

# ILLINOIS LAWYER NOW

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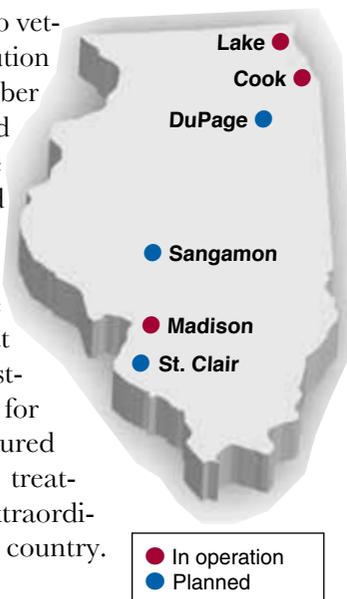
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## Veterans' Courts offer soldiers a 2nd chance

**T**reatment or jail. That is the option posed to veterans and servicemembers facing prosecution for nonviolent crimes in a growing number of circuit courts in Illinois. Those who qualify and successfully comply with court orders can have criminal charges dismissed, and receive needed assistance in reclaiming their place in civilian life. Commonly referred to as Veterans' Courts, these diversionary programs are intended to give a second chance to veterans in recognition that returning soldiers often have difficulty readjusting to civilian life. The problem is exacerbated for Iraq and Afghanistan-era soldiers who have endured lengthy and repeat deployments. The separate treatment of veterans also is a recognition of the extraordinary service these soldiers have provided to their country.



### Courts Spreading Across Illinois

The first such court program in the nation was established in 2008 in Buffalo, New York. In February and March, 2009, Veterans' Courts opened in Cook and Madison counties in Illinois, becoming the second and third Veterans' Courts in the country.

The Veterans' Treatment Court in the 3<sup>rd</sup> Circuit (Madison County) is presided over by **Judge Charles Romani**, himself a Vietnam combat veteran. "I understand the challenges of returning veterans," Romani says. "I have taken a vow not to let what happened to Vietnam veterans happen to current operations veterans." So far, about 100 criminal cases involving veterans have been diverted to Judge Romani's program, which can point to a high success rate of helping veterans overcome service-related problems.

Cook County Circuit **Judge John Kirby** opened the Veterans' Court in Chicago in February, 2009. As with other such programs, he finds many of the minor crimes committed by veterans are the result of drug and alcohol use. Veterans accepted into the program are assessed to determine the underlying causes of their behavior and are required to strictly adhere to treatment and counseling programs arranged for them. Successful completion of the program requirements can lead to dismissal of criminal charges, but a slip-up is treated seriously – a return to the criminal court docket and jail time. A second Cook County Veterans' Court was established later in 2009 in the Skokie courthouse, presided over by **Judge Larry Axelrood**.

Elsewhere in the state, Lake County **Judge John Phillips** opened the 19<sup>th</sup> Circuit's Veterans' Court in August of this year. In the 18<sup>th</sup> Circuit, the Veterans' Track will begin operating early in 2012 as a cooperative effort between the DuPage County Drug Court and Mental Illness Court Alternative Programs and the Veteran's Administration. A Veterans' Court is in the development stage in St. Clair County, and in the discussion stage in Sangamon County.



Phillips

### Support from all Three Branches of Government

The Veterans and Servicemembers Court Treatment Act was signed into law June 11, 2010 and provides additional services to veterans who face criminal charges related to substance abuse or mental health issues. Before the act was signed into law, Illinois Gov. Pat Quinn created a task force to draft this legislation. The chair of the task force was **Judge Annette Eckert (Ret.)**, a St. Clair County judge for 20 years and wife of **Maj. Gen. William Enyart**, Adjutant General of the Illinois National Guard.



Eckert



Enyart

"Veterans' Courts are a great example of all three branches of government working together to resolve a problem," Enyart says. "The judicial branch recognized that there were far too many minor criminal cases involving veterans whose actions were non-violent and often attributable to alcohol or drug use exacerbated or caused by post-traumatic stress or other issues related to their military service. The Governor's task force, after a thorough review of other states' veterans court programs as well as current Illinois drug court and mental health court programs, prepared legislation which the General Assembly passed without a single dissenting vote or amendment."

### Veterans Play Key Role

A crucial element in most Veterans' Court programs is the involvement of veterans themselves. Most of the judges, prosecutors, defense attorneys and

(Continued on page 4)

## It's Time To Analyze Your Professional Liability Insurance...



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

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## ISBA PracticeTech initiative aims to ease tech transition

### President Locallo leading effort to help lawyers make wise technology decisions

It's an understatement that lawyers are not known as early and enthusiastic adopters of technology.

There are exceptions, both in the form of tech-savvy lawyers and lawyer-embraced devices such as smartphones. But too many lawyers – especially those in small firms and solo practices – fail to take advantage of inexpensive, easy-to-use technology that can mean the difference between practice success and failure.

“A lot of people are still doing things the old-fashioned way,” ISBA President John Locallo said in an interview in the July 2011 *Illinois Bar Journal*. “If they use a computer, they’re just using templates and filling in the blanks to create documents [instead of using a case management system designed for a law practice.] If they’re doing case management, they’re just using basic calendars, not systems that are going to alert them when their trials are up.”

Locallo is so passionate about the power of technology that he is leading an effort to help ISBA members make wise product choices and take advantage of discounted services. At his behest, the ISBA commissioned a technology and management expert to recommend a suite of core tech services and products and proven vendors to go with them.

The recommendations fall into the following six categories. To see the list of recommended vendors and other technology partners and services, go to [isba.org/practicetech](http://isba.org/practicetech). That webpage will be updated with new vendors and other information, so visit periodically over the next several months.

**Website design and hosting.** The ISBA already has a relationship with EsqSites123.com, a vendor that provides low-cost web design and hosting for lawyers. Plans are underway to offer a list of custom designers as well for members who want more ambitious websites.

**Credit card processing.** Many lawyers would like to accept credit card payments from clients, and the ISBA is close to finalizing a contract with LawPay, a

credit card processing vendor that understands IOLTA accounts and other special needs of lawyers.

**Practice-management software.** This multifaceted, mission-critical technology tool can help lawyers not

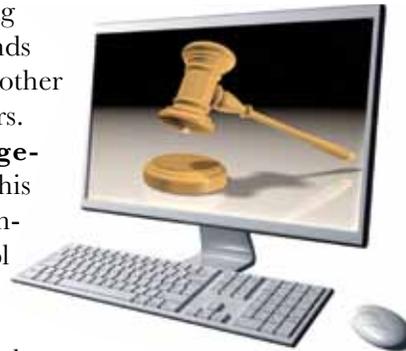
only practice more efficiently but avoid malpractice and discipline. There are several affordable options to help you track time and billing, manage documents, avoid conflicts, meet make-or-break deadlines, and the like. The ISBA is negotiating with Clio, a vendor who has relationships with the New York State Bar, the State Bar of Michigan, and others.

**Online backup and storage systems.** Lawyers, especially those in small firms, need a reliable and affordable way to back up vital electronic information. ISBA is negotiating with vendors who provide low cost, but reliable, online backup.

**IOLTA calculators and accounting tools.** Trust-fund accounting rules have gotten more complex in the wake of IOLTA rules that took effect September 1, and lawyers need to comply to the letter or risk discipline and other dire consequences. The ISBA is assembling a suite of calculators and accounting tools to help lawyers properly manage trust accounts.

**Legal forms.** In a longer-term and more ambitious project, the ISBA plans to develop a legal forms library that works with an electronic document-assembly program like HotDocs. Other states, including Iowa and Ohio, have undertaken similar projects.

“There’s so much new stuff out there, and lawyers are aware of it but aren’t sure whether it’s a good thing or a bad thing,” Locallo said. The ISBA’s practice technology project is designed to help lawyers make important tech-related decisions. ♦



## Volunteers needed for High School Mock Trial Invitational

The Illinois State Bar Association will host the annual High School Mock Trial Invitational at the University of Illinois Springfield on Friday and Saturday, March 30-31, 2012.

ISBA needs volunteer judges, attorneys and paralegals to preside over and evaluate the Mock Trials.

“The mock trial program is a rare opportunity for Illinois high school students to compete in a high-level academic endeavor,” said Pablo A. Eves of Bloomington, past chair of the ISBA’s Standing Committee on Law-

Related Education for the Public, which conducts the program.

This year’s mock trial is based on the fictitious case *Estate of Heeney-Potter*, in which a wealthy widow dies and leaves a Will that is vigorously contested between her two estranged children. The two main law areas covered will be Estate Law and Animal Law (half of the estate was left to Ms. Heeney-Potter’s dogs, cats and parakeet).

Anyone interested in volunteering should contact Mary Kinsley at [mkinsley@isba.org](mailto:mkinsley@isba.org). ♦

(Continued from page 1)

service providers have prior military experience, including combat duty. This is seen as essential to gain the trust and cooperation of veterans entering the programs.

