

# ILLINOIS LAWYER NOW

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A PUBLICATION OF THE ILLINOIS STATE BAR ASSOCIATION

## ISBA award winners lead in the profession and in the community

The Illinois State Bar Association is proud to honor these five attorneys and one law student for their commitment and service to the profession. They will receive their awards at the Awards Luncheon on Friday, June 17, at the Annual Meeting on the Banks of Lake Geneva.

### Law Student Division Public Service Award

Southern Illinois University School of Law student Angela Rollins isn't a lawyer yet, but she has already accomplished a lifetime of work in legal aid. She worked for three years as administrative secretary at Land of Lincoln Legal Assistance before law school. During her first year at SIU Law, she helped establish an innocence project at the school. As a result of this effort, six law students at SIU are working on innocence project cases in an effort to free wrongfully-convicted individuals.

"I am very honored to received this award. I am passionate about working in public interest, and grateful that I am able to use my knowledge and skills to help others," Rollins said. "As a law student getting ready to begin my career, this award is particularly important to me as it demonstrates my commitment to public interest work. I hope that my dedication to public interest work inspires others in the profession to commit time to pro bono work, as there is a huge need for such work that is unmet."



Rollins

### Young Lawyers of the Year

Emily N. Masalski of Chicago and Joshua D. Herman of Peoria have been named the ISBA Young Lawyers of the Year for 2011. Each year two lawyers are chosen for the award – one from Cook County and one from outside of Cook.

Masalski has been with the Chicago firm Deutsch, Levy & Engel since 2007. She is a litigation associate specializing in environmental law and received her J.D. and Environmental Law Certificate from Pace University School of Law in 2005.

Her ISBA activities include: Assembly member, Environmental Law Section Council, Standing Committee on Women and the Law and Co-Editor of The Catalyst, the newsletter of the Standing Committee on Women & the Law, Illinois Bar Foundation Silver Fellow.

"It is one of the greatest honors to be nominated and recognized by my peers and I am grateful to receive it," Masalski said. "The award came at the right time in my career by giving me a giant boost of encouragement to keep pursuing big dreams. I am blessed to have a very supportive husband, family, work colleagues and friends."

Herman has been an associate with Miller, Hall & Triggs, LLC in Peoria since 2008. He received his Juris Doctor from the University of Illinois in 2008, where he was Order of the Coif.

"I am honored to receive the ISBA's Young Lawyer of the Year Award," Herman said. "I am fortunate to work

6-7

**ISBA briefs: Election results in Board races; renovation of Chicago Regional Office to begin in June.**

12-13

**Don't miss these events at the 135th Annual Meeting on the Banks of Lake Geneva, June 16-18.**

**Capitol Chronicle provides a summary of legislative activity of interest to ISBA members . . . . 5**

**Legal Tech - Attorney Bryan Sims looks at ways to integrate tablets into your law practice . . . . . 9**

**E-filing has been implemented in several counties. Is it about to go statewide? . . . . . 11**

**Photos of new lawyers from bar admission ceremonies . . . . . 14**

**With boomers set to retire, firm succession plans are a must. . . . 16**

**Do majority of trademark applications have a flaw? . . . . 17**

**The latest disciplinary filing from the ARDC . . . . . 22**



Masalski



Herman

with talented lawyers and a dedicated judiciary that have been kind enough to assist with my professional development. This Award is also directly related to the incredible contribution our Young Lawyers Committee has made to our local bar (Peoria County Bar Association) and the broader community. I encourage other young lawyers to become involved in their bar associations to both learn from and contribute back to their communities."

### Matthew Maloney Tradition of Excellence Award

Sycamore attorney Mary F. Petruchius has spent much of her career devoted to zealous advocacy for persons charged with crimes – just like her friend and award namesake, Matthew Maloney.

"I love being a lawyer. I love getting up and going to work every day, and to receive recognition from my peers and colleagues for doing just that is beyond an honor. It just can't get any better than that!" Petruchius



Petruchius

### The Board of Governors Awards, conferred at the Board's May 20 meeting just before press time, will go to:

**John Bailen** of Chicago, for his leadership role in several crucial activities of the Association, including Strategic Marketing, Public Relations, and Judicial Evaluations in Cook County.

**Lisle Stalter**, Waukegan, for her long service to the Environmental Law Section Council as an officer and CLE Coordinator, and serving as a role model to others in that practice field.

**Jeremy Schroeder**, executive director of the Illinois Coalition to Abolish the Death Penalty, for persevering when others would have given up and achieving a long-sought goal of death penalty opponents.

(Continued on page 4)



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## Winners announced in ISBA Board races

The results from the Illinois State Bar Association's election are in and incumbents **Umberto Davi** and **John Nisivaco** have been re-elected to the Board of Governors. **Stephen M. Komie** and **Christopher T. Hurley** picked up the other two Cook County seats. **Jennifer Walsh Hammer** of Springfield was the winner in the Under 37 Downstate race. Uncontested winners were **Shari R. Rhode** of Carbondale for Area 7 and **Frank A. Sommario** of Chicago for Under 37 – Cook.

This election marked the debut of the ISBA's electronic voting system. Members voted via the Internet almost 10-1 over written ballots (Electronic-3,565; Written-379).

Davi is a sole practitioner with Davi and Associates in Western Springs. He concentrates his practice in family law and real estate.

Nisivaco is a partner with Boudreau & Nisivaco, LLC in Chicago. He is a plaintiff's personal injury attorney.

Komie is principal with Komie and Associates in Chicago. He has a trial and appellate practice.

Hurley is a principal with Hurley, McKenna & Mertz in Chicago. He also has a trial and appellate practice.

Walsh Hammer is an associate with Giffin, Winning, Cohen and Bodewes, P.C. in Springfield. She practices in the areas of government law, family law, estate planning, commercial litigation, motorcycle accidents and securities litigation.

**Richard D. Felice** of Wheaton was previously announced as the winner in the uncontested race for 3rd Vice President. He will become president of ISBA in 2014 after serving a year in each of the three vice presidential posts.

Full results from all contested races are available at [IllinoisLawyerNow.com](http://IllinoisLawyerNow.com).♦

### 2011/2012 ISBA Officers

**President:** John G. Locallo, Chicago

**President-elect:** John E. Thies, Urbana

**2nd Vice President:** Paula H. Holderman, Chicago

**3rd Vice President:** Richard D. Felice, Wheaton



Davi



Nisivaco



Komie



Hurley



Hammer

## Renovation of ISBA Chicago office to begin June 27

A renovation and expansion of the Illinois State Bar Association's Chicago Regional Office (CRO) at 20 S. Clark St. is set to begin on June 27 and continue through September, 2011. This will update the space to serve the association's future needs and will include a studio for recording CLE offerings for online viewing and other improvements to enhance CLE programs held at the CRO.

"The CRO design committee is very excited about the enhancement of our Chicago space. We have not made any changes since 1992 and many fixtures and certainly the furniture have become dated," said ISBA 3<sup>rd</sup> Vice President and design committee co-chair Paula H. Holderman. "With the advent of MCLE, the way we use the space has changed as well. Our members will appreciate the improved sight lines and audio-visual performance in the training rooms. We are very much looking forward to a fresh, member-friendly Chicago office."

Due to the fact that all areas of the 9th floor offices of both ISBA and the Illinois Bar Foundation will be affected, the CRO will be unavailable for section and committee meet-

ings and CLE programs between June 27 and the end of September. Groups needing to meet in that time period will be using alternative sites or conference calls.

The decision to stay at 20 S. Clark was made after an exhaustive search and lengthy negotiations aided by the favorable climate for leased space in Chicago.

"We're very excited about this because it's going to provide better meeting space for our sections and committees – both face-to-face and also using the upgraded communications technology to allow for better remote conferencing," said ISBA President-elect and design committee co-chair John G. Locallo. "The CLE classroom will allow for better presentations through improved video and sound quality and also provide state-of-the art recording capabilities for our membership so they can participate in CLEs online and by disc."

The CRO design committee consisting of ISBA Board members and staff has overseen all aspects of the design for the best possible uses of the space.♦

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The ISBA does not provide members' e-mail addresses.

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**(Continued from page 1)**

said. "It is such a privilege to receive this award in memory of Matt Maloney. I will humbly strive to continue Matt's tradition of practicing law and living my life with the same passion, zealous advocacy, and personal service."

Petruchius taught high school in Chicago after graduation from Loyola University. She received her Juris Doctor from the John Marshall Law School in 1989 and got her start as an Assistant Public Defender in Kane and DeKalb counties. She became an expert in the mental health field, representing over 400 people in involuntary commitment and forced medication hearings.

She partnered with Richard Schmack in 2000 to form the general practice firm Schmack and Petruchius and opened her solo practice in 2008. She has been an active member of the ISBA, serving on the ISBA Assembly, Women and the Law Committee, Continuing Legal Education Subcommittee and as an Illinois Bar Foundation Gold Member.

**Community Leadership Award**

Elgin attorney John G. Dalton has been on a 20-year mission to challenge LGBT stereotypes, injustices, prejudices and promote the need for equal protection and civil rights for the LGBT community.

"I have been working for LGBT equality because I grew up at a time when one simply could not be openly gay outside of a gay enclave, and one certainly could not be successful as a trial attorney outside of the closet," Dalton said. "About 20 years ago, I came out, started to lead by example and sought to destroy the old stereotypes. In the years since, I've begun to focus more on improving the climate in our schools, so that the next generation of LGBT youth can enjoy normal teen experiences that were denied me, like Prom, and can be out, safe and respected. This award will make me redouble my efforts to accomplish that. It's time for full equality. We've waited long enough."

Dalton is 1987 graduate of the University of Illinois College of Law. Dalton has been the principal at the Law Offices of John G. Dalton, a small litigation and general practice firm, since 2009.

"John has been a living poster person for the acceptance and tolerance of the LGBT community," said nominator Kerin Kelly. "He doesn't preach, he teaches by example."



