. Examples of such specific and useful information include, but are not limited to:

(1) names of the parties;

(2) factual background of the potential legal claim(s) and identification of potential cause(s) of action;

(3) names of potential witnesses and other people reasonably anticipated to have relevant evidence;

(4) relevant time period; and

(5) other information that may assist the responding party in assessing what information to preserve.

(c) If the recipient of a preservation request chooses to respond, that response should provide the requesting counsel or party with useful information regarding the preservation efforts undertaken by the responding party. Examples of such useful and specific information include, but are not limited to, information that:

(1) identifies what information the responding party is willing to preserve and the steps being taken in response to the preservation letter;

(2) identifies any disagreement(s) with the request to preserve; and

(3) identifies any further preservation issues that were not raised.

(d) Nothing in these Principles shall be construed as requiring the sending of a preservation request or requiring the sending of a response to such a request.

Principle 2.04 (Scope of Preservation)

(a) Every party to litigation and its counsel are responsible for taking reasonable and proportionate steps to preserve relevant and discoverable ESI within its possession, custody or control. Determining which steps are reasonable and proportionate in particular litigation is a

fact specific inquiry that will vary from case to case. The parties and counsel should address preservation issues at the outset of a case, and should continue to address them as the case progresses and their understanding of the issues and the facts improves.

(b) Discovery concerning the preservation and collection efforts of another party may be appropriate but, if used unadvisedly, can also contribute to the unnecessary expense and delay and may inappropriately implicate work product and attorney-client privileged matter. Accordingly, prior to initiating such discovery a party shall confer with the party from whom the information is sought concerning: (i) the specific need for such discovery, including its relevance to issues likely to arise in the litigation; and (ii) the suitability of alternative means for obtaining the information. Nothing herein exempts deponents on merits issues from answering questions concerning the preservation and collection of their documents, ESI, and tangible things.

(c) The parties and counsel should come to the meet and confer conference prepared to discuss the claims and defenses in the case including specific issues, time frame, potential damages, and targeted discovery that each anticipates requesting. In addition, the parties and counsel should be prepared to discuss reasonably foreseeable preservation issues that relate directly to the information that the other party is seeking. The parties and counsel need not raise every conceivable issue that may arise concerning their preservation efforts; however, the identification of any such preservation issues should be specific.

(d) The following categories of ESI generally are not discoverable in most cases, and if any party intends to request the preservation or production of these categories, then that intention should be discussed at the meet and confer or as soon thereafter as practicable:

(1) "deleted," "slack," "fragmented," or "unallocated" data on hard drives;

(2) random access memory (RAM) or other ephemeral data;

(3) on-line access data such as temporary internet files, history, cache, cookies, etc.;

(4) data in metadata fields that are frequently updated automatically, such as last-opened dates;

(5) backup data that is substantially duplicative of data that is more accessible elsewhere; and

(6) other forms of ESI whose preservation requires extraordinary affirmative measures that are not utilized in the ordinary course of business.

(e) If there is a dispute concerning the scope of a party's preservation efforts, the parties or their counsel must meet and confer and fully explain their reasons for believing that additional efforts are, or are not, reasonable and proportionate, pursuant to Rule 26(b)(2)(C). If the parties are unable to resolve a preservation issue, then the issue should be raised promptly with the Court.

Principle 2.05 (Identification of Electronically Stored Information)

(a) At the Rule 26(f) conference or as soon thereafter as possible, counsel or the parties shall discuss potential methodologies for identifying ESI for production.

(b) Topics for discussion may include, but are not limited to, any plans to:

(1) eliminate duplicative ESI and whether such elimination will occur only within each particular custodian's data set or whether it will occur across all custodians;

(2) filter data based on file type, date ranges, sender, receiver, custodian, search terms, or other similar parameters; and

(3) use keyword searching, mathematical or thesaurus-based topic or concept clustering, or other advanced culling technologies.

Principle 2.06 (Production Format)

(a) At the Rule 26(f) conference, counsel and the parties should make a good faith effort to agree on the format(s) for production of ESI (whether native or some other reasonably usable form). If counsel or the parties are unable to resolve a production format issue, then the issue should be raised promptly with the Court.

(b) The parties should confer on whether ESI stored in a database or a database management system can be produced by querying the database for discoverable information, resulting in a report or a reasonably usable and exportable electronic file for review by the requesting counsel or party.

(c) ESI and other tangible or hard copy documents that are not text-searchable need not be made text-searchable.

(d) Generally, the requesting party is responsible for the incremental cost of creating its copy of requested information. Counsel or the parties are encouraged to discuss cost sharing for optical character recognition (OCR) or other upgrades of paper documents or non-text-searchable electronic images that may be contemplated by each party.

Education *Principles*

Principle 3.01 (Judicial Expectations of Counsel)

Because discovery of ESI is being sought more frequently in civil litigation and the production and review of ESI can involve greater expense than discovery of paper documents, it is in the interest of justice that all judges, counsel and parties to litigation become familiar with the fundamentals of discovery of ESI. It is expected by the judges adopting these Principles that all counsel will have done the following in connection with each litigation matter in which they file an appearance:

(1) Familiarize themselves with the electronic discovery provisions of Federal Rules of Civil Procedure, including Rules 26, 33, 34, 37, and 45, as well as any applicable State Rules of Procedure;

(2) Familiarize themselves with the Advisory Committee Report on the 2006 Amendments to the Federal Rules of Civil Procedure, available at http://www.uscourts.gov/rules/EDiscovery_w_Notes.pdf; and

(3) Familiarize themselves with these Principles.

Principle 3.02 (Duty of Continuing Education)

Judges, attorneys and parties to litigation should continue to educate themselves on electronic discovery by consulting applicable case law, pertinent statutes, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, The Sedona Conference® publications relating to electronic discovery[1], additional materials available on web sites of the courts[2], and of other organizations[3] providing educational information regarding the discovery of ESI.[4]

[1] http://www.thesedonaconference.org/content/miscFiles/publications_html?grp=wgs110
[2] E.g. http://www.ilnd.uscourts.gov/home/
[3] E.g. http://www.7thcircuitbar.org, www.fjc.gov (under Educational Programs and Materials)
[4] E.g. http://www.du.edu/legalinstitute

UNITED STATES [DISTRICT/BANKRUPTCY] COURT
FOR THE _____ DISTRICT OF _____
_____ DIVISION

_____,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. _____
	)	
_____,	)	Judge _____
	)	
Defendant.	)	

[PROPOSED]
STANDING ORDER RELATING TO THE
DISCOVERY OF ELECTRONICALLY STORED INFORMATION

This court is participating in the Pilot Program initiated by the Seventh Circuit Electronic Discovery Committee. Parties and counsel in the Pilot Program with civil cases pending in this Court shall familiarize themselves with, and comport themselves consistent with, that committee's Principles Relating to the Discovery of Electronically Stored Information. For more information about the Pilot Program please see the web site of the Committee, www.discoverypilot.com. If any party believes that there is good cause why a particular case should be exempted, in whole or in part, from the Principles Relating to the Discovery of Electronically Stored Information, then that party may raise such reason with the Court.

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(1) names of the parties;

(2) factual background of the potential legal claim(s) and identification of potential cause(s) of action;

(3) names of potential witnesses and other people reasonably anticipated to have relevant evidence;

(4) relevant time period; and

(5) other information that may assist the responding party in assessing what information to preserve.

(c) If the recipient of a preservation request chooses to respond, that response should provide the requesting counsel or party with useful information regarding the preservation efforts undertaken by the responding party. Examples of such useful and specific information include, but are not limited to, information that:

(1) identifies what information the responding party is willing to preserve and the steps being taken in response to the preservation letter;

(2) identifies any disagreement(s) with the request to preserve; and

(3) identifies any further preservation issues that were not raised.

(d) Nothing in these Principles shall be construed as requiring the sending of a preservation request or requiring the sending of a response to such a request.

Principle 2.04 (Scope of Preservation)

(a) Every party to litigation and its counsel are responsible for taking reasonable and proportionate steps to preserve relevant and discoverable ESI within its possession, custody or control. Determining which steps are reasonable and proportionate in particular litigation is a fact specific inquiry that will vary from case to case. The parties and counsel should address preservation issues at the outset of a case, and should continue to address them as the case progresses and their understanding of the issues and the facts improves.

(b) Discovery concerning the preservation and collection efforts of another party may be appropriate but, if used unadvisedly, can also contribute to the unnecessary expense and delay and may inappropriately implicate work product and attorney-client privileged matter. Accordingly, prior to initiating such discovery a party shall confer with the party from whom the information is sought concerning: (i) the specific need for such discovery, including its relevance to issues likely to arise in the litigation; and (ii) the suitability of alternative means for obtaining the information. Nothing herein exempts deponents on merits issues from answering questions concerning the preservation and collection of their documents, ESI, and tangible things.

(c) The parties and counsel should come to the meet and confer conference prepared to discuss the claims and defenses in the case including specific issues, time frame, potential damages, and targeted discovery that each anticipates requesting. In addition, the parties and counsel should be prepared to discuss reasonably foreseeable preservation issues that relate directly to the information that the other party is seeking. The parties and counsel need not raise every conceivable issue that may arise concerning their preservation efforts; however, the identification of any such preservation issues should be specific.

(d) The following categories of ESI generally are not discoverable in most cases, and if any party intends to request the preservation or production of these categories, then that intention should be discussed at the meet and confer or as soon thereafter as practicable:

(1) "deleted," "slack," "fragmented," or "unallocated" data on hard drives;

(2) random access memory (RAM) or other ephemeral data;

(3) on-line access data such as temporary internet files, history, cache, cookies, etc.;

(4) data in metadata fields that are frequently updated automatically, such as last-opened dates;

(5) backup data that is substantially duplicative of data that is more accessible elsewhere; and

(6) other forms of ESI whose preservation requires extraordinary affirmative measures that are not utilized in the ordinary course of business.

(e) If there is a dispute concerning the scope of a party's preservation efforts, the parties or their counsel must meet and confer and fully explain their reasons for believing that additional efforts are, or are not, reasonable and proportionate, pursuant to Rule 26(b)(2)(C). If

the parties are unable to resolve a preservation issue, then the issue should be raised promptly with the Court.

Principle 2.05 (Identification of Electronically Stored Information)

(a) At the Rule 26(f) conference or as soon thereafter as possible, counsel or the parties shall discuss potential methodologies for identifying ESI for production.

(b) Topics for discussion may include, but are not limited to, any plans to:

(1) eliminate duplicative ESI and whether such elimination will occur only within each particular custodian's data set or whether it will occur across all custodians;

(2) filter data based on file type, date ranges, sender, receiver, custodian, search terms, or other similar parameters; and

(3) use keyword searching, mathematical or thesaurus-based topic or concept clustering, or other advanced culling technologies.

Principle 2.06 (Production Format)

(a) At the Rule 26(f) conference, counsel and the parties should make a good faith effort to agree on the format(s) for production of ESI (whether native or some other reasonably usable form). If counsel or the parties are unable to resolve a production format issue, then the issue should be raised promptly with the Court.

(b) The parties should confer on whether ESI stored in a database or a database management system can be produced by querying the database for discoverable information, resulting in a report or a reasonably usable and exportable electronic file for review by the requesting counsel or party.

(c) ESI and other tangible or hard copy documents that are not text-searchable need not be made text-searchable.

(d) Generally, the requesting party is responsible for the incremental cost of creating its copy of requested information. Counsel or the parties are encouraged to discuss cost sharing for optical character recognition (OCR) or other upgrades of paper documents or non-text-searchable electronic images that may be contemplated by each party.

Education Provisions

Principle 3.01 (Judicial Expectations of Counsel)

Because discovery of ESI is being sought more frequently in civil litigation and the production and review of ESI can involve greater expense than discovery of paper documents, it is in the interest of justice that all judges, counsel and parties to litigation become familiar with the fundamentals of discovery of ESI. It is expected by the judges adopting these Principles that all counsel will have done the following in connection with each litigation matter in which they file an appearance:

(1) Familiarize themselves with the electronic discovery provisions of Federal Rules of Civil Procedure, including Rules 26, 33, 34, 37, and 45, as well as any applicable State Rules of Procedure;

(2) Familiarize themselves with the Advisory Committee Report on the 2006 Amendments to the Federal Rules of Civil Procedure, available at http://www.uscourts.gov/uscourts/RulesAndPolicies/rules/EDiscovery_w_Notes.pdf; and

(3) Familiarize themselves with these Principles.

Principle 3.02 (Duty of Continuing Education)

Judges, attorneys and parties to litigation should continue to educate themselves on electronic discovery by consulting applicable case law, pertinent statutes, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, The Sedona Conference® publications relating to electronic discovery[1], additional materials available on web sites of the courts[2], and of other organizations[3] providing educational information regarding the discovery of ESI.[4]

ENTER:

Dated:_____ _____

[Name]
United States [District/Bankruptcy/Magistrate] Judge

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[1] http://www.thesedonaconference.org/content/miscFiles/publications html?grp=wgs110

[2] E.g. http://www.ilnd.uscourts.gov/home/

[3] E.g. http://www.discoverypilot.com, www.fjc.gov (under Educational Programs and Materials)

[4] E.g. http://www.du.edu/legalinstitute

TAB 45

Health Care Planning with Advanced Directives

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HEALTHCARE PLANNING WITH ADVANCED DIRECTIVES

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INTRODUCTION

Advanced directives offer clients a tool with which to plan for future healthcare decisions. In the event of incapacitation, clients with advanced directives in place have already expressed their wishes as a guide for their treatment. Although they are not required to be executed, clients who wish to control certain aspects of their healthcare may wish to execute these documents. Furthermore, it helps provide their family members with direction in times of significant stress and turmoil.

In Illinois, individuals have many tools to use in setting forth their healthcare decisions. Additionally, the state recognizes that individuals have a basic right to control decisions regarding their own medical care. The goal for this session is to discuss healthcare planning with those advanced directives available and in the event those directives are not in place. Further, we will discuss how we as practitioners can ensure those directives operate as intended for our clients.

LIVING WILLS

A living will is a written declaration by an individual advising that in the event of an incurable and irreversible injury, disease, or illness which is terminal, according to the attending physician, and in which death is imminent, the individual directs that life support be withheld or withdrawn.

The living will is a statement from the individual to the doctor stating in the event of incurable and irreversible injury, they do not wish to have life sustaining measures undertaken or maintained. The premise again is based on the fundamental right to control decisions regarding one's own medical care, including the right not to have life support.

Illinois has codified the living will in 755 ILCS 35/1 et al – the Living Will Act. Below is the statutory Living Will as set forth in 755 ILCS 35/3:

DECLARATION

This declaration is made this ..... day of ..... (month, year). I, ..., being of sound mind, willfully and voluntarily make known my desires that my moment of death shall not be artificially postponed.

If at any time I should have an incurable and irreversible injury, disease, or illness judged to be a terminal condition by my attending physician who has personally examined me and has determined that my death is imminent except for death delaying procedures, I direct that

such procedures which would only prolong the dying process be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication, sustenance, or the performance of any medical procedure deemed necessary by my attending physician to provide me with comfort care.

In the absence of my ability to give directions regarding the use of such death delaying procedures, it is my intention that this declaration shall be honored by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

Signed .....

City, County and State of Residence .....

The declarant is personally known to me and I believe him or her to be of sound mind. I saw the declarant sign the declaration in my presence (or the declarant acknowledged in my presence that he or she had signed the declaration) and I signed the declaration as a witness in the presence of the declarant. I did not sign the declarant's signature above for or at the direction of the declarant. At the date of this instrument, I am not entitled to any portion of the estate of the

declarant according to the laws of intestate succession or, to the best of my knowledge and belief, under any will of declarant or other instrument taking effect at declarant's death, or directly financially responsible for declarant's medical care.

Witness .....

Witness .....

To execute a living will, one must be 18 years old or an emancipated minor.[1] As you can see from the form, two witnesses are required.[2] The document is also revocable. To revoke a living will, the individual can physically destroy it, execute a written revocation, or orally revoke it in front of a witness who, in writing, states that the individual had the intent to revoke the document.[3] It is important to note that a living will can be revoked regardless of mental or physical capacity.[4]

In reality, these documents are very narrow. First, the Living Will only applies in a scenario where an individual has been determined to have a terminal condition. Terminal condition is defined under the statute as "an incurable and irreversible condition which is such that death is imminent and the application of death delaying procedures serves only to

[1] 755 ILCS 35/3(a).
[2] 755 ILCS 35/3(b).
[3] 755 ILCS 35/5.
[4] *See* Id.

prolong the dying process."[5] Not only are doctors hesitant to document a patient's chart noting a terminal condition but many illnesses would not qualify as terminal. People are living longer and suffering with serious medical conditions that are not considered terminal. As such, the Living Will would be applicable only in very narrow situations.

Living wills do not authorize the withdrawal of nutrition and hydration if death would result from starvation or dehydration. More significantly, it does not appoint an individual (an agent) to enforce these wishes. Rather it is just a blanket statement of one's wishes. As a result, many practitioners are no longer preparing these documents for clients. However, if a power of attorney for health care fails, the Living Will will may still be effective as a declaration of and guidance for the individual's wishes.

A practitioner should be conscious of whether the living will comports with the individual's wishes under the health care power of attorney. However, the living will act states that if an individual has both a living will and a healthcare power of attorney, the power of attorney document controls.[6]

HEALTHCARE POWERS OF ATTORNEY

In contrast to the Living Will is the Healthcare Power of Attorney. Illinois has codified this advance directive at 755 ILCS 45/1 et seq. This document allows individuals to choose an agent to make healthcare decisions for them if they are no longer able to do so themselves. With the appointment of an agent, individuals have someone to advocate for

[5] 755 ILCS 35/2(h)
[6] 755 ILCS 45/4-11.

them unlike the blanket declaration of the Living Will. The agent must be at least 18 years old, must be competent, and cannot be the individuals' physician or licensed caregiver.[7]

Furthermore, one can use the statutory health care power of attorney or can tailor a power of attorney to meet their personal needs thereby providing a more flexible document. Additionally, the health care power of attorney can apply for all medical decisions, not just those in those instances when an incurable and irreversible condition exists and which will result in imminent death.

The named agent does not have a duty to act as agent; however, if he or she does act, he or she must use due care and must act in good faith.[8] As a result, if he or she negligently exercises these duties, he or she will be liable but will not be liable for errors in judgment.[9] The amendments to the Act which took effect July 1, 2011, added a form to the document entitled "Agent's Certification and Acceptance of Authority." This document is considered part of the Power of Attorney and may be requested by a third party being asked to rely on the document. This was to alleviate the scenario where agents would claim they did not know they were appointed as agents. Via this affidavit, the agent directly accepts his or her duties as agent.

The format of the statutory Power of Attorney for healthcare starts out with a Notice advising the individual who is signing the document to name an agent they trust, and advises that the agent has a duty to use good faith for the benefit of the principal and must

[7] 755 ILCS 45-4.
[8] 755 ILCS 45/2-7.
[9] Id.

use due care.[10] It further advises that the document can be revoked and the principal does not have to sign it. This notice is to be set forth on a separate sheet with 14 point font.[11]

The statutory power of attorney provides that the agent make two elections. The first item is in regards to anatomical gifts. Under the document, the principal can authorize the agent to: 1. donate any organs, tissues or eyes suitable for transplantation or for research or educational use; 2. donate specific organs, which the principal can list in the document, or 3. not grant the agent authority to make anatomical gifts.[12]

The second election the agent should make is with respect to end of life wishes. It is important to note that the document sets forth these statements to serve as guidance for the agent. The agent is to give "careful consideration" to the selected statement when making such a decision. There are three options set forth in the statutory document. The first option may be considered the most flexible and states as follows:

> I do not want my life to be prolonged nor do I want life-sustaining treatment to be provided or continued if my agent believes the burdens of the treatment outweigh the expected benefits. I want my agent to consider the relief of suffering, the expense involved and the quality as well as the possible extension of my life in making decisions concerning life-sustaining treatment.[13]

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[10] Id.
[11] 755 ILCS 45/4-10. If the power of attorney does not include a notice, it is not in and of itself invalid.
[12] Id.
[13] Id.

This option gives the agent the authority to weigh the benefits versus the burdens of the life sustaining treatment and make a decision. It puts the onus on the agent to make the decision, considering likelihood of success, cost, and relief of suffering.

The second option comports with the language in the Illinois Living Will Declaration. This paragraph was revised with the changes effective July 1, 2011 and now states as follows:

> I want life-sustaining treatment to be provided or continued, unless I am, in the opinion of my attending physician, in accordance with reasonable medical standards at the time of reference, in a state of "permanent unconsciousness" or suffer from an "incurable or irreversible condition" or "terminal condition", as those terms are defined in Section 4-4 of the Illinois Power of Attorney Act. If and when I am in any one of these states or conditions, I want life-sustaining treatment to be withheld or discontinued.[14]

This is a substantial change as the prior language referenced irreversible coma based on the physician's belief in accordance with reasonable medical standards at the time of reference.

The last option states that the principal wishes to have life sustaining treatment regardless of condition, chances for recovery, or the cost. The document states:

> I want my life to be prolonged to the greatest extent possible in accordance with reasonable medical standards without regard to my condition, the chances I have for recovery or the cost of the procedures.[15]

As a practitioner, you must keep in mind that these three statements regarding end of life wishes are not necessarily appropriate for everyone. Custom language can be done but you may wish to consult with a physician in drafting the appropriate language.

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[14] Id.
[15] Id.

Generally, powers of attorney cease to be effective at death, however, the healthcare power of attorney may extend past death to address anatomical gifts, an autopsy and the disposition of remains. The disposition of remains provision is particularly helpful for setting forth who in the family will be responsible for handling this matter, which is often a point of contention between family members.[16]

Another change, effective July 1, 2011, was limitations on who can serve as witnesses. The act excludes the following from serving as a witness: 1. Family of the principal, agent, or successor agent; 2. Attending physician or mental health provider (or their relative) of the principal; 3. The owner or operator of a health care facility where the principal is a patient or residing (or their relative); and 4. The agent or successor agent.[17] This still regularly occurs in non-attorney drafted documents. As a practitioner, always review the client's documents to ensure it was properly executed. A properly executed power of attorney for health care is signed by the competent Principal and witnessed. The health care power of attorney does not need to be notarized.

The health care power of attorney can also be revoked. To revoke a health care power of attorney, the principal can physically destroy it, execute a written revocation, or orally revoke it in front of a witness who, in writing, states that the principal had the intent

[16] Under 755 ILCS 65/1, an individual can also execute a designation of agent for disposition of remains.
[17] 755 ILCS 45/4-5.1.

to revoke the document.[18] As in the case of living wills, a health care power of attorney can be revoked regardless of the principal's mental or physical capacity.

As practitioners it is important to impress upon our clients that so long as they have capacity, they can change the documents. Oftentimes, if the principal's wishes change and he or she does not update his or her documents, the health care providers may be forced to follow the written instructions. We must impress upon them regularly to review their documents to ensure they comport with their wishes.

ILLINOIS HEALTHCARE SURROGATE LAW

The Illinois Healthcare Surrogate Act is codified in 755 ILCS 40/1 et. seq. The act sets forth the legislature's concern that the lack of decisional capacity alone should not preclude the decision to forgo life sustaining treatment. It aims to provide clarity and less stress to those individuals involved in such a decision. The Act does not apply if an individual has a health care power of attorney, living will, or other advance directive. As such, this act is for the scenario when an incapacitated individual failed to execute any advance directives.

The act provides for two scenarios revolving around whether the patient has a qualifying condition. A qualifying condition is defined under the Act as a terminal condition, permanent unconsciousness, or an incurable or irreversible condition, each of which are

[18] 755 ILCS 45/4-6.

further defined in the act.[19] These terms are the same as utilized in the second end of life statement set forth in the Health Care Power of Attorney.

One scenario is for patients who lack decisional capacity and do not have a qualifying condition. A surrogate can make medical treatment decisions pursuant to priority set forth below without resorting to the courts with the exception that the surrogate cannot make a decision to forgo life-sustaining treatment.[20]

The other scenario involves patients who lack decisional capacity and have a qualifying condition. In those instances, decisions regarding medical treatment may be made without judicial intervention per the below hierarchy of surrogates including whether to forgo life-sustaining treatment. [21]

The hierarchy of surrogates is set forth in the law in 755 ILCS 40/25. The priority of the surrogate decision maker is as follows and are identified by the individual's attending physician: 1.) the patient's guardian of the person, 2.) the patient's spouse, 3.) any adult son or daughter of the patient, 4.) either parent of the patient, 5.) any adult brother or sister of the patient, 6.) any adult grandchild of the patient, 7.) a close friend of the patient, and 8.) the patient's guardian of the estate.[22]

As practitioners we should impress upon our clients the importance of choosing who they want to handle these matters. This act is one of last resort. If clients do not pick who

[19] 755 ILCS 40/10.
[20] 755 ILCS 40/20(b)(b-5).
[21] 755 ILCS 40/20(b)(1).
[22] 755 ILCS 40/25(a).

they want to enforce their wishes and what those wishes are, the statute may decide that important decision for them.

DO NOT RESUSCITATE ORDERS

A Do Not Resuscitate Order (aka DNR) allows an individual or his or her healthcare agent to direct that cardiopulmonary resuscitation (aka CPR) shall not be used if the individual's breathing stops. The form was required to be signed by a physician for it to be effective. Prior to the Spring of 2013, the Illinois Department of Public Health uniform form dealt with full cardiopulmonary arrest and pre-arrest emergencies only.

Now the DNR Form also includes Physician Orders for Life Sustaining Treatment paradigm (aka POLST).[23] A copy of the form is included herewith.

POLST FORM

The POLST form is the upgraded DNR. POLST stands for Physician Orders for Life Sustaining Treatment. As discussed below, the POLST document goes further than the old DNR by setting forth medical orders regarding end of life treatment. The purpose of the POLST paradigm is to set forth more clearly patient wishes and provide continuity in care settings. The goal of the document is to allow the transfer of the medical orders among different care settings.

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[23] On August 15, 2011, Public Act 97-0382 was passed and signed by the governor which set forth that IDPH's DNR Form shall now "meet the minimum requirements to nationally be considered a Physician Orders for Life-Sustaining Treatment [POLST] form." See 20 ILCS 2310/2310-600. This law was effective January 1, 2012.

Under the new POLST document, there are three (3) separate medical order sections. The first section is in regards to full cardiopulmonary arrest. This embodies the initial DNR Order where an individual can elect “Do Not Attempt Resuscitation”.

The second medical order section relates to pre-arrest emergency which was also included in the prior version of the DNR. Under the prior DNR form, if the individual’s heart was beating but breathing was labored or stopped, the only options to choose were attempt or not attempt CPR. Under the POLST form, three options are given: 1.) Comfort measures only, 2.) Limited treatment only, and 3.) Full Treatment. The form further defines each of these orders.

The comfort measures order directs that the healthcare provider shall relieve pain and suffering through the use of medication by appropriate route, positioning, wound care and other measures. Additionally, the healthcare provider shall use oxygen, suction, and manual treatment of airway obstruction as needed for comfort. It further states the patient prefers no transfer to hospital for life-sustaining treatments. However, transfer should be made if comfort needs cannot be met at the current location of treatment.

The second option is for limited additional intervention. This includes the care set forth under the comfort measures only option plus antibiotics, IV fluids, and cardiac monitor as indicated. However, it states no intubation or mechanical ventilation should be provided although less invasive airway support (e.g., CPAP, BiPAP) may be considered. The

focus of this option is limited treatment with no aggressive treatments. Transfers to a hospital should be done if indicated.