When the Lake County program was publicly announced in August, more than 130 veterans attended to show support. Judge Phillips says the Lake County program uses trained mentors, which differs from some of the other programs in the state. "We recognize that the freedoms and privileges that we all have in this country are possible because of those who serve," says Phillips. "We cannot let the conduct that brings them into the criminal justice system be ignored, but at the same time, we cannot forget that the situations encountered by them in that service may have contributed to their criminality."

General Enyart praised the unique viewpoints of the late John Lynn, Southern Illinois University Law School Assistant Dean, and Judge Eckert for being instrumental in developing and guiding the legislation. Dean Lynn was a retired Marine Corps officer, as well as a lawyer. Judge Eckert is a military spouse and served two decades on the bench, much of it in felony and misdemeanor court.

"It's a win-win situation for the courts, the community and the servicemember or veteran because it provides the soldier what he or she needs rather than punitive measures," Judge Eckert explained. "It is so much more economical for the courts and our communities because Veterans Affairs provides appropriate treatment for the veterans instead of using community resources."

While Veterans Court provides Illinois servicemembers and veterans needed assistance, Eckert said Veterans Court still holds the servicemember or veteran responsible for their actions. "Out of respect for their service, they are being given an opportunity to heal themselves," she said. ♦



For information or assistance in establishing a Veterans' Court:

**Illinois Department of Veterans Affairs:** [www2.illinois.gov/veterans](http://www2.illinois.gov/veterans)

**Southern Illinois University Law School:** [www.law.siu.edu/Journal/index.php](http://www.law.siu.edu/Journal/index.php)

**National Association of Drug Court Professionals:** [www.nadcp.org/JusticeForVets](http://www.nadcp.org/JusticeForVets)

**America's Promise Alliance:** [www.americaspromise.org/Our-Work/Military-Families/Issues/Veterans-Courts](http://www.americaspromise.org/Our-Work/Military-Families/Issues/Veterans-Courts)

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# Capitol Chronicle



by **Jim Covington**

*Director of Legislative Affairs*



**T**he General Assembly took action on the following bills during its regularly scheduled veto session in late October and early November.

**Medical records of deceased family members-Passed.** Senate Bill 1694 (Wilhelmi, D-Joliet; Brady, R-Bloomington) creates a procedure and statutory form to allow certain family members to get the medical records of deceased family members without being forced to open an estate. A surviving spouse may make a written request for a copy of his or her deceased spouse's records if: (1) An executor or administrator has not been appointed for the deceased's estate; or (2) The deceased did not appoint an agent under a power of attorney for health care who was authorized to act for the deceased after death, and the deceased had not specifically objected to disclosure in writing. If there is no surviving spouse, the records may be released if requested in writing by (1) an adult son or daughter of the deceased, (2) a parent of the deceased, or (3) an adult brother or sister of the deceased. Senate Bill 1694 also amends the Illinois Power of Attorney for Health Care to allow an agent to access the principal's medical records after the principal's death if the principal has delegated that authority in the power of attorney. Senate Bill 1694 has been sent to the Governor.

**Modification of custody or visitation orders for military deployment-Passed** House Bill 1589 (Pritchard, R-Hinckley; Jacobs, D-East Moline) does five things: (1) Expands existing law to address modification of custody or visitation caused solely by a parent being deployed for active military duty. (2) Preserves judicial discretion and supervision to ensure that any accommodation for a deployed parent is in the best interest of the child. (3) Limits modification orders for deployment to temporary status, so that when the deployment is ended the service member does not bear a clear and convincing burden of proof to restore the prior custodial order. (4) Provides for expedited custody hearings for deployed service members and authorizes participation by electronic means. (5) Authorizes "substitute visitation" while the parent

is deployed if the judge determines it is in the best interest of the child. House Bill 1589 has been sent to the Governor.

**Excluded powers of attorney-Deferred.** House Bill 1712 (Schmitz, R-Geneva; Silverstein, D-Chicago) was amendatorily vetoed by Governor Quinn. The General Assembly chose to let this bill die but will work on the issue next spring. As passed by the General Assembly, House Bill 1712 excluded from the Illinois Power of Attorney Act certain kinds of limited agencies executed by or for financial institutions primarily done for various business, commercial, and governmental purposes that don't need to be revoked on creation of a new power of attorney.

**Visitation interference-Deferred.** House Bill 1604 (Howard, D-Chicago; Sullivan, D-Rushville) allows a court to order the following relief for visitation interference: (1) suspend the defendant's driving privileges; (2) suspend the defendant's professional license; and (3) fine the defendant not more than \$500 as a petty offense; (4) requires a finding that a party engaged in visitation abuse constitutes "a change in circumstances of the child or his custodian" under Section 610 of the Illinois Marriage and Dissolution Act. House Bill 1604 was defeated on third reading in the Senate but will be reintroduced because of a perception among legislators that visitation interference is not treated as seriously by the courts as failure to pay child support is.

**Foreclosure short sales in residential real estate-Passed.** Senate Bill 1259 (Silverstein, D-Chicago; Currie, D-Chicago) requires the mortgagee to respond to the mortgagor within 90 days if the mortgagor sends a bona fide written offer to purchase from a third party and requests in writing that the mortgagee approve the sale. A "short sale" is when the mortgaged real estate is being sold for less than the amount owed to the mortgagee on the mortgage note. Failure to accept the offer does not impair or abrogate in any way the rights of the mortgagee or affect the status of the foreclosure proceedings. The 90-day period does not operate as a stay of the proceedings. Senate Bill 1259 has been sent to the Governor.

**Disappearing child.** House Bill 3801 (Holbrook, D-Belleville) creates the offense of failure to report

the disappearance or death of a child to a law enforcement agency if the person failing to report is the parent, guardian, or custodian of the child. House Bill 3801 has been referred to House Judiciary II Committee.

**The following bills have been sent to House Rules Committee for referral to a substantive committee next spring:**

**FOIA.** House Bill 3850 (Sente, D-Vernon Hills) makes it a "public record" if a unit of local government makes an agreement with a person or entity relating to tax rebates or refunds. It also requires the unit of local government to post this information on its website.

**Juvenile Court Act testimony.** House Bill 3807 (Holbrook, D-Belleville) requires a juvenile court to ensure that any position of and testimony from the Department of Children and Family Services about a change in custody is included in the court record of any juvenile court proceeding that may result in a change of custody.

**Interest on child support.** House Bill 3839 (Davis, D-Chicago) prohibits interest from being imposed on child support orders after this bill becomes law.

**Attorney's fees and consumer fraud.** House Bill 3879 (Thapedi, D-Chicago) creates hourly rates for attorney's fees awarded under the Consumer Fraud and Deceptive Business Practices Act and Uniform Deceptive Trade Practices Act. Creates a cost-of-living calculation to adjust these rates annually.

**DUI implied consent.** House Bill 3876 (Gordon, D-Peoria) requires that blood or breath tests be conducted within one hour of the arrival of law enforcement personnel at the scene of the accident or, if the driver has fled the scene of the accident, within one hour of apprehending the driver. ♦

*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.*

# WHEN RESULTS MATTER..

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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

**\$6.95 Million JURY VERDICT** for a man whose his leg was amputated at a City of Chicago construction site that was improperly barricaded

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

**\$6.7 Million** for the family of a 24 year old man who was killed on an Illinois expressway after collisions with a car and commercial motor vehicle.

**\$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 and killed a teenager

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

**\$5 Million** for a man who suffered severe back injuries while undergoing physical therapy to repair a herniated disc

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# Can lawyers be mobile and secure?

by **Bryan Sims** bsims@simslawfirm.com

*Sims Law Firm, Ltd., Naperville*

**T**he ISBA recently held its annual Solo and Small Firm Conference. All of the attendees I spoke with seemed to enjoy the conference and appeared to learn a great deal.

I spent my conference time at the technology track of programs. My observation was that several topics kept arising from those sessions, both from the presenters and the audience questions. These topics revolved around maintaining data security, using the cloud to host and access data, working remotely, and accessing data from a variety of devices.

Obviously these topics are interrelated, however, each is clearly of concern to attorneys around the state. Thus, in this column, I will attempt to address some of the suggestions and solutions discussed at the conference.

**Security:** One of the recurring themes seemed to be making sure that you adequately and properly secure your data. Many presenters encouraged the attendees to encrypt any data stored on a mobile device, such as a laptop.

One of the programs repeatedly suggested to do this was a program called TrueCrypt. Several presenters mentioned it, highlighting both its reputation for security and its free price.

One of the points emphasized with respect to encryption was that if you have any data on your laptop, you should use whole disk encryption to preclude anyone from accessing your computer if it becomes lost or stolen. The idea of whole disk encryption is that the user has to enter a password before being able to do anything on the computer.

Additionally, attendees were urged to encrypt their data before backing it up to either portable storage devices (such as portable hard drives) or to the cloud. This encryption can either be bundled with the backup program or service, or the program or service can be used in combination with encryption software such as TrueCrypt.

The attendees were also urged to secure mobile devices such as cell phones and tablets with passwords or passlock codes. This makes it difficult for anyone to access your data in the event your phone or tablet is lost or stolen.