**Dalton**

**Austin Fleming Newsletter Award**

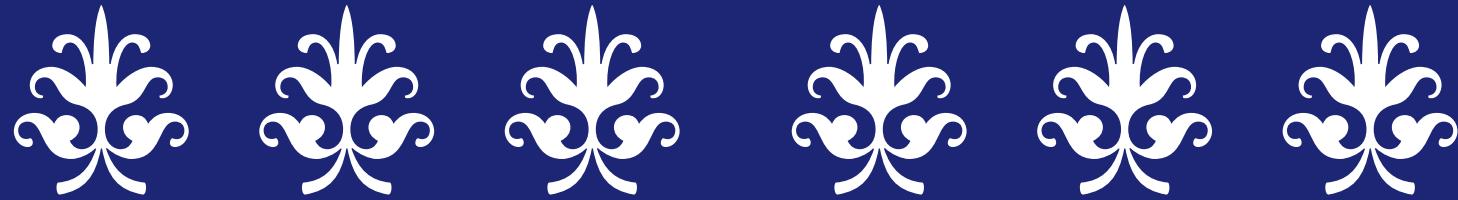
Naperville Central College Professor Thomas Cavenagh has compiled some impressive statistics during his 15 years as editor of "In the Alternative," the newsletter of the ISBA Alternative Dispute Resolution section: 73 newsletters, 760 pages produced. He has consistently published 6 or more newsletters a year and has used the newsletter to explore a wide range of compelling and important issues in and for the ADR and legal communities.

Cavenagh received his B.A. in philosophy and Biblical studies at Trinity College and his J.D. from DePaul University. He has directed North Central College's Dispute Resolution Center since 1993 and was appointed director of the Leadership, Ethics and Values program in 2006.

"I have been a member of the ISBA since my first year in law school. More than any other professional organization to which I belong, I think of the ISBA as my home," Cavenagh said. "Being recognized by the ISBA for service as an editor is, as a result, very meaningful to me. Thank you for this honor."



**Cavenagh**



## *Save the Date!*

The Board of Directors of the IBF invite you to attend a reception  
Honoring the ISBA Immediate Past President,

*Mark D. Hassakis*



Join us on Thursday, July 14 from 5:30 to 7:30 p.m.  
Location to be announced

*For more information, please call the IBF at 312.726.6072 or visit our website at [www.illinoisbarfoundation.org](http://www.illinoisbarfoundation.org)*



# Capitol Chronicle

by Jim Covington

*Director of Legislative Affairs*

The General Assembly's spring session is almost over. This is a snapshot of bills that may be of interest to ISBA members that are still viable. You may see the text and status of any of these bills at the General Assembly's excellent website at [www.ilga.gov/](http://www.ilga.gov/). The status of these bills was current as of press time.



**E-filing in Illinois.** Senate Bill 1746 (Trotter, D-Chicago; Currie, D-Chicago) creates the E-Business Plan to develop and maintain an automated case and statistics management system. The E-Business Plan will include e-filing, e-guilty, e-signatures, and trial court and probation data exchanges. It will be funded by a \$10 fee assessed on all civil litigants and convicted defendants in criminal, traffic, and municipal ordinance cases. In House Judiciary I Committee.

**Transfer on death instrument.** House Bill 1153 (Bradley, D-Marion; Wilhelmi, D-Joliet) creates the Illinois Residential Real Property Transfer on Death Instrument Act. It transfers residential property on the death of the owner. The definition of "residential property" is borrowed from the Disclosure Act and the Mortgage Foreclosure Act. It requires the owner to sign in front of a notary and two credible witnesses. It was modeled after the Uniform Law Commission's uniform act. It is in the House on concurrence. It would be effective Jan. 1, 2012.

**Victims' rights constitutional amendment.** House Joint Resolution Constitutional Amendment 29 (Lang, D-Chicago) gives crime victims a constitutional right to enforce the current constitutional protections already granted to them under Section 8.1. It essentially gives them the standing to do so as party to the criminal proceedings. Awaiting a House vote.

**Maintenance and life insurance.** Senate Bill 1824 (Murphy, R-Palatine; Tracy, R-Quincy) clarifies that courts have the authority to allocate the death benefits and premiums of existing life insurance policies to protect awards of maintenance. Passed the Senate and on third reading in the House.

**Medical records of deceased family members.** Senate Bill 1694 (Wilhelmi, D-Joliet; Brady, R-Bloomington) creates a procedure and statutory form to allow family members to get the medical records of deceased family members without being forced to open an estate. Passed the Senate and is in House Executive Committee.

**Court's witness.** Senate Bill 1759 (Mulroe, D-Chicago; Connelly, R-Naperville) amends the court witness statute of the Illinois Marriage and Dissolution of Marriage Act to clarify how the courts may get and pay for its own "court's witness." It clarifies three things. (1) Professional personnel consulted by the court are subject to subpoena for the purposes of discovery, trial, or both. (2) Requires that the court allocate the costs and fees of those professional personnel between the parties based upon the financial ability of each party and other appropriate criteria. (3) Allows the court to conduct a hearing as to the reasonableness of those fees and costs upon the request of any party or upon the court's own motion. Passed both chambers.

**Juvenile justice reform.** House Bill 83 (Yarbrough, D-Maywood; Collins, D-Chicago) encourages juvenile courts to explore less restrictive alternatives to confinement and make reasonable efforts to keep youth at home. It also will help Illinois recover federal IV-E funds for services for delinquent youth. Passed both chambers.

**Interest on child support.** Senate Bill 1827 (Kotowski, D-Park Ridge; Bradley, D-Marion) removes HFS' obligation to pursue interest on child support because HFS is not required to do so by federal IV-D mandate. Creates a process to register HFS administrative-support orders in court so that parties to these orders can enforce and collect interest that accrues on those obligations. Passed both chambers.

**DNA test for arrestees.** House Bill 3238 (Mendoza, D-Chicago; Raoul, D-Chicago) requires a DNA sample to be given by all registered sex offenders and from arrestees of the most serious violent crimes. The arrestees must give the sample after they are indicted or after a court finds probable cause. The Illinois State Police must expunge a DNA profile upon court order. Passed both chambers.

**Mental health records.** House Bill 2362 (Barickman, R-Pontiac; Frerichs, D-Champaign) amends the Mental Health and Developmental Disabilities Confidentiality Act for release of records for fitness hearings in criminal cases. These records may be disclosed if made within 180-days before the health-care provider is appointed by the court. The records are admissible only as to the issue of the defendant's fitness to stand trial. In the House on concurrence.

**Students, schools, and the courts.** House Bill 192 (Eddy, R-Hutsonville; Righter, R-Mattoon) makes several changes affecting students who are respondents under the Stalking No Contact Order Act, the Civil No Contact Order Act, and the Illinois Domestic Violence Act of 1986. (1) Provides that the court may order that the respondent accept a change of educational placement or program, as determined by the school. (2) The respondent bears the burden of proof by a preponderance of evidence that the educational transfer, change of placement, or change of program of the respondent is not available. The respondent's agreement is irrelevant to whether a remedy is "not available." (3) The respondent must also share the burden for the expense, difficulty, and educational disruption caused by a transfer of the respondent to another school. (4) Provides that the court may make the parents, guardian, or legal custodian of the respondent responsible for costs associated with the respondent's placement under the order. (5) Prohibits a court in the enforcement of an order from holding a school district or private or non-public school or any of its employees in civil or criminal contempt unless the school district or private or non-public school has been allowed to intervene. (6) Allows a court to hold the parents, guardian, or legal custodian of the minor respondent in civil or criminal contempt for a violation of an order for conduct of the minor in violation of the Act if the parents, guardian, or legal custodian directed, encouraged, or assisted the minor in the conduct. On third reading in the Senate after passing the House. ♦

**Jim Covington** is Director of Legislative Affairs for the Illinois State Bar Association. He is a 1976 graduate of Eastern Illinois University and a 1979 graduate of the University of Oklahoma College of Law.

# Locallo ready to rock as ISBA president

**Tax lawyer.**

**More specifically, tax assessment lawyer.**

**Certified Public Accountant.**

**Leader of a garage band.**

It may sound like one of those puzzlers – “which one of these doesn’t belong here?” But for ISBA’s incoming president, John G. Locallo, it’s a comfortable fit.

Locallo, a 1986 graduate of Chicago-Kent College of Law – IIT (LL.M., Taxation in 1992), is litigation attorney and partner at Amari & Locallo, a premier real estate tax assessment firm in Chicago and surrounding counties. That’s his day job. At other times, he participates in bar association activities and, yes, is the leader of a garage band.

“At first, our band practiced in a garage on the Northwest Side. You could say we were singing to the fertilizer and rakes on the wall,” Locallo says. “We worried the neighbors would object, but instead we found the neighbors started stopping by to listen. That planted the seed that we might want to take our show on the road, perform on stage.”

The first opportunity to truly perform in public came this February when the band, named 5-thirty (a sly reference to happy hour), won an audition to perform at Lawyers Rock Legends, a fundraising event put on by the Illinois Bar Foundation. Lawyers Rock, featuring musical acts made up mostly of lawyers, was held at Buddy Guy’s Legends club on Wabash Avenue, just south of the Loop.

“Not bad. First time in public we’re at Buddy Guy’s,” reminisces Locallo.

[A DVD of the evening’s entertainment is available for purchase at [www.illinoisbarfoundation.org](http://www.illinoisbarfoundation.org). Proceeds support the charitable activities of the Foundation.]

In addition to Locallo on guitar and vocals, 5-thirty consists of Tom Battista, Carlos Vera, Matt Hanssel, Scott Parker, and Allen O’Keefe. Drummer Battista is an active ISBA member. Parker, owner of the practice garage, was Locallo’s fraternity brother at the U of I in Champaign (undergrad), and Locallo’s nephew Vera moved from Virginia to Chicago to start law school. “All in all,” Locallo says, “every band member is within two or three degrees of separation from the legal community.”