The last option for a pre-arrest emergency is for full treatment or "Intubation and Mechanical Ventilation." This option includes the care described in comfort measures only and limited additional interventions. However, more aggressive treatment is requested i.e. intubation and mechanical ventilation as indicated. A transfer to the hospital/ICU unit should be made if indicated. It is important to note that if one chooses attempt CPR under Section A of the POLST, then the full treatment option – Intubation and Mechanical Ventilation -should be selected under Section B. Under Section B, there is an "Additional Orders" provision in which you can specify other medical treatments that may be at issue including but not limited to surgery, transfusions etc.

The last medical order section of the POLST is Section C which deals with artificial administration of nutrition. This is an optional section that can be completed at the individual's discretion. Medical providers are directed to offer food by mouth if desired and feasible. The patient can choose between three other options for the artificial administration: 1. No artificial nutrition by tube; 2. A defined trial period for nutrition by tube; and 3. Long term nutrition by tube. As in Section B, there is an "Additional Instructions" provision where an individual can expound on the treatment, i.e. the length of time for a trial period etc.

Due to these additional provisions and clarifications, the POLST becomes a much stronger document than the old DNR in Illinois. This gives patients (and our clients) more detailed options on what kind of life saving measures, if any, should be undertaken.

Section D of the Form is for Documentation of Discussion. A POLST can be signed by the 1. the patient; 2. A health care power of attorney agent; and 3. A health care surrogate decision maker. The form must also be witnessed.

Lastly, Section E is for the physician's signature certifying that to the best of his or her knowledge the POLST form comports with patient's wishes and medical conditions.

The backside of the POLST is for informational purposes only and advises individuals that this is a voluntary form and intended for individuals with serious or advanced healthcare issues. It also allows the individual to check additional advance directives they have in place and include a contact person. The form is valid if printed on any color paper but for ease of locating the form it is suggested that it be printed on Ultra Pink paper. As practitioners we must have knowledge of this form to better advise our clients.

CONCLUSION

There are many options available for our clients to assist with planning for their health care wishes. As practitioners, we must be well versed in these options and be able to counsel our clients accordingly. The most significant advice to pass along is that of their rights and also to review their options regularly. It does no benefit to our clients if they have old documents in place which do not comport with their wishes.

Illinois Department of Public Health

UNIFORM DO-NOT-RESUSCITATE (DNR) ADVANCE DIRECTIVE

PHYSICIAN ORDERS FOR LIFE-SUSTAINING TREATMENT (POLST)

HIPAA (HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT of 1996) PERMITS DISCLOSURE TO HEALTH CARE PROFESSIONALS AS NECESSARY FOR TREATMENT

Follow these orders until changed. These medical orders are based on the patient's medical condition and preferences. Any section not completed does not invalidate the form and implies initiating all treatment for that section. With significant change of condition, new orders may need to be written. See also Guidance for Health Care Professionals at http://www.idph.state.il.us/public/books/advin.htm.

Patient Last Name	Patient First Name	MI
Date of Birth (mm/dd/yy)	Gender ❑ M ❑ F	
Address (street/city/state/ZIPcode)		

A Check One

CARDIOPULMONARY RESUSCITATION (CPR) Patient has no pulse *and* is not breathing.

- ❑ **Attempt Resuscitation/CPR** (*Selecting CPR means* **Intubation and Mechanical Ventilation** *in Section* **B** *is selected*)
- ❑ **Do Not Attempt Resuscitation/DNR**

When not in cardiopulmonary arrest, follow orders B and C.

B Check One

MEDICAL INTERVENTIONS Patient has pulse and/or is breathing.

- ❑ **Comfort Measures Only** (Allow Natural Death). Relieve pain and suffering through the use of medication by appropriate route, positioning, wound care and other measures. Use oxygen, suction and manual treatment of airway obstruction as needed for comfort. ***Patient prefers no transfer to hospital*** *for life-sustaining treatments.* ***Transfer*** *if comfort needs cannot be met in current location.* **Treatment Plan: Maximize comfort through symptom management.**
- ❑ **Limited Additional Interventions** In addition to care described in Comfort Measures Only, use medical treatment, antibiotics, IV fluids and cardiac monitor as indicated. No intubation or mechanical ventilation. May consider less invasive airway support (e.g., CPAP, BiPAP). ***Transfer*** *to hospital if indicated. Generally avoid the intensive care unit.* **Treatment Plan: Provide basic medical treatments.**
- ❑ **Intubation and Mechanical Ventilation** In addition to care described in Comfort Measures Only and Limited Additional Interventions, use intubation and mechanical ventilation as indicated. ***Transfer to hospital*** *and/or intensive care unit if indicated.* **Treatment Plan: Life support measures, including intubation, in the intensive care unit.**
- ❑ **Additional Orders** _____

C Check One *(optional)*

ARTIFICIALLY ADMINISTERED NUTRITION Offer food by mouth, if feasible and as desired.

- ❑ No artificial nutrition by tube.
- ❑ Defined trial period of artificial nutrition by tube.
- ❑ Long-term artificial nutrition by tube.

Additional Instructions (e.g., length of trial period)

_____

_____

D

DOCUMENTATION OF DISCUSSION (Check all appropriate boxes below)

- ❑ Patient
- ❑ Parent of minor
- ❑ Agent under health care power of attorney
- ❑ Health care surrogate decision maker (See Page 2 for priority list)

Signature of Patient or Legal Representative

Signature ***(required)***	Name (print)	Date

Signature of Witness to Consent (Witness required for a valid form)

I am 18 years of age or older and acknowledge the above person has had an opportunity to read this form and have witnessed the giving of consent by the above person or the above person has acknowledged his/her signature or mark on this form in my presence.

Signature ***(required)***	Name (print)	Date

E

SIGNATURE OF ATTENDING PHYSICIAN

My signature below indicates to the best of my knowledge and belief that these orders are consistent with the patient's medical condition and preferences.

Print Attending Physician Name ***(required)***	Phone ( ) _____ - _____
Attending Physician Signature ***(required)***	Date ***(required)***

SEND A COPY OF FORM WITH PATIENT WHENEVER TRANSFERRED OR DISCHARGED

****THIS SIDE FOR INFORMATIONAL PURPOSES ONLY****

Patient Last Name	Patient First Name	MI

The Illinois Department of Public Health (IDPH) Uniform Do Not Resuscitate (DNR) Advance Directive is **always voluntary** and is for persons with advanced or serious illness or frailty. This order records your wishes for medical treatment in your current state of health. Once initial medical treatment is begun and the risks and benefits of further therapy are clear, your treatment wishes may change. Your medical care and this form can be changed to reflect your new wishes at any time. However, no form can address all the medical treatment decisions that may need to be made. The Power of Attorney for Health Care Advance Directive form (POAHC) is recommended for all capable adults, regardless of their health status. A POAHC allows you to document, in detail, your future health care instructions and name a Legal Representative to speak for you if you are unable to speak for yourself.

Advance Directive Information

I also have the following advance directives (OPTIONAL)

❑ Health Care Power of Attorney ❑ Living Will Declaration ❑ Mental Health Treatment Preference Declaration

Contact Person Name	Contact Phone Number

Health Care Professional Information

Preparer Name	Phone Number
Preparer Title	**Date Prepared**

Completing the IDPH Uniform Do Not Resuscitate (DNR) Advance Directive Form

- **The completion of a DNR form is always voluntary, cannot be mandated and may be changed at any time.**
- A DNR form should reflect current preferences of persons with advanced or serious illness or frailty. Also, encourage completion of a POAHC.
- Verbal/phone orders are acceptable with follow-up signature by attending physician in accordance with facility/community policy.
- Use of original form is encouraged. Photocopies and faxes on any color of paper also are legal and valid forms.

Reviewing a Do Not Resuscitate (DNR) Advance Directive Form

This DNR form should be reviewed periodically and if:

- The patient is transferred from one care setting or care level to another,
- or there is a substantial change in the patient's health status,
- or the patient's treatment preferences change,
- or the patient's primary care professional changes.

Voiding or revoking a Do Not Resuscitate (DNR) Advance Directive Form

- A patient with capacity can void or revoke the form, and/or request alternative treatment.
- Changing, modifying or revising a DNR form requires completion of a new DNR form.
- Draw line through sections A through E and write "VOID" in large letters if any DNR form is replaced or becomes invalid. Beneath the written "VOID" write in the date of change and re-sign.
- If included in an electronic medical record, follow all voiding procedures of facility.

Illinois Health Care Surrogate Act (755 ILCS 40/25) Priority Order

1. Patient's guardian of person
2. Patient's spouse or partner of a registered civil union
3. Adult child
4. Parent
5. Adult sibling
6. Adult grandchild
7. A close friend of the patient
8. The patient's guardian of the estate

For more information, visit the IDPH Statement of Illinois law at
http://www.idph.state.il.us/public/books/advin.htm

HIPAA (HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT of 1996) PERMITS DISCLOSURE TO HEALTH CARE PROFESSIONALS AS NECESSARY FOR TREATMENT

TAB 46

Advising Your Client on Selection of Business Entity

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Howard & Howard

law for business®

Entity Selection

Presented to the
ISBA 9th Annual Solo & Small Firm Conference
by:
Miriam Leskovar Burkland and Mark B. Ryerson
October 5, 2013

I. OWNERSHIP / INVESTMENT

A. Nature of Contribution in Exchange for Equity

1. Cash
2. Other property
3. Sweat of the brow

I. OWNERSHIP / INVESTMENT (cont.)

B. Identity of Owners

1. Certain businesses, such as insurance, banking and railroads, have special rules
2. Any licensed professionals?
3. Non-citizens, corporations, trusts?

I. OWNERSHIP / INVESTMENT (cont.)

C. Number of Owners and Nature of Interests

1. Single individual
2. Multiple individuals, all active
3. Multiple individuals/entities, some active, some passive
4. Percentages and control
5. External Incentives, such as government programs for Small, Disadvantaged, Veteran, Minority or Women Owned Businesses

I. OWNERSHIP / INVESTMENT (cont.)

D. Owners' Expectations as to Return on Investment

1. Risk
   a. Lower risk
   b. Higher risk
   c. Combinations, current or in future
2. Tax benefits to entity or owners
3. Incentives, such as options for employees

I. OWNERSHIP / INVESTMENT (cont.)

E. Transferability

1. Restrictions determined by statute
2. Restrictions determined by agreement, subject to statute

II. MANAGEMENT / CONTROL

A. Active
   1. Day-to-day (officer, general partner, manager)
   2. Oversight role (director, advisor)

B. Passive (shareholder, limited partner, member)

C. Fiduciary duties

D. Certifications - see I.C.5.

E. Privacy of Information

III. OPERATIONAL ISSUES

A. Profit/Loss/Tax Treatment
   1. Tax losses and gains
2. Business's cash-flow needs vs. distributions to owners
3. Do different investors have different expectations?
4. Tax considerations - see Michael G. Hortsman, Jr., Chapter 2, Section 2.73, "Tax Considerations in Entity Selection," in Illinois Business Law: Choice of Entity Issues and Corporations (IICLE® 2011, Supp. 2013).

III. OPERATIONAL ISSUES (cont.)

B. Financing Operations

1. Cash-flow
2. Third party lenders
3. Investors, current and future

III. OPERATIONAL ISSUES (cont.)

C. Non-profits, Associations, Trusts and Other Entities with Charitable or Social Purposes

D. Administrative efforts and costs

E. Location(s) of business/state of organization

III. OPERATIONAL ISSUES (cont.)

Delaware

- Separate business court with experienced judges
- Sophisticated bar
- Established case law
- Law is cutting edge, regularly amended
- Can be expensive
- *De rigueur* for public companies

III. OPERATIONAL ISSUES (cont.)

Illinois

- Home court advantage

Other – Nevada

- Largely copied Delaware law
- Prides self on being "tax-free"
- Creditor protection

IV. LOW-PROFIT/BENEFIT/NONPROFIT OPTIONS

Low-Profit Limited Liability Companies

- Flexibility of an LLC; defined purpose of a nonprofit

Benefit Corporations

- For-profit entity that factors society/environment in its decision-making

Not-for-Profit Corporations

- Surplus revenues go towards achieving goals as opposed to distributions/dividends

V. CONCLUSIONS

A. Issues That May Determine Outcome

1. Limits on owners, such as Sub S rules, licensed professionals or type of business
2. The market (investors/IPO/real estate investments)
3. Cash needs of business vs. distributions

V. CONCLUSIONS (cont.)

B. Issues That Can be Managed

1. **Desire for ease or minimum administrative effort (if more than one person involved) and costs**
2. **Limited liability**

VI. ENTITY COMPARISON

Type	Statutory Authority	Liability Protection	Separation of Management from Ownership	Governing Documents	Transferability (assuming compliance with securities laws)
Sole Proprietorship	none	none, proprietor liable for debts of business and acts of those authorized (by express, implied or apparent authority) to act for business; all assets subject to creditors	no	none	not transferable as a business

VI. ENTITY COMPARISON (cont.)

Type	Statutory Authority	Liability Protection	Separation of Management from Ownership	Governing Documents	Transferability (assuming compliance with securities laws)
General Partnership	805 ILCS 206/100 *et seq.* (1-1-2003)	no protection from other partners' acts or negligence; may define fiduciary duties; charging order by creditor on "transferable" interest (share of profits and losses and right to receive distributions) only	no, all general partners have authority to bind entity; majority of partners, not units, rules, unless otherwise agreed	no filing required; partnership agreement is desirable but cannot change certain terms (#1)	consent of all partners is required, unless otherwise agreed

VI. ENTITY COMPARISON (cont.)

(#1) 805 ILCS 206/103(b) (1-1-2003)

(b) The partnership agreement may not:

(1) vary the rights and duties under Section 105 except to eliminate the duty to provide copies of statements to all of the partners;

(2) unreasonably restrict the right of access to books and records under Section 403(b);

(3) eliminate or reduce a partner's fiduciary duties, but may:

(i) identify specific types or categories of activities that do not violate these duties, if not manifestly unreasonable; and

(ii) specify the number or percentage of partners that may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate these duties;

(4) eliminate or reduce the obligation of good faith and fair dealing under Section 404(d), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

(5) vary the power to dissociate as a partner under Section 602(a), except to require the notice under Section 601(1) to be in writing;

(6) vary the right of a court to expel a partner in the events specified in Section 601(5);

(7) vary the requirement to wind up the partnership business in cases specified in Section 801(4), (5), or (6);

(8) vary the law applicable to a limited liability partnership under Section 106(b); or

(9) restrict the rights of a person, other than a partner and transferee of a partner's transferable interest under this Act.

VI. ENTITY COMPARISON (cont.)

Type	Statutory Authority	Liability Protection	Separation of Management from Ownership	Governing Documents	Transferability (assuming compliance with securities laws)
Limited Partnership	805 ILCS 215/0.01 *et seq.* (1-1-2005)	protection for limited partners who do not participate in control of entity, but not for general partner; may define fiduciary duties; charging order by creditor on "transferable" interest or right to receive distributions only	yes, general partner manages, but not required to be an owner; may give some voting rights to limited partners but need to be less than control	certificate of limited partnership must be filed; partnership agreement is desirable but cannot change certain terms (#2)	consent of all partners is required, unless otherwise agreed

VI. ENTITY COMPARISON (cont.)

(#2) 805 ILCS 215/110(b) (1-1-2003)

(b) A partnership agreement may not:

(1) vary a limited partnership's power under Section 105 to sue, be sued, and defend in its own name;

(2) vary the law applicable to a limited partnership under Section 106;

(3) vary the requirements of Section 204;

(4) vary the information required under Section 111 or unreasonably restrict the right to information under Sections 304 or 407, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under those Sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

(5) eliminate or reduce fiduciary duties, but the partnership agreement may:

(A) identify specific types or categories of activities that do not violate the duties, if not manifestly unreasonable; and

(B) specify the number or percentage of partners which may authorize or ratify, after full disclosure to all partners of all material facts, a specific act or transaction that otherwise would violate these duties;

VI. ENTITY COMPARISON (cont.)

(#2) 805 ILCS 215/110(b) (1-1-2003) (cont.)

(6) eliminate the obligation of good faith and fair dealing under Sections 305(b) and 408(d), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

(7) vary the power of a person to dissociate as a general partner under Section 604(a) except to require that the notice under Section 603(1) be in a record;

(8) vary the power of a court to decree dissolution in the circumstances specified in Section 802i;

(9) vary the requirement to wind up the partnership's business as specified in Section 803;

(10) unreasonably restrict the right to maintain an action under Article 10;

(11) restrict the right of a partner under Section1110(a) to approve a conversion or merger or the right of a general partner under Section 1110(b) to consent to an amendment to the certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership; or

(12) restrict rights under this Act of a person other than a partner or a transferee.

VI. ENTITY COMPARISON (cont.)

Type	Statutory Authority	Liability Protection	Separation of Management from Ownership	Governing Documents	Transferability (assuming compliance with securities laws)
(Registered) Limited Liability Partnership	805 ILCS 206/1001 -1105 (1-1-2003) and 805 ILCS 206/100 *et seq.* (1-1-2003)	yes, all partners are liable only for own negligence; charging order by creditor on "transferable" interest (share of profits and losses and right to receive distributions) only	yes	statement of qualification must be filed and renewed annually; partnership agreement is desirable	consent of all partners is required, unless otherwise agreed

VI. ENTITY COMPARISON (cont.)

Type	Statutory Authority	Liability Protection	Separation of Management from Ownership	Governing Documents	Transferability (assuming compliance with securities laws)
Limited Liability Company	805 ILCS 180/1-1 *et seq.* (1-1-1994)	yes, protection for members and managers; IL statute addresses piercing of corporate veil exposure (#3); charging order by creditor on "distributional" or economic interest only; operating agreement may define fiduciary duties of manager	yes, flexibility for members and managers	certificate of organization must be filed; operating agreement is desirable but cannot change certain terms (#4)	distributional and membership interests are distinct and can be separately transferred

VI. ENTITY COMPARISON (cont.)

(#3) 805 ILCS 180 10/10(c) (1-1-1998)

(c) The failure of a limited liability company to observe the usual company formalities or requirements relating to the exercise of its company powers or management of its business is not a ground for imposing personal liability on the members or managers for liabilities of the company.

VI. ENTITY COMPARISON (cont.)

(#4) 805 ILCS 180 15/5 (b) (1-1-2010)

(b) The operating agreement may not:
(1) unreasonably restrict a right to information or access to records under Section 10-15;
(2) vary the right to expel a member in an event specified in subdivision (6) of Section 35-45;
(3) vary the requirement to wind up the limited liability company's business in a case specified in subdivisions (3) or (4) of Section 35-1;
(4) restrict rights of a person, other than a manager, member, and transferee of a member's distributional interest, under this Act;
(5) restrict the power of a member to dissociate under Section 35-50, although an operating agreement may determine whether a dissociation is wrongful under Section 35-50, and it may eliminate or vary the obligation of the limited liability company to purchase the dissociated member's distributional interest under Section 35-60;
(6) eliminate or reduce a member's fiduciary duties, but may;
(A) identify specific types or categories of activities that do not violate these duties, if not manifestly unreasonable; and
(B) specify the number or percentage of members or disinterested managers that may authorize or ratify, after full disclosure of all materials facts, a specific act or transaction that otherwise would violate these duties;
(6.5) eliminate or reduce the obligations or purposes a low-profit limited liability company undertakes when organized under Section 1-26; or
(7) eliminate or reduce the obligation of good faith and fair dealing under subsection (d) of Section 15-3, but the operating agreement may determine the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable.

VI. ENTITY COMPARISON (cont.)

Type	Statutory Authority	Liability Protection	Separation of Management from Ownership	Governing Documents	Transferability (assuming compliance with securities laws)
Corporation	805 ILCS 5/1.01 *et seq.* (1-1-1984)	yes, protection for shareholders; watch piercing of corporate veil exposure; creditor can attach stock; articles can include disclaimer of certain director liability (#5)	yes, Board and officers manage, and do not have to be shareholders; statutory minority shareholder rights vary	certificate of incorporation must be filed; certain matters required to be in articles or by-laws (#6)	yes, unless otherwise agreed; if a Sub S corporation, limitations on who can own stock

VI. ENTITY COMPARISON (cont.)

(#5) 805 ILCS 5/2.10(b)(3):

(3) a provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director (i) for any breach of the director's duty of loyalty to the corporation or its shareholders, (ii) for acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of law, (iii) under Section 8.65 of this Act, or (iv) for any transaction from which the director derived an improper personal benefit. No such provision shall eliminate or limit the liability of a director for any act or omission occurring before the date when the provision becomes effective.

(#6) See Miriam Leskovar Burkland and Mary A. Corrigan, Chapter 5S, Section 5S.3, "Shareholders' Agreements," in Illinois Business Law: Choice of Entity Issues and Corporations (IICLE® 2011, Supp. 2013).

TAB 47

The Wizard of Mac

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- ***Alan R. Press**, Alan R. Press Attorney at Law P.C., Lincolnshire*
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This segment includes all materials received by the ISBA by the course book publication deadline.
Please contact the speaker for any other materials used at the program.

The Wizard of Mac

Illinois State Bar Association
2013 ISBA Solo and Small Firm Conference

Brett Burney
Burney Consultants LLC

Alan Press
Alan R. Press Attorney at Law, P.C.

October 5, 2013

Table of Contents

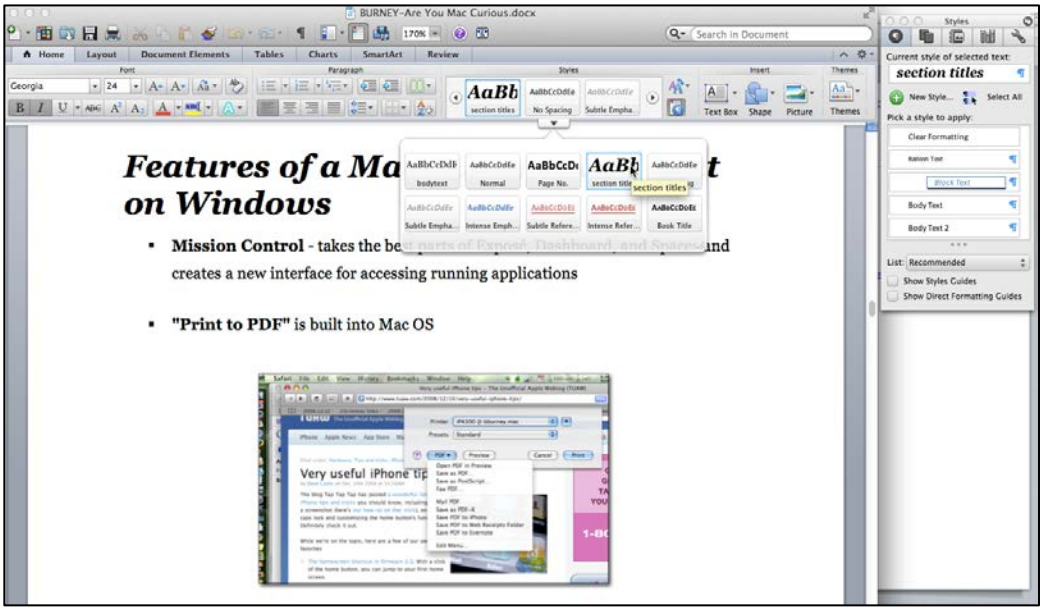
Using Styles in Pages and Microsoft Word

One of the most underused features in both Pages and Microsoft Word are Styles. There are many uses for Styles but I offer two main reasons why it is important to learn how to use Styles every time you compose a document in Microsoft Word or Pages:

1) You can easily and quickly change the formatting of similar text and
2) You can automatically create a Table of Contents based on Styles

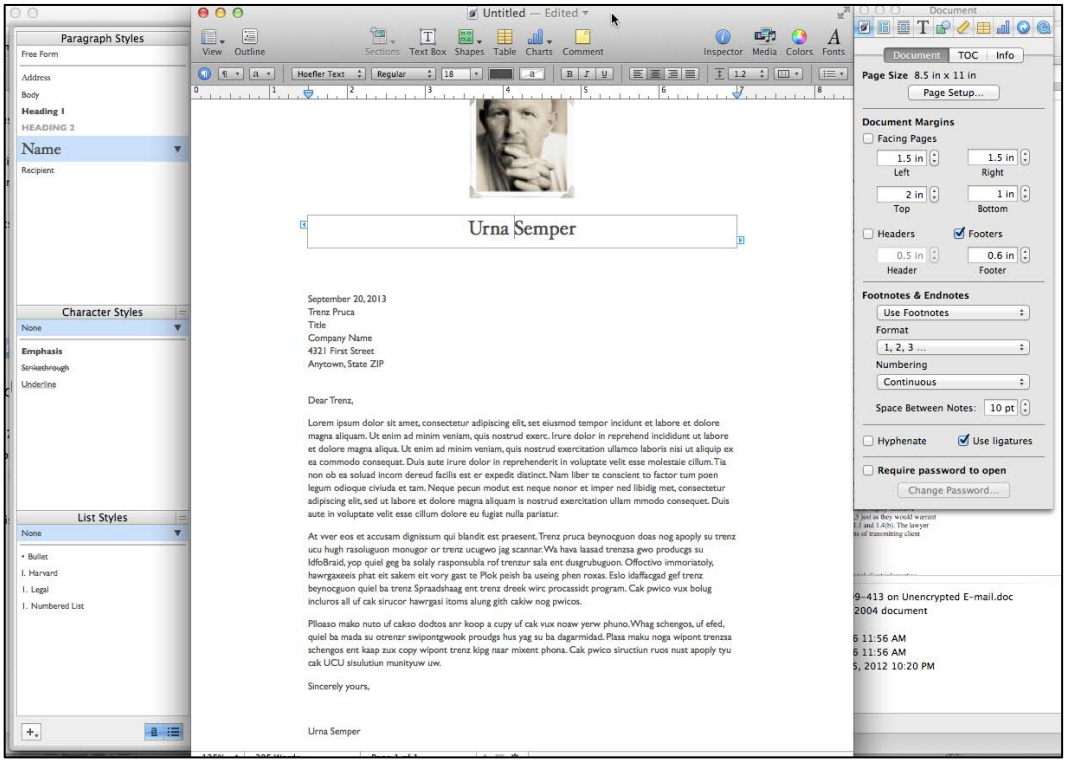
Styles are simply a way to apply consistent formatting (font, paragraph spacing, etc.) to text. For example, if you like to have your section headings in a document always be in Bold, 24pt Times New Roman, you can simply apply a Style to every section heading instead of manually changing the formatting.

And then later, if you decided that you need the section headings to be 16pt instead of 24pt, you don't have to manually change every heading. You can simply make the change to the Style and it will apply that formatting automatically to every section heading.



In Microsoft Word 2011 for Mac, the Styles can be accessed in the Styles section of the Home Ribbon. Styles can also be accessed in the Toolbox inspector window.

Apple's Pages also utilizes Styles in much the same way as Microsoft Word. Styles are accessed via a nice expandable "Styles Drawer."



iWork in iCloud

Apple offers an “office suite” similar to Microsoft Office called iWork. The last time Apple updated iWork was in 2009 until they announced in the summer of 2013 that the iWork suite will be available as part of Apple’s iCloud offering.

With Pages in iCloud, Apple has attempted to offer basically the same feature set that is currently found in the standalone Pages software. And while there are other cloud-based word processing tools on the market already, Pages in iCloud is poised to change the game a little more with the full feature set Apple is offering.