**Cloud Computing:** Going hand-in-hand with the security discussion was the discussion relating to the increasing use and popularity of cloud computing.

Although the security involved in cloud computing is a legitimate concern for attorneys, the speakers pointed out that ethics opinions have come down on

the side of allowing attorneys to use cloud services. On the other hand, most of those opinions require attorneys to perform a reasonable investigation to ensure that the cloud computing service is obligated to keep your data secure.

One of the chief ways of doing this is to make sure that you review the terms of service for any service that you use. For example, a very popular cloud service is Dropbox. A concern, however is that Dropbox's terms of service allow its employees, under certain circumstances, to access the data stored on its servers.

This, of course, is a problem for anyone who intends to store information that needs to remain confidential. On the other hand, a service such as Spider Oak, which provides a service similar to Dropbox, states that it cannot and will not access the data stored on its servers. These are facts you need to consider when choose a cloud vendor.

One of the points emphasized by the speakers was that data stored with a cloud service is almost always more secure than data stored on a law firm's local server. This is because the cloud service has multiple layers of both physical and cyber security to protect the data. This includes security features such as security fencing, controlled access, RFID tracking of people and equipment, armed guards, heavy duty encryption, sophisticated firewalls, data redundancy, and full time anti-hacker programmers.

Quite simply, attorneys are in the business of practicing law. Cloud computing vendors are in the business of keeping data secure from any variety of attack or loss. Often it makes sense to let the vendor handle data security and let the attorney handle the practice of law.

The conclusion of most speakers was that cloud computing is a viable and, possibly even a preferred, option for many attorneys.

**Working Remotely:** Another topic that arose with some frequency was the idea of being able to work remotely. The idea is that an attorney should be able to work from anywhere, without being chained to the desk.

One of the ways this can be accomplished is by using cloud services. With services such as Clio, Rocket Matter, Dropbox, Spider Oak, or Box.net, attorneys are now able to store their data in the cloud and access it from any place with internet access. Many of these services also make it easy to synchronize your files so that changes made by one attorney who is working remotely are available to other attorneys who may be working from the office.

Also discussed were using services such as LogMeIn or GoToMyPC to remotely access another computer. This allows you to be out of the office and easily control another computer to access files, programs, etc. This is a good solution for those programs, such as databases, that need a high quality connection to your office server.

Collaboration tools such as Skype, Skype's video chat, and join.me (a screen sharing service) were also demonstrated. These tools allow people in different locations to work together on a project while reviewing each other's desktops or communicating via video conference.

All of these tools make it possible for attorneys to work remotely while still effectively communicating with clients and other attorneys and staff.

**Multiple Devices:** Another topic that frequently arose was the desire by many people to access their data from a variety of devices. For example, some attendees had a desktop computer, a laptop computer, mobile phone and a tablet. The trick of course, is that everyone wants all of these devices to work together.

For example, many attendees want to be able to access their email from all of their devices. One of the suggestions for accomplishing this task was to use a hosted Exchange Server. This is a cloud service that gives a solo or small firm access to Microsoft Exchange Server without the upfront purchase cost or ongoing maintenance of an Exchange Server.

The convenient aspect of such a service is that it easily integrates with mobile devices such as mobile phones and tablets. This means that you can access your email on your computer, your phone, and your tablet easily and seamlessly.

Another common question concerned the ability to access files from a variety of devices. One way to accomplish this is to use a cloud service that includes apps for your mobile devices. For example, services such as Dropbox and Spider Oak allow you to access data from your computer, your mobile phone, and your tablet.

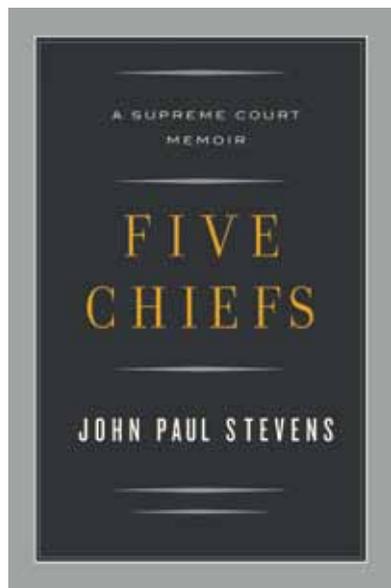
These services make the operating system you use to be of little consequence. For example, I use Spider Oak and can easily access and share files between my Windows 7 laptop, by Droid Bionic mobile phone, and my Apple iPad2.

Thus, the current state of computing allows you to securely store your data in the cloud and access it from a variety of devices, from a variety of locations, all while you practice law securely, effectively and ethically. ❖

# Too much on chiefs, too little on Justice Stevens

by Judge Michael B. Hyman [hymikeb@aol.com](mailto:hymikeb@aol.com)

**E**nshrined in my pantheon of great Supreme Court justices is John Paul Stevens. I eagerly awaited his first book, *Five Chiefs: A Supreme Court Memoir*. I did not expect a tell-all account of his 34 years on the Court. Justices jealously guard their personal lives, and that of their colleagues, and are careful about discussing



*Five Chiefs: A Supreme Court Memoir* by Justice John Paul Stevens, Little, Brown & Co. (2011) 304 pg., \$24.99

what goes on in conference, usually keeping the inside stories for airing after their time on earth.

*Five Chiefs* being a memoir by a jurist outspoken on the bench, I figured Justice Stevens would modestly reveal the inner workings on important decisions issued during his lengthy tenure, and diplomatically document communications between fellow justices on those decisions. Though there are tantalizing signs of it here, that book has yet to be published.

What makes reading this fairly thin volume (304 pages) enjoyable are his reminiscences and reflections on his own career, which, like sprinkles on an ice cream cone, are scattered around his commentary on the Chiefs and the Chiefs' major decisions. But, the memoir is pretty light on the sprinkles for a memoir that spans a professional life of over 60 years. Maybe Stevens is saving the motherlode for another day.

*Five Chiefs* is basically just that – profiles of the five men who served as chief justice during Stevens' illustrious career as lawyer and jurist (Fred Vinson, Earl Warren, Warren Burger, William Rehnquist, and John Roberts, Jr.). Stevens sticks largely to uncontroversial aspects of Court life in front of, as well as behind, the courtroom's huge velvet curtains. Nevertheless, what glimpses of himself Stevens does offer are typical Stevens – he is not afraid to speak his mind or share his opinion on just about anything (as is Justice Scalia – who recently told a Chicago audience that Chicago-style pizza was not actually pizza).

For instance, Stevens explains his proclivity to write separately. After noting that “some of our greatest justices” would not prepare a dissenting opinion if they felt the issue lacked importance, Stevens explains that “the institution and the public are better served by an accurate disclosure of the views of all of the justices in every argued case.”

Another example is his remarks on dissenting opinions. “A dissenting judge is never happy, because it is obvious that either the majority has come to the wrong conclusion or his own reasoning

is flawed.” He goes on to say that even a member of the majority may be displeased when the law requires an outcome the justice finds distasteful. “As Thurgood Marshall observed on more than one occasion,” writes Stevens, “the Constitution does not prohibit Congress from enacting stupid laws.”

## Rating the Chiefs

The memoir begins in earnest with the third chapter on Chief Justice **Fred Vinson**. The first two chapters present thumbnail portraits of all the Chief Justices before Vinson, accompanied by a mini-civics lesson on the position of Chief Justice. Vinson, a confidant and card playing friend of President Truman, was Chief while Stevens served as a law clerk for Justice Wiley Rutledge during the 1947 Term.

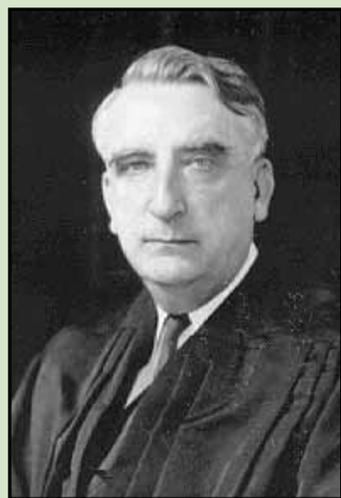
Stevens' unbounded admiration for Rutledge and lukewarm enthusiasm for Vinson comes through. Stevens does, however, credit an opinion by Vinson as the genesis for the ultimate release of a wrongly convicted Illinois man whom Stevens co-represented early in his legal career.

The next Chief, **Earl Warren**, receives high praise, particularly for his opinions interpreting the Constitution. This is an outsider's critique because Stevens was “primarily an observer, rather than a participant” during Warren's tenure. Stevens' sole trip to argue as a lawyer before the Supreme Court came in 1962, as the appellee in an antitrust case.

Stevens joined the Court in 1975 during the **Warren Burger** years. The revelations accelerate from that point on, even though they are relatively mundane.