An interest in music came naturally to John. A sister, Diana, is an opera singer, and as a youngster, he toiled with piano lessons. But playing guitar was a stretch.

“As a kid, I’d go to piano lessons and stare longingly at the guitars on the wall. It wasn’t until seven years ago that I bought my first guitar, more or less on a dare with a friend. I didn’t even know how to tune it.”

Lessons at the Old Town School of Folk Music followed, and eventually the rehearsals in Parker’s garage. What’s next? “We have 15 songs put together and are still building our playlist. We’re about ready to start booking some gigs.”

The law was also a natural fit for Locallo. His father was a policeman (and before that, a pitcher in the Chicago Cubs minor league system). Watching



**Incoming ISBA President John G. Locallo plays the guitar at the Illinois Bar Foundation’s Lawyers Rock Legends fundraising event at Buddy Guy’s Legends in Chicago. Locallo is the leader of 5-thirty, which started out as a garage band – check out the band’s Myspace page at [www.myspace.com/5-thirty](http://www.myspace.com/5-thirty).**

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**As for his theme as ISBA’s 135th president, which begins June 18th at the conclusion of the Annual Meeting, Locallo has found another natural fit – legal technology and law office management.**

older brother Joe, who is a name partner in Amari & Locallo, inspired him to choose law school. While he was in college, John would often stop by the criminal courts to watch Joe, who then was a prosecutor in the Cook County State’s Attorney’s Office.

Once he became a lawyer, John drifted comfortably into bar association activities, first with the Justinian Society (President, 2001) and then the ISBA. “I originally joined bar groups for the networking opportunities, but soon found I liked the camaraderie. It was a chance to get outside the law firm, to get involved with pro bono and delve into interesting issues. Lawyers are neat people. In bar settings, you don’t just sit around talking about law all the time ... you meet some really well-rounded people.”

As for his theme as ISBA's 135th president, which begins June 18th at the conclusion of the Annual Meeting, Locallo has found another natural fit – legal technology and law office management. He will also be looking to connect with members through his LinkedIn ([linkd.in/iHgEkG](http://linkd.in/iHgEkG)) and Twitter (JGLCHI) accounts.

"We're at a critical juncture in the law as more business is flowing to online legal services. It is a must that lawyers provide the most cost-efficient service to their clients."

Over the next 12 months Locallo will be using ISBA's various communication means to assist members in their quest to practice in the most cost-efficient manner. "When the economy turns around, it'll be small businesses that drive it, and that includes small law firms and solos. It's not that the business environment *is* changing, it's *already* changed and lawyers need to keep up."

Being a CPA and having a business background will help Locallo in pushing for greater acceptance by lawyers in using available technology to benefit their practices. It also helps that the message comes from a member of a successful garage band who had never tuned a guitar until seven years ago. ♦

**John Locallo,**  
**Tax Assessment Lawyer.**  
**CPA.**  
**Garage Band Leader.**  
**State Bar President.**



**From garage band to the big stage:** Locallo (far right) and members of his band, 5-thirty (from left), Carlos Vera, Allen O'Keefe, Tom Battista, Matt Hassel and Scott Parker soak in the applause after their performance at Buddy Guy's. "We knew we had pulled it off," he said.



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**\$11.4 Million** when a man died when doctors negligently performed a cervical fusion surgery

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**\$10.1 Million RECORD HIGH JURY VERDICT** for a teenager killed by a Greyhound bus

**\$7.8 Million** for a woman who suffered a severe stroke after a delayed diagnosis of meningitis.

**\$7.65 Million** for a man seriously injured when construction equipment malfunctioned

**\$6.8 Million** for a woman brain damaged after a tracheotomy was negligently managed

**\$6 Million RECORD HIGH JURY VERDICT** for a teenager injured when a truck crashed into her motorcycle

**\$5.8 Million** when a wheel assembly dislodged from a semi-trailer truck

**\$5.5 Million** when a baby suffered permanent brain damage as a result of wrongly administered drug

**\$5.5 Million JURY VERDICT** for a woman killed when her vehicle crashed into an improperly maintained construction area

**\$5.3 Million JURY VERDICT** when a 12 year old died when doctors and nurses negligently managed her airway

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# Is it time to integrate a tablet into your law practice?

by Bryan Sims

Sims Law Firm, Ltd., Naperville

In April, I attended ABA Techshow. Among all of the vendors and presentations, one thing really stood out to me: the number of people carrying a tablet. At some of the sessions I attended, it appeared that 60-70% of the people I saw were using a tablet. Further, the tablet of choice was almost always an iPad.

There is no doubt that tablets are starting to gain traction, both in the general public and in the legal world. News stories have reported that Apple sold almost 15 million iPads in 2010. Since then, the improved iPad 2 has been released. Further, it does not account for the non-iPad tablets that have been sold.

In this column, I will first define what a tablet is. Then I will look at some of the ways a tablet can be used in a law practice. Finally, I will briefly overview the types of tablets currently available.

First, I need to define what I am talking about. The tablets that I am talking about are more accurately called slate tablet computers. These are devices that have a touchscreen, generally lack a physical keyboard, and sometimes have a cellular connection.

Although, these devices are often as powerful as a laptop, they are not typically intended to be full-fledged computers. Instead, the devices are generally intended to be used as adjuncts to your main desktop or laptop. In fact, many people have described these devices as perfect for content consumption, but not particularly well-suited to content creation.

**This means that you probably aren't going to be writing your brief on your tablet.** However, that doesn't mean that you can't use it in the practice of law. For example, as noted above, the devices are good for consuming media. This means tablets are useful for legal research. For example, Fastcase, Westlaw, and Lexis all make apps for the iPad. Additionally, if you save your legal research as PDFs you can easily review and annotate them on your tablet.

Similarly, if you save your case documents as PDFs, you can take them with you on your tablet. This means you can easily review and annotate the documents without having to carry them with you.

Further, there have been several reports of attorneys using tablets at trial. For example there are specific apps for picking a jury. Additionally, you can take notes, give presentations, browse the internet, and use mind-mapping programs.

In fact, in reviewing the variety of apps that are available, it appears that, if you want, you can do with a tablet almost anything you can do with a standard laptop or desktop. It's just that with the tablet you



**Apple sold almost 15 million iPads in 2010 - before the debut of the iPad 2.**

can do it with a device that boots up in mere seconds, rather than minutes. Also, the device is a fraction of the size and weight of a laptop. To further increase this capability, you can add a keyboard, usually via Bluetooth, to most of the devices.

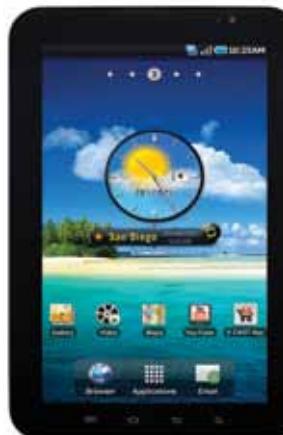
**If you are considering a tablet, the next logical question is which tablet to go with.** The popular choice in this regard is the Apple iPad. Apple has sold millions of these devices. Further, Apple has a large app store with tens of thousands of apps.

Also, because of the popularity of the iPad, a plethora of cases, stylus, and other accessories are available. This does not mean the iPad is perfect, however. The chief criticism seems to be that it does not support Flash. The other criticisms seem to revolve around the way in which the Apple locks down its devices, requires you to use iTunes, and imposes strict controls over the apps available in its App Store.

In addition to the iPad, there are also Android devices available. These devices, such as the Motorola Xoom, the Samsung Galaxy Tab, and the LG G-Slate feature the Android operating system and integration with Google.

Like the Android phones, these tablets give you access to the Android Market. Unlike Apple, Google does not impose as strict controls over the apps available in its marketplace. Further, the Android devices generally support Flash natively.

There are some people who want their tablet to be more like their computer. If that describes you, a Windows 7 Slate may be the right choice. For example, the ExoPC gives you the full functionality of Windows 7 in a tablet. This means that any program you can run on your desktop or laptop, you can also run on your tablet.



**The Samsung Galaxy is one of a number of tablets running on Google's Android operating system.**

The benefit of this, of course, is that you do not need to learn a new operating system. Further, you don't need to learn new programs, or to use alternative programs to do the same thing that you would normally do with your PC.

The real downside to the Windows 7 devices is that the operating system is not optimized for use on a touchscreen device. This means that generally there is an additional software layer installed onto the operating system. Despite this, the systems generally work well.

The newest tablet to hit the market is Research In Motion's BlackBerry PlayBook. Although slightly smaller than tablets such as the iPad or the Xoom, the PlayBook is receiving good reviews for its screen and the responsiveness of its operating system.

The real downside to the PlayBook is that the BlackBerry App World is not nearly as robust as the iTunes App Store, the Android Market, or the programs available for Windows 7. Admittedly, this may change in the future, however, just be aware of this fact if you are considering the Playbook.



**Research in Motion's BlackBerry PlayBook is the latest tablet to enter the field and is receiving positive initial reviews.**

Given the openness of the Android system as well as Windows 7, the number of tablet devices can be overwhelming. If you are considering purchasing one, I suggest visiting a retail store to browse the devices available. This allows you to see if the device you are considering is the right size for you, whether you are comfortable with the weight, and whether it works the way that you want.

Also, if you want to make sure that the apps you want are available on the devices you are considering, you can review the available apps without having to purchase a device. For example, you can browse the iPad apps via iTunes. You can review the Android apps on the web at <http://market.android.com/>. Similarly, the apps available for BlackBerry Playbook can be viewed on the web at <http://us.blackberry.com/apps-software/>.