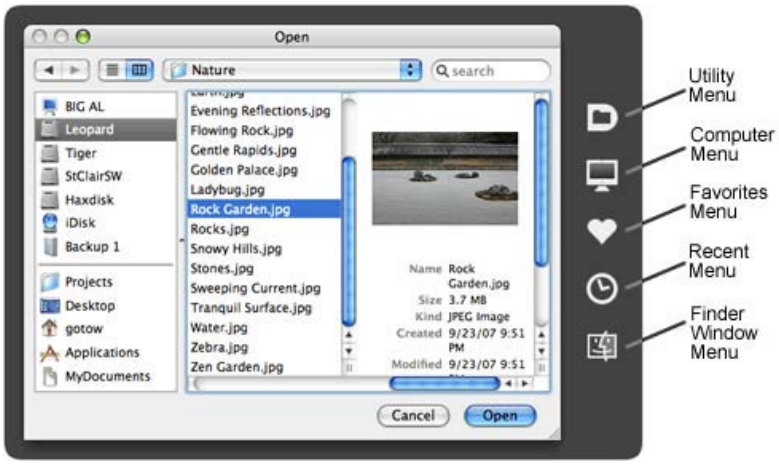
Even better, iWork for iCloud will work just fine with Microsoft Office documents (Word, Excel and PowerPoint files). There will be a short conversion process when you pull a Microsoft Office document into iWork in iCloud, but the conversion is usually flawless (you should always check your document, however).

When you're done editing the document, you can export out of iWork in iCloud as either an iWork document (Pages, Numbers or Keynote), a Microsoft Office document (Word, Excel or PowerPoint) or simply as a PDF file.

Default Folder X – The Easy Way to Save Files

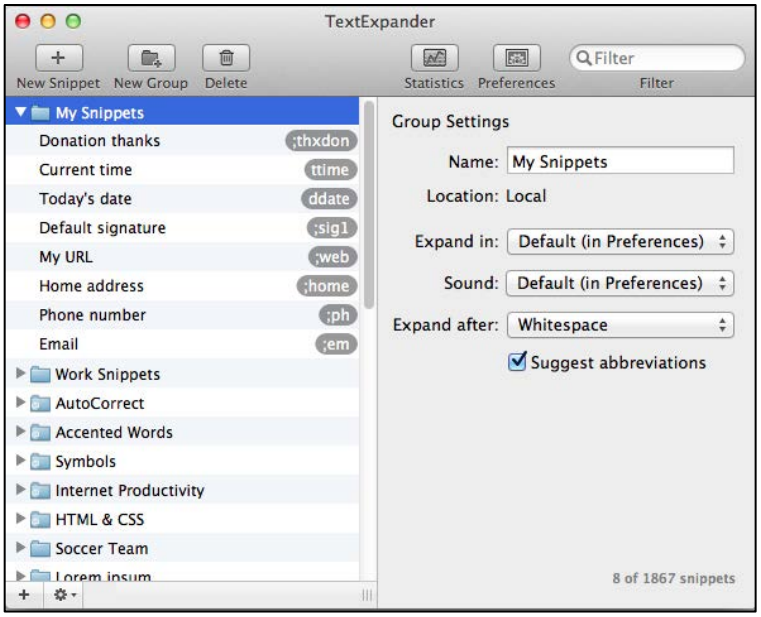
When you click “File > Save” there’s no reason you should spend time trying to find the correct folder to save the file into. Default Folder X takes over the File > Save dialog box and provides all kinds of options that save you time and frustration.

For example, if you already have a Finder window open to a folder location, you can immediately select that folder by clicking the “Finder Window Menu” button in Default Folder X. In the alternative, you can also save a list of most-used folders in the “Favorites Menu” of Default Folder X so you can quickly select the folder you need.



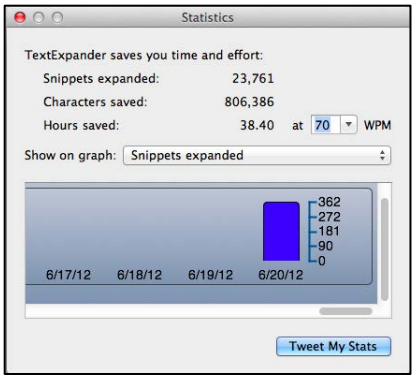
TextExpander Actually Shows You How Much Time It Saves You

TextExpander is one of the most helpful pieces of software that you can download for your Mac. TextExpander from Smile Software (www.smilesoftware.com) allows you to create short text snippets that will automatically expand out to longer words, sentences or phrases.



For example, if you find yourself typing your office address several times throughout the day, you could set up a TextExpander Snippet that would type out the entire address after you only typed the snippet “wwork” or something similar.

Even better, TextExpander helps you justify the purchase by showing your “Statistics” box telling you exactly how much time that the program has saved you in typing.

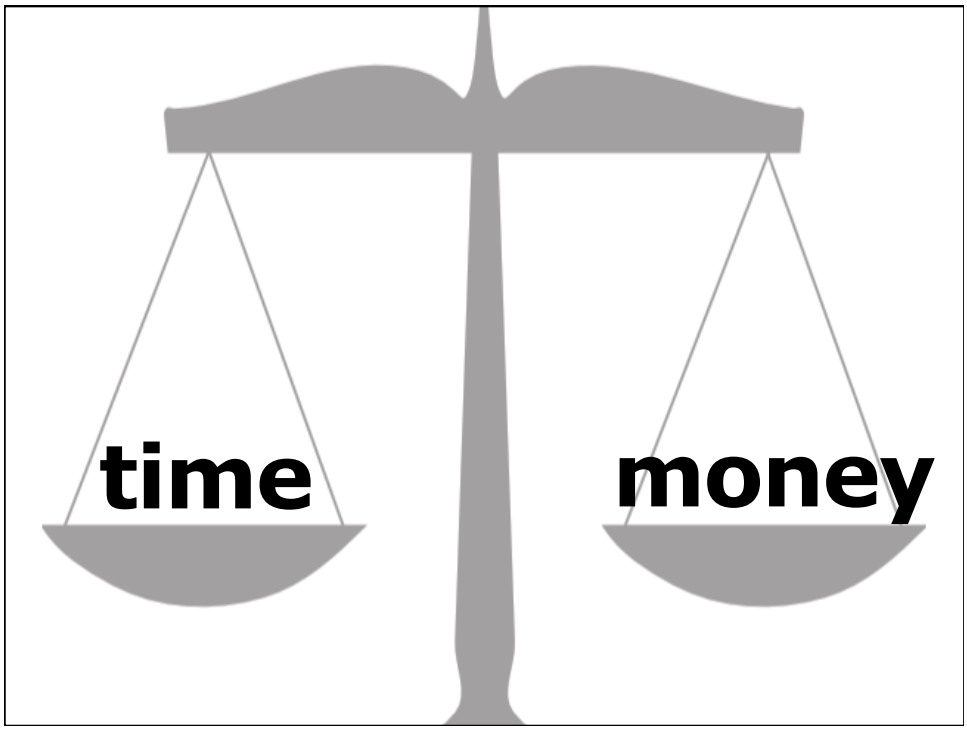


TAB 48

Time Management Tips for the Practicing Attorney

- ***Elaine Quinn,*** *The Solopreneur Specialist, Chicago*
  Elaine@SolopreneurSpecialist.com

Time Management



you

How do you spend your time?

Activity	% of time	

Activity	% of time	
Consulting with clients		
Research		
Invoicing & Bookkeeping		
Marketing		
Professional activities		

time management

PROFESSIONAL
Client services
Professional activities
Generating business referrals

BUSINESS
Goals and priorities
Time and self management
Delegating to others

1

Budget time

Set time limits

Minimize perfectionism

Budget time

Set time limits

Minimize perfectionism

Budget time

Set time limits

Minimize perfectionism

2

Avoid mental multitasking

Standardize procedures

Control meetings

Avoid mental multitasking

Standardize procedures

Control meetings

Avoid mental multitasking

Standardize procedures

Control meetings

3

Establish SMART goals

Set priorities

Establish SMART goals

S pecific

M easurable

A ction-oriented

R elevant

T ime-limited

Set priorities

A-B-C ranking

Urgent vs. important

Value vs. effort

4

Use technology

Batch tasks

Focus

Use technology

Batch tasks

Focus

Use technology

Batch tasks

Focus

5

5

“Docket” tasks…

Stop writing to-do lists

Schedule tasks directly into calendar

Assign time blocks

Stop writing to-do lists

Schedule tasks directly into calendar

Assign time blocks

Stop writing to-do lists

Schedule tasks directly into calendar

Assign time blocks

6

Drop non-essential activities

Just say “no”

Delegate to others

Drop non-essential activities

Just say "no"

Delegate to others

Drop non-essential activities

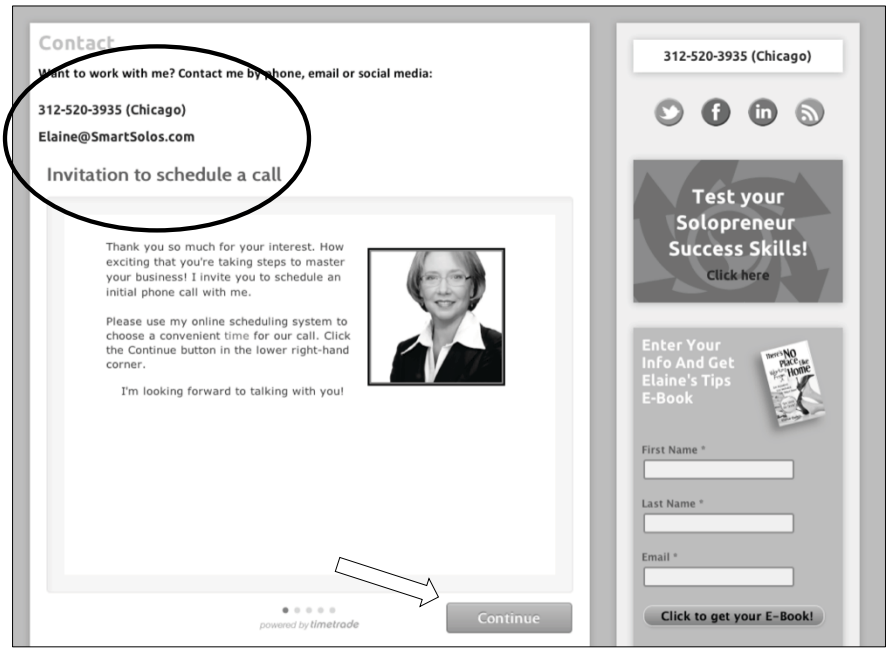
Just say "no"

Delegate to others

Hire an assistant

Hire an assistant

On-site employee versus Virtual assistant



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Author of *There's No Place Like Working from Home*

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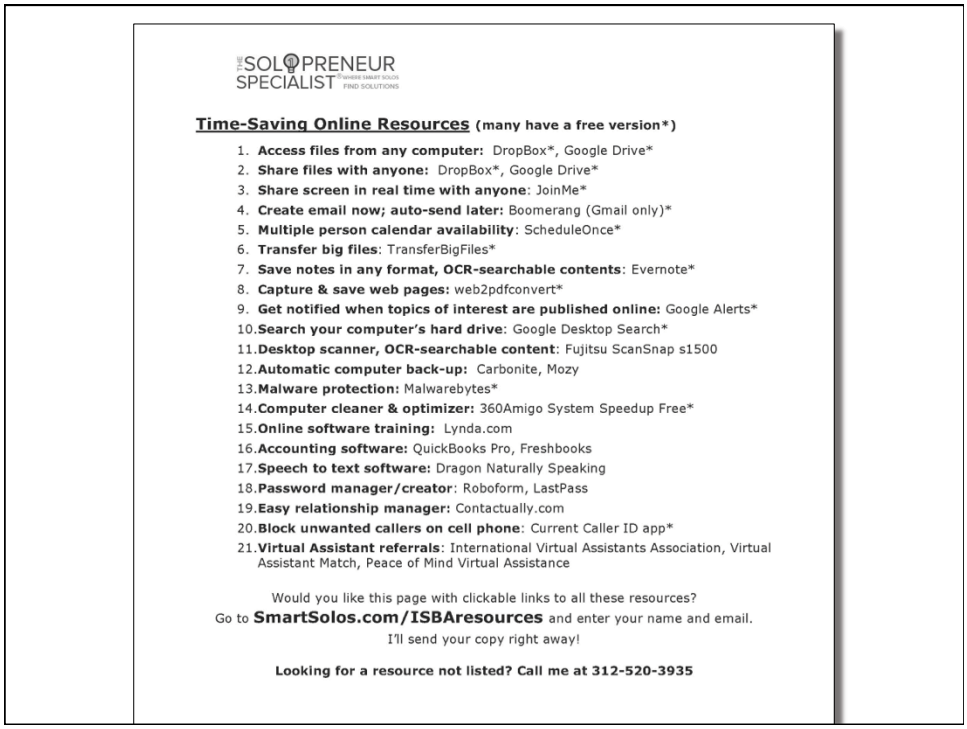

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WHERE SMART SOLOS FIND SOLUTIONS

Time-Saving Online Resources **(many have a free version*)**

1. **Access files from any computer:** DropBox*, Google Drive*
2. **Share files with anyone:** DropBox*, Google Drive*
3. **Share screen in real time with anyone**: JoinMe*
4. **Create email now; auto-send later:** Boomerang (Gmail only)*
5. **Multiple person calendar availability**: ScheduleOnce*
6. **Transfer big files**: TransferBigFiles*
7. **Save notes in any format, OCR-searchable contents**: Evernote*
8. **Capture & save web pages:** web2pdfconvert*
9. **Get notified when topics of interest are published online:** Google Alerts*
10. **Search your computer's hard drive**: Google Desktop Search*
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14. **Computer cleaner & optimizer:** 360Amigo System Speedup Free*
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16. **Accounting software:** QuickBooks Pro, Freshbooks
17. **Speech to text software:** Dragon Naturally Speaking
18. **Password manager/creator**: Roboform, LastPass
19. **Easy relationship manager:** Contactually.com
20. **Block unwanted callers on cell phone**: Current Caller ID app*
21. **Virtual Assistant referrals**: International Virtual Assistants Association, Virtual Assistant Match, Peace of Mind Virtual Assistance

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1. **Remote computer access**: Log Me In*, Go to My PC
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4. **Share screen in real time with anyone**: JoinMe*
5. **Create email now; auto-send later:** Boomerang (Gmail only)*
6. **Multiple person calendar availability**: ScheduleOnce*
7. **Transfer big files**: TransferBigFiles*
8. **Save notes in any format, OCR-searchable contents**: Evernote*
9. **Capture & save web pages:** web2pdfconvert*
10. **Get notified when topics of interest are published online:** Google Alerts*
11. **Search your computer's hard drive**: Google Desktop Search*
12. **Desktop scanner, OCR-searchable content**: Fujitsu ScanSnap s1500
13. **Automatic computer back-up:** Carbonite, Mozy
14. **Malware protection:** Malwarebytes*
15. **Computer cleaner & optimizer:** 360Amigo System Speedup Free*
16. **Online software training:** Lynda.com
17. **Accounting software:** QuickBooks Pro, Freshbooks
18. **Speech to text software:** Dragon Naturally Speaking
19. **Password manager/creator**: Roboform, LastPass
20. **Easy relationship manager:** Contactually.com
21. **Block unwanted callers on cell phone**: Current Caller ID app*
22. **Virtual Assistant referrals**: International Virtual Assistants Association, Virtual Assistant Match, Peace of Mind Virtual Assistance

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Elaine Quinn |The Solopreneur Specialist | Elaine@SmartSolos.com | SmartSolos.com

TAB 49

Be Careful What You Ask For: Tips for Real Estate Practitioners in Buying and Selling Condominium or Community Association Properties

- ***Charles M. Keough****, Keough and Moody, P.C., Naperville*
  cmk@kmlegal.com

This segment includes all materials received by the ISBA by the course book publication deadline.
Please contact the speaker for any other materials used at the program.

Be Careful What You Ask For:
Tips for the Real Estate Practitioner in Buying and Selling
Condominium or Community Association Properties

Presented by Charles M. Keough
Keough & Moody, P.C.

I. What is the nature of the association property being conveyed?

- Is it a condominium? If so, it is governed by the Illinois Condominium Property Act, 765 ILCS 605/1 et seq. ("Condo Act").
- Is it property located within an Illinois common interest community?

Common interest community means real estate other than a condominium or cooperative with respect to which any person by virtue of his or her ownership of a partial interest or a unit therein is obligated to pay for the maintenance, improvement, insurance premiums or real estate taxes of common areas described in a declaration which is administered by an association. "Common interest community" may include, but not be limited to, an attached or detached townhome, villa, or single-family home. **A "common interest community" does not include a master association.** 765 ILCS 160/1-5.

- Generally speaking, if the property is not a condominium and not a cooperative, the Illinois Common Interest Community Association Act ("CICAA") will apply, unless it is exempt!

- Is it property governed by CICAA?

Exemptions for small common interest communities

(a) A common interest community association organized under the General Not for Profit Corporation Act of 1986 and having either (i) 10 units or less or (ii)

annual budgeted assessments of $100,000 or less shall be exempt from this Act unless the association affirmatively elects to be covered by this Act by a majority of its directors **or members**. 765 ILCS 160/1-75(a).

- Finally, if it is not governed by the Condo Act and not governed by CICAA, then it is likely governed by subsections (c-h) of 18.5 of the Condo Act. This is important because 765 ILCS 605/18.5(g) is substantially similar to 765 ILCS 605/22.1, both of which govern the right of a prospective purchaser in obtaining an enumerated list of documents from the seller of association property.

II. You represent the purchaser of an Illinois condominium. The contract is executed and you just received the 22.1 documents from the seller's attorney pursuant to your request.

A. What documents did you receive? Was it completely responsive to your request? Section 22.1 (a) provides for the following:

605/22.1 Resales - Disclosures - Fees

(a) In the event of any resale of a condominium unit by a unit owner other than the developer such owner shall obtain from the Board of Managers and shall make available for inspection to the prospective purchaser, upon demand, the following:

(1) A copy of the Declaration, by-laws, other condominium instruments and any rules and regulations.

(2) A statement of any liens, including a statement of the account of the unit setting forth the amounts of unpaid assessments and other charges due and owing

as authorized and limited by the provisions of Section 9 of this Act or the condominium instruments.

(3) A statement of any capital expenditures anticipated by the unit owner's association within the current or succeeding two fiscal years.

(4) A statement of the status and amount of any reserve for replacement fund and any portion of such fund earmarked for any specified project by the Board of Managers.

(5) A copy of the statement of financial condition of the unit owner's association for the last fiscal year for which such statement is available.

(6) A statement of the status of any pending suits or judgments in which the unit owner's association is a party.

(7) A statement setting forth what insurance coverage is provided for all unit owners by the unit owner's association.

(8) A statement that any improvements or alterations made to the unit, or the limited common elements assigned thereto, by the prior unit owner are in good faith believed to be in compliance with the condominium instruments.

(9) The identity and mailing address of the principal officer of the unit owner's association or of the other officer or agent as is specifically designated to receive notices. 765 ILCS 605/22.1.

B. Now what? What do you do with them? How far do you dig into them in order to render advice to your purchaser? Do you simply hand them over to the buyer to digest, or perform a review for the client’s benefit?

- The starting point is found in the Illinois Rules of Professional Conduct. RPC 1.1 Competence states as follows:
    - A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, ***thoroughness*** and ***preparation*** reasonably necessary for the representation.

C. If we assume that the attorney is competent to render the advice, what are the best practices here?

- What are the mutual expectations of attorney and client regarding the services that the attorney will provide (e.g. negotiating contract, reviewing title and survey, attending closing, etc.)?
- Is the scope of the representation memorialized in writing?

  RPC 1.3 Diligence: A lawyer shall act with reasonable diligence and promptness in representing a client.

  Comments to RPC 1.3: A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf.

  RPC 1.2 Scope of Representation and Allocation of Authority Between Client and Lawyer: (c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

- Did the client sign and return the engagement agreement?

D. You have decided to render advice regarding the quality, nature and content of the documents received from the association.

- Do you understand the liability associated with giving such advice?
- Are you competent to render advice regarding the financial condition of the association for the last fiscal year? The sufficiency of the reserves in place?
- Do you have ALL the necessary documents? Plat of survey?
    - Components of governing documents and other information that ideally should be included:
        A. Complete declaration with exhibits, recording stamp
        B. All amendments to the declaration
        C. Bylaws if not already contained within declaration (recorded or non-recorded?)
        D. Most recently adopted Rules/Regulations
        E. All policies/procedures reduced to writing that have been adopted by the board
        F. Name, telephone and e-mail address of manager in order to verify foregoing

- Sections of interest in the <u>Declaration</u>

A. Parking

B. Storage

C. What constitutes a unit or a lot

D. What are common elements and limited common elements

E. What maintenance responsibility is shouldered by the owner vs. association

F. What insurance obligations does the owner have

G. Is renting permitted?

H. Specific issues (e.g., are pools/basketball hoops/dogs permitted, etc.)

- Sections of interest relating to Rules

A. Renting permitted? If so, there are likely to be restrictions imposed on the owner/tenant.

B. Dogs

C. Outdoor activity (e.g., sporting, grilling, congregating, etc.)

D. Satellite dishes

E. Insurance

E. Is your client purchasing from a bank in the wake of a foreclosure sale?

A. Your client may be responsible to pay some of the arrearage which accrued on the account of the foreclosed owner before the bank took title! Section 605/9(g)(4) and (5) govern this situation.

(4) The purchaser of a condominium unit at a judicial foreclosure sale, other than a mortgagee, who takes possession of a condominium unit pursuant to a court order or a purchaser who acquires title from a

mortgagee shall have a duty to pay the proportionate share, if any, of the common expenses for the unit which would have become due in the absence of any assessment acceleration during the 6 months immediately preceding institution of an action to enforce the collection of assessments, and which remain unpaid by the owner during whose possession the assessments accrued. If the outstanding assessments are paid at any time during any action to enforce the collection of assessments, the purchaser shall have no obligation to pay any assessments which accrued before he or she acquired title.

(5) The notice of sale of a condominium unit under subsection (c) of Section 15-1507 of the Code of Civil Procedure shall state that the purchaser of the unit other than a mortgagee shall pay the assessments and the legal fees required by subdivisions (g)(1) and (g)(4) of Section 9 of this Act. The statement of assessment account issued by the association to a unit owner under subsection (i) of Section 18 of this Act, and the disclosure statement issued to a prospective purchaser under Section 22.1 of this Act, shall state the amount of the assessments and the legal fees, if any, required by subdivisions (g)(1) and (g)(4) of Section 9 of this Act. 765 ILCS 605/9(g).

- Read together, 9(g)(4) and (5) impose an obligation upon the purchaser to pay 6 months of common expenses, court costs and attorney's fees.

- Was an "action" instituted against the prior owner?

- There is no published opinion regarding what the "institution of an action" is. For example, DuPage County judges have generally understood that to mean the commencement of a lawsuit for unpaid common expenses.
- Crafty lenders have been known to use the "Dick Bales" defense [9(g)(3)] in an attempt to skirt the imposition of payment found in 9(g)(4) and (5) require. If this has been done for the property in question, this could benefit your client.
- Finally, "common expenses" are **not** merely unpaid assessments! It is anything that is lawfully charged back to the account pursuant to the terms of the Declaration (e.g., fines, late fees, charge-backs, etc.).

III. You represent the purchaser of property within an Illinois common interest community association.

A. What documents did you receive? Was it completely responsive to your request? Section 1-35 provides for the following:

Section 1-35. <u>Unit owner powers, duties, and obligations</u>

(d) In the event of any resale of a unit in a common interest community association by a member or unit owner other than the developer, the board shall make available for inspection to the prospective purchaser, upon demand, the following:

(1) A copy of the declaration, other instruments, and any rules and regulations.

(2) A statement of any liens, including a statement of the account of the unit setting forth the amounts of unpaid assessments and other charges due and owing.

(3) A statement of any capital expenditures anticipated by the association within the current or succeeding 2 fiscal years.

(4) A statement of the status and amount of any reserve or replacement fund and any other fund specifically designated for association projects.

(5) A copy of the statement of financial condition of the association for the last fiscal year for which such a statement is available.

(6) A statement of the status of any pending suits or judgments in which the association is a party.

(7) A statement setting forth what insurance coverage is provided for all members or unit owners by the association for common properties. 765 ILCS 160/1-35(d).

B-D. The same analysis as above applies to non-condominiums.

E. Is your client purchasing a unit from a bank after a foreclosure sale?

Similar to 765 ILCS 605/9(g)(4) & (5) is Section 18.5 of the Condo Act, which says:

> 18.5(g-1). The purchaser of a unit of a common interest community at a judicial foreclosure sale, other than a mortgagee, who takes possession of a unit of a common interest community pursuant to a court order or a purchaser who acquires title from a mortgagee shall have the duty to pay the proportionate share, if any, of the common expenses for the unit that would have become due in the absence of any assessment acceleration during the 6 months immediately preceding institution of an action to enforce the collection of assessments and the court costs incurred by the association in an action to enforce the collection that remain unpaid by the owner during whose possession the assessments accrued. If the outstanding assessments and the court costs incurred by the association in an action to enforce the collection are paid at any time during any action to enforce the collection of assessments, the purchaser shall have no obligation to pay any assessments that accrued before he or she acquired title. The notice of sale of a unit of a common interest community under subsection (c) of Section 15-1507 of the Code of Civil Procedure shall state that the purchaser of the unit other than a mortgagee shall pay the assessments and court costs required by this subsection (g-1). 765 ILCS 605/18.5(g)(1).

- The only major difference is that in a non-condo, attorney's fees which are not part of common expenses would not be recoverable to the association, and thus not payable by your client.

IV. You represent the seller of an Illinois condominium or common interest community association property. The contract is executed and you just received a request for documents from the buyer's attorney.

A. Worth noting- statutory provisions

1. Section 22.1 (b) and 1-35(d) both permit the association 30 days to respond to a request for documents. Much less time is afforded in the contract for sale.

2. Both statutory provisions permit a reasonable fee to be charged to cover the direct out-of-pocket cost of providing the information and copying. Since largely this service is performed by a management company, the cost is sometimes surprising to a seller or seller's attorney.

B. Your client is in foreclosure and needs to engage in a short sale before the foreclosure sale occurs.

1. So, you're thinking that you can push down on what the association will have to accept in unpaid assessments.

- In the case of a condo, boards of managers may not forbear from the collection of assessments. In order to comply with a business judgment rule standard, it will likely not accept any less than it could get pursuant to 765 ILCS 9(g)(4) & (5).

2. Your client needs access to the unit to show it to interested buyers but the association has possession. How does the seller show it? <u>It can't</u>! The

association's possessory interest trumps that of the owner, even if the owner is trying to show and sell.

3. We see real estate agents and attorneys advising these sellers to stop paying assessments. Given the length of the average foreclosure proceeding, associations are taking swifter action to pursue their unpaid assessments. Thus, they're looking to take possession and rent these units to reduce the arrearage. An owner who stops paying assessments risks being evicted, especially if the end of the foreclosure proceeding is not in the near future.