(Continued on page 9)

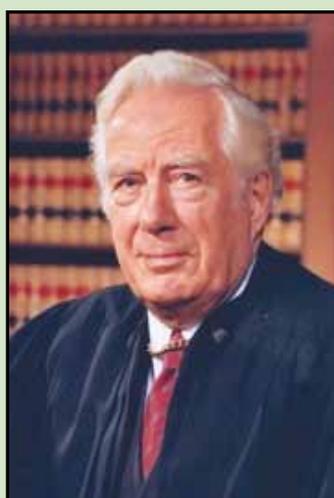
## The Five Chiefs



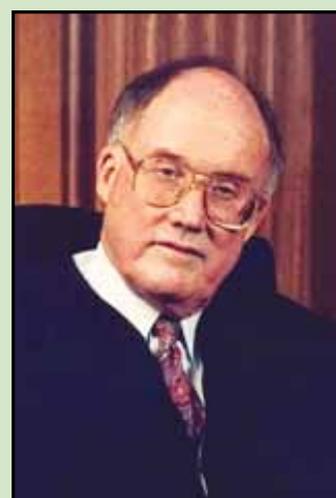
**Vinson**  
1946-1953



**Warren**  
1953-1969



**Burger**  
1969-1986



**Rehnquist**  
1986-2005



**Roberts**  
2005-present

(Continued from page 8)

Among the revelations are the duties of the junior justice, which include opening the door while the Court is in conference (according to former Justice Tom Clark, “the most highly paid doorman in the country”). We also learn that the justices pay for the plate of pastries and fruit shared during conferences, refrain from discussing Court business during lunch, and “by long-standing tradition” keep a metal spittoon next to their chairs in the courtroom.

Stevens applauds the administrative reforms and initiatives of Burger. He also considers Burger adept at presiding at oral arguments. But, in conference, Stevens says, Burger “was less prepared, and less articulate, than either of the men who held that position after him.”

Chief Justice **William Rehnquist**, on the other hand, is lauded for his control and command at conference. Stevens says Rehnquist “was a totally impartial presiding officer,” who “ran a tight ship as chief” while keeping “the goodwill of his colleagues.” Stevens, however, voices his disapproval of the gold stripes Rehnquist added to his robe as Chief Justice.

His harshest remarks are aimed at the opinions of Justice Clarence Thomas. Stevens characterizes the retirement of Justice Thurgood Marshall as “the most significant judicial event” during the Rehnquist Court. According to Stevens, “The importance of the change in the Court’s jurisprudence that is directly attributable to the choice of Clarence Thomas to fill the vacancy created by Thurgood’s retirement cannot be overstated.”

Stevens takes issue with what he calls “Thomas’ repeated emphasis on historical analysis” which “seems to assume that we should view the Union as perfect at the beginning and subject to improvement only by following the cumbersome process of amending the Constitution.”

The current Chief, **John Roberts**, a fellow Midwesterner, earns rave reviews. Except for possibly Earl Warren, Stevens considers Roberts “the best spokesman for the Court in nonjudicial functions,” and “a better presiding officer than both of his immediate predecessors.”

### More Stevens, please

A memoir is supposed to be a brief autobiogra-

phy filled with insightful reflections and fascinating anecdotes, with the author as protagonist. But, in *Five Chiefs: A Supreme Court Memoir*, Stevens is in the background, not front and center. I found myself wanting more Justice Stevens on Justice Stevens and less about the Five Chiefs.

Stevens has lived an enormously productive life, both before joining the Court and as its 101st member. This memoir does not do “justice” to his life, and leaves far too much untold, including the intricacies of his judicial philosophy, the depth of his interpretation of the Constitution, and his impressions on key rulings and internal debates.

There must be a treasure trove of revealing Justice Stevens papers, *a la* the intimate and candid biography, *Becoming Justice Blackmun*, based on Blackmun’s archives. If so, we can only hope that *Five Chiefs* is just a harbinger for Justice Stevens writing *Becoming Justice Stevens*. ❖

*Judge Michael B. Hyman, of the General Chancery Division, Circuit Court of Cook County, is a member of the ISBA Bench and Bar Section Council.*

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**A MESSAGE FROM THE PRESIDENT-ELECT**

By John E. Thies



## Nominate Yourself for an ISBA Committee or Section

**A**s president-elect, it is both my privilege and responsibility to appoint members to the section councils and committees for the 2012-2013 term. Committees and councils are the lifeblood of the Illinois State Bar Association. I encourage each member – and particularly young lawyers and others whose participation will make our committees and councils more diverse – to seek active participation in our Association by completing the online form at [isba.org/memborgroups/nominations](http://isba.org/memborgroups/nominations).

Over a thousand ISBA members serve on the various committees and section councils. Those who actively participate make new friendships and benefit both personally and professionally from the experience. All members have the opportunity to be considered for service, and I invite you to seek appointment.

Current committees and section councils are listed below. The areas of focus and activity span many disciplines. Be aware that an appointment presumes you will attend the meetings and be an active participant in the

committee's/section council's agenda and activities. The ISBA partially reimburses its members for many of the expenses they incur in participating.

I cannot honor every request, for experience demonstrates the number of requests for appointments to certain sections and committees exceed the number of available positions. However, your chances of appointment are enhanced if you indicate more than a single area of interest, but no more than three.

Please join me and other members of our Association in serving both the profession and the public.

John E. Thies, President-Elect

### ISBA COMMITTEES

Attorney Registration and Disciplinary Commission Committee  
Bar Services and Activities  
Continuing Legal Education  
Corrections & Sentencing  
Delivery of Legal Services  
Disability Law  
Diversity Pipeline  
Government Lawyers  
Illinois Bar Journal Editorial Board  
Judicial Advisory Polls  
Judicial Evaluations–Cook County  
Judicial Evaluations–Outside Cook  
Law Office Management & Economics  
Law Related Education for the Public  
Legal Education, Admission and Competence  
Legal Technology  
Mental Health Law  
Mentoring  
Military Affairs  
Professional Conduct

Public Relations  
Racial & Ethnic Minorities and the Law  
Sexual Orientation and Gender Identity  
Women and the Law

### ISBA SECTION COUNCILS

Administrative Law  
Agricultural Law  
Alternative Dispute Resolution  
Animal Law  
Antitrust and Unfair Competition Law  
Bench and Bar  
Business Advice and Financial Planning  
Child Law  
Civil Practice and Procedure  
Commercial, Banking and Bankruptcy Law  
Construction Law  
Corporate Law Departments  
Corporation, Securities, and Business Law  
Criminal Justice  
Education Law  
Elder Law  
Employee Benefits

Energy, Utilities, Telecommunications & Transportation  
Environmental Law  
Family Law  
Federal Civil Practice  
Federal Taxation  
General Practice, Solo and Small Firm  
Health Care  
Human Rights  
Insurance Law  
Intellectual Property Law  
International and Immigration Law  
Labor and Employment Law  
Local Government Law  
Mineral Law  
Real Estate Law (includes Drainage Law)  
Senior Lawyers  
State and Local Taxation  
Tort Law  
Traffic Laws and Courts  
Trusts and Estates  
Workers' Compensation Law  
Young Lawyers Division

Please complete the form by February 3, 2012 online at  
[isba.org/memborgroups/nominations](http://isba.org/memborgroups/nominations)

## Making the case for court funding

**Wm. T. (Bill) Robinson III, ABA President**

**W**e all experience delays that slow down and frustrate our daily lives, from traffic jams on a city street to long lines at a grocery store. But some delays are more than an inconvenience — these delays threaten the very core of our constitutional democracy.

For several years, the American Bar Association has identified a troubling trend in our state courts as a result of increasing workloads and declining budgets.

State judiciaries handle approximately 95 percent of all cases filed in the United States, according to the National Center for State Courts. In 2008, the most recent year for which data is available, states reported 106 million incoming trial court cases — the most in 35 years. Anecdotally, we know that trend has continued as more people represent themselves and legislators add more laws to the books.

NCSC says 32 states reduced their court budgets in fiscal year 2010, and cuts have continued from Hawaii to Maine in 2011. **The Supreme Court of Illinois says the judicial branch budget has remained flat for the last eight years.** And yet, the circuit courts handled more than 100,000 additional civil cases in 2009 than they did in 2005.

New Hampshire delayed civil trials for a year. Alabama closes its courts one day a week. In Georgia, the budget is so lean that courts solicit pen and pencil donations from vendors like LexisNexis and Westlaw.

People should never have to jump over budgetary hurdles to reach the courtroom. If our legal system isn't accessible, then it can't be just and it won't be fair.

The constitutional argument for sustainable funding for our courts is simple: The judiciary is a co-equal branch of government responsible for protecting our rights. The practical argument is equally compelling. The courts decide matters that go to the very core of our daily lives: when a parent petitions for custody of a child or when a family fights foreclosure of their home.

Courts are doing their part to demonstrate efficiency and innovation, including those in Illinois. The payment of fines and fees are now conducted online, and the state also utilizes remote video court recording and interpreting services.

The ABA is continuing the work of its *Task Force on Preservation of the Justice System*, bringing together those affected by this crisis to discuss strategies to help our judiciary. The task force has created a venue to share court funding stories and creative ideas at <http://bit.ly/mPjNoc>.