A friend of mine likes to say that it's good to live in the future. When I look at the number of tablets now available, as well as the capabilities of those devices, I could not agree more. ♦

# From where are the IP winds blowing?

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## KEYNOTE SPEAKER

**Honorable David J. Kappos**

Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office

## Cook County ready to expand e-filing – is the state next?

Filing a variety of lawsuits and motions from the comfort of your office – or home on a laptop – is becoming closer to a reality if you practice in Cook County. Circuit Clerk Dorothy Brown is ready to expand e-filing from a pilot project for the Law Division's individual commercial calendar to the rest of the Law Division. The clerk's office is just waiting for the go ahead from Chief Judge Timothy C. Evans and the Administrative Office of Illinois Courts. Online tutorials are available now at the Clerk's website: [cookcountyclerkofcourt.org](http://cookcountyclerkofcourt.org).

Cook County isn't the only court system waiting. Nine other Illinois counties have e-business projects (the Illinois Supreme Court defines e-business as e-document imaging, e-filing, e-pleas of guilty and e-warrants) approved by the Illinois Supreme Court; and 12 others have projects or requested projects that have not been approved (see map at right).

The Illinois Legislature is considering a state-wide fix. Chief Justice Thomas Kilbride has identified e-filing as his greatest priority. But he has acknowl-

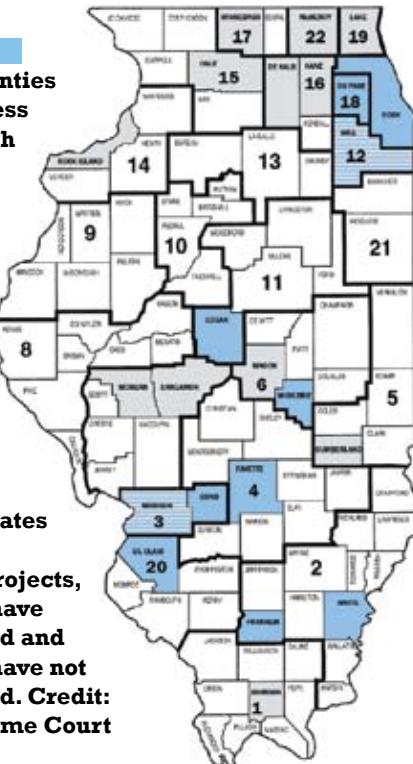
edged hurdles in cost and compatibility between counties that already have systems in place. Senate Bill 1746 appears aimed at solving those issues. The bill creates the E-Business Plan to develop and maintain an automated case and statistics management system – funded by a \$10 fee assessed on all civil litigants and convicted defendants.

That differs from the Cook County charge – \$4.95 plus 4 percent of the total filing fee. Lawyers can use a personal or firm credit card to pay the fee. Those fees have been a bone of contention for attorneys – the federal court system launched mandatory e-filing in most cases in 2005 and didn't raise filing fees. But in a cash-strapped state like Illinois that isn't likely to be an option.

Attorneys also receive an email notification anytime a motion or change is made in a case – something lawyers are sure to like.

Clerk Brown and Chief Justice Kilbride clearly see e-filing as the future. Only time will tell how long until it becomes the present for all of Illinois' 102 counties. ♦

**State map**  
**legend:** blue indicates counties with E-Business Projects which have been approved.  
gray indicates counties with E-Business Projects which have not been approved.  
striped graphic indicates counties with E-Business Projects, some which have been approved and some which have not been approved. Credit: Illinois Supreme Court



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ILLINOIS STATE BAR ASSOCIATION  
135th Annual Meeting  
*On the Banks of Lake Geneva*  
JUNE 16-18, 2011

The Abbey Resort & Fontana, Wisconsin



This summer the ISBA returns to *The Lake*, where the leaders of our Association gather in celebration of our accomplishments over the past bar year and sail forward with new plans for the year ahead. In this relaxed collegial atmosphere, memories are made and friendships renewed. So make plans now to bring the whole family and join us for the **ISBA's 135th Annual Meeting On the Banks of Lake Geneva!**



*Mark D. Hassakis*

Mark D. Hassakis, President



*John G. Locallo*

John G. Locallo, President-Elect

*See You at the Lake this Summer!*

## ◎ Schedule of Programs & Events ◎

**Thursday, June 16<sup>th</sup>**

**Section/Committee Business Meetings 3:00 - 5:00 p.m.**

(Held throughout the day) Check on-site program for listings.

**Opening Reception & Family Night 5:30 - 7:00 p.m.**

Activities for children include super slide, moon walk, obstacle course, airbrush tattoo artist, and much more. Reception sponsored by ISBA Mutual Insurance Company

**"Who Me? A Law School Professor?" 6:30 - 7:30 p.m.**

This program will address reasons to become a law professor and explain the hiring process. There will be handouts and time for one-on-one questions, as well as a group presentation. This program is designed to encourage diversity among law professors. Presented by Southern Illinois University School of Law

**Friday, June 17<sup>th</sup>**

**Breakfast Symposium - "Are You Maximizing the Benefits from Your Professional Network?" 7:30 - 9:30 a.m.**

Join us for this presentation which will focus on social media as a tool to help you stay in touch with other attorneys, past and present clients, find new clients, and have questions answered by attorneys willing to share their expertise in your field of law.

Sponsored by ISBA Standing Committee on Law Office Management & Economics

**CLE PROGRAM - "Legal Writing: Improve Your Ultimate Work Product" 9:00 a.m. - 11:45 p.m.**

**Day Camp for Kids - Complimentary 9:00 a.m. - 4:00 p.m.**

With plenty of fun things to do (lunch included), kids love it! Sign them up no later than Monday, June 6th. For children ages 4-14. Sorry, no exceptions for children under 4. Sponsored by the Illinois State Bar Association

**Section/Committee Business Meetings 9:30 a.m. - 6:00 p.m.**

(Held throughout the day) Check on-site program for listings.

**Awards Luncheon 11:45 a.m. - 2:00 p.m.**

The ISBA will recognize members and others who have made a significant contribution to the Association, the profession or their communities. Awards to be presented include: Board of Governors, Publications, Matthew Maloney General Practice Tradition of Excellence, and the YLD/Law Student Division Public Service, Young Lawyer of the Year, and Community Leadership.

**CLE PROGRAM - "Conducting Legal Research on FastCase" 2:00. - 3:00 p.m.**

**CLE PROGRAM - "A Roadmap to the Illinois Civil Union Act" 2:00 - 4:15 p.m.**

**CLE PROGRAM - "Advanced Legal Research on FastCase" 3:15 - 4:15 p.m.**

**Hospitality Room for Kids 6:00 - 10:30 p.m.**

An evening of entertainment for the kids including interactive DJ entertainment, live game show and movie time (pre-teen and teen.) Includes dinner and refreshments.

**Annual Dinner and President's Installation**

**6:45 p.m. - Reception (Sponsored by The Abbey) 7:30 p.m. - Dinner**

Join us at this special evening to honor President Mark D. Hassakis and welcome John G. Locallo, President for 2011-12. Following a brief program and dinner, you'll enjoy dancing and listening to the Ken Arlen Orchestra. All seating assigned in advance, tables of ten; special seating requests should be made in advance. *Black tie requested.*

**Saturday, June 18<sup>th</sup>**

**16th Annual Networking Breakfast 8:00 - 9:30 a.m.**

All women attorneys and judges invited. This popular annual event gives you a chance to network with your peers. Sponsored by ISBA Standing Committees on Racial & Ethnic Minorities and the Women & the Law, and Southern Illinois University School of Law

**Breakfast for Families 8:00 - 10:00 a.m.**

Start your day with other ISBA families. Breakfast will be provided on the lawn.

**ISBA Assembly Meeting 9:00 a.m.**

The 201-member Assembly policy-making body of the Association meets. Open to members and the public.

**Section/Committee Business Meeting 9:30 - 11:30 a.m. (Held throughout the morning)**

Check on-site program for listings.

## Earn CLE Credit at the Annual Meeting

**Conducting Legal Research on FastCase**

**Advanced Legal Research on FastCase**

Complimentary and Exclusively for ISBA Members

**1.0 hours MCLE credit, including 1.0 hours PMCLE credit per program**

The ISBA and ISBA Mutual Insurance Company are proud to provide ISBA members with absolutely free online legal research through Fastcase! Take advantage of this opportunity to familiarize yourself with Fastcase through our legal research training seminars. Our Fastcase representative, Christina Steinbrecker, will give you step-by-step instructions on how to use Fastcase for your legal researching needs. Other 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]

Presenter: Christina L. Steinbrecker, Bar Relations Manager, Fastcase, Washington, D.C.

**Legal Writing: Improve Your Ultimate Work Product**

Presented by the Illinois State Bar Association

**2.5 hours MCLE credit, including 2.5\* hours PMCLE credit (\*subject to approval)**

Although lawyers write for a living – producing more copy than most journalists – not all lawyers appreciate what an advantage it is to write clearly and persuasively. Attend this seminar for a comprehensive overview of the legal-writing process and get the tools you need to develop strong writing skills. Topics include recognizing common problems, quick fixes to those problems that emphasize clarity and readability, and much more. This seminar is taught by Jim Covington, ISBA's Director of Legislative Affairs, who believes that lobbying by paper is paramount to persuading legislators in the state Capitol. He has represented ISBA in the state Capitol for more than 15 years, staffed the Illinois Senate Judiciary Committee, and practiced law in downstate Illinois. His devotion to the study of legal writing has placed him in a position of respect because of his carefully drafted one-page position papers written on behalf of ISBA on matters of public policy.