V. Specific concerns associated with purchasing within a community association

A. Benefits and challenges of rental restrictions

1. Is there a rental restriction?

2. Where is it found? Declaration or Rules

3. Was it adopted properly?

4. Cap on renting or a percentage of total units? Total Ban? Grandfathered units?

5. Condo? Be aware of Section 18(n) of the Condo Act which imposes an obligation on the owner and tenant to produce a copy of the lease:

Section 18(n). (i) The provisions of this Act, the declaration, bylaws, other condominium instruments, and rules and regulations that relate to the use of the individual unit or the common elements shall be applicable

to any person leasing a unit and shall be deemed to be incorporated in any lease executed or renewed on or after the effective date of this amendatory Act of 1984. (ii) With regard to any lease entered into subsequent to the effective date of this amendatory Act of 1989, the unit owner leasing the unit shall deliver a copy of the signed lease to the board or if the lease is oral, a memorandum of the lease, not later than the date of occupancy or 10 days after the lease is signed, whichever occurs first. In addition to any other remedies, by filing an action jointly against the tenant and the unit owner, an association may seek to enjoin a tenant from occupying a unit or seek to evict a tenant under the provisions of Article IX of the Code of Civil Procedure for failure of the lessor-owner to comply with the leasing requirements prescribed by this Section or by the declaration, bylaws, and rules and regulations. The board of managers may proceed directly against a tenant, at law or in equity, or under the provisions of Article IX of the Code of Civil Procedure, for any other breach by tenant of any covenants, rules, regulations or bylaws. 765 ILCS 605/18(n).

6. Non-condo governed by CICAA? The analog to the condo provision is found in Section 1-35(a):

Section 1-35. <u>Unit owner powers, duties, and obligations</u>

(a) The provisions of this Act, the declaration, bylaws, other community instruments, and rules and regulations that relate to the use of

an individual unit or the common areas shall be applicable to any person leasing a unit and shall be deemed to be incorporated in any lease executed or renewed on or after the effective date of this Act. With regard to any lease entered into subsequent to the effective date of this Act, the unit owner leasing the unit shall deliver a copy of the signed lease to the association or if the lease is oral, a memorandum of the lease, not later than the date of occupancy or 10 days after the lease is signed, whichever occurs first.765 ILCS 160/1-35(a).

B. Manager comments

1. Make sure buyer gets a complete set of governing documents
2. Don't believe any broker's claim that this is a "maintenance-free community"
3. Ask for financials and seek advice if you do not understand them. The balance sheet, coupled with a reserve study, is very revealing.
4. Clearly understand the rental policy
5. Interview before move-in

TAB 50

Consumer Bankruptcy Issues

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Bankruptcy Basics

I. Introduction

A. Consumer Bankruptcy Policy

1. The traditional legal view put a high value on the full repayment of debts. Modern rules recognize that the repayment of debts can sometimes be difficult. Bankruptcy is the release valve of our economic system. The U.S. Bankruptcy Courts are a fully federal system. State law may substantially impact a bankruptcy case, but the prevailing law is based on federal jurisprudence. In 2005, Congress enacted the Bankruptcy Abuse Prevention and Consumer Protection Act ("BAPCPA"). These amendments were meant to cut down on perceived abuses, but in reality have just made the process more expensive and difficult for debtors who properly try to enter the system. This course is designed to guide new practitioners who wish to file simple Chapter 7 and Chapter 13 cases on behalf of consumer debtors. The main topics include the initial interview of clients; filing requirements; the means test; automatic stay issues; redemption and reaffirmation; and a crash course on drafting effective Chapter 13 Plans.

II. Starting Points

A. Getting Admitted to the District Court.

1. The Bankruptcy Courts are not Article III Courts. The bankruptcy Court is established under Art. I, Sec. 8 of the constitution which mandates that Congress pass, "uniform laws on the subject of bankruptcies throughout the United States." The District Courts in each state oversee the Bankruptcy Courts and the process of getting admitted to practice is similar.

a. PACER and CM/ECF Training Requirements

1. The federal courts have instituted electronic filing requirements in every district court in the U.S, including bankruptcy court. The first step to filing a case is that a practitioner must be admitted to practice in the district. Typically, a motion, a letter of good standing from the ARDC, and an application fee are all that are required for admittance to the District Court. In Illinois, the District Courts offer reciprocity, but still require an application fee for each district.

i. http://www.ilnd.uscourts.gov/home/GeneralBarAdmission.aspx

2. Authorization to file cases in bankruptcy court requires additional Electronic Case Filing ("ECF") training. Your log in information for the District Court will not allow you access to the Bankruptcy Court until you complete this training. The training courses are designed to teach both debtors and creditors counsel how to file the basic forms required in a bankruptcy case. Typically, you can complete the training within a couple of hours and get your log in within 24 hours.

    i. https://tdi.ilnb.uscourts.gov/training/

        1. Be aware that to file documents in the Federal Court you must convert your documents to .pdf format. Investing in Adobe Acrobat or eCopy, as well as a good quality scanner, will be invaluable.

3. CM/ECF allows you to file new documents with the court. In order to view docket histories and access other information from the court, you will also need a PACER ("Public Access to Court Electronic Records") registration. PACER bills monthly, but the fees are pretty nominal, typically $0.10 per page with a maximum charge of 40 pages per document.

    i. http://www.pacer.gov/reg_dcbk.html

B. Bankruptcy Attorneys as Debt Relief Agencies

1. The bankruptcy process is governed primarily by Title 11 of the United States Code. The Code defines who can provide bankruptcy assistance and under what conditions.

    a. The term "debt relief agency" means any person who provides any bankruptcy assistance to an assisted person in return for the payment of money or other valuable consideration, or who is a bankruptcy petition preparer under section 110. See, 11 U.S.C. 101(12A)This definition also applies to lawyers who practice in the area of bankruptcy law. See *Milavetz v. U.S.*, 130 S. Ct. 1324 (2010).

        1. The term "assisted person" means any person whose debts consist primarily of consumer debts and the value of whose nonexempt property is less than $150,000. See 11 U.S.C. 101(3).

b. Restrictions. 11 U.S.C. 526(a)

1. A debt relief agency shall not—

i. fail to perform any service that such agency informed an assisted person or prospective assisted person it would provide in connection with a case or proceeding under this title;

ii. make any statement, or counsel or advise any assisted person or prospective assisted person to make a statement in a document filed in a case or proceeding under this title, that is untrue or misleading, or that upon the exercise of reasonable care, should have been known by such agency to be untrue or misleading;

iii. misrepresent to any assisted person or prospective assisted person, directly or indirectly, affirmatively or by material omission, with respect to—

1. the services that such agency will provide to such person; or

2. the benefits and risks that may result if such person becomes a debtor in a case under this title; or

iv. advise an assisted person or prospective assisted person to incur more debt in contemplation of such person filing a case under this title or to pay an attorney or bankruptcy petition preparer a fee or charge for services performed as part of preparing for or representing a debtor in a case under this title

1. In *Milavetz*, the Court construed this subsection very narrowly to restrict a lawyer from advising "a debtor to incur more debt because the debtor is filing for bankruptcy rather than for a valid purpose." *Milavetz v. U.S.*, 130 S. Ct. 1324 at 1336.

a. A debtor's attorney should never counsel a client to go run up credit cards or take on any other debt merely because the debtor will soon obtain the benefits of a discharge. Other sections of the Code provide for the non-dischargeability of debts incurred 90-days (or more) prior to bankruptcy when possible abuse or fraud is perceived.

b. However, this restriction might not limit a good practitioner from discussing the possibility of purchasing a new vehicle or

other secured debt for a valid purpose (i.e.; the debtor is currently driving a 12-year-old vehicle with 175,000 miles), as well as the impact of incurring that kind of debt on a bankruptcy case.

c. Liability, 11 U.S.C. 526(c)

1. Any contract for bankruptcy assistance between a debt relief agency and an assisted person that does not comply with the material requirements of this section, section 527, or section 528 shall be void and may not be enforced by any Federal or State court or by any other person, other than such assisted person.

2. Any debt relief agency shall be liable to an assisted person in the amount of any fees or charges in connection with providing bankruptcy assistance to such person that such debt relief agency has received, for actual damages, and for reasonable attorneys' fees and costs if such agency is found, after notice and a hearing, to have—

i. intentionally or negligently failed to comply with any provision of this section, section 527, or section 528 with respect to a case or proceeding under this title for such assisted person;

ii. provided bankruptcy assistance to an assisted person in a case or proceeding under this title that is dismissed or converted to a case under another chapter of this title because of such agency's intentional or negligent failure to file any required document including those specified in section 521; or

iii. intentionally or negligently disregarded the material requirements of this title or the Federal Rules of Bankruptcy Procedure applicable to such agency

d. Required Disclosures

1. As a debt relief agency you will be required to make several disclosures within three days of the initial interview. Practically, it's much easier to provide these disclosures at the conclusion of your first meeting with a potential client. See 11 U.S.C. 527.

i. See Appendix A for copies of the required disclosures and acknowledgment of receipt. These notices talk about the difference between Chapter 7 and 13, what bankruptcy can and cannot do for a

debtor; and most importantly, the debtor's rights and duties under the code.

C. Advising clients

1. The Initial Interview

a. The initial meeting is your opportunity to gather information about these potential clients' particular circumstances. As with most areas of the law, each case is slightly different and the information you need to discover and the advice you might give could vary greatly.

b. Some initial intake information can be put together prior to your first meeting. A copy of the intake form used by our firm is attached as Appendix B. Use this form to get quick answers to pertinent interview questions. Our practice is to direct our clients to our website where they can download this form to fill out at home prior to their first appointment. You may also consider emailing the form to a potential client with a checklist of the information below so they can begin gathering the required information.

c. Information the Client should bring to the first meeting

1. Income Information. Verification of Income is possibly the most important information needed for the first meeting.

i. 60-days worth of pay stubs, at a minimum. You will need to gather the last 6 months worth of pay advices, but at the initial meeting 60-day should be sufficient to get an idea of normal income.

ii. If the client is self-employed, ask them to prepare 6 months worth of Profit-and-Loss statements. In this case, it's best to have all 6 months at the initial interview to get a better idea of average income.

iii. Social Security or Pension Income. This may be reflected on a bank statement. Since the amounts don't typically change, one month's bank statement is sufficient.

iv. The most recent tax return

1. Note: one prerequisite for filing a case in the bankruptcy court is to have all of one's tax returns filed to date. The obvious exception is where an individual is not required to file (i.e.; Soc. Sec. Benefits). If your client has not filed, advise them to do so and let them know

they cannot proceed with a bankruptcy case until they have submitted their tax returns.

v. A list of creditors and amounts owed

1. You do not need to statements at this stage, just a list of names and approximate amounts owed are sufficient to get an idea of the client's debt load.

vi. A household budget.

1. Again, no need for statements. Just a list of the amounts paid for normal living expenses and common monthly expenses.

d. The Initial Interview. See Appendix C for an interview form.

1. Determining the debtor's income at the first stage of the meeting is crucial. There are two options for most consumer debtors, Chapter 7 and Chapter 13. Gross income is used to determine eligibility to file Ch.7, and this stage of the interview lets you know what kind of case you may be dealing with. Further discussion of Ch. 7 eligibility and the Means Test is found below.

i. How often a debtor gets paid is important. There is a very important distinction between getting paid Bi-weekly (every two weeks [every other Friday]) and Semi-monthly (twice per month [i.e.; the 1st and 15th]).

1. For debtor's who get paid weekly, multiply their gross income by 4.333 to get a monthly average.

2. Debtor's who are paid bi-weekly, multiply by 2.166 for a monthly average. Debtor's who are paid twice a month can just be multiplied by 2.

ii. The interview form is used to determine normal income, per pay period. For purposes of the bankruptcy court, you are only allowed to take into account certain deductions from income at this stage. This includes taxes; insurance; union dues; involuntary retirement deductions such as IPERS, but not a voluntary 401(k); and involuntary deductions for child support or maintenance.

iii. Using gross income as a starting point, you will need to verify if your client is above or below the median income limits set by the office of the United States Trustee. Using monthly gross income, multiply by twelve to get an annualized average income. See the UST website for median income levels for your state and your client's family size. More discussion at Sec. III, D, below.

1. http://www.justice.gov/ust/eo/bapcpa/20120501/bci_data/median_income_table.htm

iv. Once you have determined gross monthly income, use the pay advices to determine net income after deducting the taxes insurance and other items from the debtor's pay check.

1. Remember, for the purposes of building this budget you cannot take into account voluntary deductions such as a 401(k), but you can take into account involuntary deductions such as an IPERS.

2. Multiply the net income amount by the frequency of checks to get an estimate of monthly take home pay. So, for a debtor who is paid weekly, multiply his weekly net pay by 4.33 to get a monthly estimate.

2. Building a Budget

i. Verifying monthly living expenses is important for two reasons. First it helps you, as attorney, determine whether your client can afford a chapter 13 payment, if necessary. Secondly, it will give you insight as to whether your client can afford to continue making payments on existing monthly expenses in a Chapter 7.

1. Typically, under Chapter 7, a debtor must be able to show that he can afford to continue to pay for secured debts (i.e.; house and car payments) if he wishes to reaffirm those debts. See more about Reaffirmations in Sec. III, F, below.

ii. At this stage you need not worry about credit card or other unsecured payments. Once you have filled in these typical living expenses, subtract the total expenses from the total income from all sources to get an estimated Disposable Monthly Income.

1. Don't forget to ask about any additional payments that may have not shown up on the list. Student Loans, additional vehicles, rent-

to-owns, storage garage, etc.

3. Types of Debt.

    i. The next section is to determine what kind of debts your client has. Under the bankruptcy code, different debts have different priorities and rights and will be affected by the discharge in different ways. At this stage, you merely want to classify the debts. Further discussion of priorities and non-dischargeability can be found at Sec. III, G, below.

        1. Priority and Non-dischargeable Debts.

            a. These include both state and federal tax liabilities (sometimes); fines or other debts owed to governmental units; child support and maintenance;

                1. Child support and maintenance are never discharged; student loans are rarely (read: basically never) discharged; taxes less than three years old are non-dischargeable, but older than 3-years might be discharged under certain circumstances.

        2. Secured Debts

            a. Here you should list anything that was financed. Typically, you will find a mortgage and car loan. But don't forget to ask about furniture or appliances that may have been financed as well.

                1. In my experience, places like Best Buy and American TV will always claim a security interest. Lowe's and Home Depot occasionally do. Sears never does.

            b. It is also important to note if, and how much, a debtor is behind on secured loan payments. Generally, creditors will not reaffirm on a debt that is behind in payments. So unless your client can bring those accounts current, they may want to consider a Chapter 13 to save a house or car.

        3. Co-signed loans

            a. Non-client co-signers may be impacted by your client's bankruptcy. Be sure to advise your client that she will no longer be obligated to pay a co-signed debt, but that the other party will remain liable.

1. In Chapter 13 cases, some protection may be given to non-filing co-signers, but only if the debt is going to be paid in the plan.

4. Executory Contracts and Unexpired Leases

   a. Executory contracts and leases become part of the estate. It is rare that these types of agreements impact a case, but occasionally a Trustee may step into the debtor's shoes and assume or reject these agreements should there be a potential value to the estate.

      1. Ex. Debtor signs a 10-year lease agreement for a store front for $500.00 per month. In year 7, the debtor files for Chapter 7 bankruptcy, intending to close his business. The going rate for a store front rental has increased to $1,000.00. The Trustee has the power to step into the debtor's shoes as to the lease and effectively "sublet" the store front at the higher rate in order to claim some value for the benefit of creditors.

   b. In practice, there is rarely any value to these agreements and it is in the best interest of your client to merely reject them to get out of a bad agreement. Rentals and Time-shares are the most common examples. Leases and Rent-to-owns for furniture or appliances may also occur. If this is the case, the question is whether the client can afford to continue pay for them.

5. Unsecured Debts.

   a. At the initial interview, you merely need to get an approximate total of unsecured debts. These include credit cards, medical bills, cash advance loans, deficiency balances, old cell phone bills, etc.

   b. Most individually acquired debts remain individual obligations. However, under state law, some debts become joint debts by operation of law. See 750 ILCS 65/1, et. seq., The Rights of Married Persons Act.

      1. Medical bills are the most common examples of the creation joint debt under the Rights of Married Persons Act. Be sure

to verify if your client is married and if either one of the spouses has a large amount a medical bills. The Bankruptcy Code does not require that married persons file jointly, but it is certainly recommended if there are large medical bills owed by one of the spouses.

c. The Bankruptcy Code contains limitations on debt amounts for Chapter 13 debtors. See 11 U.S.C. 109(c), the sum of all unsecured debts cannot be more that $336,900.00. This is rare, but may happen. Issues may arise when your client is above median and ineligible for Chapter 7, but has an unsecured debt load greater than $336, 900.00, making her ineligible for Chapter 13 as well. In rare cases like this Chapter 11 may be an option, but that discussion is beyond the scope of this manual.

4. Property of the Debtor

i. It is important to gather as much information about any and all property owned by the debtor. When a bankruptcy case is filed nearly everything the debtor owns becomes part of the bankruptcy "estate." You must counsel your client to be open and honest here. Concealing property from the bankruptcy court is a serious matter that can jeopardize the debtor's discharge.

1. Real Property

a. Get a list of all real property owned by the debtor, including both the legal description (i.e.; Lot 1 in block 2 of Smith's Addition) and the physical description (i.e.; 2 story, 3 bed, 2 bath, single family home).

b. Valuation is important. An appraisal done in 2008, doesn't mean too much in 2012; check the local county assessors website for the assessed value. You can also visit www.eppraisal.com to get market analysis valuations.

2. Motor Vehicle

a. This includes motor vehicles of all kinds. Cars, motorcycles, campers, trailers, RV's, other recreational equipment, snowmobiles, 4-wheelers, wave runners, etc. Try to get the year, make and model of each vehicle, as well as any special designation (i.e.; LS, GT, GXE); mileage, if applicable; and

current Fair Market Value.

1. NADA and Blue Book both have online listings in order to determine FMV.

3. Personal Property

   a. This is the "stuff" the client has at home. Ask about any antiques or art work, typically looking for any items at or above $500 is value; collections of any sort, stamps, coins, or baseball cards; firearms; musical equipment; sometimes it is helpful to get an itemization and an appraisal by a local auction company. For most clients, it is unlikely that they have anything individually of high value and we usually just apply a $2,000.00 value to "usual household goods and furnishings." Check with your local trustees and bankruptcy practitioners to see how specific you should be.

4. Jewelry

   a. Wedding sets are typically exempt, however if your client does have several pieces of expensive jewelry you must list it and it may become property of the estate unless otherwise exempted.

5. Bank Accounts

   a. Get the name of every institution where your client has an account as well as account balances. Note that sometimes a client may be listed on an account even though they do not use it. Legally, they may still have an ownership interest in the account that might be subject to the bankruptcy process. Typical examples include convenience accounts for elderly parents or account for minor children. It is usually not an issue, but in some cases it is necessary to advise your clients to have their names removed from those account prior to filing a case.

6. Misc. Property

   a. Ask about retirement savings accounts; IPERS, 401(k), IRA, other ERISA qualified accounts; Stocks, bonds, money market accounts, trading accounts; Certificates of Deposit, savings bonds.

7. Tools of the Trade

    a. Anything that the debtor owns personally but is required to have for work or business; typically tools or equipment (i.e.; a mechanic or carpenter); could be books or a computer as well.

8. Medical Equipment

    a. Does the client have an adjustable bed; wheelchair; breathing machine; this must be equipment that was prescribed by a doctor for on-going treatment.

9. Life Insurance Policies

    a. List the owners and beneficiaries of term life policies; get the cash surrender value of whole life policies; make certain to ask who the beneficiaries of each policy, and their relationship to the debtor.

10. Right to Receive Payment

    a. civil suits, Personal Injury claims; Worker's Comp claims; Receiving life insurance as a beneficiary; expected inheritances

        1. Should the debtor come into an inheritance within 6-months after filing a case, they are required by law to report that to the Court. Life insurance proceeds and inheritances are not exempt from the bankruptcy estate.

5. Statement of Financial Affairs is a short financial history for this client. It is basic background information for the Trustee to determine if there are any improprieties or preferential transfers. Each item has its own description in the forms to assist you in gathering the necessary information. This form will be duplicated in the final paperwork you submit to the court on behalf of your client.

i. Income from employment

    1. Rely on the most recent pay stubs to get YTD information; look to W-2's to get past years' income.

ii. Other income

    1. This includes SSI, SSD, retirement, pensions, public assistance, worker's comp, unemployment compensation, etc.

iii. Payments to creditors within 90-days of filing

    1. The trustee is looking for preferential transfers here; no need to include payments to secured creditors (i.e.; a regular house payment of $900 would not be listed); ask if debtor has made any large payments in excess of their minimum monthly payments to credit cards.

        a. It is also important to ask the debtor whether they owe any money to friends or family members and have made any large or continuous payments to those individuals over the last 12 months. The Trustee has the power to require those creditors who have received large amounts of payments prior to the filing of a bankruptcy to return those funds to the estate for more equitable disbursement.

iv. lawsuits, garnishments

    1. Has your client been sued by anyone; any one going after a bank account or paycheck; be sure to find out when a garnishment or bank levy occurred and how much has been garnished.

v. repossessions, foreclosures and returns

    1. repossessions in the last 12 months; any completed foreclosures, if the debtor owned any other real estate in the last 12 months; any voluntary returns, such as if the debtor purchased a car, decided he couldn't pay for it and took it back to the dealership.

vi. Gifts

    1. make sure to ask if the debtor has made any gifts or money or property in that last 12 months; again, the Trustee has the power to

reclaim these transfers for the benefit of the estate.

vii. Losses

1. has the debtor suffered any losses of property, such as a fire or storm damage, where the debtor was required to make repairs or replacement out-of-pocket (i.e.; no insurance coverage); has anyone broken in, stolen anything; any losses of income due to gambling in the last 12 months.

    a. Gambling may pose a specific non-dischargeability issue if the debtor has taken cash advances on credit cards for gambling use; see 11 U.S.C. 523(a)(2)(A), 523(a)(2)(C)

viii. payments for bankruptcy services

1. Be sure to include any monies paid to you, as debtor's counsel; any monies paid to a credit counseling agency or into a debt consolidation program in the last 12 months.

ix. Other transfers

1. has the debtor sold a house or sold a car; transferred anything by deed or title; put any property into someone else's name name in the last 12 months.

x. Closed bank accounts

1. Has the debtor closed any bank account in the last 12 months; what was the date of closing and ending balance; where did those funds go?

xi. safe deposit box

1. Location of safe deposit box; list contents

xii. Set-offs

1. Does the debtor owe any debts to a place where they have deposit accounts (i.e.; checking and savings); a bank holding funds for a debtor may have special rights over those funds; if the bank has off set a debt with funds held in deposit, they may be required to disgorge those funds for the benefit of the estate.

xiii. Property held for another

1. Is the debtor holding any property that technically belongs to someone else; something the debtor is using themselves or is holding in storage; typical examples occur when a debtor is using (and sometimes paying for) a car that is titled in another family member's name.

xiv. Prior addresses

1. List all prior address for the previous 3 years; jurisdictional rules require the debtor be a resident of the District in which the case is filed for more than 90-days (91); Use of proper exemptions may depend on which State I which the debtor has lived for the majority of the last 2 years. Further discussion of exemptions can be found at Sec. III, D, below.

xv. Spouses and former spouses.

1. This is sometimes an issue in Illinois, because Wisconsin is a community property state; When a debtor is new to Illinois, be sure to determine whether they lived in a community property state in the last 8 years.

xvi. Business interests

1. Does the Debtor own a business; corporations; even closely held corps must be listed; this will also need to be listed as personal property on Schedule B.

2. Initial Consultation Agreement

a. 11 U.S.C. 528 requires that within five days of providing any bankruptcy assistance and also prior to filing any pleadings, a debt relief agency must enter into a written contract with the assisted person. You can enter into an agreement with the client in regards to the first meeting only, recognizing that they may change their mind at any time. You must discuss fees and services at this time. A copy of the initial consultation agreement is attached to this form as Appendix D.

1. Remember, this initial consultation agreement is separate from the requirement of a subsequent engagement letter and attorney services

contract. Always send a separate agreement once the client has agreed to retain your services.

3. It is always prudent to be repetitive when communicating with your clients. Sometimes, when you ask a question it may not come across as clear as you would like and sometimes you may not have followed up as much as you need to at the initial interview. See Appendix E for a list of important things to think about when planning to file bankruptcy.

D. Follow Up Appointments and Additional Documentation

1. You will want your client to follow up on the initial interview with a second appointment. Once you have determined the kind of case to file you can advise the client on what additional documentation you will need.

    a. You may also take this opportunity to run a credit report for your client. Using a service such as Credit Info Net to pull a consolidated credit report will assist in your due diligence as well as give your client peace of mind to know you have all the creditor information out there.

        1. https://www.cingroup.com/companies/cinlegal/clr/

    b. Your client will also need to bring in the last 7 months worth of pay advices; and at least 2 years, and possibly up to 4 years, worth of tax returns and supporting schedules.

        1. See Appendix E for a list of additional documentation you should request from your client.

E. Credit Counseling and Debtor Education Classes

1. Both Ch.7 and Ch.13 consumer bankruptcies require that the individual debtors complete pre- and post- petition credit counseling classes; See 11 U.S.C. §§ 109, 521; note, this requirement does not apply to business bankruptcies, or where 51% of the individual debtor's debts are due to a business (i.e.; a sole proprietor).

    a. Pre-filing counseling must be completed no more than 180-days prior to filing; post-filing debtor education must be completed before the court will enter a discharge order.

        1. The vast majority of cases require the counseling classes, however there are three exceptions that must be raised by motion at the time of filing;

these exceptions include:

i. Incompetency;

ii. Disability;

iii. Active military duty in a combat zone.

b. For a list of approved credit counseling providers see:

1. http://www.justice.gov/ust/eo/bapcpa/ccde/CC_Files/CC_Approved_Agencies_HTML/cc_illinois/cc_illinois.htm

F. Software

1. There are several different bankruptcy preparation programs out there. The author's firm uses Best Case Bankruptcy, by Wolters Kluer. You can download the common forms (Petition and Schedules) from the Court website. But if you plan to add bankruptcy as a major practice area, getting software for the preparation of cases in invaluable. Assistance for the Means Test alone is worth the price.

a. http://www.bestcase.com/

b. http://www.ezfiling.com/

c. http://www.ilnb.uscourts.gov/Forms/

G. Knowing your Judges and Trustees

1. The judge in your division tends to set policy in the area of bankruptcy law; the Judge may be pro-debtor or pro-creditor and an attorney must be aware on how the judge will decide issues based on those preconceived notions.

2. Trustees are charged with the proper administration of cases; in practice, virtually all trustees recognize that the bankruptcy process is meant to provide a fresh start to debtors and their families and want to help your client successfully complete this process; however, there are still rules and requirements to follow. Contact your trustee for a list of documents that Trustee requires to administer the case; these usually include copies of recent pay stubs, tax returns, copies of titles, etc.

III. Chapter 7

A. Filing the case

1. Generally, a Chapter 7 case is a "liquidation" bankruptcy. Chapter 7 applies to both consumers and businesses. In a Chapter 7, the Court will take any non-exempt assets of the debtor, sells them to pay off creditors at least a portion of their debt, and discharges the remaining balances. Nearly all cases are "no assets" cases and there is never a distribution to any creditors.

2. Once your case has been uploaded via ECF and filed with the Court the administration of the case begins. 11 U.S.C. 341 requires a Meeting of Creditors "within a reasonable time" after the commencement of a case. Typically this is approximately 30-days after the date of filing, depending on the court calendar.