The ABA is also working with state and local bar associations to rethink how to sensibly spend taxpayer dollars to ensure public safety. In 1974, about 175,000 people were incarcerated in state prisons in the United States. In 2010, that number had risen to 1.4 million, an increase of 705 percent. We need to decriminalize minor offenses, utilize pretrial release and implement effective re-entry programs, among other reforms.

Your state is already addressing these issues with programs like “Adult Redeploy Illinois,” which provides financial incentives to local governments for community-based services for non-violent offenders.

Finally, we must articulate what courts do and why they are so essential by more effectively educating legislators and the general public about this crisis.

Courts must be open, available and adequately staffed. No one would accept closing the local emergency room, or the local fire house or the local police station for one day a week. Our justice system is no different. Let's join together to fight for this access, otherwise ... No courts. No justice. No freedom. ❖

*The author is president of the American Bar Association and member-in-charge of the Northern Kentucky offices of Frost Brown Todd, LLC.*



**Robinson**

## ISBA delegation visits Cuba



**The Illinois State Bar Association delegation to Cuba is photographed with Dr. Nestor Garcia Iturbe, Executive Director of the North American Division of the Cuban Institute for Friendship with the People (ICAP) and Editor of the Boletín Digital "El Heraldo" Cuban publication. The participants are (from left): Back row: Joseph F. Locallo, Jr., ISBA General Counsel Charles Northrup, ISBA President John G. Locallo, Dr. Iturbe, Edward Mitchell and Jim Dunneback. Seated: Christine Ory, ISBA Board member Shari Rhode and ISBA Past President Leonard F. Amari.**

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# Illinois Supreme Court MCLE Requirements

## *New Admittees, Did You Know . . .*

✓ That the MCLE rules – adopted by the Illinois Supreme Court and administered by the MCLE Board of the Court – were amended in September 2011 and established a 15-hour accredited MCLE requirement for newly admitted attorneys, allowing you to choose from the following compliance options described in S. Ct. Rule 793:

(a.) A 6-hour Accredited Basic Skills Course **plus** 9 additional hours of MCLE credit (of your choice); **or**

(b.) Participation in a year-long Mentoring Program approved for 6 credit hours by the Illinois Supreme Court’s Commission on Professionalism **plus** 9 additional hours of MCLE credit (of your choice); **or**

(c.) A 6-hour Basic Skills Course **plus** Participation in a year-long Mentoring Program approved for 6 credit hours by the Illinois Supreme Court’s Commission on Professionalism **plus** 3 additional hours of MCLE credit (of your choice).

✓ That this requirement for newly admitted attorneys must be completed by the last day of the month that occurs one year after your admission to practice in Illinois? And that you must certify compliance to the Supreme Court’s MCLE Board within 31 days after your Basic Skills course year has ended (unless you qualify for an exemption)?

✓ That attorneys must report MCLE requirement compliance to the MCLE Board either online at [mcleboard.org](http://mcleboard.org) or via the certification form that will be mailed by the MCLE Board to the attorney (at the address on file with the Attorney Registration and Disciplinary Commission–ARDC)? And that fail-

ure to timely report to the MCLE Board will result in late fees and the risk of removal of your name from the Master Roll of Attorneys?

✓ That attorneys should retain their Certificates of Attendance for individual courses (including all courses taken to satisfy the 15-hour course requirement for newly admitted attorneys) in their files for three years after the end of the reporting period in case they are audited?

✓ That after completing the 15-hour course requirement for this one year period, your initial two year MCLE reporting period begins on the next July 1st, pursuant to the MCLE Board reporting schedule? And that the schedule is based on the first letter of your last name? (See chart below)

✓ That you are exempt from the **General** CLE requirements during this one year period, **but** before your two year reporting period begins, you can earn and carry over up to 15\*\* MCLE hours in excess of your newly admitted attorney requirement, including up to 6 hours of professional responsibility credit?

✓ That you can continue learning new legal skills at live ISBA CLE programs for only \$25 per program for your first three years of admission to the bar? And that you can visit [ISBA.org](http://ISBA.org) for a full calendar of CLE programs?

*\*New Attorneys admitted after Dec. 31, 2005 and before Oct 1, 2011, who have not yet satisfied the new attorney requirements, have the option of completing a 15 hour Basic Skills course as detailed under the prior Rule 793(c) or satisfying the Newly Admitted Attorney requirements described above. S. Ct. Rule 793(h)*

*\*\*New Attorneys admitted between Jan 1, 2006 through June 30, 2009 may carry over a maximum of 10 CLE hours, excluding professional responsibility hours. S. Ct. Rule 794(c)(2)(i)*

**Find out how ISBA can help fulfill your MCLE requirements on Page 20.**

	Admitted November 2008	Admitted May 2009	Admitted November 2009	Admitted May 2010	Admitted November 2010	Admitted May 2011	Admitted November 2011
<b>15-hour Course Requirement must be completed by:</b>	Nov. 30, 2009	May 31 2010	Nov. 30, 2010	May 31, 2011	Nov. 30, 2011	May 31, 2012	Nov. 30, 2012
<b>Certify Compliance to Supreme Court MCLE Board by:</b>	Dec. 31, 2009	July 1, 2010	Dec. 31, 2010	July 1, 2011	Dec. 31, 2011	July 1, 2012	Dec. 31, 2012
<b>General MCLE Carry Over Hours Possible To Earn (Sup. Ct. Rule 794(c)(2))</b>	10 Hours (except PMCLE Credit) earned between Basic Skills compliance and the first day of your first reporting period	10 Hours (except PMCLE Credit) earned between Basic Skills compliance and the first day of your first reporting period	15 Hours, including up to 6 hours PMCLE credit, earned between date of bar admission and the first day of your first reporting period	15 Hours, including up to 6 hours PMCLE credit, earned between date of bar admission and the first day of your first reporting period	15 Hours, including up to 6 hours PMCLE credit, earned between date of bar admission and the first day of your first reporting period	15 Hours, including up to 6 hours PMCLE credit, earned between date of bar admission and the first day of your first reporting period	15 Hours, including up to 6 hours PMCLE credit, earned between date of bar admission and the first day of your first reporting period
<b>First 30 Hour MCLE reporting period for last names beginning with A – M:</b>	July 1, 2010 – June 30, 2012	July 1, 2010 – June 30, 2012	July 1, 2012 – June 30, 2014	July 1, 2014 – June 30, 2016			
<b>First MCLE reporting period for last names beginning with N – Z: (30 Hours unless noted)</b>	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	July 1, 2013 – June 30, 2015

To find out more visit the MCLE Board website at [www.MCLEBoard.org](http://www.MCLEBoard.org)

# Creating a culture of learning

by **Douglas F. McMeyer** [Douglas.McMeyer@huschblackwell.com](mailto:Douglas.McMeyer@huschblackwell.com)  
*Husch Blackwell, Chicago*

*Good judgment comes from experience. Experience comes from having used bad judgment.* – Unknown

In our society and in our profession, we have a habit of celebrating our successes and burying our mistakes. To be sure, our successes deserve celebration. However, our mistakes deserve more than a quiet death. Though we may grow from them personally, we often do so privately. We do not generally share our errors so that others may learn from the follies of our practice.

The inclination to see and remember only the positive attributes of a career is even more pronounced for the young lawyer examining his or her role model's career. Though it is fair to suggest that an attorney would not be selected as a role model or mentor if their practice were not one that was enviable, it is also true that young attorneys can likely learn as much from the failures of their experienced forerunners as they can from the successes.

*Experience is the name everyone gives to their mistakes* – Oscar Wilde

Several months ago I was having lunch with a friend of mine who has had one of those careers that most young lawyers can only dream of achieving. As we were talking, she shared with me that when she was a young associate, she had a partner that made so many corrections on her briefs and motions that she could scarcely read the original text. She shared the story not out of spite, but in the spirit of remembering how much she learned from that guidance. While she was expressing gratitude for an elder taking the time to teach her to be a better lawyer, I was feeling gratitude for her experience because it reminded me that she once stood in very similar shoes to those that I and my contemporaries are in now.

*Success does not consist in never making mistakes but in never making the same one a second time.* – George Bernard Shaw

One of the great advantages of being involved in the Young Lawyer's Division is being surrounded by and connected to a network of young attorneys who share their triumphs – and their failures. We assist each other not just in business development but in practice by offering practical advice and sharing our lessons learned. Being surrounded by peers who, like yourself, are at the dawn of their careers helps provide a reality check and gives a realistic metric to measure our own development in the practice. We learn things from each other that we often do not learn from our more seasoned and experienced colleagues, namely, what not to do.

Though there is no doubt that young lawyers learn an enormous amount from our more experienced colleagues, the focus of the stories shared is understandably on the great successes. The instruction we receive teaches us how to do something, or how to do something better. It is on rare occasions that young attorneys are told the stories of the case that was lost, or the motion that backfired. We receive the benefit of their judgment, but rarely the lessons that can help us develop better judgment.