Presenter: Jim Covington (Illinois State Bar Association, Springfield)

**A Roadmap to the Illinois Civil Union Act**

Presented by ISBA Standing Committee on Sexual Orientation & Gender Identity and Co-Sponsored by the ISBA Family Law Section

**2 hours MCLE credit**

Join us for an overview of the new Illinois Religious Freedom Protection and Civil Union Act, which takes effect June 1<sup>st</sup> this year. Topics include the law's structure and purpose; formation of civil unions, their recognition while intact, and their dissolution; the rights, interests, benefits and burdens to spouses under the Act; and various special considerations including the Defense of Marriage Act (DOMA) and its limitations on the new law; parentage under the Act; and federal and state law conflicts. Judge Nancy Katz, a long-standing domestic relations judge, will also provide her perspectives on the impact this new law may or may not have on the process and procedure applicable in domestic relations proceedings. Lawyers from all practice settings will benefit from attending this program, including family law, trusts and estates, business advice and financial planning, elder law, employee benefits, federal tax, general practice and more.

Presenters: Honorable Nancy Katz (Circuit Court of Cook County, Chicago), Raymond W. Prather (Prather Ebner LLP, Chicago), Jennifer A. Shaw (Jennifer A. Shaw PC, Edwardsville), Richard A. Wilson (Grund & Leavitt, Chicago)

## ◎ Meeting & Hotel Reservations ◎

**Annual Meeting Registration Fee.** The registration fee for the Annual Meeting is \$70 per ISBA member and \$30 per spouse/guest. The registration fee must be paid by anyone participating in Annual Meeting functions. **Registration is online only.** Deadline for advance registration is June 6<sup>th</sup>.

**Accommodations.** The Headquarters Hotel for the ISBA Annual Meeting is The Abbey Resort & Spa (269 Fontana Blvd., Fontana, WI 53125; [www.theabbeyresort.com](http://www.theabbeyresort.com)). At this time, the room block for both The Abbey Resort and the ISBA's lodging alternative, The Timber Ridge Lodge, have been sold out. If you are still in need of a room, please visit the Lake Geneva Area Convention & Visitors Bureau website [[www.lakegenewawi.com](http://www.lakegenewawi.com)] for other hotel accommodations in the area.

**On ticketed functions, CLE program registration and fees, refunds and purchasing / ticket pick-up, visit [www.isab.org/annual](http://www.isab.org/annual)**

## Over 600 new Illinois lawyers admitted to the bar



**1<sup>st</sup> District:** New admittee August Appleton and his father, Illinois Appellate Justice Thomas R. Appleton, who presented the motion for admission on behalf of the class at the 1<sup>st</sup> District Admission Ceremony in Chicago.

**More than 600 new attorneys were admitted to practice in Illinois on Thursday, May 5 with Justices of the Illinois Supreme Court and Illinois Appellate Court administering the attorney's oath at five separate locations. The 628 new admittees bring the total number of licensed Illinois attorneys to over 89,000.**



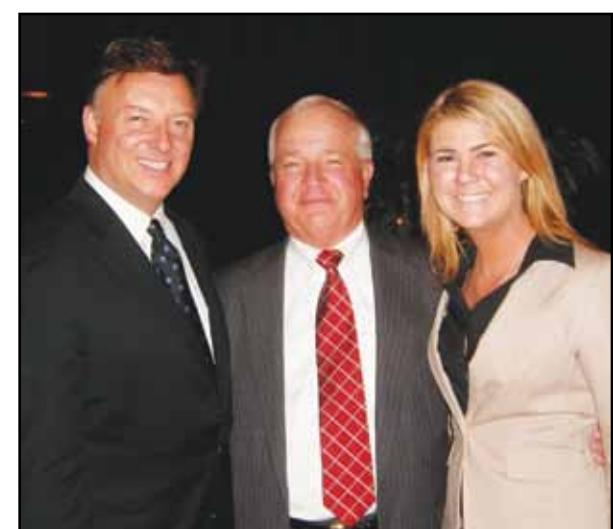
**2<sup>nd</sup> District:** ISBA 2nd Vice President John E. Thies with new admittee Angelina Clarke Smith of Naperville at the 2<sup>nd</sup> District Admission Ceremony in Elgin.



**3<sup>rd</sup> District:** New admittee Caitlin O'Connor of Moline, ISBA President Mark D. Hassakis and new admittee Matthew Van Hise of Peoria at the 3<sup>rd</sup> District Admission Ceremony in Ottawa.



**4<sup>th</sup> District:** New admittee Amelia S. Buragas of Wisconsin with Illinois Supreme Court Justice Rita Garman and ISBA member and admission ceremony speaker David V. Dorris at the 4<sup>th</sup> District Admission Ceremony in Springfield.



**5<sup>th</sup> District:** Two of the admission speakers, ISBA President-Elect John G. Locallo (left) and Gordon R. Broom (center), visit with new admittee Jennifer Hoffman at the 5<sup>th</sup> District Ceremony in Collinsville.

### New Admittee MCLE Requirements and Deadlines

	Admitted to Practice in November 2008	Admitted to Practice in May 2009	Admitted to Practice in November 2009	Admitted to Practice in May 2010	Admitted to Practice in November 2010	Admitted to Practice in May 2011
<b>Basic Skills Requirement must be completed by:</b>	November 30, 2009	May 31, 2010	November 30, 2010	May 31, 2011	November 30, 2011	May 31, 2012
Certify Compliance to Supreme Court MCLE Board by:	December 31, 2009	July 1, 2010	December 31, 2010	July 1, 2011	December 31, 2011	July 1, 2012
General MCLE Carry Over Hours Possible To Earn (between Basic Skills compliance and the first day of your first reporting period) ( <i>Supt. Ct. Rule 794(c)(2)</i> )	10 Hours	10 Hour	10 Hours	10 Hours	10 Hours	10 Hours
First MCLE reporting period for last names beginning with A – M: (30 hours)	July 1, 2010 – June 30, 2012	July 1, 2010 – June 30, 2012	July 1, 2012 – June 30, 2014	July 1, 2012 – June 30, 2014	July 1, 2012 – June 30, 2014	July 1, 2012 – June 30, 2014
First MCLE reporting period for last names beginning with N – Z: (30 hours unless noted.)	July 1, 2011 – June 30, 2013	July 1, 2011 – June 30, 2013	July 1, 2011 – June 30, 2013	July 1, 2011 – June 30, 2013	July 1, 2013 – June 30, 2015	July 1, 2013 – June 30, 2015

To find out more about MCLE requirements, visit the MCLE Board website at [www.MCLEBoard.org](http://www.MCLEBoard.org), email the Board at [MCLE@MCLEboard.org](mailto:MCLE@MCLEboard.org), or read the Illinois Supreme Court MCLE Board Basic Skills information sheet at <http://www.mcleboard.org/PDF/Basic%20Skills%20Course%20Notice.pdf>.

## Looking back...

by Robert D. Fink

2010-11 Chair of the Young Lawyers Division

**A**s I write this, I look back fondly and with great pride on the bar year. I am especially proud that we kept our promise of rededicating ourselves to supporting the YLD Mission Statement of providing member benefits to all young lawyers in the ISBA and in our state.

I am also proud that, in the spirit of continuing the YLD'S long history of giving, we created a permanent Public Service Subcommittee. We recognize that there is a great need for giving back to our communities and restoring faith and a positive public image of lawyers and our justice system.

This past year the YLD provided even more member benefits with an emphasis on promoting social, networking, and professional growth opportunities. The YLD went to Alpine Valley for its first ever ski trip and meeting. We hosted a Day at the Races and the YLD Bean Bag Tournament. The Annual Holiday Party was one of the most successful events in our history, netting almost \$16,000 for the Children's Assistance Fund. The Summer Soiree was re-envisioned and was a monster success.

Despite these hard economic times, the YLD'S dedication to raising funds to support the Children's Assistance Fund is undiminished. I am pleased to report that this year we raised a net amount of almost \$30,000 for the fund. Thanks to our dedicated members and generous supporters of our council, with the assistance of the Grant Requests Subcommittee, chaired by Heather Fritsch, we awarded \$24,700 in grants to multiple deserving organizations.

Our council had a very busy and productive year. We could not have done it without the support of all of our council members, the ISBA Officers, Board of Governors, the Illinois Bar Foundation and so many others. In addition, I must give special appreciation to Janet Sosin, our Staff Liaison. Without her,

the council could not do the wonderful things that we have done.

I especially want to thank my Executive Board, Vice-Chair Heather Fritsch and Secretary Meghan O'Brien. Together, we made a great team. I have made lifelong friends through the YLD and enjoyed wonderful experiences in my years on the council. I leave knowing that the Young Lawyers Division will be in the best of hands. It truly has been an honor to lead this amazing group of young, dedicated and selfless attorneys. I am so proud of our council and wish it continued success in the years to come. ♦



The ISBA Young Lawyers Division raised almost \$30,000 in 2010 for the Children's Assistance Fund.

## Looking forward...

by Heather M. Fritsch

2011-12 Chair of the Young Lawyers Division

**L**ooking forward to the 2011-2012 year, I can't help but reminisce about the six years that I have been on the YLD council. It seems odd for me to look back in order to look forward, but a Chinese proverb states my thoughts perfectly: "Consider the past and you shall know the future." Or, in other words: if it ain't broke, don't try to fix it.

YLD is a strong council with a successful history that should be honored and remembered when planning our upcoming year. In 2011-12 we will be reaching out to past chairs and active members of YLD in an effort to bridge the gap between former and current YLDers. We hope to accomplish this through a new subcommittee chaired by past YLD Chair, Gregg Garofalo.

I am also excited to announce that we will be bringing back the YLD Golf Outing this summer. The Golf Outing Co-Chairs, George Schoenbeck, Brett Swanson and Gerald Napleton, have been diligently working for months and it will be an event you do not want to miss!

Speaking of YLD traditions, mark your calendars now for the YLD's Annual Holiday Party which is scheduled for December 2, 2011. We will also continue with Day At The Races this summer, our Annual Bean Bag Tournament in late winter and our end-of-the-bar-year-celebration, the Summer Soiree.