3. Meeting of creditors.

    a. At least 2 weeks before the hearing, be sure to forward any required documentation to the Trustee for his or her review. This ensures compliance with 11 U.S.C. 521 and gives the Trustee time to review and let you know if any further information is required. Get to know your trustee and verify what information they would like to see prior to the meeting.

    b. Prior to the conclusion of the meeting of creditors or equity security holders, the trustee shall orally examine the debtor to ensure that the debtor in a case under chapter 7 of this title is aware of—

        1. the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;

        2. the debtor's ability to file a petition under a different chapter of this title;

        3. the effect of receiving a discharge of debts under this title; and

        4. the effect of reaffirming a debt, including the debtor's knowledge of the provisions of section 524(d) of this title.

    c. While legally called the "Meeting of Creditors", it is quite rare that any creditors actually appear; typically, the only time a creditor will appear is when they are a local bank or finance company on a secured debt, such as a local bank with a mortgage. They generally want to know whether the debtor wants to reaffirm, whether they still possess the collateral, and whether the collateral is insured.

d. Prepare your client for their hearing. Whether they admit it or not, most debtors are naturally nervous going into the 341 hearing. Remind your clients that the questions the Trustee will asked has already been asked of them by you. "I don't know" is an acceptable answer and oftentimes, any missing information can be provided to the trustee after the hearing.

    1. Reassure your clients that no one is going to point fingers or demand they explain why they are in bankruptcy court. The trustees also recognize that entering the bankruptcy system is a difficult decision and most often due to events outside of the debtor's control. While the hearing is a formal proceeding, it is not meant to put your client on the spot.

e. Typically, the only documentation your client needs to bring is a picture ID and verification of Social Security Number. These MUST be two separate items. These can be a driver's license and S.S. Card. It could also be a W-2, a Medicare card or military ID. Just be certain the any identification is currently valid.

    1. Occasionally, the Trustee may ask for documentation that your client does not have until shortly before the hearing. Oftentimes this may be a pay stub or bank statement. Be sure you keep track of what documents your client needs to provide and whether you have received it prior to the hearing.

f. Discuss with your client, and provide them with a copy of, the questions typically asked by the Trustee. They are all very straight forward questions. If you, as attorney, have done your job right, the trustee will have very few questions and rarely any surprise questions. A copy of typical questions asked by the Trustee is found at Appendix G.

B. Elements Common to All Bankruptcy Cases

1. The Automatic Stay

a. 11 U.S.C 362 provides for an Automatic Stay Order to be entered upon the filing of any case in bankruptcy court. This is effectively an injunction, preventing creditors from collecting a debt in any way, shape, or form.

b. However, there are several exceptions to the automatic stay, including the prosecution of criminal cases, continuance of family law cases, and the collection of maintenance or child support.

c. The Auto Stay is one of the most powerful protections available to your client. If a debtor is under a garnishment order or under threat of repossession, the Auto Stay prevents the continued enforcement of those claims.

    1. As debtor's counsel, you have the obligation to provide notice to the debtor's employer in order to get a garnishment stopped. Depending on timing, wages may still be garnished even after the case has been filed. If this happens, the funds should be forwarded to the Trustee, but you, as attorney, are responsible for making certain this happens.

    2. Additionally, it takes time for notice to go out to creditors and for it to reach the proper department. Advise you clients at the time of filing that if any creditors continue to contact them, to tell those creditors that they have filed a case in bankruptcy court and any continued contact is a violation of federal law. This tends to empower your clients and they will feel much better about the whole process.

2. The Estate

    a. Under 11 U.S.C. 541, in every bankruptcy case ALL of the debtor's property owned at the time of filing becomes part of the bankruptcy estate. This includes contingent and unmatured property. The Estate includes both exempt and non-exempt property, and the exempt property revests in the debtor at discharge. Further discussion of Exemptions can be found at Sec. III, D.

        1. Anything acquired post-filing remains property of the debtor and does not transfer to the estate. This includes post-filing wages in a Chapter 7 case.

        2. However, tax refunds, wages, or bonuses, will become part of the estate if the debtor has a non-contingent right to the property and the property does not accrue until after filing.

            i. 11 U.S.C. 541(a)(5) applies to unexpected interests in property that accrue within 180-days of filing including from inheritance, insurance proceeds, and divorce decree. It is rare that this happens, but be certain to advise your clients of the possibility.

3. The Trustee

    a. All consumer cases have a Trustee appointed to oversee and administer the estate. Bankruptcy Trustees are appointed by the U.S. Trustee in each district.

b. The Trustee is charged with holding the Sec. 341 meeting and assessing the assets of the debtor. Recall, most Chapter 7 cases are no-asset cases, and therefore there is nothing to administer.

C. The Means Test: Eligibility Requirements

1. The primary hurdle for Chapter 7 eligibility is the Form 22 Means Test. The 2005 BAPCPA amendments created Form 22 with the intention to prevent substantial abuse by debtors who are unfairly trying to take advantage of bankruptcy. This is a presumptive test and the Debtor either "passes" of "fails."

2. Ostensibly, the purpose of the Means Test is to determine the debtor's ability to pay back creditors. If a debtor "fails" the threshold test, they are more likely, but not necessarily required, to file a Chapter 13 case.

   a. Even where the debtor fails the means test, the vast majority of Ch. 13 Plans do not provide for payments to unsecured creditors. Neither is a debtor who passes the means test precluded from voluntarily filing a Ch.13 case.

      1. Oftentimes, even when a debtor passes the means test, if she is behind on a mortgage or car payment, a Ch.13 may be the best option to help catch up the arrears.

3. There are 2 parts to the Means Test.

   a. Part One: Median Family Income Test – The Threshold Test

      1. The attorney must determine Current Monthly Income ("CMI") by taking the average of income for the six months prior to filing the case. Note, the six-month period is counted as six months prior to the month in which the case is filed. This means for a case filed in September, 2012, you must use the income information for the six month period of March 1, through August 31.

      2. The Code states that ALL income must be used to calculate CMI. This includes wages, pensions, unemployment, support or maintenance (if actually received).

         i. However, this will NEVER include Social Security income.

         ii. A CMI calculator is attached to this form as Appendix I. Note, this is a spreadsheet file, and should be included in the electronic version of the materials.

3. You must calculate the annualized income of the debtor by taking the six-month average and multiplying by 12. Compare this total to the IRS/Census Bureau Median Household Income for the state in which the debtor resides; if the debtor's CMI is below the median income level, then the debtor "passes" the means test and is eligible for Ch. 7.

    i. http://www.justice.gov/ust/eo/bapcpa/20120501/bci_data/median_income_table.htm for info on Median Income for the debtor's family size. These amounts are updated about every 6 months. Be sure to check the UST website periodically for updated info.

4. Keep in mind that the 6-month CMI calculation is meant to be a "snap shot" of the debtor's income. However, when circumstances arise where a debtor has just recently been laid-off or has otherwise lost employment, those last 6-months are not indicative of current monthly income. It may be advisable to have your client wait 2 or 3 (or more) months before filing to order to bring down the CMI levels on the means test.

    i. *HAMILTON v. LANNING*, 545 F. 3d 1269 (U.S. 2010)

5. Approximately 95% of consumer debtors fall below the median income levels. If the debtor passes this threshold test, you need not complete the rest of Form 22. If the debtor's CMI is above the Median Income levels, he is deemed to have failed the Means Test and the presumption of abuse arises. You must complete the rest of Form 22.

b. Part 2: Form 22 Expense Deductions – The Long Form Test

1. Step 1: A debtor may subtract his expenses on Form 22 to reduce his CMI and overcome the presumption of abuse. The IRS creates national, local, and other Necessary Expense limits which are used to deduct payments out of the debtor's CMI.

    1. See http://www.justice.gov/ust/eo/bapcpa/meanstesting.htm for more information on national and local expense limits.

    ii. For determining Ch.7 eligibility, a debtor may deduct taxes, insurance, and other involuntary items (including mandatory retirement plans, such as IPERS) taken out of his paycheck, but not voluntary deductions (such as a 401(k)).

iii. A debtor's secured debts, such as a car or mortgage, are deductible without limit. A house payment is deductible in it's full amount.

1. Rent payments (as opposed to mortgage payments) can only be deducted up to the IRS local standards for rent, regardless of the the debtor's actual rent is.

2. A car payment should generally be calculated as though it will be paid over 60 months from the day of filing, paid at 5.25% interest. See the discussion of Chapter 13 Plans, below, as well as *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004).

3. Many debt's are deducted based on a 60 month payment estimate. Even unsecured priority debts can be deducted. For example, the a debtor owes $5,000.00 in past-due child support, the amount can be divided by 60 and an additional $83.33 can be deducted from the means test.

2. Step 2: The final calculation is determined after Form 22 is completed. For this calculation, it is necessary to know:

i. the total deductions (line 49) subtracted from the debtors CMI (line 18) to find the debtor's Disposable Monthly Income ("DMI") (line 50);

ii. The amount of DMI is then multiplied by 60 and inserted into line 51, to show the total amount that could be paid into a Ch.13 plan over 5 years (60 months).

3. Step 3: Statutory Presumptions under 11 U.S.C. 707(b)(2)

1. If the total 60-month DMI amount is below $6,575.00 the the debtor "passes" the long form Means Test and is eligible for a Ch.7. If the total is greater than $10,950.00, then the debtor "fails" the means test and must file a Ch.13

2. If the 60-month DMI total is somewhere between $6,575.00 and $10, 950.00, then you must calculate a potential minimum payment.

a. Determine the total of unsecured, non-priority debt and insert into line 53.

1. The total amount is then multiplied by .25 and inserted into line 54; this is the minimum amount the debtor must contribute over 60-months to avoid abuse.

2. Compare the total DMI (line 51) to the minimum payment amount (line 54); if line 51 is less than line 54, then the presumption of abuse does not arise and the debtor "passes" the means test.

3. If line 51 is GREATER than line 54, the debtor will fail the Means Test, and be required to file under Ch.13.

4. Short hand version: Abuse = {DMI $\geq$ [(total unsecured x 0.25) $\div$ 60]}

5. If the debtor fails under the 25%-Test, he must file a 5-year Ch.13 plan with a payment equal to DMI.

6. Be aware that if your calculation reaches this point and a debtor passes under the 25%-Test, he may be eligible to file Ch.7, but if he elects to file Ch.13 he will be required to stay in the Plan for the full 60-months.

4. Business Cases: The Means Test only applies to ***individual consumer debtors*** but not to businesses. If more than 50% of a client's personal debt is business related (i.e.; sole proprietor or closely held corp.)then he will be exempt from the Means Test.

   i. Note: Tax liabilities are not considered consumer debts, therefore if a client's debt load is more than 50% taxes dues, the means test will not apply.

5. A note about software: It cannot be stressed enough how important a software package will be for the bankruptcy practitioner. For the purpose of filling in the Means Test form as well being confident that your math is correct, some sort of software program is invaluable.

D. Exemptions – Basics

1. All of the debtor's property becomes part of the Bankruptcy Estate from the moment the Voluntary Petition if filed. Only then will you apply the exemption statutes to the property of the estate to protect them from liquidation.

a. The Bankruptcy Code establishes uniform federal exemptions, but states are allowed to opt-out of those exemptions. 35 of 50 states have completely opted-out of the federal exemption scheme. The remaining 15 states give the debtor the option and generally have more liberal exemptions, so the state lists will be chosen any way.

2. Illinois has elected to rely on state statute to exempt certain property judgment, attachment, or distress from rent. In many cases this may make some debtor's judgment-proof. Property defined as exempt under state law, means general creditors cannot seize it to satisfy their judgments.

    a. See 735 ILCS 5/12-1001 et. seq., for the applicable Illinois exemptions.

3. The purpose behind these exemptions was to leave a debtor with enough property to be able to get the "fresh start" promised by the bankruptcy Code and not become a ward of the state.

4. Exemptions do not apply to property subject to a security interest, only to unsecured/unencumbered property. As part of granting a security interest, the debtor waives the exemptions as to those creditors. However, any equity interest in this property will be covered by the exemptions.

5. Due to the typical nature of the common debtor's property, there is typically no non-exempt property remaining in the bankruptcy estate. This means that nearly all cases are "no asset" cases with a complete discharge of unsecured creditors.

6. Exemption statutes are often written to exempt specific types of property; this may be a homestead, a car, home furnishings, tools of the trade, etc.

7. Valuation of exempt property is important. Over valuing specific items may mean there is an non-exempt portion to that property.

    a. The value applied to exempt property is Fair Market Value. For bankruptcy purposes, this it typically liquidation value. That is "pawn shop" prices, or "garage sale" prices.

8. It is customary to check N.A.D.A. for vehicle prices, taking into account the mileage and condition of the car. Note that the ILCS provides for a $2,400.00 exemption for a motor vehicle, up to $4,400, if owned by a married couple.

E. Exemptions – Advanced

1. Homestead Exemption: 735 ILCS 901.

    a. The value of a homestead is especially important since the ILCS allows an exemption of only $15,000 per individual, with a maximum of $30,000 for a married couple.

        1. Widow's Exemption: where a widow(er) owned property with a spouse at the time of the spouse's death, the widow(er) can claim both shares.

    b. A useful resource is www.eppraisal.com, this website takes a market analysis of nearby properties to give you an estimated value of the debtor's property. Taken in conjunction with the assessed value from the county, it is possible to get a reasonable valuation of real estate.

    c. Not many homeowners in bankruptcy need to rely on the homestead exemption. When a mortgage is as large as the total value of the property, the debtor will have no equity to protect. But for those debtors who do have equity in their homes, the exemption code may be determinant of whether they can keep their home or be force to give it up.

        1. The Best-Interest-of-Creditors-Test ("BICT") will help determine how much, if any, equity exists in a property that could be liquidated under the Code. See Appendix K for a spreadsheet file used to determine the BICT.

            i. Start with the FMV of the house.

            ii. Subtract a 7% realtor commission, $1,000 estimated costs, and the total of any mortgage(s) on the property to yield the net proceeds from a potential sale.

            iii. From these net proceeds, subtract the applicable exemption amount. $15k for an individual, $30k for a married couple. This will yield the gross non-exempt equity.

            iv. From the gross equity, subtract an initial Ch.7 trustee's commission of $1,250.00. Subtract $5,000.00 from the total equity, then apply a 10% commission not to exceed $5,000.00.

            v. The remaining balance must be paid into the estate for the benefit of unsecured creditors. This may require a debtor who is otherwise eligible for a Ch.7, to file a Ch.13 to protect this equity.

vi. However, even where equity exists, if the sale of the property will not yield more than what is owed on the house, along with the costs of sale, the trustee will not bother forcing the sale.

2. Exemption Planning

   a. 11 U.S.C. 522(b)(3) provides that where a debtor has resided in his current state for the last 2 years, he may apply the exemption statutes of that state.

   b. If the debtor has moved between states within the last 2 years, he must apply the exemptions of the state where he was domiciled for the majority (91-days) of the 180-days preceding the 2 year period prior to filing.

      1. Count back 2 years, plus 180 days from the date of filing. Apply the exemptions of the state where the debtor resided for the majority of that 180-day period.

   c. Many state exemption codes only protect real or personal property held within the state. This may cause problems for a debtor who has moved frequently because he will hold no property in the state under which exemption code he is eligible to use. In these situations, the Code requires the debtor to apply the federal exemptions, regardless of whether the state has opted out.

F. Claims and Distributions

1. Once the Trustee has determined what property belongs to the estate, she will sell any non-exempt property and the proceeds will be distributed pro rate among unsecured creditors.

2. Creditors must file a Proof of Claim form, attaching any writing (contract) that evidences the claim. A Proof of Claim must be filed within 90-days after the 341 Meeting or from the date of notice of distribution, or else the creditor will waive any claim to the distribution.

   a. 11 U.S.C. 502, provides that a Proof of Claim include a calculation of the amount owed, including principle and pre-petition interest or any other pre-petition claims.

   b. Equity is Equality. Since all unsecured creditors are paid pro rata, no post-petition interest will accrue on any unsecured claims. Attorney's fees, collection costs, etc., that are incurred prior to the filing date are treated the same as interest.

3. Secured Creditors are subject to §502 as well as §506, which spells out the special post-petition rights for secured creditors.

    a. Under §506, secured creditors get paid first. They will receive payment up to the value of the collateral, not necessarily the amount due. Remember "value" means liquidation value.

    b. Partially secured claims will be paid only up to the value of the collateral, with any remaining balance treated as a general unsecured claim. This is known as a "cram down" or bifurcation. This provision does not apply if a debtor reaffirms on the loan.

    c. A fully secured creditor is a creditor whose claim is less than, or at least equal to, the value of the collateral. A fully secured creditor is entitled to post-petition interest, typically paid at 5.25%.

4. Priorities Among Unsecured Creditors.

    a. 11 U.S.C. §507 determines the order and amount of payout to unsecured creditors. Unsecured creditors divide the remaining assets, pro rata, only after the secured creditors have been paid. Unsecured creditors are paid based on statutory priority. The list below are highlights, but not exhaustive:

        1. Domestic Support Obligations;

        2. Administrative Expenses (i.e.; post-petition debts incurred by the Trustee);

        3. Income taxes that accrued during the three years prior to filing, or property taxes due during the one year before the date of filing;

            i. Past due property taxes become statutory liens on the property and are treated as secured creditors. Income taxes accruing more than 3 years prior to the date of filing are deemed general unsecured creditors and paid/discharged as such.

5. Each priority class must be paid 100% of its allowed claims before the next class is paid anything. If there is not enough money to pay a particular class 100%, then they are paid pro rata among the class.

G. Redemption and Reaffirmation

1. Once a debtor has filed under Ch.7, he must provide a Statement of Intentions to apprise any secured creditors of their treatment in this bankruptcy. The debtor must indicate whether he wishes to (1) surrender the collateral to the creditor, (2) Redeem the collateral for its current FMV, or (3) Reaffirm the debt based on the existing agreement.

    a. Redemption

        1. 11 U.S.C. 722 provides that a debtor may "redeem" property from a lien by paying the value to the creditor. In this instance, FMV is defined as ***replacement*** value, rather than liquidation value. Any unsecured portion of the debt will be discharged.

            i. The property must be exempt or abandoned by the Estate. Abandoned property is non-exempt property of the estate that the Trustee feels will not fetch enough money to be worth liquidating.

            ii. The debtor must pay the replacement value of the secured claim in a lump sum. A debtor cannot redeem in installments.

            iii. A redemption is involuntary on the part of the creditor. If the debtor elects to redeem, the creditor must accept payment and release the lien.

                1. Redemptions are not common due to the fact that it is unlikely that a debtor in bankruptcy will be able to come up with a lump sum for replacement value.

    b. Reaffirmation

        1. §524(c) allows a debtor to reaffirm an otherwise dischargeable debt. A reaffirmation is a voluntary agreement between the debtor and creditor. It is the creditor's promise not to repossess the collateral in exchange for the debtor's promise to continue making regular payments.

            i. The debt must be reaffirmed prior to discharge. If a creditor fails to properly file the reaffirmation agreement with the court, then the debtor's liability will be discharged even if it was the debtor's intent to reaffirm.

            ii. The debtor takes on a personal obligation to be paid over time. This creates personal liability for any deficiency balance. It usually just

recapitalizes an arrearage at the end of the note.

iii. The terms of the reaffirmation are based on the desires of the creditor, since a reaffirmation is voluntary for both debtor and creditor, the creditor has the power to dictate the terms. However the debtor is not prohibited from at least trying to negotiate terms different from the original agreement.

1. Where the attorney refuses to sign off on the reaffirmation, a hearing must be held for the judge to review and approve the reaffirmation based on the judge's view of the best interest of the debtor and the debtor's ability to pay.

2. The debtor cannot force a creditor to reaffirm, so the creditor has more leverage in this situation. A reaffirmation is a legally binding agreement to waive the discharge on a given debt.

3. A reaffirmation protects the debt from discharge and makes it fully enforceable in a state court. The debt remains a lien on the property, even after bankruptcy.

H. Discharge and Exceptions

1. Once the discharge order is entered the §362 Automatic Stay is dissolved and the §524 discharge injunction slides into place. The discharge injunction forbids any attempt to collect a discharged debt.

a. Note that §506(d) provides that obligations are discharged, but liens are not. This removes any personal liability for the debtor, but leaves an otherwise enforceable lien on property.

b. The discharge eliminates the personal liability of the debtor, but does not eliminate the debt itself. Therefore a co-signer may still be liable to pay a the debt.

1. Co-signer liability is only an issue under Ch.7 cases, under Ch.13, the automatic stay protects co-signers as well.

2. Exceptions and Denials to Discharge: The Rifle Shot and the Shot Gun

a. The Trustee or a creditor may object to the discharge of a particular debt under §523, or may object to the discharge of all debts under §727.

1. §523 includes a list of 19 separate kinds of non-dischargeable debts; §727 contains 11 separate grounds for the complete denial of discharge.

    i. Common examples include child support and maintenance payments; student loans; and debts incurred by fraud, such as credit card abuse.

    ii. For tax debts less than 3 years old, §523(a)(1)(A) denies discharge as to those tax liabilities. The IRS retains the to satisfy tax debts through the seizure of property or by tax lien, this includes property that is otherwise exempt under state law.

    iii. A complete denial of discharge may occur in serious cases where the debtor has committed fraud on the court by hiding or disposing of assets; or more simply where the debtor has failed to complete the second debtor's education class or has otherwise received a discharge within the last 7 years. See 11 U.S.C 727, for the complete list.

IV. Chpater13

A. Treatment of Secured Creditors Under the Plan

1. Chapter 13 allows a debtor to pay back all of his creditors under a new payment term. For an individual consumer debtor, the plan must be approved by the court, but not by the creditors. However, a creditor may have the right to object to a proposed payment plan if it does not properly reflect the status of the creditor's claim.

2. The Trustee will take a portion of the debtor's income and distributes that money in accordance with the plan.

    a. Statistically, about 66% of Ch.13 plans fail. But the hope is that by the time these plans fail, the debtor has paid off all of the secured claims and will only have unsecured claims left.

3. Chapter 13 is used primarily by debtors facing foreclosure or repossession. A Chapter 13 may be the debtor's only option if they cannot reaffirm or redeem the property in a Ch. 7 case. The Chapter 13 allows the debtor to catch up past payments.

B. Chapter 13 Filing Requirements

1. A debtor who has failed the Means Test is required to file under Ch.13, if at all. However, a debtor who passes the means test may still voluntarily file under

Ch.13.

2. 11 U.S.C. 1306, creates an estate under §541 (just like under Ch.7), and also includes any property and earnings acquired after the commencement of the case, but before the close of the case.

    a. This means that a debtor's future wages are part of the bankruptcy estate, but the debtor will be given an allowance for living expenses. Again, building an accurate budget is very important.

    b. However, the debtor remains in possession of the property of the estate. Once the plan is confirmed, the exempt interest in property vests back in the debtor under §1327. Any unencumbered and non-exempt property remains part of the estate and must be turned over to the Trustee for liquidation for the benefit of unsecured creditors.

        1. Note: any non-exempt property that is also collateral for a secured loan will remain in the debtor's possession so long as he is able to "Cure and Maintain" the payments due under the agreement. Otherwise, the security interest must be surrendered or the Trustee may liquidate to pay off the secured creditor and apply any balance to the general fund.

3. Ch.13 is a repayment plan and is dependent upon the future income of the debtor. The Code requires that the debtor have a relatively stable income in order to support the stream of payments for a Plan. The code also requires that a Plan last for no less than 3, and no more than 5, years.

4. The Trustee's role in Ch.13 is to verify the feasibility of the plan and make disbursements to creditors.

    a. Recall that creditors must file a proof of claim in order to be paid. Failure to do so means they will not receive any payment under the Plan.

    b. The Trustee also has the duty of objecting to improper claims; ensuring that the debtor turn over the required amount of income; assisting the debtor in the performance of his duties under the plan; and objecting to the debtor's discharge if appropriate.

        1. Ch.13 trustees often require a wage withholding order for the submission of plan payments. However, a debtor may sometimes be able to set up an EFT through a checking account as well.

5. Under Ch.13, §§362 and 542, require a creditor to return any repossessed property of the estate, but allows that creditor to get full payment, plus present value, under the plan. The Automatic stay will also stop the foreclosure process if the property has not already been sold.

    a. The deadline for a Sheriff's Sale is a serious matter. If a case is not filed prior to the sale of the real estate, then it is impossible to get that property back.

    b. Don't forget about the pre-filing credit counseling requirements. While these classes can be completed fairly quickly, they may still require a couple of hours. A couple of hours may literally mean the difference between saving and losing the house.

C. Elements of an acceptable Plan

1. The debtor, through his attorney, comes up with a payment plan detailing the amounts to be repaid and the terms of the payments. The trustee must review the Plan to determine the feasibility of the payments, and recommend the plan for the court's approval. See §§1322, 1325 for the necessary elements.

2. Payments must begin no more than 30-days after the filing of the petition.

3. Payments to Secured Creditors

    a. Oftentimes a secured creditor would rather repossess the collateral rather than allow the debtor to keep it. Creditors are concerned about a loss of the collateral or a decline in its value. In order to protect the "present value" of the collateral, Creditors oftentimes request *adequate protection payments* from the trustee prior to the confirmation of the plan. If the court determines that there is a lack of adequate protection the court may lift the automatic stay prohibitions as to that creditor.

        1. Under §362, the debtor must show that the property is necessary to the effective reorganization of the debtor to avoid a lift of stay. Where the debtor has shown that retention is necessary and the plan provides for 100% payment on the allowed claim, with interest, the creditor is deemed to be adequately protected. The debtor must maintain his regular monthly payments under the agreement until the plan is confirmed, as well as insurance.

4. Modifying the Secured Creditors interest

    a. §1325 sets the rules for payments to secured creditors under the plan. Secured creditors are entitled to the same treatment as they would receive under a Ch.7. The must receive payment in full of all allowed claims that the debtor wishes to maintain.

        1. §506(a) requires the court to determine the allowed secured claims of the creditor. Replacement Value, rather than liquidation value, is the standard used for secured creditors under Ch.13. Replacement Value equals "present value."

            i. Since the collateral will continue to depreciate over time, the secured creditor is entitled to receive payments for present value. This is generally determined by adding on interest to the replacement value of the collateral for the time-value of money. Interest is generally placed at 5.25% based on the holding in *Till v. SCS Credit Corp.*, 541 U.S. 465 (2004).

                1. To determine the payment amount on a secured debt, it is helpful to use an amortization calculator. A useful calculator can be found at http://www.amortization-calc.com/

                2. Remember that the amount paid to protect "present value" will change based on the length of your plan. The same amount paid over 60 months will be more with interest than that amount paid over 36 months.

    b. Cram Down

        1. §1325(a)(5)(B) provides that where an under-secured claim is bifurcated under §506(a), whereby creating both a secured and unsecured claim by the same creditor, a debtor need only pay the secured portion in full under the plan. The unsecured, or deficiency portion, is treated the same as all other unsecured creditors and will receive a pro rata payment only if there is a distribution to those creditors. However, the debtor MUST pay off the value of the collateral during the life of the plan.

            i. This is similar to a redemption under Ch.7, with the benefit of being able to pay over time.

        2. A cram down generally only affects automobile loans, but may be used against any PMSI creditors except mortgages.

3. "910" Car Claims: §1325(a)(9) – The "Hanging Paragraph"

    i. Bifurcation will not occur under §506 where a debtor has purchased a vehicle within 910-days (2.5 years) prior to the date of petition. §1325(a)(9) also covers any PMSI or non-PMSI interest in non-auto collateral if the debt was incurred within one-year of filing. These claims must be paid in full based on the balance of the loan, but may still be modified to the extent that interest might be reduced.

5. Treatment of Mortgages under Ch.13

    a. There are no provisions to affect the duties of obligations under a mortgage. §1322(b)(2) precludes the debtor from modifying the terms of a mortgage through bifurcation.