*Be not ashamed of mistakes and thus make them crimes.* – Confucius

To make us better attorneys (better people), we need to learn the lessons that have been learned the hard way, but we don't necessarily need to learn them personally. We can learn them vicariously not just from fellow young attorneys, but from our seniors as well. By sharing our mistakes, we open ourselves to learning. Though, as James Joyce said, "mistakes are portals of discovery", the famous English historian James A. Froude noted that "experience teaches slowly at the cost of mistakes." If the young lawyer can learn from the mistakes – as well as the triumphs – of the past, perhaps the more painful history of our superiors is one that we will not be doomed to repeat. ❖

## Illinois admits 2,155 new lawyers in November ceremonies



**ISBA President John G. Locallo is shown with new admittee Melissa Ford and her godmother, Cook County Circuit Clerk Dorothy Brown, at the 1st District Admission Ceremony in Chicago.**



**ISBA 3rd Vice President Richard D. Felice with Illinois Supreme Court Justice Robert Thomas and his son, new admittee Jonathan Thomas, at the 2nd District Admission Ceremony in Elgin.**

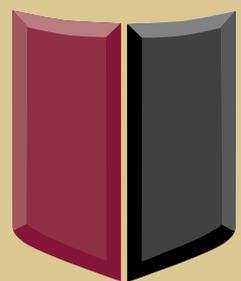
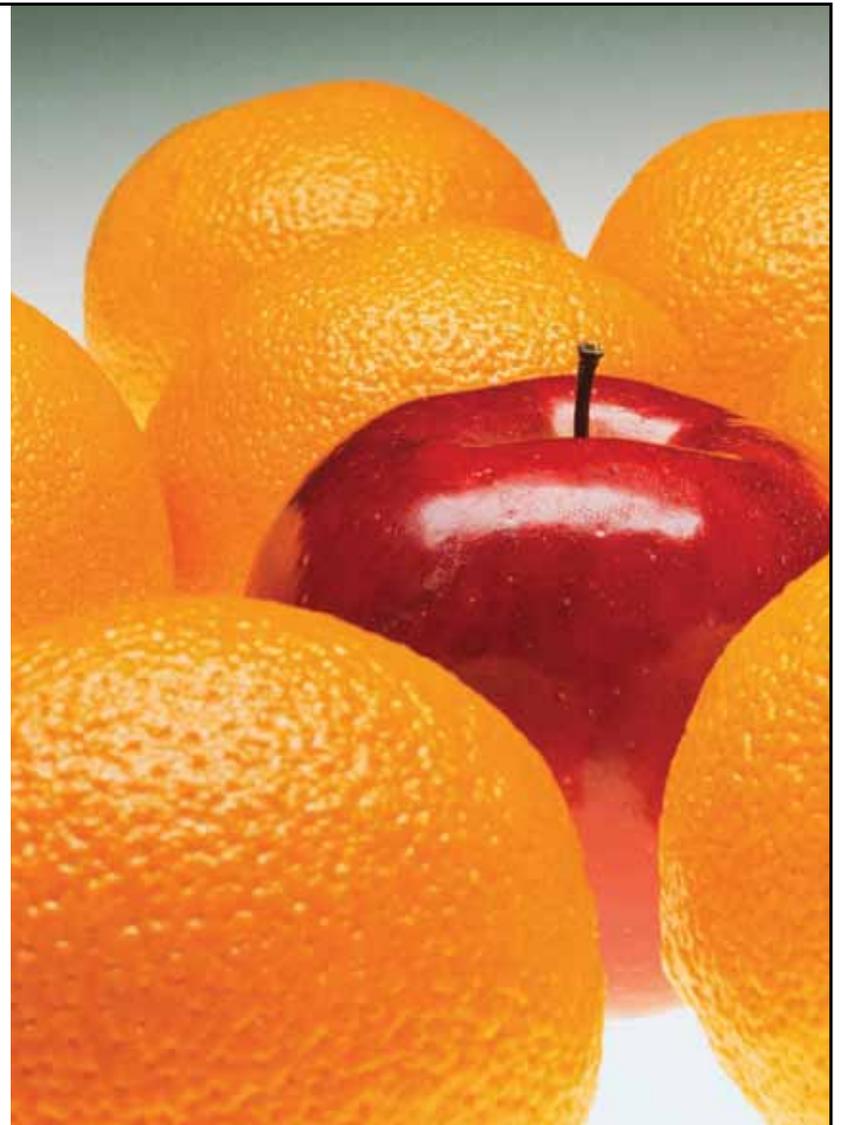


**ISBA President-elect John E. Thies congratulates new admittee Katherine Grace Legge of Morton at the 5th District Admission Ceremony in Carbondale.**

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Award winners and friends enjoy the 2011 ISBA Annual Awards Luncheon.

## Help honor your colleagues – Nominate them for an ISBA award

**N**ominations are being accepted for ISBA awards that will be presented on Friday, June 15, 2012, at the Annual Awards Luncheon. Additional information is available at [www.isba.org/awards](http://www.isba.org/awards)

### Community Leadership

Nominees for the Community Leadership Award should be judges, lawyers, members of state or local legislative bodies, educators or community activist groups who have worked to eliminate discrimination and foster understanding of legal issues relating to the LGBT community. Nominations are due by Friday, April 6, 2012. The nominating form is available at [www.isba.org/awards/sogi](http://www.isba.org/awards/sogi).

### Diversity Leadership Award

The Diversity Leadership Award recognizes longstanding, continuing and exceptional commitment by an individual or an organization to the critical importance of diversity within the Illinois legal community, its judiciary and within ISBA. The recipient may be a lawyer or non-lawyer or an organization of lawyers or a combination of both. Nominations are due by Friday, April 6, 2012. The nominating form is available at [www.isba.org/awards/diversity](http://www.isba.org/awards/diversity).

### General Practice

Nominees for the Matthew Maloney

Tradition of Excellence Award must be ISBA members who have been in general practice for at least 20 years and have made significant contributions to the profession and community. Nominations are due by Monday, April 2, 2012. The nominating form is available at [www.isba.org/awards/gp](http://www.isba.org/awards/gp).

### Law Students

Nominees from ISBA-affiliated law schools should be participating in activities that enhance professional responsibility and provide service to the public. The award recipient will receive all expenses paid to the ISBA Annual Meeting including transportation and one night's lodging. Nominations are due by Friday, March 30, 2012. Nominating forms are available at [www.isba.org/awards/lawstudent](http://www.isba.org/awards/lawstudent).

### Young Lawyers

The ISBA Young Lawyers Division presents two Young Lawyer of the Year awards - one for Cook County and one for outside Cook County. Nominees must be ISBA members under age 36 who have achieved excellence in litigation, advocacy or counseling, and have contributed to the profession through public service and pro bono activity. Nominations are due by Friday, March 30, 2012. The nominating form is available at [www.isba.org/awards/yld](http://www.isba.org/awards/yld). ❖

## Nominations sought for McAndrews Pro Bono Service Award

**T**he Illinois State Bar Association's Standing Committee on Delivery of Legal Services is currently seeking nominations for the 2011-2012 ISBA John C. McAndrews Pro Bono Service Award.

The ISBA has established the John C. McAndrews Award to honor the extraordinary commitment of individuals, bar associations, or law firm/corporate legal departments to providing free legal services to the income-eligible in Illinois or expanding the availability of legal services to the income-eligible in Illinois. Presentation of the awards will take place on Friday, June 15, 2012, at the ISBA Annual Meeting Awards Luncheon.

The ISBA Committee on Delivery of Legal Services is also excited to announce that the Illinois Bar Foundation will award a \$1,000 grant in honor of each John C. McAndrews Award recipients to the Illinois not-for-profit legal aid organization through which the award-ee provides pro bono legal services. The Illinois Bar Foundation, in partnership with the Illinois State Bar Association, seeks to enhance the recognition of this prestigious award as part of the Foundation's effort to encourage and acknowledge pro bono legal work.

Nominations are due by **March 19, 2012**. Nomination forms and criteria are available at [www.isba.org/awards/mcandrews](http://www.isba.org/awards/mcandrews). ❖



ISBA President John G. Locallo (right) congratulates McAndrews Award winners at the 2011 ISBA Annual Awards Luncheon. Brian A. Hart of Rockford, Kirkland & Ellis and the Northwest Suburban Bar Association were the awardees in 2011.

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# Starting – building – managing a law firm

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

jolmstead@olmsteadassoc.com

**T**he current national economy, downsizing of large law firms, oversupply of new law school graduates, and the restructuring of the legal market has forced more attorneys into solo or sole owner practices. Seasoned attorneys from large and small law firms and new attorneys right out of law school are venturing into solo practice either by design or by fate. Many are simply not prepared for the challenges they must now face – practicing law and managing and running a business.