In addition to these great events, the council will continue to encourage other young lawyers to get more involved in the ISBA through our events, newsletter and seminars geared towards young lawyers and their specific needs. We will also remain dedicated to raising funds for the Children's Assistance Fund. Although YLD does have a reputation for being a group of young lawyers who have a lot of fun at our events and meetings (which is true), it is also true that we have a long-standing tradition of raising substantial funds for the Children's Assistance Fund. We also traditionally volunteer our time for a number of great causes each year.

Margaret Mead said: "Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has." YLD has shown me the truth of this statement. I am honored to be the 2011-12 Chair of the Young Lawyers Division. ♦

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# Best Practice: Law firm succession/exit strategies

by John W. Olmstead, MBA, Ph.D, CMC

**L**aw firm succession and exit planning is one of the hottest management challenges facing attorneys, whether they are partners in a law firm, a sole owner of a firm comprised of other employed attorneys and staff members or a solo practicing attorney.

Many firms are in “**reactionary mode**” and have not adequately prepared for transition of firm leadership and client relationships. **A firm’s very survival may very well depend upon the quality of its succession/exit plan.**

Failure to proactively manage succession and plan for the exit of senior attorneys often results in:

- Loss of senior legal talent and leadership
- Loss of key clients
- Unfunded retirement for partners/owner
- Failure to protect family wealth in the event of unexpected life changing events
- Failure to protect partners, employees and clients from unexpected life changing events
- Defections and firm breakups caused by younger lawyers unwilling to finance departing partner buy-outs from future earnings
- Turning out the lights and closing the door with little or no compensation for the goodwill of the practice

## The Demographics - Unprecedented Number of Successions

The pending retirement of the baby boomer generation and the unrelenting challenge of finding and keeping talented staff can have grave consequences for law firms that fail to develop a succession strategy.

Many small and midsize law firms are setting up formal succession plans for the simple reason that their founding partners are nearing retirement age. The founders want to ensure that their firms:

- Have the leadership and management in place to continue on to the next generation
- Are able to retain existing client and referral relationships and sources of business and revenue for the firm
- Are willing and able to finance their buyouts

## Succession/Exit Strategies

Succession is not limited to a single course of action. It involves evaluating different aspects of the firm and identifying systems, processes and policies that need improvement in order to position your firm or practice succession regardless of your exit strategy. Options for succession typically include:

- Selling or merging the firm or practice
- Internal transition
- Practice continuation with other firms
- Turning out the lights and closing the practice

## The Challenges

### Multi-owner Firms

The ABA and other industry sources estimate that less than one-third of multi-owner law firms have succession plans. While more and more firms are aware of the need to plan, many are yet to accomplish the goal.

Typically law firms that have succession/exit plans have in place executed partnership agreements, buy-sell agreements, and other documents that govern how the retirement or withdrawal of a partner is handled.

Since the firm must not only replace a partner’s legal skills but also must transition leadership and management skills as well as client relationships - discussions related to retirement should occur sooner rather than later. Effective transitions take time and commencement and implementation should be on a five year timeline. Questions that should be addressed are:

- Life events that will trigger partner withdrawal and methods for handing each
- Should there be a mandatory retirement age
- At what age can a partner voluntary commence a wind-down program
- Funded retirement plan
- Mechanics of a wind-down program
- Management and leadership transition plan
- Client transition plan
- Of-Counsel arrangement after wind-down or retirement
- Payment for ownership interest – buy-ins and buy-outs

### Sole Owner & Solo Practices

Sole-owner firms and solo practitioners have an even more dismal record concerning succession/exit planning. While many of the issues are similar to those faced by multi-owner firms, sole owners and solo practitioners must also face the following additional challenges:

- Identifying another attorney in the firm to move into a partnership position
- Locating colleagues to sell the practice (Check ethics guidelines in your state)
- Locating merger candidates (Check ethics guidelines in your state)
- Effecting the sale or merger of the practice (Check ethics guidelines in your state)
- Proper wind-down of the practice if the practitioner decides to simply “close the doors” (employees, client files, etc.) (Check ethics guidelines in your state)

As with multi-owner firms, the key is to start early and not wait until the last minute. We suggest that you put in place your succession/exit plan as soon as possible – not just for retirement but for unexpected situations as well – so that your family, employees and clients are not left in the dark if something should happen to you.

## Ideas for Getting Started

### Multi-owner Firms

**Idea No. 1:** Stop giving succession lip service, if you are serious – put in place organizational systems that will facilitate the process.

**Idea No. 2:** Put in place a firm strategic plan that incorporates a succession plan.

**Idea No. 3:** Host a partner brainstorming retreat to address key questions surrounding your firm’s plan and identify a course of action that will be supported by all.

**Idea No. 4:** Consider buy-out plans that are not funded with future earnings and are fully paid by the end of the wind-down or transition period.

**Idea No. 5:** Urge partners to think about and plan for retirement. They should start early and start on a wind-down program at least five years before they are ready to retire or exit. Each partner should decide when they want to exit the practice and begin a disciplined phase-down (wind-down) in which legal skills, leadership and management, and client relationships are transitioned to the next generation of attorneys in the firm.

### Sole Owner & Solo Practices

**Idea No. 1:** Decide when you want to retire and leave your firm.

**Idea No. 2:** Determine how much cash or annual cash flow you need when you exit the firm.

**Idea No. 3:** Based on future cash flow, ascertain how much the firm is worth today – value the practice.

**Idea No. 4:** Begin implementing management strategies that will maximize the future value of the firm – before you exit and afterward.

**Idea No. 5:** Draft and implement a succession/exit plan and implement same. Ensure that it incorporates safeguards for your clients, employees, and family if the unexpected happens to you.

**Idea No. 6:** Take steps to protect your family’s wealth.

**Idea No. 7:** To exit successfully you need:

**A plan** – a roadmap that outlines the process and helps you decide on where you want to go and how you will get there.

**Timeline** – a disciplined implementation timetable keyed to your Exit Plan.

**Start Early** – Getting ready for exit takes time. Start early – 5-8 years before you are ready to retire or exit.

**Decide** – When do you want to leave the practice?

**Decide** – How much cash you will need when you exit?

**Decide** – To whom you want to transfer the practice.

Good luck on your journey! ♦

John W. Olmstead, MBA, Ph.D, CMC, ([www.olmsteadassoc.com](http://www.olmsteadassoc.com)) is a past chair and member of the ISBA Standing Committee on Law Office Management and Economics. Contact John at [jolmstead@olmsteadassoc.com](mailto:jolmstead@olmsteadassoc.com).

## Do majority of trademark applications have “bona fide” flaw?

by James Michael Faier, M.P.P., M.B.A., J.D.

**M**ore than 60% of the trademark applications filed in the United States Patent and Trademark Office (USPTO) may have a fatal flaw. A federal trademark applicant must either prove use of his trademark or declare a “bona fide” intention to use his trademark in his application at the time of filing. This bona fide requirement is for Intent to Use (§1b) and foreign registration (§44) applicants. “Bona fide” requires documentary evidence of intent says the USPTO’s Trademark Trial and Appeal Board (TTAB).

In the case of *Honda Motor Co., Ltd. v. Friedrich Winkelmann*, 2009 WL 962810, 90 U.S.P.Q.2d 1660 (TTAB 08 April 2009) (Opposition No. 91170552), Honda opposed Winkelmann’s application to register “V.I.C.” for vehicles and parts there for. Honda won on a Motion for Summary Judgment. Winkelmann claimed both §1b and §44 filing bases. Honda argued that as a matter of law Winkelmann’s application was void from its start because applicant lacked a bona fide intent to use when he filed his application.

Honda buttressed its argument with discovery responses from Winkelmann. Honda asked Winkelmann for his business plans, strategies, arrangements, methods used by applicant in connection with the use of, or intent to use, the mark for the identified goods. Honda also asked for the channels to be exploited. Winkelmann responded that he had no activities in the U.S. and he had not produced the requested materials for the U.S. market. Asked for documents to evidence an intent to use, Winkelmann responded “Not Applicable.” Winkelmann contended evidence of its bona fide intent to use the mark in the U.S. is found in its use of the mark in Europe and through the trademark applications and trademark registrations it owned in other countries. Winkelmann provided to Honda printouts from his website in German and provided copies of his German, European, and International (WIPO) registrations.

The TTAB held that while the evidence necessary to support bona fide intent to use may differ from case to case, the evidence provided by Winkelmann of foreign registrations and Internet printouts “did not demonstrate trademark use for the claimed goods.” *Id.* at 4. The Board noted that as a general rule the fact question of intent is badly suited for resolution through a Motion for Summary Judgment. *Id.* at 2. The Board wrote, “absence of any documentary evidence regarding an applicant’s bona fide intention to use a mark in commerce is sufficient to prove that an applicant lacks such intention as required by Section 1(b) of the Trademark Act.”

The Board held that the documents did not show that the applicant had an intent to use the mark in the United States. The Board noted that the website printouts were not translated into English and the images on the website related to car care packages and neither vehicles nor other goods recited in the application. The Board held that the materials presented were insufficient to create a genuine issue of material fact sufficient to defeat the Motion for Summary Judgment. *Id.* at 4.

According to the USPTO Trademark Electronic Search System (TESS), applicants filed 4,473,873 applications from 1990 to 2011. Of those applications, only 1,750,096 applications claimed that the marks in the applications were in use (§1a of the Act) when the application was filed. In the other 2.7 million cases, the applicant (basing his application on §1b Intent to Use, §44e Foreign Registration, or, more recently, §66a Madrid Protocol) declared that he had a bona

(3) documents applicant intends to use to promote, advertise, publicize, offer to sell and / or sell in connection with the mark.

In addition to the §1(b) filing basis, Winkelmann claimed foreign registration basis under Section 44 of the federal trademark act. The Board noted that when an applicant files an application based on §44, the applicant must verify in writing that has a bona fide intent to use the mark in U.S. commerce. When that bona fide intent under §44 is questioned, the Board “uses the same objective, good-faith analysis” that it applies in a bona fide intent question in a §1(b) matter. *Id.* at 2.