        1. The cram down does not apply to the debtors homestead, but may be available to non-homestead residential real estate (i.e.; rental or commercial property). However, be sure to recall that to qualify for a "cram down" the debtor must be able to make full payment on the secured portion of the claim within the life of the plan, otherwise the lien cannot be bifurcated and must be paid in full.

    b. §1322(b)(5), (c): Cure and Maintain

        1. Cure: §1322(b)(5) allows the plan to include arrearage payments on the creditors claim. §1322(c) allows the debtor to decelerate and accelerated mortgage, allowing the debtor to turn back the clock and cure the arrears on his loan.

        2. Maintain: the plan may provide for maintenance payments on claims whose last payment is not due until after the completion of the plan, as is common in long term home mortgages. Maintenance payments are typically made "outside" the plan, directly by the debtor.

D. Threshold Eligibility Under Chapter 13

1. The 2005 BAPCPA amendments increased the requirements to be eligible to file Ch.13, as well as the requirements for the proper treatment of unsecured creditors. Means Test eligibility requires that all above-median debtors (those who "fail") must submit a 5-year plan and rely on Form 22(line 50) to determine the debtors required minimum payment.

a. For all debtors who propose a Ch.13 plan, §1325 still requires (1) the Best-Interest-of-Creditors-Test; (2) that all "disposable income" (as determined by Schedule J, or Form 22) must be dedicated to the benefit of unsecured creditors; and, (3) that the plan be proposed in "good faith."

b. Disposable income will not include Social Security retirement income. This also includes SSI and SSD. See *In re Welsh*, 711 F.3d 1120 (9th Cir. 2013) (noting that the statute clearly excludes Social Security income); *In re Ragos*, 700 F.3d 220, 223 (5th Cir. 2012); *In re Cranmer*, 697 F.3d 1314, 1317-18 (10th Cir. 2012); *Baud v. Carroll*, 634 F.3d 327, 347 (6th Cir. 2011), *Carpenter v. Ries (In re Carpenter)*, 614 F.3d 930, 936-37 (8th Cir. 2010).

    1. Note, the 7th Circuit has not directly ruled on this issue. But it seems to be the way the Courts are heading.

2. Who May Be A Debtor: Minimum/Maximum Allowances for Total Indebtedness

    1. §109(e) places additional requirements on Ch.13 eligibility. §109 requires that a debtor be a "natural person" and have regular income in order to make plan payments. The Debtor must make a showing of regularity and stability, the source doesn't matter.

    2. §109 also limits the total amount of debt a consumer may carry and still be eligible for Ch.13.

        i. The eligible debts must be (1) non-contingent; and (2) liquidated;

            1. "Non-contingent" means that liability has fully vested in the debtor; "liquidated" means that a precise amount is readily ascertainable.

        ii. the sum of all unsecured debts can total no more than $336,900.00;

        iii. the sum of all secured debts can total no more than $1.1M.

    3. Failure to show steady income or where the debt limits are exceeded will requires the debtor to file under Ch.7 or Ch.11.

3. Treatment of Unsecured Creditors

    a. Determining Payment Amount for Below Median Debtors

        1. If the debtor "passed" the means test, Form 22 will not apply and DMI must be calculated another way. This is typically through Schedules I & J, based on the budget you create with your client.

        2. Income – Expenses = DMI.

        3. The CMI on Schedule I will include a spouses income, regardless of whether the case is a single or joint filing, as well as any contribution made by a domestic partner (i.e.; live-in girl friend or boy friend), roommates, etc.;

        4. Expenses on Schedule J, apart from unsecured payments, reflect reasonable amounts the debtor can spend to maintain a reasonable standard of living for himself and his dependents.

            i. The DMI should include the portion of the payment meant to cover any secured debts paid under the plan. Therefore you should not list any secured debts on Schedule J that will otherwise be paid through the plan.

    b. Determining Payment Amount for Above Median Debtors

        1. §1325(b)(3) provides that above-median debtor's, who failed the Means Test, are required to submit no less than a 5-year plan, regardless of the total owed to unsecured creditors. The Form 22 Means Test surplus (line 50) will determine the minimum amount a debtor must pay for the benefit of unsecured creditors, per month. This is in addition to the amount needed to pay for secured creditors under the plan.

        2. Even an above-median debtor who otherwise "passes" the Means Test, and elects to file a Ch. 13, must submit a 5-year plan with a payment based on Form 22 (line 50).

            i. Where Line 50 is a negative number and the debtor elects to file a Ch.13, but Schedule J reflects a positive DMI, the debtor will be required to pay that amount instead.

4. Competition Among Creditors

    a. Secured Debts

        1. Secured claims will always be paid first. This may be payment of their claim in full or only on an allowed secured claim (i.e.; mortgage payments/"910" car claim vs. cram downs / lien avoidance).

    b. Unsecured Debts

        1. §1332(a)(2) incorporates §507 and creates priority status for the payment of unsecured creditors in the plan. The plan must provide for the 100% payment of any existing priority claims, or the plan will not be confirmed. Interest will not be paid to priority claims.

        2. Priority Debts

            i. Priority debts must be paid in full during the life of the plan. These include tax liabilities or other debts owed to governmental units, and support or maintenance arrears.

            ii. The debtor is responsible for making current support/maintenance payments. It is possible, in some cases, that the arrears on these kind of debts are so large as to make repayment in the plan impossible.

            iii. No tax obligations are dischargeable under Ch.13 (as opposed to the discharge available for taxes older than 3 years under Ch. 7). However, Ch.13 offers two benefits for paying these debt in the plan. First, the debts can be paid out over time, during the life of the plan. Second, the Bankruptcy Code locks in the claim at its current amount. No additional interest or penalties will accrue.

    c. Non-dischargeable Debts

        1. Some other debts are not affected by the filing of a bankruptcy case at all. Typically, these are in the nature of student loans. If student loan debts have come due, they can be paid pro rata along with other unsecured debts. This may be a benefit to the debtor in that he will be able to pay down at least a portion of those student loans during the plan even though they are not subject to discharge at the end.

5. Modifying The Plan; Dismissal of a Case

    a. In the case of a change of circumstance, the debtor may move to modify his plan under §1329. This allows for the adjustment of payments or disbursements based on the debtor's current situation. §1329 also allows for a creditor to move to amend a plan if the creditor learns of an upswing in the debtor's financial situation.

    b. Typically, the Trustee will move for dismissal where a debtor fails to make two consecutive payments. It it up to the debtor to either amend the plan or to catch up on the payments.

        1. The Trustee may also move to dismiss based on "bad faith", fraud, or any of the reasons that would also lead to denial of discharge.

        2. The debtor himself may also move to dismiss when his circumstances have changed in such a way that even modification would not lead to the debtor feasibly maintaining the plan payments.

6. Completion of the Plan; Chapter 13 Discharge

    a. Once the required payments as determined under the plan have been completed, the debtor is entitled to a discharge of any remaining unpaid unsecured claims. Similar to Ch.7, a discharge injunction is entered preventing creditors from pursuing any claims remaining after the completion of the plan.

V. Appendix

A. Required Notices and Acknowledgment

B. Intake Sheet

C. Interview Forms

D. Initial Interview Recitals and Acknowledgment

E. Documentation Checklist

F. Important things to think about when you plan to file

G. Common 341 questions

H. Means Test Form

I. CMI Worksheet

J. Best Interest of Creditors Test

Biographies

Richard Adler has been practicing law for over 46 years. From 1967-1971, he was an assistant state's attorney working n the Traffic and Criminal assignment throughout Cook County, including suburban Chicago felony courts. He participated in the opening of five felony courts at the Daley Center in 1970. Also, he was involved with bringing the first felony files to the suburbs in 1969 under Chief Judge Harold Sullivan in Skokie.

Teaching experience includes lectures at Midwest Elder Hostels with 4-day courses in Shakespeare, Bible, Film and Literature. In addition he has lectured over the past years at the Peoria Traffic Conference and various Bar Association seminars on Commercial Drivers License Laws and Truck Overweight.

Presently, Mr. Adler is the co-chair with Attorney Tom Moran of the Traffic Law Committee for the Northwest Suburban Bar Association. In addition he has been co-teaching Supreme Court approved 'Ethics in Film' seminars for Illinois State Bar Association, The John Marshal Law School and the Northwest Suburban Bar Association.

Shayne Aldridge, Ed.S. J.D., a former teacher, Assistant Director of Special Education, and Principal of an alternative high school, previously practiced school law for 12 years or so with two big Chicago education law firms. But a few years ago, Shayne felt he could serve his clients better without all the office politics in big law firms, so he started his own practice and currently is a solo school attorney in Pleasant Plains, Illinois, where he also teaches, writes, and presents on various school law topics, while helping his school district clients across Illinois stay one step ahead of the law.

Matt Arvanites, Vice President, has specialized in affinity group program management for over 10 years, holding marketing and client executive positions within Marsh. Matt has helped administer insurance programs for a variety of large professional associations.

Matt holds the degree of Bachelor of Administration in Marketing from the University of Iowa. He has earned a Fellow, Life Management Institute (FLMI) insurance designation and is a full-lines licensed producer.

Steven B. Bashaw is principal of Steven B. Bashaw, P.C., with offices in Lisle, Illinois, and concentrating his practice in real estate litigation, real estate law, and mortgage foreclosure having represented financial institutions and defending debtors alike for over 35 years.

Steve is the past Chair of the Illinois State Bar Association Real Estate Section Council, and Chair of the Case Law Subcommittee, a past-member of the of ISBA Assembly, and a Director of the Illinois Real Estate Lawyers Association.

A frequent continuing legal education speaker on case law updates, mortgage foreclosure, and real estate law for the The Illinois State Bar Association, Illinois Institute for Continuing Legal Education, Chicago Bar Association, DuPage County Bar Association, Kane County Bar Association and Lake County Bar Association, Steve is the author of a number of articles published in the Illinois Bar Journal and has contributed to the "Illinois Mortgage Foreclosure Practice" Handbook with "The Nuts and Bolts of Foreclosure" and "Mortgagors in Distress – Representing Defendants in Foreclosure". In 2009, Steve was honored as the recipient of the "Edward J. Lewis II Pro Bono Service Award" from the Chicago Bar Foundation and Chicago Bar Association in recognition of his work in assisting and training volunteer lawyers in mortgage foreclosure defense for various legal assistance providers, including Chicago Volunteer Legal Services, Legal Assistance Foundation and the Access to Justice program in Cook County, Illinois. He has appeared on the ABC Ch. 7 News Special Segment "Surviving Foreclosure", and shared his insights with the Chicago Tribune in a feature article on mortgage re-financing problems experienced by local homeowners in conjunction with foreclosures. His articles in the Illinois Bar Journal have focused on "The Foreclosure Explosion: How Illinois Courts Are Responding", exploring the extraordinary increase in foreclosure volume and the implementation of mediation programs, and "Distressed Homeowners Need Lawyers, Not Legislation" heralding a call for attorneys to assist their homeowner neighbors in foreclosure mediation. He testified before the Illinois Supreme Court Committee on Mortgage Foreclosures, and moderated a panel discussion on Mortgage Foreclosures for IICLE in June 2012. In, 2011, Steve was recognized as part of Illinois State Bar Association President, Mark D. Hassakis', "ISBA Lawyers Care" program to recognize ways in which lawyers, and particularly ISBA members, have made a difference in their local communities. Steve was recognized for his role helping and representing military members and their families involved in mortgage foreclosure while engaged in active military duty on a court-appointed and *pro bono* basis as an example of the contributions lawyers make to their communities.

Steve has presented the case law updates annually for the Illinois State Bar Association, various local bar associations for a number of years, and has contributed to the Real Estate Law "Flashpoints" on the Illinois Institute for Continuing Legal Education website, ("iicle.com"), and the "Keypoints" which can be found at http:www.bashawlaw.com. His annual case law update of real estate decisions in Illinois has been published in the Southern Illinois University Law Journal and are published annually by the Illinois State Bar Association Real Estate Section Council. In April 2013, Steve was recognized in Western Suburban Living Magazine as "Among the Best of the Best Attorneys" for Real Estate Litigation, and specifically for the area Mortgage Foreclosure Defense. At the same time, Steve was acknowledged for being an "AV Preeminent Attorney" for 25 years by Martindale-Hubble Peer Review Rating based on having earned the highest possible rating ("AV") as reviewed by fellow attorneys for expertise in their particular area of law.

Juliet Boyd was born in Vereeninging, South Africa. She attended the University of the Witwatersrand, in Johannesburg, and graduated with a Bachelor of Arts degree with a double major in English and International Relations. Juliet completed a year of study towards an LLB in Roman/Dutch law at the Randse Afrikaanse Universiteit in Johannesburg where she studied in Afrikaans. She obtained a J.D. from the University of Dayton in 1998.

Juliet is an attorney at Boyd & Kummer, LLC in Chicago, Illinois. She is an experienced civil litigator and her practice is in the Circuit Courts of Cook and the collar counties and in Federal Court. She was named in Illinois Super Lawyer and Super Lawyer Corporate Counsel for 2009, 2010, and 2011 for business litigation. Juliet will also appear in the 2012 Super Lawyers Business Edition for litigation. She was also named as one of Illinois' top lawyers in the February 2011 edition of Chicago Magazine. Juliet has litigated cases involving contract disputes; the Residential Real Property Disclosure Act; specific performance of contracts; construction defects; the Consumer Fraud and Deceptive Practices Act; equitable mortgages and condominium disputes. Juliet has litigated complex litigation actions involving RICO and fraud suits involving millions of dollars.

Juliet is also experienced in criminal law and has litigated cases ranging from first-degree murder, reckless homicide, aggravated criminal sexual assault and aggravated DUI to simple DUI cases. She has litigated Operating Under The Influence ("O.U.I.") cases involving boats and snowmobiles, and has represented clients in the trial and appellate courts, including the Seventh Circuit Court of Appeals.

Juliet is the past Chair of International and Immigration Law Section Council of the Illinois State Bar Association. She is currently the Continuing Legal Education ("CLE") coordinator for the International and Immigration Law Section Council and the secretary of the Traffic Law Section Council. She is a past member of the Civil Practice & Procedure Section Council of the Illinois State Bar Association. Juliet is a frequent speaker at seminars for CLE. In addition, she has several articles published by the Illinois State Bar Association and the American Bar Association.

Aaron W. Brooks is a partner with the law firm of Holmstrom & Kennedy, P.C., where he focuses on information privacy and security, complex data sharing arrangements, and technology transactions. Aaron is the current Chair of the Illinois State Bar Association Committee on Legal Technology, and the Winnebago County Bar Association Law Practice Management Committee. He is also a former Chair of the Illinois State Bar Association Intellectual Property Section Council. Aaron graduated magna cum laude from the University of Illinois College of Law in 1996 after serving six years in the United States Navy Nuclear Power Program.

Miriam Leskovar Burkland is a member of Howard & Howard Attorneys PLLC, resident in the Firm's Chicago office, and Vice Chairman of the Firm's Corporate Practice Group. Ms. Burkland concentrates her practice in corporate and commercial transactions, and has significant experience in advising businesses in their formative stages on matters such as the most appropriate choice of legal entity and qualification. She has represented corporations and individual stockholders in a variety of corporate matters, including stockholder option agreements, compensation structures for executives, confidentiality and non-competition agreements, shareholder agreements such as buy-sell agreements and general corporate maintenance. She also represents businesses in negotiating and interpreting a variety of agreements, including agreements among owners and contracts with third parties relating to normal business operations, as well as more significant corporate transactions such as acquisitions and divestitures.

Ms. Burkland is a member of the Chicago Bar Association and has been active in the Chicago Bar Association's Commercial Law Committee. She assisted in the drafting of Article 2A of the Uniform Commercial Code governing equipment leasing that became effective in Illinois in 1992. She has been recognized as an Illinois Leading Lawyer since 2011, and a Super Lawyer in 2005, 2006, 2007 and 2011 in the area of Closely Held Businesses.

Ms. Burkland received a B.A., cum laude, in Political Science from the University of Illinois, Urbana-Champaign (1978), and a J.D. from the University of Illinois College of Law (1981).

Brett Burney is Principal of Burney Consultants LLC, and focuses the bulk of his time on bridging the chasm between the legal and technology frontiers of electronic discovery. Brett is also very active in the Mac-using lawyer community, working with lawyers who want to integrate Macs, iPhones & iPads into their practice. Prior to establishing Burney Consultants LLC, Brett spent over 5 years at the law firm of Thompson Hine LLP where he worked with litigation teams in building document databases, counseling on electronic discovery issues, and supporting them at trial. Brett graduated from the University of Dayton School of Law in 2000 and quickly became active in the world of legal technology. Brett is a frequent contributor to Law.com and speaks around the country on litigation support, e-discovery, Mac and iOS-related topics. You can email him at burney@burneyconsultants.com.

Trent L. Bush is a partner in the Sterling, Illinois office of Ward, Murray, Pace & Johnson, P.C., which is full-service, civil practice law firm representing corporations, municipalities, banks, school districts and individuals in northwest Illinois. Trent has been with the firm since graduating law school in 1999 and practices primarily in the areas of banking, creditor-debtor work and commercial litigation.

Trent has been a member of the ISBA since 1999 and has been a member of its Standing Committee on Legal Technology since June 2002. He served as COLT's chair for the 2008-09 term.

Mary A. Corrigan's legal career spans more than 25 years. During the period 1987 – 2013, Ms. Corrigan has been engaged in the private practice of law. She has concentrated her practice in corporate transactional/asset acquisition and sales law, real estate law and estate planning, probate and commercial law.

Ms. Corrigan has broad experience in general corporate and commercial law, including stock and asset sales and purchases, mergers and acquisitions. She has negotiated and drafted complex commercial contracts, including service, employment, distribution, royalty and terms and conditions agreements.

Ms. Corrigan has extensive experience in estate planning and trust law and has represented both individual as well as corporate trustees in connection with trust and estate matters.

She received her B.A. from Monmouth College in 1982 and her J.D. from The John Marshall Law School in 1985. While at John Marshall, she served as a member of the Moot Court Board of Directors.

Ms. Corrigan is a member of the Sun Foundation Board of Directors and the Monmouth College Alumni Board. She was previously a member of the Illinois State Bar Association Standing Committee on Law Office Management and Economics (Secretary 2008-2009, Vice-Chair 2009-2010, Chair 2010-2011) and the Board of Directors for the Peoria Women's Fund of the Community Foundation of Central Illinois (Chair 2009-2010). She is a past member of the Board of Directors of the Peoria Area Chamber of Commerce where she served as Chair of the Small Business and Community Development Committees. Ms. Corrigan previously served on the Boards of Directors for the Minnie Stewart Foundation, the South Side Mission, the Multiple Sclerosis Society and the Illinois Network of Child Care Resource and Referral Agencies, Inc. In addition, she has been an adult leader for Boy Scout Troop 28. She was selected as one of the 40 Leaders Under 40 for the Peoria area in 1998.

J. Randall Cox earned his B.A. in Biology at Knox College in Galesburg, Illinois in 1988 and his J.D. at Southern Illinois University School of Law in 1991. He is admitted to practice in Illinois (1991), U.S. District Court Central District of Illinois (1992), U.S. Court of Appeals 7th Circuit (1994), U.S. District Court Northern District of Illinois Trial Bar (1997), and the U.S. District Court Southern District of Illinois (2003). In 2007, he completed the "40 Hour Custody and Visitation Mediation Training" at the University of Illinois. Mr. Cox also completed the "Facilitation Training Workshop and Certification" from the Commission on Professionalism of the Illinois Supreme Court in 2009.

Mr. Cox is a partner at Feldman, Wasser, Draper & Cox in Springfield, Illinois, where his practice concentrates on litigation and appeals, Federal and State criminal defense, construction law, family law, DUI/traffic/driver's license hearings, commercial collection, and various administrative hearings. Eighty-percent of his practice is devoted to litigation.

Mr. Cox frequently presents continuing legal education seminars for a number of entities, which have included the Illinois State Bar Association, Illinois State Appellate Prosecutor's Office, Illinois Government Bar Association, Illinois Supreme Court Commission on Professionalism, and the Illinois Institute on Continuing Legal Education. He is a member of the Illinois State Bar Association, Illinois Association of Criminal Defense Lawyers, National College for DUI Defense, and the Sangamon County Bar Association.

Susan Dawson-Tibbits has over thirty-three years of experience in assisting elders and their families with their legal needs. Her practice includes both trial work and counseling in a broad range of elder law issues, including guardianships, long-term care planning, Medicaid and Medicare, elder abuse, advance directives, nursing home residents' rights, and retirement benefits. She is a member of the National Academy of Elder Law Attorneys, a past Chair of the Illinois State Bar Association Elder Law Section Council and is a past president of the Peoria County Bar Association. She works closely with such organizations as Adult Protective Services and the Family Violence Coordinating Council for the Tenth Judicial Circuit, and is currently President of the Board of Directors of the Central Illinois Chapter of the Alzheimer's Association. She is a frequent speaker on issues involving elder law. She received a B.A. with honors from Illinois State University and her law degree from the University of Michigan Law School.

Gino L. DiVito co-founded the Chicago law firm of Tabet DiVito & Rothstein LLC in February 2001. Since his retirement from the judiciary on August 1, 1997, he has concentrated in trial and appellate advocacy in all types of cases, primarily focusing on commercial and complex civil litigation. Licensed to practice law in Illinois since 1963, he has represented and opposed individuals and corporate, governmental and other entities, as both plaintiffs and defendants, in trial courts throughout the state, and in appeals in the Illinois Supreme Court, the Illinois Appellate Court, and the Seventh Circuit Court of Appeals. He is a member of the Trial Bar of the United States District Court for the Northern District of Illinois.

DiVito served as a judge for more than 20 years (May 1977 to July 1997). For the last eight of those years, he was a justice of the Illinois Appellate Court where he served as the presiding justice of the First District's second division, as a member of the court's executive committee, and as the chairman of the court's computer and information committee. For the preceding 12 years, he served as a trial judge in the circuit court of Cook County, presiding over jury/bench trials and other court proceedings in both civil and criminal cases.

Before his service as a judge, he served as a Cook County assistant state's attorney (December 1963 to May 1977), initiating the Felony Review Unit for the screening of felony cases (in February 1972) and participating as the lead attorney in more than a hundred felony jury trials. For the last three of those years (April 1974 to May 1977), he served as the state's attorney's chief of the criminal division, supervising more than 330 attorneys involved in every aspect of criminal prosecutions – from the screening of felony cases, through preliminary hearings and grand jury presentments, and through trial and the appellate process. Upon his retirement from the bench in 1997, DiVito and other retired judges founded Judicial Dispute Resolution, Inc. ("JDR"), an alternate dispute resolution company, for which he provided mediation and arbitration services for many years. Now, concurrent with representing parties in trial and appellate courts, he serves as a mediator and an arbitrator in cases involving a wide range of subject areas, without current affiliation with any ADR company.

He has provided expert opinion reports and deposition testimony in numerous cases. Subject matters include legal malpractice, the reasonableness of attorney fees, issues related to probable cause to arrest, and issues related to the probable cause hearing required by *Gerstein v. Pugh*, 420 U.S. 103 (1975). On June 4, 2003, after a lengthy investigation involving a review of thousands of documents and interviews of numerous witnesses conducted in conjunction with the FBI and the U.S. Attorney's Office, DiVito, in his role as a special assistant state's attorney, issued a 176-page report concerning the arrests and prosecutions of the four men (commonly referred to as the "Ford Heights Four"), who were wrongly convicted of rape and the murders of an engaged couple in 1978.

DiVito graduated in 1955 from St. Ignatius College Prep, where he fulfilled the requirements for the classical honors curriculum, which included four years of Latin and two years of Homeric Greek. He attended Loyola University of Chicago, majoring in philosophy with a minor in Latin, and was accepted into law school before completing 11 elective degree hours. He received his Juris Doctor degree from Loyola University of Chicago School of Law in 1963. A member of Loyola's adjunct faculty for more than 30 years (since 1979), he holds the faculty position of adjunct professor. In that capacity, he plans and teaches each semester's course in Advanced Trial Advocacy while also assembling and supervising the other members of the faculty for that class. Since 1982, he also has taught an annual weeklong course in trial advocacy at Willamette University College of Law in Salem, Oregon. Active throughout his service on the bench in planning courses and teaching a variety of subjects at the Judicial Conference and at the Appellate Judges Seminar, he has taught judges at the annual seminar for new Illinois judges (1986-2000) and at the National Judicial College in Reno, Nevada (1990-94). He also has taught lawyers for the National Institute of Trial Advocacy, the Illinois Institute for Continuing Legal Education, ALI-ABA, and the Court Practice Institute.

Samuel M. Dotzler's legal experience, both in a large national firm and in a local boutique firm, has focused on the areas of trusts and estates, with a focus on estate, business and wealth transfer planning and estate administration, as well as business planning for entrepreneurs in both their new ventures and their ongoing concerns.

Prior to founding Dotzler Law, Mr. Dotzler was a member of the Trusts and Estates group of Katten Muchin Rosenman LLP (Chicago, Illinois), a large, national law firm where he focused on estate, tax and business planning for clients of significant wealth. His practice focused on structuring tax-advantageous solutions for transferring wealth and closely-held business interests to younger generations. He also advised clients with regard to gift, estate and generation-skipping transfer tax planning, succession planning, leveraged wealth transfer techniques, charitable planning, trust and probate administration and the integration of estate plans and corporate structures.

Prior to joining Katten, Mr. Dotzler worked in a boutique trusts and estates firm (Hoogendoorn & Talbot LLP, Chicago, Illinois) where he advised high net worth individuals, families and business owners on their estate planning, business planning and estate administration needs. This boutique firm experience taught him how to be efficient and really focus in on the issues that required attention.

Mr. Dotzler has served as the legislative liaison and as a Co-Chair of the Estate Planning Committee of CBA YLS. He has spoken on a number of issues, including general estate planning, year-end wealth transfer strategies, and generation-skipping transfer tax planning.

Stephen Fairley is a two-time international best-selling author and CEO of The Rainmaker Institute, the nation's largest law firm marketing company specializing in marketing and lead conversion for small law firms and solo practitioners. Over 8,000 attorneys nationwide have benefited from learning and implementing the proven Rainmaker Marketing System.

A nationally recognized attorney marketing expert, he has been named, “America’s Top Marketing Coach,” and has spoken numerous times for over 30 of the nation’s largest state and local bar associations. Stephen has a large virtual footprint with his highly successful legal marketing blog and strong social media presence in Facebook, Twitter and LinkedIn.

He has appeared in Inc and Entrepreneur magazines, has authored 10 books, taken 14 cruises, and traveled to 33 countries. He resides in Phoenix with his wife of 17 years. Connect with him at: http://Rainmaker.MyLinkInvitation.com, www.Facebook.com/fairley, and @stephenfairley.

Todd H. Flaming is a trial lawyer who represents companies in commercial cases, including complex disputes over patents, trade secrets, and technology. His experience ranges from contract and tort claims to statutory claims, including patent infringement and Paragraph IV (Hatch-Waxman) litigation. He has handled trials, arbitrations, mediations, as well as class actions in courts around the country.

His clients have included Fortune 100 and Fortune Global 500 computer, consumer, electronics, military, financial, service, and retail companies, as well as Internet and pharmaceutical start-ups. His patent and technical cases have involved a variety of technologies, including WLAN (Wi-Fi) standards; cellular telephones; industrial machines, such as servomotor-driven collators, inserters, and adaptive learning machines; Internet devices and software, including software robots and load balancing software; medical devices, such as biopsy needles and hemodialysis catheters; pharmaceuticals and nutraceuticals, such as drugs and nutritional products; opiod detoxification; automotive batteries; nuclear waste disposal; and optics and data transfer, including audio streaming and phase modulation; among others.