I receive at least 10 calls a week from attorneys that are in solo practice or are the sole owner of a small law firm with similar concerns and frustrations. However, there tend to be different needs and challenges depending on which phase of development the firm is in. Here are a few survival tips for each phase:

## Phase I – Solo Startup

In this phase it is all about you. More than likely you will not have office staff to begin. If you are a new attorney right out of law school you must learn your trade and develop competencies in lawyering and client service. Your first priority will be to supplement your law school education with nuts and bolts practice skills – and you will have to do it quickly. Since you won't have a senior partner in your firm to mentor and train you – you will have to reach out to resources outside of your firm. You will not have an accountability partner in your firm.

Your second priority will be getting clients. You will have to actively marketing and promote yourself and your practice. Funds may be limited so your largest market investment will be your non-billable time devoted to marketing and client development activities.

Finally, your third priority will be getting paid by your clients. Self discipline and exceptional time management and time keeping skills are critical success factors.

## Phase I Survival Tips

1. **Create a business plan** (strategic plan) before even starting the practice even if it is a one-page plan. This will serve as a roadmap for your practice. See *Helen Gunnarsson's article in November 2011 Illinois Bar Journal*.
2. **Set up your practice and office**  
This includes everything from selecting a suitable name and legal form for your practice; setting up your office whether it be a home or virtual office, a space share arrangement, or lease office space; acquisition of office systems,

etc. (I have a start-up checklist available. E-mail me if you would like a copy.)

## 3. Develop competencies in law and business

- a. Find an experienced attorney to serve as a mentor
- b. Consider a business coach
- c. Take all the CLE you can

## 4. Getting Clients

Time must be devoted to business development. To be successful in private practice attorneys must be *finders* (originate new business), *minders* (manage client matters and relationships) and *grinders* (worker bees that work on client matters, provide services and generate fees). You must manage and balance your time in a way that you cover all three of these bases.

## 5. Client Development/Marketing

- a. Actively network with the general public, other attorneys and other potential referral sources
- b. Ask for referrals
- c. Implement a first class website that demonstrates expertise

## 6. Getting Paid

- a. Use engagement letters and fee agreements
- b. Ask for retainers and replenish
- c. Accept credit cards
- d. Establish client selection criteria

## 7. Financial Management

Learn key metrics and “red flags” for your practice area, set goals, and measure your performance against those goals. Actively manage your cash flow. Remember - profit as reflected on the income statement and cash flow are not the same.

## 8. Manage Your Self – Self Discipline and Accountability

## 9. Partner with Other Solos

## Phase II – Taking the Practice to the Next Level – New Challenges – New Skills Required

If you are successful in Phase I you will eventually need help whether it be administrative, paralegal or another attorney. Now you must manage others as well as yourself. More office space will be required – especially if you are currently in a home or virtual office. A new set of skill sets (people skills) is now required.

*Some lawyers never develop the skills needed or the desire to go to this level and firm growth is restricted as a result.*

I refer to this phase as Sole Owner Phase. I have client law firms in this phase that consist of an attorney owner, a handful of employed associates, paralegals

and staff. These firms may have three to four people or 10 or more. I have sole owner law firms with over 100 employed attorneys and staff.

## Phase II Survival Tips

### 1. Additional People

- a. Know what to look for
- b. Know how to compensate attorneys and staff
- c. Decide whether you are looking for long term vs. short term hires and relationships

### 2. Develop Skill Sets in the Following Areas – Managing Others – Finding, Managing, Motivating, Training and Retaining Talent

- a. Hiring and Firing
- b. HR Function
- c. Delegation of work
- d. Supervision of work

### 3. Use the Following HR Tools and Processes

- a. Job Descriptions
- b. Performance Reviews and Evaluations
- c. Office Policies and Procedures
- d. Office Meetings
- e. Personnel Records
- f. Payroll and Reporting
- g. Salary Administration

**Key Challenge in Phase II** – Knowing when you have the business and you are ready for this phase

## Phase III – Partnership – Internal/Other Firm

Eventually the question of partnership arises – whether sooner, based on the need or desire to transition an associate into a partnership or to add a practice area by acquiring a lateral partner with his/her book of business. Maybe you are thinking about merging with another firm. Or maybe you have been solo or a sole owner for your entire career and are now contemplating retirement and are looking for a succession/exit strategy and now must either bring in a partner, merge with another firm or sell your practice. Partnership with another attorney creates another set of interpersonal dynamics and another set of skills that will need to be developed at this stage of your practice.

Are you ready for the challenge? ❖

*John W. Olmstead, MBA, Ph.D, CMC, (www.olmsteadassoc.com) is a past chair and member of the ISBA Standing Committee on Law Office Management and Economics. For more information on law office management please direct questions to the ISBA listserver, which John and other committee members review, or view archived copies of The Bottom Line Newsletters.*

## ISBA to recognize 1961 Class of Distinguished Counsellors

**P**resident John G. Locallo will recognize the 1961 Class of Distinguished Counsellors on Wednesday, Dec. 7 at the Westin Michigan Avenue Hotel in Chicago. The event will begin with a reception at 11:15 a.m. and will continue with a luncheon at noon.

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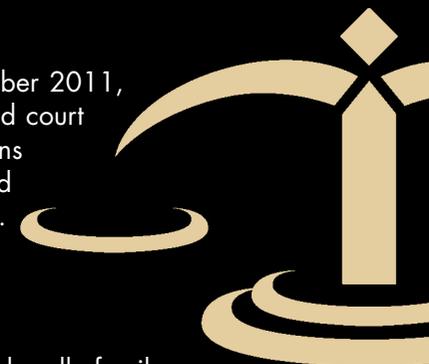
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Admitted 1968  
Date of Death: 6/5/11

**Steve Binting, Bloomington, IN**  
Admitted 1957  
Date of Death: 6/7/11

**Ralph Coletta, Peoria, IL**  
Admitted 1949  
Date of Death: 10/19/11

**Maurice Dailey, Edwardsville, IL**  
Admitted 1950  
Date of Death: 9/22/11

**Judith R. Dickinson, Menomonee Falls, WI**  
Admitted 1992  
Date of Death: 8/8/11

**Michael J. Evers, Chicago, IL**  
Admitted 1994  
Date of Death: 9/11/11

**John Floberg, Potomac, MD**  
Admitted 1939  
Date of Death: 8/29/11

**Daniel M. Franklin, Pana, IL**  
Admitted 1984  
Date of Death: 9/6/11

**Lawrence Hatch, Champaign, IL**  
Admitted 1937  
Date of Death: 7/25/11

**Frank B. Hubachek, Jr., Glenview, IL**  
Admitted 1950  
Date of Death: 1/21/11

**Howard G. Kaplan, Highland Park, IL**  
Admitted 1967  
Date of Death: 6/19/11

**Kenneth K. Kinser, Decatur, IL**  
Admitted 1941  
Date of Death: 9/10/11

**Darrell E. Klink, Lincoln, IL**  
Admitted 1953  
Date of Death: 8/26/11

**Walter M. Langford, Leawood, KS**  
Admitted 1971  
Date of Death: 9/11/11

**Nat P. Ozmon, Chicago, IL**  
Admitted 1954  
Date of Death: 9/14/11

**Mary Sindors, Houston, TX**  
Admitted 1962  
Date of Death: 7/8/11

**Donald Sipe, Sterling, IL**  
Admitted 1942  
Date of Death: 9/11/11

**Charles Stewart, Northbrook, IL**  
Admitted 1948  
Date of Death: 5/17/11

**Leroy A. Ufkes, Carthage, IL**  
Admitted 1950  
Date of Death: 10/18/11

**Max Wildman, Lake Forest, IL**  
Admitted 1944  
Date of Death: 9/16/11



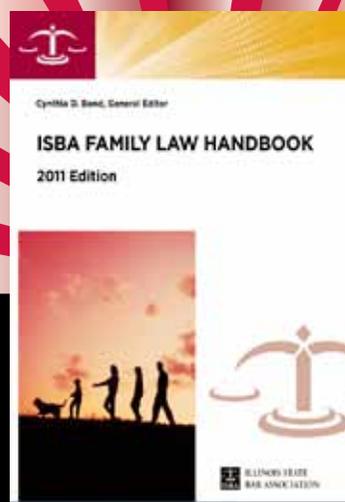
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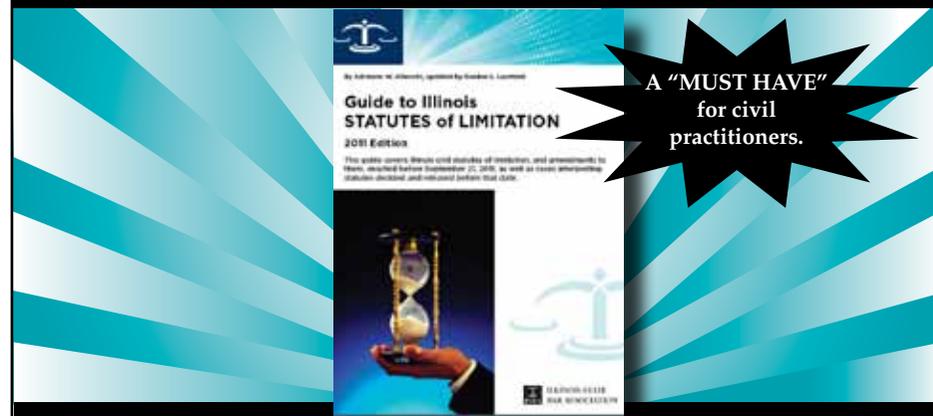
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## 14 – Teleseminar

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# Illinois Supreme Court disbars 7, suspends 22

**T**he Illinois Supreme Court disbarred 7 lawyers and suspended 22 lawyers in its latest disciplinary filing. More information on each case is available at [bit.ly/vKT10w](http://bit.ly/vKT10w)

## DISBARRED

**Robert A. Drew**, Marion, was disbarred on consent. He was convicted of attempting to provide contraband, heroin, to an inmate at the Federal Correctional Complex in Terre Haute, Indiana. He was sentenced to 16 months in prison.