The Board appears to point to the importance of evidence in the record of an existing business that provides the goods or markets the service listed in the application. In a footnote in the Winkelmann decision, the Board cited to *Lane Ltd. v. Jackson International Trading Co.*, 33 U.S.P.Q.2d 1351, (TTAB 1994). In *Lane*, the Board found bona fide intent to use the mark SMUGGLER for tobacco where applicant’s principal had been engaged in the tobacco marketing business under a prior registration for the SMUGGLER mark. The Board found that applicant’s efforts to obtain a licensee for the new SMUGGLER mark was consistent and supportive of applicant’s claimed bona fide intention to use the mark in commerce. *Id.* at 5.

The decision in *Winkelmann* raises the bar for what a business person must do in anticipation of filing to register a trademark. Prior to 1989, a trademark owner had to have actual use in commerce to register his or her mark in the United States. The 1989 amendments to the Lanham Trademark Act were much a result of global marketers who were tired of investing in brand development only to find that a competitor brought a product to market first and adopted a mark confusingly similar to the mark that the global marketer wanted to adopt. The Intent to Use provisions enabled marketers to develop lists of potential marks, file to register them, and then embark on testing to whittle them down. The U.S. continued to be a country that required actual use as the basis for registering a trademark. Most countries around the world do not require evidence of use prior to registration. The open question raised by the *Winkelmann* decision is whether there is much benefit to be had from the Intent to Use provisions if one must make a large planning investment prior to filing an Intent to Use application. ♦

**"The decision in  
Winkelmann raises  
the bar for what a  
business person must  
do in anticipation of  
filing to register a  
trademark."**

fide intention to use the mark. In light of the *Honda* decision, an applicant would be well served to have a business plan and other documentation in his or her files at the moment the application is filed. Although this case does not provide information on the point, an applicant that files an application without a bona fide intention to use the mark may not cure that failure by actions at a later time since the statute requires intention to use at the time of filing.

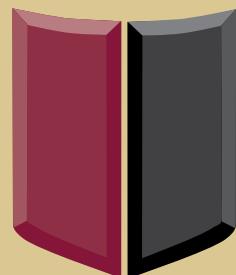
In its decision, the TTAB identified interrogatories and requests for documents from Opposer to Applicant. Opposer propounded discovery that focused on the period prior to the filing of the application. Opposer in its interrogatories asked for (1) business plans, strategy papers, arrangements, used by application in connection with the use, intent of use, the mark for the identified goods and (2) the channels of trade to be exploited in the U.S. by applicant. Opposer in its document requests asked for (1) documents to identify all intended uses of applicant’s mark on or in connection with the claimed goods, (2) documents to identify products of applicant associated with applicant’s mark intended to be used,

*James Michael Faier, M.P.P., M.B.A., J.D. is a registered patent attorney with the firm Faier & Faier P.C. in Chicago. Contact him at [jmfraier@faier.com](mailto:jmfraier@faier.com) or (312) 382-9400.*

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## IN MEMORIAM

Visit IllinoisLawyerNow.com for expanded and timely obituaries of ISBA members.

**Gregory A. Adamski,  
Chicago, IL**  
Admitted 1973  
Date of Death: 2/14/11

**James J. Ahern Sr.,  
Glenview, IL**  
Admitted 1955  
Date of Death: 2/4/11

**Virgil Bozeman,  
Moline, IL**  
Admitted 1940  
Date of Death: 3/22/11

**Barry R. Bruhn,  
Edwardsville, IL**  
Admitted 1973  
Date of Death: 2/24/11

**George Cotsirilos,  
Chicago, IL**  
Admitted 1942  
Date of Death: 3/27/11

**Benjamin C. Duster, III,  
Chicago, IL**  
Admitted 1955  
Date of Death: 2/11/11

**Charles M. Ferguson,  
Harrisburg, IL**  
Admitted 1961  
Date of Death: 12/16/10

**Charles H. Flack,  
Scottsdale, AZ**  
Admitted 1954  
Date of Death: 4/16/11

**John P. Goedert,  
Oak Park, IL**  
Admitted 1939  
Date of Death: 3/5/2011

**Andrew A. Golko, Chicago, IL**  
Admitted 1975  
Date of Death: 5/7/11

**Norma J. Guess, DeKalb, IL**  
Admitted 1978  
Date of Death: 3/12/11

**Robert L. Harmon,  
Palatine, IL**

Admitted 1964  
Date of Death: 10/12/10

**Jeffrey W. Hellberg, Sr.,  
Amarillo, TX**

Admitted 1967  
Date of Death: 3/2/11

**Henry C. Carlson,  
Indianapolis, IN**

Admitted 1968  
Date of Death: 10/25/10

**Robert G. Kirchner,  
Urbana, IL**

Admitted 1982  
Date of Death: 4/17/11

**Lance W. Kupisch,  
Bensenville, IL**

Admitted 1975  
Date of Death: 8/27/10

**Maurice Liebman,  
Deerfield, IL**

Admitted 1947  
Date of Death: 3/12/10

**David S. Logan, Chicago, IL**

Admitted 1941  
Date of Death: 1/22/11

**Molly A. McBride, St. Louis,  
MO**

Admitted 1999  
Date of Death: 9/13/10

**Edward J. McWethy,  
Aurora, IL**  
Admitted 1952  
Date of Death: 4/3/11

**Melvin O. Moehle,  
Washington, IL**

Admitted 1948  
Date of Death: 2/18/11

**John F. Olivero, Peru, IL**

Admitted 1950  
Date of Death: 3/1/11

**Robert M. Ransom, Oak  
Park, IL**

Admitted 1950  
Date of Death: 1/27/11

**John E. Repenning,  
Tempe, AZ**

Admitted 1956  
Date of Death: 1/20/11

**Scott M. Smith,  
Cambridge, IL**

Admitted 1992  
Date of Death: 4/3/11

**Dorothy W. Spomer, Cairo, IL**

Admitted 1943  
Date of Death: 4/23/11

**Kurtis A. Szymanski,  
Rockford, IL**

Admitted 2008  
Date of Death: 7/22/10

**Paul D. Weatherhead,  
Chicago, IL**

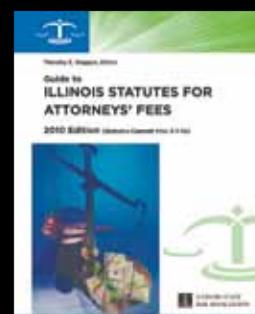
Admitted 1975  
Date of Death: 5/3/11

**Yahle Yadede, Chicago, IL**

Admitted 2004  
Date of Death: 2/11/11

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ILLINOIS STATE BAR ASSOCIATION

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**\$35.00 mbr./\$50.00 nonmbr.**

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# CLE calendar

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October 24-28, 2011  
ISBA Regional Office  
20 S. Clark Street, Suite 900

Don't miss this opportunity to learn how to resolve conflicts in a non-adversarial, non-confrontational manner. In one week, Richard Calkins and Fred Lane will introduce you to the art of mediation, with each day expanding on the previous day's material. Topics include the caucus form of mediation, ethical considerations, Alternative Dispute Resolution mechanisms, closing techniques, arbitration, and conference mediation—all with an emphasis on peacemaking techniques. In addition to the lecture material, the program offers hands-on training and requires each participant to complete two full mediations as a mediator. The program, which is sponsored by the Illinois State Bar Association and the ISBA Alternative Dispute Resolution Law Section, qualifies for 40 hours of MCLE credit, including 40 hours of Professional Responsibility MCLE credit (subject to approval).

The program is taught by Richard Calkins and Fred Lane—two nationally recognized mediators, authors, and educators. Until 20 years ago, both Mr. Calkins and Mr. Lane were well-known and highly regarded litigators. Since then, however, they have successfully mediated over 5,000 cases. Together, Mr. Calkins and Mr. Lane co-founded the International Academy of Dispute Resolution and co-authored two books: *Mediation Practice Guide* (published by the ISBA) and *Lane & Calkins Mediation Practice Guide* (published by Wolters Kluwer/Aspen).

**Registration for the 40-Hour  
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#### Comments from past attendees –

- I had 32 years as a circuit judge, and absorbed every kind of seminar that the judicial Conference subcommittee on education tossed at judges. [Yours] is the best seminar I have ever attended. I carried away more from [this program] that is of value than you can ever be thanked for. - David Slocum, Fall 2009•
- The book for this course is excellent and it was a privilege to learn from the authors. The practical experiences gained are probably more valuable than anything I've gotten from a CLE before. - Attendee, Fall 2010
- This was an excellent program that included great material and hands-on practical advice. - Attendee, Fall 2010
- Mr. Lane and Mr. Calkins are both engaging speakers and have a wonderful rapport. I loved the "war stories." They are as instructive as they are engaging. - Attendee, Spring 2010

For more information and to register, please visit: <https://www.isba.org/cle/2011/10/24/mediation>



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### 8 - Teleseminar

**Inter-Species Mergers:  
Combining and Converting  
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Entities - Part 2**

1.0 MCLE credit hours

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a Difficult Economic Climate**

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4.0 MCLE credit hours

### 9 - Moline

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### 20 - Chicago

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1.50\* Professional Responsibility  
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### 10 - Bloomington

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**Ethics of Working with and  
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### 15 - Teleseminar

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### 15 - Webcast

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Fastcase**

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### 21 - Teleseminar

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**Annual**

**Meeting**



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Training Session**

**Advanced FastCase CLE  
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Workouts, Deleveraging,  
Refinancing and  
Restructuring, Part 1**

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Corporation, Securities, and Business Law  
Section Council*

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**23 - Teleseminar** 

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**24 - Fairview Heights**

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**ISBA CLE Director, Jeanne B. Heaton,** recently talked with two new admittees who have taken full advantage of the new discount program.