He is a member of the U.S. District Court for the Northern District of Illinois, including its Trial Bar; the Eastern District of Michigan; and the Illinois State Bar. He is also an Adjunct Professor of Law at the John Marshall Law School. He serves as a Director and has served as President and Chair of Illinois Legal Aid Online, a not-for-profit organization dedicated to using technology to provide access to justice for underserved communities.

He is a co-author of three books: *A Trial Lawyer's Guide to Discovery in Federal and State Courts in Illinois*, *A Lawyer's Guide to Computers* (editor), and *Web Linking Agreements*. He is a frequent author and speaker on electronic discovery, including recently the 2011 Allerton Conference on electronic evidence and discovery. He has appeared on NBC Nightly News and First Business, been quoted in Business Week and the Financial Times, and featured on the cover of Chicago Lawyer magazine.

He testified before the American Bar Association's Ethics 2020 Commission on the role of ethics rules with respect to technology. He serves on the Seventh Circuit's Electronic Discovery committee. He also has served as Co-Chair of the American Bar Association Litigation Section's Technology for the Litigator Committee and the Illinois State Bar Association's Standing Committee on Legal Technology. He will serve this year as Co-Chair of the Chicago Bar Association's Legal Technology Committee, and he is a member of the Intellectual Property Law Association of Chicago.

He has been recognized by his peers to be included in Best Lawyers in America from 2008 through the present.

He received his J.D. from the University of Chicago Law School in 1993, where he was a member of the Law Review, and his B.A. (*magna cum laude*) in 1988 from Loyola Marymount University.

Jerry T. Gorman, Senior Vice President - Downstate Operations, Attorneys' Title Guaranty Fund, Inc., Champaign, Illinois | Mr. Gorman oversees all aspects of ATG's downstate operations and maintains involvement in underwriting, technology, and corporate legal matters. After five years in private practice in Indiana and Illinois, Mr. Gorman joined the ATG legal staff in 1982 and served as an underwriter until 1988. He is a member of the American Land Title Association Forms Committee. He is also president of ATG Legal Education, L.L.C., a frequent lecturer on real estate and title insurance law, and an adjunct professor at the University of Illinois College of Law. Indiana University, Bloomington, J.D. 1977; University of Colorado, Boulder, B.A. 1974.

Rick L. Hindmand, rhindmand@mcdonaldhopkins.com, is a member of McDonald Hopkins LLC in its Chicago office, where he focuses his practice on healthcare and corporate law. He represents healthcare clients in connection with corporate, transactional, pharmacy, compliance and reimbursement matters, including physician group practice, employment and contractual issues, health information privacy and security, fraud and abuse, managed care contracting and healthcare reform. He is a graduate of Northwestern University and the University of Michigan Law School, recently completed a term as Chair of the Health Care Section Council of the Illinois State Bar Association, and serves as a Vice Chair of the Physician Organizations Practice Group of the American Health Lawyers Association.

Hon. Mitchell L. Hoffman has been an Associate Judge in the Nineteenth Judicial Circuit for 12 years, and is currently assigned to the Chancery Division. Prior to becoming a judge, he spent 4 years in private practice in Chicago, and then served in the Civil Division of the Lake County State's Attorney's Office, first as an Assistant State's Attorney, and later as the Chief Deputy State's Attorney.

He is a graduate of Colorado College and The University of Illinois College of Law.

Christina Steinbrecker Jack is a staff attorney and legal content manager at Fastcase with responsibility for engaging partner organizations and internal teams to prioritize legal content and product development. She also designs and presents continuing legal education programs about legal research for partner organizations. Prior to joining Fastcase, Christina worked for the Honorable Judge McKeon, the Georgia Attorney General, and Bank Mutual's legal department. She is an active member of the Illinois State Bar Association.

Dr. Scott Kaplan is a Licensed Psychologist who conducts individual, couples and group therapy, as well as consulting and public speaking services. He works full-time as the sole proprietor of a private practice in downtown Chicago and Roselle, IL. and earned his Ph.D. in Counseling Psychology from Iowa State University in 2009.

With experience as Staff Psychologist/Group Coordinator at both the Southern Illinois University Counseling Center and the Roosevelt University Counseling Center, Dr. Kaplan's concentration areas include group psychotherapy and group dynamics, anxiety and mood disorders, and relationship issues. Having trained under the tutelage of a national expert in the field of threat management and assessment, Dr. Gene Deisinger, he also specializes in violence prevention on college campuses and workplace settings. In addition, Dr. Kaplan greatly values working with men's issues, ADHD, and major life transitions and lifestyle changes.

Outside of the therapy office, Dr. Kaplan actively fights the stigma attached to mental illness and advocates for policies that improve the access and quality of mental health services. As such, he belongs to the Illinois Psychological Association and actively participates in their legislative efforts. Dr. Kaplan also belongs to the American Psychological Association Division 46, where his research examines how media adds to the stigma and thus can be used to destigmatize mental health issues and help-seeking behaviors. Dr. Kaplan belongs to the American Group Psychotherapy Association (AGPA) as well, which consistently feeds his intrigue and passion for social connection and patterns of attachment. He has presented workshops at the AGPA Annual Meeting for the past four years. These workshops were related to making successful group therapy referrals and building group therapy programs in counseling centers and other staff clinic models. In addition, with organizational support from AGPA, he has developed a mentorship program that connects graduate students and new professionals with more experienced mental health professionals who can serve as a guide for their professional interests within AGPA and work settings.

Dr. Kaplan's first study looked at the negative portrayals of television psychologists and the extent that they influence people's attitudes towards and willingness to seek therapy. The results demonstrated that there was a significant relationship between a) television exposure and attitudes towards seeking therapy and b) television exposure and willingness to seek therapy.
Vogel, D. L., Gentile, D., & Kaplan, S. (2008). The influence of television on willingness to seek therapy. Journal of Clinical Psychology, 63, 1-20. doi: 10.1002/jclp.20446 pdf

His second study was designed to increase help-seeking attitudes and perceptions of peer norms and to decrease the stigma associated with seeking counseling. He figured that if media was influential in the negative direction, it could be used to improve attitudes and perceptions as well. The results supported that hypothesis.
Kaplan, S., Vogel, D. L., Gentile, D., Wade, N. G. (2012) Increasing Positive Perceptions of Counseling: The Importance of Repeated Exposures. The Counseling Psychologist

Wesley Kee is the vertical leader for Marsh US Consumer's (Marsh) association business. He holds P&L responsibilities for association's alumni, union, financial institution, and education client segments, and is co-leader of Marsh's response to the health care reform.

Mr. Kee's previous positions with Marsh & McLennan Companies include leading Marsh's university alumni association team, and he was a controller of an office that specialized in marketing professional liability coverages to members of allied health care associations. While he was the leader of the university alumni association team, the team's client base grew from 50 to 150, and revenues increased five-fold. Mr. Kee joined the company in 1994.

Prior to working for Marsh & McLennan Companies, Mr. Kee worked at Price Waterhouse Cooper, where he specialized in financial institution. He also worked at KPMG.

Mr. Kee studied business studies at the Institute of Technology Sligo, and received his master's degree in business administration from DePaul University. He also received his ACA from the Institute of Charter Accountants. He holds his CPA license, and is a member of the CPCU Society. He also is a board member of the Swedish Covenant Hospital and serves its audit committee chairman.

Charles M. Keough is the managing shareholder at Keough & Moody, where he has been overseeing the operation of the firm since 2006. The firm has seen consistent growth and now maintains a staff of more than 30 employees. Chuck supervises the administrative side of the firm's business and is responsible for staff development, as well as managing the workload of the attorneys and staff. He also manages the expectations of the firm's clients and oversees the delivery of service to clients. Chuck is also actively involved in identifying opportunities for growth and new business development.

Chuck represents condominium and common interest community associations in all aspects of governance and litigation, including declaration and bylaw amendments, assessment collections, injunctions, covenant enforcement, and developer and construction defect litigation. The remainder of his practice focuses on other real estate and civil litigation matters. Chuck is also fluent in Spanish.

Chuck received his undergraduate degree from the University of Illinois in 1990 and his J.D. in 1996 from the Chicago-Kent College of Law. Additionally, Chuck earned his L.L.M. in Real Estate Law in 2006 from The John Marshall Law School.

He is a member of the Illinois, Chicago, DuPage County and Will County Bar Associations, and he is licensed to practice before all Illinois courts and the United States District Court for the Northern District of Illinois.

Chuck is involved with both ACTHA and CAI-Illinois' Chapter and speaks at seminars organized by both organizations. Chuck was a presenter at the CAI-Illinois Legal Forum in 2012 where he presented "How to Deal with Difficult People in your Association: Before, During & After Litigation". He also presented at the CAI-Illinois Legal Forum in 2013 where he presented "How to Avoid Legal Issues when Communicating with Board Members, Homeowners and Third Parties." Chuck attends tradeshows within the community association industry and often provides education to board members and community association managers. Chuck is active in educating managers through lunch and learns and seminars hosted by the firm. He also writes articles for publication in trade magazines and the firm's monthly newsletter.

Most recently, Chuck has spoken on matters involving the management of commercial condominiums. He is often requested to speak to groups of realtors and attorneys representing other industries to discuss how their work impacts or is impacted by condominium and common interest community associations. Chuck has presented for the ISBA and NBI, both organizations offer continuing legal education for attorneys.

Chuck was identified as a "Leading Lawyer" in 2009 and 2010 by the Chicago Daily Law Bulletin.

Annemarie E. Kill is a partner in the Chicago law firm of Avery Camerlingo Kill, LLC, where she concentrates her practice in family law and employment law. She graduated from Illinois State University, *cum laude*, in 1992 and from DePaul University College of Law in 1995. Ms. Kill, a member of Mensa, has been repeatedly selected as one of the Top 50 Women Lawyers in Illinois by *Illinois Super Lawyers*. She has been named an *Illinois Leadings Lawyer* and was recently named one of the *Best Lawyers in America*. Ms. Kill has given numerous lectures regarding the practice of family law, specifically the division of retirement benefits incident to divorce. She is very active in the Illinois State Bar Association where she was elected to the Assembly. She provides extensive pro bono services through Chicago Volunteer Legal Services, the Center for Disability and Elder Law and the Cabrini Green Legal Aid Clinic. Ms. Kill is a board member of the DePaul College of Law Family Law Center, and a member of the Women's Bar Association, the Chicago Bar Association, the National Employment Lawyers Association, and the American Society of Pension Professionals and Actuaries. Ms. Kill has practiced at all levels of the state and federal courts, including successfully litigating a case at the U.S. Supreme Court. She is a member of the federal trial bar and is licensed to practice in Illinois, the Northern District of Illinois, the Seventh Circuit Court of Appeals, and the United States Supreme Court.

Matt Kirsh has been practicing family law in the Chicago area for the past 21 years. He received his undergraduate (1986) and law degrees (1989) from the University of Illinois. Matt is a partner at the Law Offices Of Matthew A. Kirsh, Ltd. located in Chicago.

Matt has been a member of the ISBA Family Law Section Council since 2006, Editor of the Family Law Section Newsletter from 2007 to 2013 and a frequent speaker on family law topics at ISBA programs. Currently Matt serves as Secretary of the ISBA Family Law Section Council and as Managing Editor of the Family Law Section Newsletter. He is also a fellow and on the Board of Managers of the Illinois Chapter of the American Academy of Matrimonial Lawyers.

Karl B. Kuppler was born in Nuremberg, Germany. After growing up in Quincy, Illinois, he graduated *summa cum laude* with a B.A. in accounting from North Central College in Naperville, Illinois. At North Central, he was president of the Student Association and the North Central Honor Society. He graduated *magna cum laude* from the University of Illinois College of Law in 1981, where he was a member and editor of the University of Illinois Law Review, a member of the Order of the Coif and a Harno Scholar.

Karl is admitted to practice before the Supreme Court of Illinois, the United States District Court for the Northern and Central Districts of Illinois and the United States Tax Court. He was an associate with the large Chicago law firm of Isham, Lincoln & Beale before coming to Peoria in 1985. Karl is a member of the Peoria County, Illinois State and American Bar Associations. He has served as Chairman of the Probate Practice Committee of the Peoria County Bar Association, on the Estate Planning, Probate and Trust Law Section Council of the Illinois State Bar Association and as Vice Chair of the Tax Committee of the ABA's General Practice Section. He is a frequent lecturer on estate planning and tax topics for professional and community groups. He is the author of several publications for the American Bar Association, the Illinois Institute for Continuing Legal Education and the National Business Institute.

Pamela J. Kuzniar, Esq., is practices family law in Cook, Lake and DuPage Counties. She is a Member of Kuzniar & Simons PC; her primary practice is located at 161 North Clark Street, 47th Floor, Chicago, Illinois 60601. Her email address is kuzniar@pjk-law.com. She is a graduate of Loyola University (1980: Biology/Chemistry/English) and Loyola University of Chicago School of Law, J.D. 1991. She was admitted in Illinois, 1991, Northern District of Illinois 1991, and the Supreme Court of the United States of America, 2003. She was designated and elected a Fellow of the American Academy of Matrimonial Lawyers Fellow in 2007. She serves by appointment as a Cook County Child Representative from 2006 to present. She is an Illinois Bar Foundation Fellow, member of the American Bar Association, Chicago Bar Association, DuPage County Bar Association, and Lake County Bar Association. She is an Author and presenter for CLE seminars sponsored by the Illinois State Bar Association, American Academy of Matrimonial Law, DuPage County Bar Association, National Business Institute and Circuit Court of Cook County. She has authored articles for the Chicago Daily Law Bulletin and ISBA Family Law Newsletter. ISBA Membership Activities include: Assembly, Family Law Section Council 2001-2007 and 2009 to present, CLE Coordinator for Family Law 2007 to present, and Chair of the Family Law Section Council 2013-2014. She is a Leading Lawyer, Super Lawyer and AV rated by Martindale-Hubbell.

Michael R. Lied is a member with Howard & Howard Attorneys, PLLC. He focuses his practice in the areas of labor and employment law and related litigation and immigration law, representing employers. He attended the University of Illinois where he received a B.S. degree in psychology in 1975 and an M.A. degree from the University's Institute of Labor and Industrial Relations in 1977. In 1983 Mr. Lied received his J.D. degree from the University of Michigan. He is admitted to practice in Michigan and Illinois and to the U.S. Supreme Court, U.S. Court of Claims, the Sixth and Seventh Circuit Courts of Appeals, as well as the U.S. District Courts for Illinois, Indiana and the Eastern District of Michigan. Mr. Lied has written more than two hundred articles for various publications, as well as several chapters in publications of the Illinois Institute of Continuing Legal Education. He is a regular lecturer on various legal topics. He is a member of the American Bar Association, and its sections of Litigation and Labor and Employment Law, the State Bar of Michigan, the Illinois State Bar Association and its sections on Federal Civil Practice and Labor and Employment Law, where he is a former chairman and long time newsletter editor. Mr. Lied is also a member of the American Immigration Lawyers Association and the Federal Bar Association.

Mr. Lied is a member of the Leading Lawyers network and was selected for inclusion in Illinois Super Lawyers in 2007 through 2013.

Debra Liss Thomas has been an attorney in Chicago for more than ten years. She is a dedicated member of the Illinois State Bar Association and has been a member of the Young Lawyers Division (YLD) Council for nine years. She currently serves as an editor of the Young Lawyers Division newsletter and as continuing legal education (CLE) coordinator for the YLD. Previously, Ms. Thomas served as the chair of the Traffic Laws & Courts Section Council of the Illinois State Bar Association. Ms. Thomas received her undergraduate degree from the University of Michigan and her J.D. from Chicago-Kent College Law. She has also earned a Master's degree in Education from DePaul University.

Grace Mata concentrates her practice in creditors' rights, business, commercial, and real estate litigation as well as labor and employment law. She began her career with Howard & Howard fifteen years ago as a runner.

Ms. Mata received her B.A., with honors, from the University of Illinois at Urbana-Champaign in 2001, where she graduated with distinction in philosophy. She also received her J.D. from The John Marshall Law School in 2007.

While in law school, Ms. Mata interned with the Honorable Joe Billy McDade of the United States District Court for the Central District of Illinois and with the Honorable Elizabeth Loredo-Rivera of the Circuit Court of Cook County. Prior to joining Howard & Howard, she served as a law clerk for Judge Jesse G. Reyes of the Circuit Court of Cook County from September 2007 to March 2010.

Ms. Mata is admitted to practice in the state courts of Illinois and the United States District and Bankruptcy courts for the Central District of Illinois. She is also admitted to the United States District Court for the Northern District. Ms. Mata is a member of both the American Bar Association and the Illinois State Bar Association, where she serves on the Judicial Evaluations Committee, Outside Cook County. She is active in the Peoria County Bar Association, the Women's Bar Association, and the Hispanic Lawyers Association of Illinois. Ms. Mata serves as a Barrister in the Abraham Lincoln Inns of Court as well as on the Board of Directors of the Peoria Friendship House. She is President of the Peoria Hispanics Group.

Ms. Mata is fluent in Spanish.

Marc W. Matheny is an attorney in practice for over 30 years in general civil litigation, family law and probate law in Indianapolis, Indiana. Marc is a registered mediator and arbitrator, and is a certified parenting coordinator and guardian ad litem.

He is a past chair of the Indiana State Bar Association GP/Small Firm Section, a co-founder and current Chair of the Indiana State Bar Association's Solo & Small Firm Conference. He has served the ABA on the Planning Board for the ABA's Solo Small Firm Conference, (2009-present), and is a member of the ABA TECHSHOW Board (2011-present).

Marc is a frequent public speaker, having presented in Indiana, Missouri, Texas and Illinois, as well as various continuing education conferences for the ABA and several state bar associations. He has been published in the ABA's Law Practice Magazine, *Essential Technology for the Small Firm*, (2012), and the Indiana State Bar Association's *Res Gestae*.

Mr. Matheny received his J.D. from Indiana University McKinney School of Law, (1980) and received his B.A. from Indiana University-Purdue University at Indianapolis (1977).

David B. Menchetti is a shareholder in Cullen, Haskins, Nicholson & Menchetti, P.C. in Chicago and concentrates his practice in the representation of injured workers throughout Illinois before the Workers' Compensation Commission, the Circuit Courts and the Illinois Appellate and Supreme Courts. He graduated from Loyola University of Chicago School of Law (JD) and attained an undergraduate degree (BA) with distinction from Stanford University. Mr. Menchetti is a former staff counsel to Illinois State Senate President Philip J. Rock and concentrated in legislation dealing with insurance, pensions and licensed activities. He has served as counsel to Illinois State Senate President Emil Jones, Jr. and advised about and drafted reforms to the Workers' Compensation Act in 1989 and 1991.

He is a member of: the Illinois State Bar Association (Workers' Compensation Law Section Council Chair and Legislation Committee member); the Chicago Bar Association (Industrial Commission Committee Chair); the Illinois Trial Lawyers Association (Workers' Compensation Committee Chair); the Workers' Compensation Lawyers Association (President); the American Association for Justice (Workplace Injury Section); the Workplace Injury Litigation Group; and the Board of the Chicago Area Committee on Occupational Safety and Health (CACOSH).

He has authored the chapter on *"Penalties"* in the Illinois Trial Lawyers Association Workers' Compensation Notebook and has lectured on workers' compensation issues for: the Illinois State Bar Association; the Chicago Bar Association; the National Business Institute; the Council on Education in Management; the Illinois Institute for Continuing Legal Education; the Illinois Workers' Compensation Claims Association; the judicial training program for the Illinois Workers' Compensation Commission; the Attorney Registration and Disciplinary Commission; the United Food and Commercial Workers Union; the Laborers International Union; Combined Orthopedic Specialists; the Illinois Bones Association; Kankakee Community College; the University of Chicago Hospitals.

He serves as an advisor to the Illinois AFL-CIO on workers' compensation matters and participated in the negotiations and drafted the amendments contained in the 2005 and 2011 Workers' Compensation reform legislation. He is listed in the Who's Who in American Law, has been designated as one of the Best Lawyers in America by which he was named Workers' Compensation Lawyer of the Year and has been selected by his peers as a Leading Lawyer and a Super Lawyer. The Illinois Trial Lawyers Association has presented him the President's Award. By appointment of the Governor, he has served on the Illinois Workers' Compensation Advisory Board. dmenchetti@chnm-law.com.

Shamla Naidoo is a Lawyer and a Technology Risk expert with over 25 years providing strategic technology leadership at global corporations. She spent most of her professional years in executive positions with large global companies, and now specializes in Data Protection, Incident Management, Technology Law, Regulatory Compliance, eDiscovery and Privacy. She earned degrees in Management Information Systems, Information Systems and Economics from the University of South Africa, She also earned a JD from The John Marshall Law School in Chicago, where she now teaches at the Center of Information Technology and Privacy Law.

Lisa M. Nyuli is a partner in the firm of Ariano, Hardy, Ritt, Nyuli, Richmond, Lytle & Goettel, P.C. in South Elgin, Illinois. She focuses her practice primarily in Family Law. She has been licensed to practice in the State of Illinois and the United States District Court for the Northern District of Illinois since 1989. She was admitted to practice in the United States Supreme Court in 2004.

Ms. Nyuli is also active in the Illinois State Bar Association, as a member, and is currently serving her second term on the Board of Governors. She is past Chair of the Judicial Advisory Polls Committee and served for many years on the Continuing Legal Education Committee. Ms. Nyuli is a past member of the Assembly, and was the Chair of the 2011 and the 2012 Solo and Small Firm Conference.

Ms. Nyuli is involved in a number of professional organizations, and has been a frequent seminar speaker for the ISBA and the Kane County Bar Association on various areas of practice, including family law, bankruptcy, practice management, GAL training and civility. She is a past President of the Kane County Bar Association and the Kane County Bar Foundation. She received the Family Law Achievement Award from the Kane County Bar Association in 2003 for her work in establishing a Children's Waiting Room at the Kane County Judicial Center. She also received the pro bono award from the Kane County Bar Foundation in 2006. She is a Fellow of the American Academy of Matrimonial Lawyers.

Ms. Nyuli received her B.S. in business administration from the University of Illinois at Urbana-Champaign in 1986 and her J.D. from Northern Illinois University College of Law in 1989. She was honored with the Alumnus of the Year Award in 2005 from NIU College of Law.

John G.O'Brien, Vice President and Counsel to the CEO of Attorneys' Title Guaranty Fund, Inc. Mr. O'Brien served as President of The Illinois State Bar Association in 2009/10. He is the founder and Chairman of the Board of Directors of the Illinois Real Estate Lawyers Association (IRELA). IRELA is the leading advocate for protecting the role of the attorney in the residential real estate process. Mr. O'Brien has lectured on real estate topics for the Illinois State Bar Association, the American Bar Association, the Illinois Institute for Continuing Education and Attorneys' Title Guaranty Fund (where he serves as a member of the Board of Directors) as well as numerous Bar Associations throughout the State. Mr. O'Brien was appointed by the Illinois Supreme Court to serve on The Minimum Continuing Legal Education Board. He is also Chairman of the Board of Directors of the ISBA Mutual Insurance Company. Recently, he has been elected to the board of PHI ALPHA DELTA Law Fraternity. He also serves as Co-Chair of the Real Estate Law Committee of the ABA General Practice, Solo & Small Firm Division and is Chair of the Real Property Committee of the Chicago Bar Association. He was recently elected to the Board of Managers of the Chicago Bar Association.

He earned a B.A. from the University of Notre Dame in 1968, and a J.D. from Loyola University in 1972.

Paul A. Osborn is a partner in the Sterling firm Ward, Murray, Pace & Johnson, P.C., which is a regional firm representing corporations, municipalities, hospitals, banks, school districts and individuals in northwest Illinois. Paul has been with the firm since graduating from the University of Illinois School of Law in 1980. His undergraduate degree is a BSIM (Bachelor of Science in Industrial Management) from Purdue University in 1977. His practice is split between family law and transactional law emphasizing banking and bankruptcy. He has served for 10 years on the ISBA Commercial, Banking and Bankruptcy Section Council chairing the Council in 2000-2001. During his tenure on that Section Council, he was a frequent seminar speaker, including presentations at several programs on Revised Article Nine of the Commercial Code. In 2012, ISBA President, John Theis, reappointed Paul to the Commercial, Banking and Bankruptcy Section Council and the Standing Committee on Continuing Legal Education for the 2012-2013 year. Additionally, in the last year, Paul accepted an appointment to the Solo & Small Firm Conference Committee.

Mr. Osborn has also served the ISBA as a member of the Family Law Section Council and is currently that Council's liaison to the Continuing Legal Education Committee. Paul has presented CLE programs for Family Law Section Council seminars in Lake Geneva, Bloomington, Rockford, Chicago, Collinsville, New Orleans and in March of 2012 in Peoria. Topics include: Nuts and Bolts of Divorce Trials, Creative Drafting to Avoid Post-Decree Hell; Trial Tips on Examining Opposing Parties; The Impact of the Bankruptcy Reform Act on Family Law; Enforcement of Child Support Orders, Divorce Law for Agriculture Lawyers, Initial Interview Techniques, Post-Majority Educational Expenses and Enhancing Business and Minimizing Accounts Receivable. He has also been a presenter for the ISBA Basic Skills Course for New Admittees each year since its inception. His résumé also includes presentations for the Real Estate Section and Agriculture Law Section on bankruptcy and divorce issues.

Mr. Osborn is in his 13th year on the Continuing Legal Education Standing Committee, which he chaired from 2007 to 2009. He also served on the ISBA Task Force on MCLE and is a member of the ISBA Commercial, Banking and Bankruptcy Section Council, which he chaired in 2000-2001 and the American Bankruptcy Institute. His CLE programs on bankruptcy topics include Real Estate in Bankruptcy, Bankruptcy for Divorce Lawyers, Revisions to Article 9 and Banking Law Updates. He was also appointed by past ISBA President John Locallo to the special committee on membership enhancement.

Steven Peskind is the principle of the Peskind Law Firm based in St. Charles, Illinois. He graduated from Tulane University and DePaul College of Law. He is a fellow of the American Academy of Matrimonial Lawyers and is an elected member of the American Law Institute and the American Bar Foundation.

Mr. Peskind is a faculty member of the Family Law Trial Advocacy Institute.

He has been inducted into Scribes, a legal writing honor society and is the author of the *Family Law Evidence Handbook*, to be published by ABA Publications in the fall of 2012.

Nerino J. Petro, Jr. is the Practice Management Advisor for the State Bar of Wisconsin's Practice411™ Law Office Management Assistance Program. Practice411's mission is to help attorneys operate their offices more effectively and efficiently. Licensed in Illinois and Wisconsin, Nerino uses his 20 years of legal practice experience and experience being CEO/Senior Legal Technologist for CenCom Legal Technologies (which he founded in 1994), to help Wisconsin lawyers and their staff deal with the practice management issues confronting them.

He is a Certified Independent Consultant for TimeMatters® practice management software, Billing Matters® time, billing and accounting software, as well a Clio cloud based practice management and has provided consulting, installation, customization and training for clients throughout the country. He has worked with other leading products including TABS® time, billing and accounting software, Practice Master® practice management software, Quikscribe Digital Dictation, Dragon NaturallySpeaking and TValue financial software as well as Fujitsu and Canon Scanners.