**Scott Anthony Margherio**, Metropolis, was disbarred on consent. He made material omissions and misrepresentations to the Illinois Board of Admissions to the Bar and he was held in direct criminal contempt for appearing in court intoxicated while representing a client.

**Jonathan D. McKee**, University City, Mo., was disbarred in Missouri for misappropriating funds, falsely stating to a client that he had not received a settlement check from an insurance company, and for practicing law after he had been administratively suspended for failing to pay bar enrollment fees.

**Christopher Anthony Millet**, Westchester, was disbarred. He was convicted of conspiracy to knowingly distribute and possess with intent to distribute a controlled substance, specifically 500 grams or more of mixtures containing cocaine, and with knowingly attempting to possess with intent to deliver a controlled substance. He masterminded a scheme whereby he partnered with a known drug dealer to steal cash and drugs from another individual he believed to be a drug dealer. He also misappropriated over \$22,000 in client funds and neglected a client's case.

**Guy M. Petruzzelli**, Darien, was disbarred. Over a five-month period, he lied to his clients about the status of a case and fabricated settlement documents, bank records, and a court order that he gave to his clients to support his misrepresentations.

**Mitchell Harlin Wexler**, Highland Park, was disbarred on consent. He misappropriated \$132,382.13 in client funds from five different clients, failed to make reasonable efforts to supervise non-lawyer assistants in the winding down of his law firm's operations, and used client funds in violation of a court order that prohibited such use.

**Norman Paul Wexler**, Weston, Fla., was disbarred on consent. He misappropriated

\$132,382.13 in client funds from five different clients, and used client funds in violation of a court order that prohibited such use.

## SUSPENDED

**Ross Alexander**, Waukegan, was suspended for one year and until further order of Court. He was found guilty of one count of misdemeanor battery after he pushed his then seven-year-old daughter to the ground, causing her to break her wrist.

**Alan J. Bernstein**, Chicago, was suspended for 90 days. He neglected a dissolution of marriage matter. He was previously suspended in 2005 for neglect.

**Gregg William Bittner**, Peoria, was suspended for six months. After receiving \$2,300 in funds on behalf of three different bankruptcy clients, he refused to deliver the funds to the clients and converted \$570 of the money.

**Rod R. Blagojevich**, Chicago, was suspended on an interim basis and until further order of the Court. As a result of improper actions while serving as the elected Governor of the State of Illinois, two different federal juries returned guilty verdicts against him for conduct that involved moral turpitude and reflected adversely on his fitness to practice law.

**Patrick Earl Catalano**, Chula Vista, Calif., was suspended in California for one year, with all but 30 days of the suspension stayed by probation subject to conditions, for commingling personal funds with client funds.

**Samir Zia Chowhan**, Granger, Ind., was suspended for one year and until further order of the Court. He neglected two immigration matters and misrepresented the status of those matters to his clients. In addition, he attempted to obtain sexual favors from prospective employees of his law office and lied to the ARDC in order to impede an investigation of his conduct.

**Bernard James Conway**, Chicago, was suspended for 90 days. After issuing a check drawn on insufficient funds to his landlord, he was charged in the Circuit Court of Berrien County, Michigan, with having presented an NSF check in an amount over \$500. He was convicted of the charge and sentenced to one year of probation with the condition that he make restitution and pay a fine. He complied with the terms of his sentence and his conviction was later expunged, but he failed to notify the ARDC of the conviction.

**Stephen C. Debboli**, Chicago, was suspended for five months, with the suspension stayed after 60 days by a two-year period of probation with conditions. He neglected a federal civil rights case and did not respond to requests for information in two separate ARDC investigations.

**Robert Vincent Gildo**, Harbert, Mich., was suspended for 60 days. He neglected a client's racial discrimination suit when he did not respond to a motion for summary judgment and for sanction, resulting in the loss of the client's case and a cost judgment being imposed against her.

**Jeffrey Michael Johns**, Overland Park, Kan., was suspended in Kansas for two years and until further order of the court for felony driving under the influence of alcohol. The Supreme Court of Illinois imposed reciprocal discipline and suspended him for two years and until he is reinstated in Kansas.

**Anthony Ray Johnson**, Newton, Iowa, was suspended in Iowa for three years and until further order of the Court for neglecting client matters, failing to keep clients informed or respond to their requests for information, failing to make necessary court filings or appear at court hearings, improperly presenting an *ex parte* order to a court for signature, failing to provide an accounting of fees or to refund unearned attorney's fees, and failing to cooperate with the disciplinary authority.

**Robert Raymond Jung**, Phoenix, Ariz., was licensed in Illinois in 1991 and in Arizona in 1992. He was suspended in Arizona for two years and placed on probation for an additional two years upon any reinstatement for failing to abide by client decisions, failing to adequately communicate with clients, neglecting client matters, not promptly returning client property, and failing to cooperate with the disciplinary authority. The Supreme Court of Illinois imposed reciprocal discipline and suspended him for two years and until he is reinstated in Arizona.

**Marlin E. Kirby**, Oak Park, was suspended for six months and until he completes the ARDC Professionalism Seminar. He converted approximately \$8,700 of a bankruptcy client's personal injury settlement and entered into an improper agreement with the client that required the client to withdraw the grievance that she had filed against him with the ARDC.

**Michael Scott McDonald**, Lincolnwood, was suspended for one year

and until further order of the Court. He improperly assisted a man named Carl Mattes in the unauthorized practice of law following Mattes' suspension from the practice of law and subsequent disbarment.

**Corey Edward Meyer**, Chicago, who was licensed in 1985, was suspended for four months. He engaged in the unauthorized practice of law in Michigan, filed a frivolous court claim, neglected a matter, and made misrepresentations to his client about the status of the case.

**Jason William Smiekel**, Algonquin, was suspended on an interim basis and until further order of the Court. He was indicted on a federal murder for hire charge.

**Kimberly A. Theobald**, Waukesha, Wis., was suspended in Wisconsin for 60 days for neglecting a client bankruptcy matter.

**Lisa Theresa Thompson**, St. Louis, was suspended for nine months and until further order of the Court. She practiced law after her name had been removed from the Master Roll of Attorneys for not paying her annual registration fees.

**Jeff Torronoz**, Rock Island, was suspended on an interim basis and until further order of the Court. While serving as the State's Attorney of Rock Island County, he furnished alcohol to a minor and then allegedly lied to police authorities who were investigating the matter.

**Ernest Eugene Wiley Jr.**, Westchester, was suspended for two years and until further order of the Court, with the suspension stayed after the first five months by probation if he makes certain restitution. He converted \$1,920 that he was to hold in escrow and he neglected and charged an unreasonable fee in a bankruptcy matter.

**Timothy James Winfield**, Chicago, was suspended for two years and until further order of the Court, with the suspension stayed in its entirety by a two-year period of conditional probation. He was convicted on two counts of aggravated driving under the influence of alcohol causing great bodily harm, both Class 4 felonies. He was previously convicted of misdemeanor reckless driving charges, driving on a suspended license and attempted obstruction of justice.

**James Bertin Zaczek**, Chicago, was suspended for six months, with the suspension stayed in its entirety, pending completion of a one-year period of probation with conditions. He mismanaged approximately \$8,400 that he was required to have held in escrow.

## ISBA events calendar

### 2011

**December 7 (Wednesday) Chicago**  
Distinguished Counsellors Luncheon (Class of 1961)

**December 8-10 (Thursday – Saturday) Chicago**  
ISBA/IJA Midyear Meeting

### 2012

**January 20 (Friday) Chicago**  
ISBA Board of Governors meeting

**February 16 (Thursday) Chicago**  
IBF Lawyers Rock Legends at Buddy Guy's

**March 9 (Friday) Quincy**  
ISBA Board of Governors meeting

**April 27 (Friday) Chicago**  
YLD Soiree

**May 5-12 Buenos Aires and Rio de Janeiro**  
John Locallo ISBA President's trip to Argentina and Brazil

**May 18 (Friday) St. Louis**  
ISBA Board of Governors Meeting

**June 14-16 (Thursday – Saturday) Fontana, Wis.**  
ISBA Annual Meeting

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

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COVER PHOTO: Judges Charles Romani, a Vietnam veteran, presides over the Veterans' Court in Madison County.



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