Victoria Kelly of Grunyk & Associates, Naperville, has attended seven discounted ISBA Law Ed programs since being admitted in November 2008 - "it's an easy way to stay up to date with the newest case trends," while Allison Pawlicki of the Law Office of Allison R. Pawlicki (Skokie), has attended eight Law Ed programs in the three years since her bar admission in May 2008. Allison said "the amount of information available for the price is great" noting how beneficial it is to learn at the special rate in a tight job market and economy. Allison went on to say that the education has helped her establish her solo practice this past year. She wished the special rate extended longer than three years and is exploring enrollment in ISBA's Unlimited Passport for her future legal education.

# Upcoming Fall Programs

**■ SEPTEMBER**

**23 - Fairview Heights**

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**■ OCTOBER**

**14 - Chicago**

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*Presented by the ISBA Family Law Section*

**14 - Springfield**

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*Presented by the ISBA Delivery of Legal Services Council*

**21 - Chicago**

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**24-28 - Chicago**

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## Illinois Supreme Court disbars 10, suspends 10, censures 3

The Illinois Supreme Court has announced the filing of disciplinary orders involving a number of licensed lawyers. Sanctions were imposed because the lawyers engaged in professional misconduct by violating state ethics law. The full disciplinary filing is available at [IllinoisLawyerNow.com](http://IllinoisLawyerNow.com).

### DISBARRED

**Robert Bruce Becker**, Peoria, who was licensed in 1993, was disbarred on consent. He was convicted of predatory criminal sexual assault of a child and criminal sexual assault. He was suspended on an interim basis and until further order of the Court on November 27, 2007.

**Susan Grace Castagnoli**, Zion, who was licensed in 1979, was disbarred. She exerted undue influence over clients, charged excessive fees without authorization from the bankruptcy court and, in some cases, without her clients' knowledge or consent, and engaged in dishonest conduct. She was suspended on an interim basis and until further order of the Court on April 27, 2010.

**Charles August Conner, Jr.**, Chicago, who was licensed in 1987, was disbarred. He misappropriated more than \$137,000 in funds relating to 37 different clients and/or their creditors. Further, on multiple occasions, he submitted false bank records to the

ARDC in order to conceal those conversions. He was suspended on an interim basis and until further order of the Court on December 22, 2010.

**Kenneth Glen Mason**, Wilmette, who was licensed in 1976, was disbarred on consent. He was convicted in a federal court of aiding and abetting securities fraud in connection with his participation in an investment fraud scheme.

**Erwin Mayer**, Winnetka, who was licensed in Illinois in 1987, was disbarred on consent. He pled guilty in the United States District Court for the Southern District of New York to charges of tax evasion and conspiracy to defraud the United States. His conduct involved the marketing and use of fraudulent income tax shelters.

**Mahendra R. Mehta**, Chicago, who was admitted in 1970, was disbarred. He misappropriated over \$100,000 in real estate escrow funds and used most of those funds to pay sanctions entered against him by a bankruptcy court in Houston, Texas. He later falsely testified in court proceedings that he had been authorized by the parties to the real estate transaction to take the escrow funds, and that his client told him to take the funds as payment for attorney's fees. He was suspended on an interim basis and until further order of the Court on December 29, 2010.

**George Angelo Palivos**, Chicago, who was licensed in 1987, was disbarred. He participated in a scheme to defraud the United States Small Business Administration. He was suspended on an interim basis and until further order of the Court on August 29, 2005.

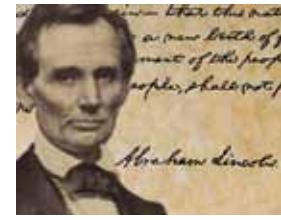
**L. Tod Schlosser**, Chicago, who was licensed in 1993, was disbarred. He neglected eight different immigration matters, did not respond to client requests for information, and failed to return unearned fees totaling \$31,025. He did not participate in his own disciplinary proceeding.

**Peter Raymond Vogel**, Sugar Grove, who was licensed in 1972, was disbarred. He misappropriated approximately \$3,850 in funds belonging to a client and engaged in the unauthorized practice of law in Wisconsin. He failed to appear at his disciplinary hearing.

**Adalbert Paul Wojewnik**, Chicago, who was licensed in 1992, was disbarred. He misappropriated approximately \$5,000 in escrow funds that he had agreed to hold in connection with a client's real estate transaction and failed to comply with a subpoena from the ARDC. He also failed to appear at his disciplinary hearing.

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If you have questions, contact Jean Fenski <[jfenski@isba.org](mailto:jfenski@isba.org)>  
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**ILLINOIS STATE BAR ASSOCIATION**

## ISBA events calendar

2011

**June 8 (Wednesday) Chicago**

IBF Wine Tasting Event in support of the Warren Lupel Fund

**June 10-21 Copenhagen, Denmark**

Group travel: Baltic Treasures Luxury Cruise

**June 16-18 (Thursday – Saturday) Fontana, Wis.**

ISBA Annual Meeting

**July 14 (Thursday) Chicago**

President's Reception for Mark D. Hassakis

**July 15 (Friday) Chicago**

ISBA Board of Governors meeting

**July 21 (Thursday) Chicago**

Race Judicata [www.cvls.org/judicata](http://www.cvls.org/judicata)

**August 19 (Friday) Chicago**

IBF Cubs/Cardinals event at Brixen Ivy

**October 14 (Friday) Chicago**

ISBA Board of Governors meeting

**October 14 (Friday) Chicago**

IBF Gala at the Four Seasons Hotel

**October 27-29 (Thursday – Saturday) Springfield**

Solo and Small Firm Conference, Springfield Hilton

**December 7 (Wednesday) Chicago**

Distinguished Counsellors Luncheon (Class of 1961)

Visit [www.illinoislawyernow.com/bar-calendar](http://www.illinoislawyernow.com/bar-calendar) for a list of bar events from around the state.

## FIRM ANNOUNCEMENTS

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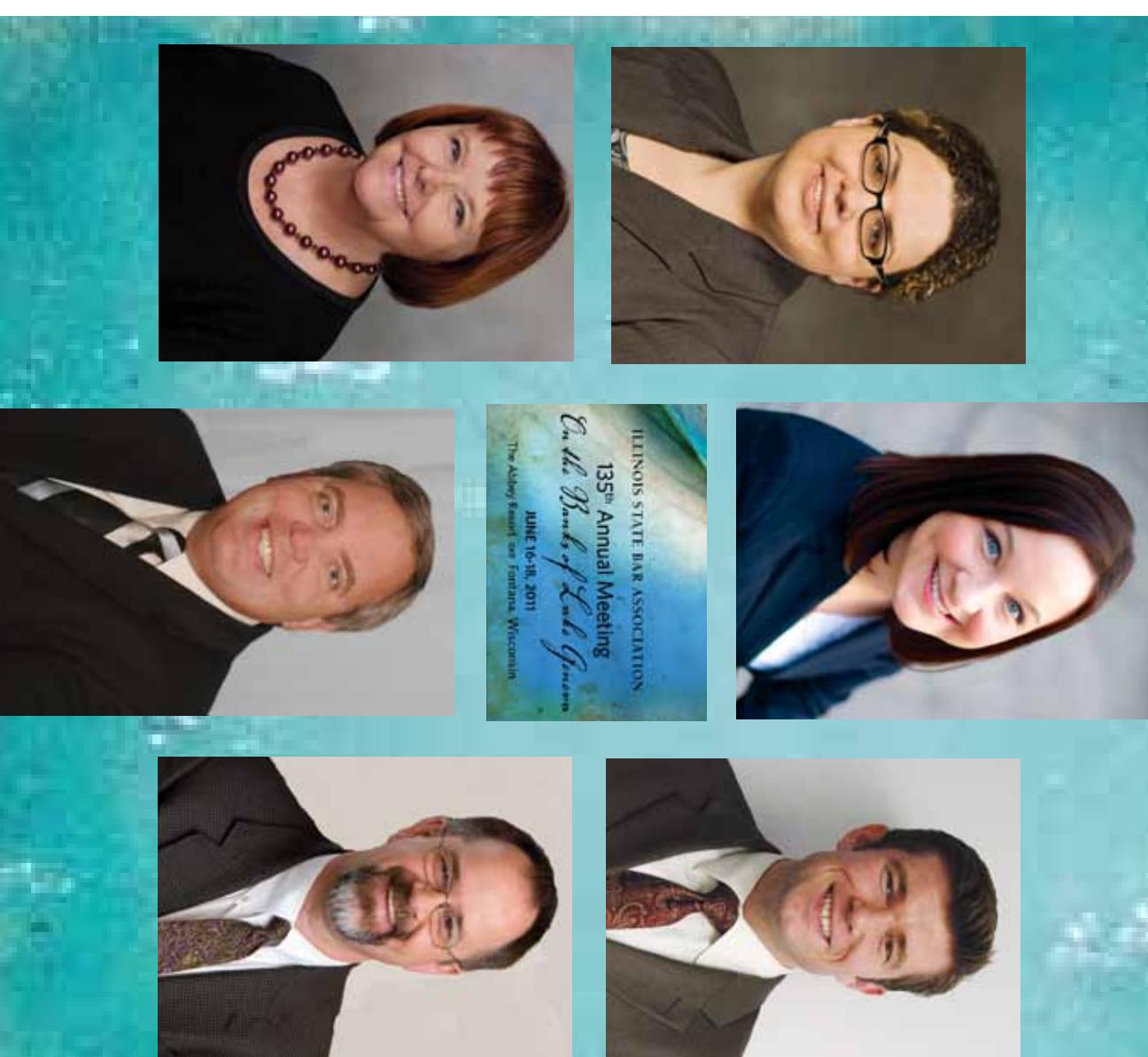
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COVER PHOTOS: ISBA award winners (top row, right to left) Angela Rollins, Emily N. Masalski and Joshua D. Herman; (bottom row, right to left) Mary F. Petruchius, John G. Dalton and Thomas Cavenagh.



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