Nerino was the ABA LPM Magazine Product Watch columnist (2006 -2012) and is a regular contributor to other local, state and national publications including the Wisconsin Lawyer, InsideTrack and ABA GP|Solo Magazine. Nerino serves on the ABA GP, Solo and Small Firm Division GP|Solo Magazine Board as its Technology Editor. He has presented throughout the US and Canada including the ABA TECHSHOW, Pacific Legal Technology Conference, Missouri, Illinois, Oklahoma, Indiana and Wisconsin Solo and Small Firm Conferences, ABA GP|Solo National Solo & Small Firm Conference, National Association of Bar Executives meetings as well as other ABA, State and local conferences and events. He currently serves on the ABA TECHSHOW Planning Board and is a member of the State Bar of Wisconsin and ISBA Solo & Small Firm Conference Planning Committees. Nerino was named to the inaugural Fastcase 50 list of the top legal techies in 2011. He provides information on legal technology, practice management and items of interest to lawyers on his blog at www.compujurist.com .

Cathy A. Pilkington is a civil litigator who concentrates her practice in employment and commercial litigation in state and federal court and practices in the Illinois Department of Human Rights, the EEOC and Illinois Human Rights Commission. She is the Continuing Legal Education Coordinator and Vice-Chair for the ISBA Labor and Employment Section Council and the Chair of Faculty Development for the ISBA Standing CLE Committee. She defends and advises employers on general employment issues (i.e., employee handbooks, restrictive covenants, payroll, overtime and discrimination issues), agency audits and employment litigation.

She defends corporate employers in general business and employment related disputes at the trial and appellate levels. She has knowledge of administrative law and regulatory requirements and has represented businesses in proceedings before the Illinois Department of Financial and Professional Regulation.

A former criminal prosecutor and a former Assistant Attorney General and Chief of the Medicaid Fraud Division, she has command of substantive criminal law and criminal procedure as well as experience navigating parallel proceedings issues which arise when administrative, civil and criminal cases and/or investigations are proceeding simultaneously.

She has tried many jury and bench trials in state and federal court and has argued appeals in the Appellate Courts, Illinois Supreme Court and Seventh Circuit Court of Appeals.

She is an active member of the Entrepreneur Group of the Union League Club of Chicago.

Joshua Poje manages the American Bar Association's Legal Technology Resource Center, where he provides technology and practice management guidance to attorneys throughout the country. He serves as editor of the annual *ABA Legal Technology Survey Report*, the most comprehensive annual survey of lawyer technology use. He is a frequent speaker on technology topics at national and state bar conferences, and has authored numerous articles and guides on topics ranging from the ethics of cloud computing to data security. He also blogs about legal technology and practice management issues on Law Technology Today. He is a graduate of the DePaul University College of Law in Chicago, Illinois.

Alan R. Press is the founder of Alan R. Press, Attorney at Law, P.C. He graduated from Georgetown University in Washington, D.C., where he received his B.S.B.A. While at Georgetown, he served as an intern for U.S. Senator Bill Bradley.

In addition to his role as an attorney, Mr. Press is a Certified Public Accountant (CPA). Prior to his law practice, he began his career at Ernst & Young, one of the world's largest accounting firms, followed by his employment with a small accounting and tax firm in Northbrook, Illinois where he focused on individuals and small businesses.

Mr. Press received his law degree from Loyola University of Chicago and received the Am Jur Award in Federal Taxation. He is licensed to practice law in Illinois and New Jersey. Today, his practice focuses on estate planning, wills, trusts, powers of attorney, probate, trust administration, income tax, real estate, transactional and small business consulting.

Mr. Press is a member of the Illinois State Bar Association, Lake County Bar Association, American Bar Association, and AICPA. He is also the Chair of the Committee on Legal Technology (COLT) and a member of the Trusts and Estates Section Council for the Illinois State Bar Association. He frequently writes articles for the Committee newsletters and lectures at Continuing Legal Education programming for other lawyers. Mr. Press has been Peer Review Rated (BV) by Martindale-Hubbell.

Elaine Quinn, "The Solopreneur Specialist®," is an internationally-known organizing, time management and productivity expert who coaches and consults solo entrepreneurs and other professionals working from home. Her book, *There's No Place Like Working from Home*, published in 2011, is filled with practical advice for those with too much to do and not enough time.

Prior to founding her consulting business in 2001, Elaine's 25 years in sales and management with Fortune 100 companies in the pharmaceutical industry developed strong organization and time management skills. She is a member of the National Association of Professional Organizers and serves on the Board of the Chicago Chapter, where she was President in 2007-08. She is among only 5% of professional organizers worldwide to have earned the designation of *Certified* Professional Organizer®. Elaine has been featured in the Chicago Tribune, Success Magazine, Entrepreneur.com, and numerous other print, broadcast and online media.

She grew up in New York and Texas, graduating from the University of Texas at Austin. Now she lives in Chicago where she and her husband spend their free time learning and teaching about Ancient Egypt.

Hon. Patrick J. Quinn graduated from John Marshall Law School in 1980. He worked for the Cook County State's Attorney's Office from 1981 through 1996 where he supervised the Sixth Municipal District, the Public Integrity Unit and the Organized Crime Unit. He was elected to the Illinois Appellate Court, First District in November 1996 and retained in 2006. He is an assembly Member of the Illinois State Bar Association, and is a member of the Illinois Judge's Association and the Chicago Bar Association. Justice Quinn has participated as an instructor in a seminar for the Illinois State Bar Association and has also taught judges at numerous seminars conducted by the Administrative Office of the Illinois Courts.

Justice Quinn is the Presiding Justice in the Second Division of the First District Appellate Court. He is also a member of the Education Committee where he conducts monthly training sessions for law clerks assigned to the First District. Justice Quinn has written in-depth memos regarding *Apprendi* and the Post Conviction Hearing Act. The latter, entitled "Impact of Recent Decisions Upon Proceedings Under The Post-Conviction Hearing Act" which he co-authored with Judge John J. Hynes, was published in the Loyola University Chicago Law Journal.

Kathleen M. Robson is the founding partner of Robson & Lopez LLC where she and her partner, Salvador J. Lopez, lead a passionate and client-driven approach to defending those in need. Ms. Robson's extensive experience in finance and real estate gives her a practical insight that allows her to deliver consistent and positive results in court and through mediation.

Since receiving her JD from Chicago-Kent College of Law she has regularly provided pro bono legal services to the Chicago Legal Clinic and Chicago Volunteer Legal Services. In the past 2 years she has been honored for her pro bono work by the Chicago Bar Association and the Chicago Bar Foundation, Chicago Legal Clinic, Chicago-Kent College of Law, Chicago Volunteer Legal Services, and in August 2012- Chicago Lawyer Magazine featured a cover story about Ms. Robson's service to those in need.

Before joining the Illinois and Federal Court bars, Ms. Robson worked as a mortgage banker in Chicago for 11 years, and, prior to that, was a finance officer at one of Chicago's largest private banks, where she managed their bond and derivatives portfolios. Ms. Robson received her BA in Mathematics from Indiana University in 1994 and continued post graduate studies at Northeastern Illinois University in Applied Mathematics. Ms. Robson is a member of the Illinois State Bar Association, the Chicago Bar Association, and the American Bar Association.

Robson & Lopez LLC is a firm specializing in consumer protection and real estate law.

Mark Ryerson is a member of Howard & Howard Attorneys PLLC and resident in the Firm's Chicago office. Mr. Ryerson focuses his practice on business and corporate law with an emphasis on mergers and acquisitions, private equity and venture capital, and financial institutions work.

Mr. Ryerson advises clients, including a large number of startup and early-stage entities, in the manufacturing, information technology, multimedia, retail, biomedical, communications, food and beverage, energy, and transportation and service industries on a variety of corporate matters, including formation and governance and those relating to employment, contractor, outsourcing, management, consulting, supply, distribution, sales, advertising, marketing, sponsorship, procurement, royalty, technology transfer, licensing, sublicensing, reseller licensing, OEM, research, confidentiality and logistics relationships.

Mr. Ryerson also represents international, national and regional buy and sell-side entities in advanced stock purchases, asset acquisitions, mergers, consolidations, spin-offs, joint ventures and developmental associations. Additionally, he has prepared and completed numerous equity, debt, and convertible debt securities offerings on behalf of both issuing entities and angel and institutional investors, including the composition and evaluation of PPMs, term sheets, LOIs and subscription and contribution agreements.

Mr. Ryerson graduated cum laude from Marquette University in 2002 with his B.A. in Economics and Political Science and received his J.D. from St. Louis University School of Law in 2005. He is admitted to practice in the states of Illinois, Missouri and New York.

Catherine Sanders Reach is Director, Law Practice Management and Technology for the Chicago Bar Association. She was the Director at the American Bar Association's Legal Technology Resource Center for over ten years, providing practice technology assistance to lawyers. Prior to her work at the CBA and ABA she worked in library and information science environments for a number of years, working at Ross and Hardies as a librarian. She received a master's degree in Library and Information Studies from the University of Alabama, Tuscaloosa in 1997.

Ms. Reach's professional activities include articles published in *Law Practice* magazine, *Law Technology News* and *GPSolo* Magazine. She has given presentations on the use of technology in law firms for national bar conferences, state and local bar associations and organizations such as the Association of Legal Administrators and the Association of American Law Schools. She served on the ABA TECHSHOW Board from 2007-2009 and is on the editorial advisory board for *Law Technology News*. In 2011 she was selected to be one of the inaugural Fastcase 50, celebrating 50 innovators, techies, visionaries, and leaders in the field of law and in 2013 was nominated Fellow Elect of the College of Law Practice Management.

Hon. Thomas Schippers was appointed to the bench in Lake County as an associate judge 2007. In November of 2012, Judge Schippers was elected as a full circuit judge. He served for five years in the misdemeanor and DUI division, where he presided over more than 70 jury trials, and hundreds of bench trials and motions to suppress and summary suspension hearings. Judge Schippers currently is assigned as a trial judge in the law division.

Prior to being appointed to the bench, Judge Schippers was a partner at the law firm of Dudley & Lake, where he specialized in plaintiff's tort actions. Judge Schippers has also served in the criminal division of the Lake County State's Attorney's Office, and later joined the Illinois Attorney General's Office, where he prosecuted a variety of cases -- from DUI's to death penalty matters -- around the state.

Judge Schippers teaches trial practice at Loyola University School of Law. He also teaches criminal justice and business law at Columbia College of Missouri. Judge Schippers is a graduate of the Loyola University School of Law.

Clifford Scott-Rudnick earned his B.A. at Knox College and his J.D. at IIT/Chicago-Kent College of Law. He has been a lawyer in Illinois for more than 35 years. He is a member of the Chicago, Du Page, Illinois, and American Bar Associations, and is the director and past president of the Land Trust Council of Illinois. He serves as president of the South Suburban Estate Planning Council and is a member of the Association of Continuing Legal Education. He is Chair of the Land Trust Committee, a subcommittee of the Real Estate, Trust and Estate Section of the American Bar Association and a member of the Center for Professional Responsibility Section of the ABA. Prior careers include union organizing, labor law and workers compensation practice, and bank trust officer.

Professor Scott-Rudnick has lectured at seminars for many bar groups and community forums, including the National Alzheimer's Association, the American Bankers Association/American Institute of Banking, and the Florida State Bar Association Real Estate Section. Other volunteer activities include vice president and director for the North Side Community Federal Credit Union, Junior Achievement volunteer instructor, director serving on the Temple Sholom of Chicago board, and former member of the Fiduciary Advisory Board for the Illinois Commission of Banks, Trusts, and Real Estate.

Professor Scott-Rudnick was an adjunct professor at The John Marshall Law School for more than 20 years before his appointment as a Visiting Professor. He was a visiting professor during 2007-2009. He has taught courses in Professional Responsibility, Small Law Practice Management, Trusts and Estates, and Legal Writing. He also taught Legal Research and Writing at the China State Intellectual Property Office Training Center in Beijing during the summer of 2009. He helps coordinate and speaks at Continuing Legal Education programs at John Marshall and in Florida and other venues throughout Illinois.

R. Stephen Scott, J.D., CPA, is a Partner with Scott & Scott, P.C., in Springfield, a general business, personal lines, and civil practice law firm. He concentrates his practice in corporate and commercial law, taxation, estate planning and business bankruptcy. Mr. Scott is also an Associate Professor with the University of Illinois Springfield, College of Business and Management, teaching Commercial Law, Fiduciary Tax, and Ethics for CPAs. He is a past President (2006) and Director of the American Association of Attorney-Certified Public Accountants. He is a past Chair (2008) and current member of the Corporate Law Departments Section Council of ISBA. Mr. Scott received his B.S.B.A. from Marquette University in 1972, was registered as a Certified Public Accountant by the University of Illinois in 1976, and received his J.D. with honors from IIT/Chicago-Kent College of Law in 1977. He is admitted to practice before the Illinois Courts, the U.S. District Court for the Central and Southern Districts of Illinois and the United States Tax Court. He has written numerous articles for the Corporate Lawyer, the newsletter of the ISBA Corporate Law Departments Section Council, and lectures extensively regarding commercial and business law and taxation and bankruptcy issues.

Abra C. Siegel is the founding member of Siegel Law Offices, Ltd. in Chicago, Illinois, where she represents clients in employment law and civil litigation, including whistleblower retaliation, discrimination, bonus and sales commission disputes. Prior to forming her own law firm, Ms. Siegel worked at two Fortune 500 companies in the Chicago area, where she was trained in employee relations and managed civil litigation. Upon graduation from law school, Ms. Siegel worked in the New York office of a national law firm, representing corporate defendants in civil litigation. She subsequently clerked for the Israeli Supreme Court and its Ministry of Justice. After returning to the United States, Ms. Siegel worked in government service as a criminal prosecutor.

Ms. Siegel is active in the Labor and Employment Law Section of the American Bar Association, where she is Plaintiff Co-Chair of its Social Media Committee. She authored the health care industry section of "*Stretching Beyond the Sea Shore: Non-Compete Geographic Restrictions in a Virtual World,*" for the 2013 Employment Rights and Responsibilities Subcommittee mid-winter meeting and "*Intentional and Negligent Infliction of Emotional Distress – Viable Employee Claims or Mere Puffery*," for the Section's 2010 meeting. Ms. Siegel is also active in the Standing Committee of Legal Technology of the Illinois State Bar Association. Her article "A "fast" review of Fastcase—Pros and cons of a free (for ISBA members) tool" appeared in its June 2012 newsletter. Ms. Siegel is also a member of the Chicago Bar Association's Labor and Employment and Alliance for Women Committees.

Ms. Siegel earned her law degree from Northwestern University School of Law, *cum laude*, and her Bachelor of Science in Accountancy from the University of Illinois in Urbana-Champaign with High Honors.

When she is not working, Ms. Siegel enjoys running and biking along the Chicago lakefront.

Bryan M. Sims is a shareholder and founder of Sims Law Firm, Ltd., where he concentrates his practice in the areas of commercial litigation and civil appeals. He is a member of the Illinois Bar and the Northern District of Illinois Trial Bar. He is also admitted to practice before the United States Supreme Court, the United State Court of Appeals for the Seventh Circuit, and the United States courts in the Central District of Illinois, the Southern District of Illinois, and the Eastern District of Michigan.

Bryan is a member of the Illinois State Bar Association, the American Bar Association, the Du-Page County Bar Association, and the Will County Bar Association. He is a member of the ISBA Standing Committee on Legal Technology, where he has served as the chair and is currently the newsletter editor. He has been a member of the 2006 through 2013 ISBA Solo and Small Firm Conference Planning Committee.

Bryan has spoken on legal technology issues at the ISBA Solo and Small Firm Conferences, for the Chicago Bar Association, the DuPage County Bar Association, the Kane County Bar Association, the Lake County (Indiana) Bar Association, the International Technology Law Association, and the ABA Techshow.

Bryan contributes regularly to TechnoLawyer and was recognized as the 2005 TechnoLawyer of the Year. He has also written for PDA JD and regularly wrote reviews for Law Office Computing. Bryan blogs regularly about the intersection between law and technology at www.theconnectedlawyer.com.

Before entering private practice, Bryan worked as a judicial law clerk for Illinois Supreme Court Justice S. Louis Rathje. He has also worked as a staff attorney for the Second District of the Illinois Appellate Court.

He is a 1993 *cum laude* graduate of Wheeling Jesuit University and a 1996 *magna cum laude* graduate of Loyola University Chicago School of Law. While in law school, Bryan served on the staff of both the Loyola Law Journal and the Loyola Consumer Law Reporter.

Neal E. Takiff is a partner with the law firm of Whitted, Cleary + Takiff, LLC. His practice is concentrated in the areas of special education law, domestic relations (GAL, Child Representative, Attorney for Child only) child welfare, mental health, and both criminal and civil litigation for juveniles and adults. Prior to joining the firm, he was an attorney with the Lake County Public Defender's Office and with the Cook County Office of the Public Guardian. Mr. Takiff received his law degree from New York University School of Law and earned a B.A. in political science and philosophy from Duke University.

Before becoming an attorney, Mr. Takiff was an elementary education teacher for the Houston Independent School District and was involved with the Teach for America program for three years. He was also a school board member for Community Consolidated School District 46 and currently serves on the board of directors for Turning Point Behavioral Health Center in Skokie, Illinois. He currently teaches graduate-level education law courses at both Dominican University and Aurora University.

Mr. Takiff is a frequent speaker in the area of special education law, school discipline and mental health law. He is a trained mediator. Mr. Takiff 's follows an Elicitive Model of mediation in his practice and believes that a transformative approach to mediation is most effective in addressing the underlying cause of conflict and assisting the parties in finding resolution. His mediation practice primarily focuses on domestic relations issues, however, he has been asked to mediate other children's issues, such as school placement.

Mr. Takiff represents families and their children in the area of special education, school discipline, school residency, post-secondary education issues, school records and confidentiality issues, bullying, adult and juvenile defense, domestic relations (in the areas of guardian-ad-litem, child representative and attorney for the child only), and guardianships.

Mr. Takiff also represents mental health providers, mental health facilities, and hospitals in the areas of mental health law and confidentiality, Illinois Department of Financial and Professional Regulation complaints, and contractual issues and education-related labor disputes.

Finally, Mr. Takiff represents select public and private schools and special education cooperatives both in Illinois and throughout the country. Whitted, Cleary + Takiff is the only firm in Illinois to represent both parents and select school districts and its ability to evaluate cases from both perspectives aides tremendously in its ability to advocate effectively for both its school and parent clients. Mr. Takiff's school district and private school clients look to him for ways to improve the delivery of services to children, communicate effectively with the stakeholders in the educational community, and help to understand the complex and ever changing requirements in the area of school law.

Mr. Takiff also provides consultative services to schools and institutions in the areas of bullying investigations, employment investigations, and legislative support.

Mr. Takiff earned his B.A. (Political Science and Philosophy) at Duke University and his J.D. at New York University School of Law. He is a member of Foundation[46], Turning Point Behavioral Health Center, Lake County Bar Association, Chicago Bar Association, and the Illinois State Bar Association.

Sarah E. Toney is the Managing Attorney at the Toney Law Firm, LLC. She has concentrated in the areas of Criminal and DUI Defense since she was admitted to the bar in 2004. She is in her 8th year as Adjunct Professor at Loyola University of Chicago School of Law where she teaches two classes. She attended Miami University where she received a B.S. in Education and Loyola University Chicago School of Law where she received her J.D.

Ms. Toney has been named an Illinois Super Lawyers Rising Star for the past 4 years. She is ex-officio of the Traffic Laws and Courts Section Council, which she has been appointed to since 2008. She has been Editor of the Traffic Laws and Courts Newsletter for six years. She is a member of the IBSA Assembly and LAWPAC and was appointed to the Illinois State Bar Association Young Lawyers Division since 2010 where she is currently serving as Social Media Chair. She has also been appointed to the Standing Committee on Law Office Management and Economics.

Ms. Toney has been invited to speak by the Chicago Bar Association, the Illinois Association of Criminal Defense Lawyers and the Illinois State Bar Association at various seminars.

She is admitted to practice in the United States Supreme Court, the United States District Court, Northern District of Illinois, General Federal Bar, United States District Court, Central District of Illinois and the United States Court of Appeals, Seventh Circuit.

She is a member of the National College for DUI Defense, the Illinois State Bar Association, and the Women's Criminal Defense Bar Association.

Paul J. Unger is a national speaker, writer and thought-leader in the legal technology industry. He is an attorney and founding principal of Affinity Consulting Group, a nationwide consulting company providing legal technology consulting, continuing legal education, and training.

He is the Chair of the ABA Legal Technology Resource Center (2013) (www.lawtechnology.org/), former Chair of ABA TECHSHOW (2011) (www.techshow.com), member of the American Bar Association, Columbus Bar Association, Ohio State Bar Association, Ohio Association for Justice, and Central Ohio Association for Justice. He specializes in trial presentation and litigation technology, document and case management, paperless office strategies, and legal-specific software training for law firms and legal departments throughout the Midwest. Mr. Unger has provided trial presentation consultation for over 400 cases. He is an Adjunct Professor for Capital University Law School's Paralegal Program. In his spare time, he likes to run and restore historic homes.

Heather E. Voorn is a partner with Delaney Delaney & Voorn, Ltd. where she devotes her legal practice to elder law. She graduated with a bachelor's degree from The Florida State University, magna cum laude and earned her J.D. at The John Marshall Law School, where she also graduated magna cum laude. While a student at The John Marshall Law School, Ms. Voorn was on the Law Review and externed for the Honorable Charles R. Norgle of the Northern District of Illinois District Court. She also has been published in the Forum on Public Policy: A Journal of the Oxford Round Table. Ms. Voorn is a Guardian ad Litem (GAL) in Will County. Ms. Voorn is a member of the National Academy of Elder Law Attorneys, the Illinois State Bar Association, the Will County Bar Association, and the South Suburban Bar Association. She currently serves on the Board of Directors for the South Suburban Bar Association and the Illinois Chapter of the National Academy of Elder Law Attorneys. Ms. Voorn received her CELA (Certified Elder Law Attorney) designation by the National Elder Law Foundation in May 2012. Ms. Voorn is also accredited by the Veteran's Administration.

Rory T. Weiler, Weiler & Lengle, P.C., St. Charles, Illinois, is a fellow of the American Academy of Matrimonial Lawyers who concentrates his practice in family law, with an emphasis on cases involving child custody and more complex economic issues. He received his Bachelor of Science in Journalism from Northern Illinois University in 1975, and attended John Marshal Law School, graduating in 1979. While at John Marshall, he was a staff member of the John Marshall Journal of Practice and Procedure. He was admitted to practice in Illinois, and the U.S. District Court (Northern Illinois) in November 1979. Weiler has served as chair of the ISBA Family Law Section Council, and is currently a member of the ISBA Family Law Section Council, where he acts as co-editor of the Section's monthly newsletter. He also is a member of the ISBA Legislation committee.

He has been active in advancing the provision of legal services to the indigent. In 2001, he received the Kane County Bar Association's Pro Bono Award for his service to indigent clients, and in 2005 was awarded the ISBA's John C. McAndrews Pro Bono Service Award. He received the national Legal Services Corporation certificate of appreciation for service to the indigent in 2011. Weiler currently serves on the Illinois Supreme Court's Committee on Character and Fitness and has previously served on the ISBA Assembly.

He has served in local government and on community boards, and spoken to many civic and community groups. He has lectured at seminars sponsored by the Kane County Bar Association, the Illinois Institute for Continuing Legal Education (IICLE), the American Academy of Matrimonial Lawyers, and the Illinois State Bar Association on many family law topics, both substantive and practical, including child custody litigation, analysis and cross examination of psychological experts in custody litigation, financial issues in divorce and trial practice. He has authored numerous articles on family law topics. He has written a book about family law practice, "Divorce Tools and Techniques," which has been published by James Publishing Co., www.jamespublishing.com.

Matthew L. Willens is a personal injury trial attorney and the principal of Willens Law Offices. He is a 1995 graduate of Loyola University Chicago School of Law where he now is an adjunct professor and teaches Advanced Trial Advocacy.

Mr. Willens has a unique understanding of the dynamics and strategies of personal injury and wrongful death cases because he has had experience from both sides of the aisle. Before starting his own firm, he was a partner at Clifford Law Offices where he successfully litigated and tried a wide variety of serious personal injury and wrongful death cases on behalf of plaintiffs. Prior to that, he worked for a major insurance company where he coordinated and managed the strategic direction of million-dollar-plus cases. His knowledge of the defense industry certainly comes in handy when prosecuting personal injury cases for plaintiffs.

Mr. Willens has a Martindale-Hubbell AV Preeminent peer review rating- the highest rating possible in personal injury and medical malpractice. He is recognized as a "Leading Lawyer" in Personal Injury Law and Professional Malpractice - based on a survey of legal peers conducted by the Law Bulletin Publishing Company's Leading Lawyer Network. He has been designated by his peers as an "Illinois Super Lawyer." He has a 10/10 (Superb) Avvo Rating with the highest possible marks in all categories including experience, industry recognition and professional conduct. In 2004, he was named one of the '40 Attorneys Under 40 in Illinois to Watch' by the Law Bulletin Publishing Company. He is a member of the Million Dollar Advocates Forum- where membership is limited to trial attorneys who have obtained million and multi-million dollar verdicts and settlements.

Mr. Willens gives back to the legal profession as well. He writes a monthly column for the Chicago Daily Law Bulletin. In addition, he has authored articles in legal periodicals and has been a regular speaker at legal seminars throughout the country on various topics related to trial advocacy.

Sean Williams is a Quad City native who works with his father at the Law Firm of Williams & Associates, P.C., in Rock Island, Illinois. Sean graduated from The John Marshall Law School in 2010. He has worked for various bankruptcy firms in Illinois and Indiana, as well as a Ch.13 Trustee in the Northern District of Indiana. He has presented at ISBA conferences and local bar association CLE's. In addition to the ISBA, Sean is also a member of the National Association of Consumer Bankruptcy Attorneys. He is admitted to practice in Illinois and Iowa state courts, the Northern and Central Districts of Illinois, and the Northern and Southern Districts of Iowa.

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NOTES

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(Contributing Author for the Illinois Bar Journal*)*
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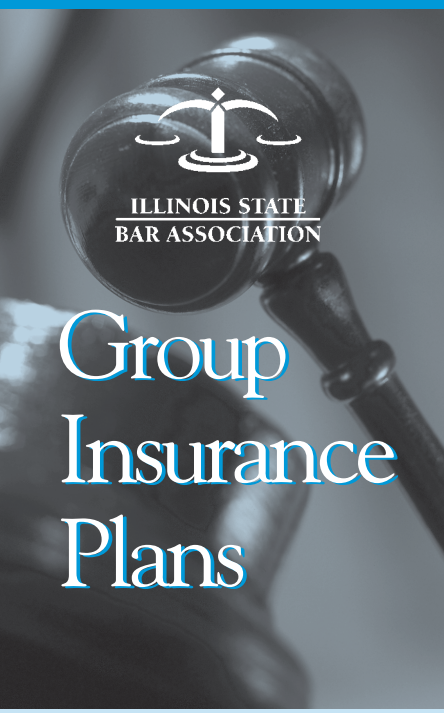

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For more information regarding the Long-Term Care Insurance Plan, please call 1-800-358-3795.

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Underwritten by The United States Life Insurance Company in the City of New York.

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Coverage is available through Assurant Health and underwritten by Time Insurance Company.

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To start shopping, log-in to: https://smartsavings.motivano.com

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Plans may vary and may not be available in all states.

[1] *Genworth Financial Cost of Care Survey 2010*

d/b/a in CA Seabury & Smith Insurance Program Management