

# Bench & Bar

The newsletter of the Illinois State Bar Association's Bench & Bar Section

## Editor's Note: Make Your Arrangements for the 2026 Annual Meeting

BY KIMBERLY DUDA

**THE ISBA ANNUAL MEETING 2026** is set to take place **June 11–12, 2026**, in the vibrant Clayton business district of St. Louis. This year's gathering will be hosted at the elegant The Ritz-Carlton, St. Louis, offering attendees a chance to enjoy its renowned luxury and amenities. With lodging reservations now open, attendees are encouraged to book early to secure accommodations before availability fills up.

The Annual Meeting will also mark an exciting leadership moment as Perry Browder is welcomed as the 150th ISBA president. Those planning to attend should make note that the **room reservation deadline is May 19**. [Book your lodging](#) for this highly anticipated Annual Meeting.

Additional event details will be available at [isba.org/annual](https://isba.org/annual). Meet me in St. Louis! ■

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Illinois Supreme Court justices and women in the judiciary at the WATL Annual Tea, March 13, 2026, Loews Chicago Hotel.

# Letter to the Editor for Bench & Bar Section Council Newsletter

BY HON. MICHAEL S. JORDAN

**I READ WITH GREAT INTEREST THE WELL-RESEARCHED** and well-written article in the February 2026 Newsletter, Volume 56, No. 3, starting at page 1, titled: “No Access to Justice,” by Judge James A. Shapiro and Mr. James J. Herdegen, a second-year law student at the University of Illinois in Champaign. Their article advocates the position that the holding in *Gideon v. Wainwright*, 372 U.S. 335, 344 (1963), applied there to criminal cases, should be expanded to civil cases so that minors, the subject of custody disputes, would be afforded free legal representation as the *Gideon* case provided for juveniles in criminal cases.

I agree with their proposition that if children in criminal proceedings should have the right to legal counsel, why shouldn't children in custody cases be afforded counsel as well, where in both circumstances the children's future is in the balance for determination. Where parties in a divorce proceeding contesting custody are wealthy, the court can easily appoint an attorney for the child or children and impose the costs on one or both of the parties. When the parties are not wealthy, and, in fact, may be impoverished, the appointment of counsel by the court will result in a need for resources. If we undertake this noble cause, why limit

the benefits to only criminal and now to custody and related matters?

Thousands of people are brought into the court system for foreclosure proceedings, and dire consequences face them, including the prospect of becoming homeless. Many of these people are decent people who were injured or became ill and could not maintain their jobs and sources of income to pay their mortgages. Perhaps some worked many years for a company that now downsized and terminated their services. Others may have had tragedy in their immediate families requiring their resources be directed away from their mortgage payments. Why not provide representation for these people?

Certain other people are summoned to court in eviction proceedings due to circumstances where their resources were diverted from paying rent to paying doctors, hospitals, or funeral bills and they too could benefit from free legal counsel. Perhaps we should include the person terminated from employment who has no resources to contest the sometimes-wrongful action; and, then, especially when they too will face eviction or foreclosure.

I can recall cases I heard as a judge or presided over since in arbitration or mediation in my current practice where good people suffered harm and then faced

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harsh legal remedies. Perhaps a lawyer's appointment would have avoided or eased their misfortune. Sometimes legal aid or legal assistance agencies or bar association pro bono programs provided resources, but that help was not always available. Due to many employment engagement agreements persons are required to sign to obtain employment, they may not go to court but must contest their termination in arbitration. Shouldn't they also be afforded counsel in arbitration as well as in court? Where is the limit to reasonableness and to the resources?

Many lawyers are themselves struggling to feed their own families and don't have the resources to help clients without fees. Access to justice is a continuing problem where creative minds must find a way to help not just children in custody

matters, but others in circumstances just as threatening. Judge Shapiro and Mr. Herdegen expose the underbelly of harm facing not just one segment of our society but, on reflection, how many others suffer each day as well even if they are not the child pawns in a custody case. Too many in our society ask only what can be given to them and not how they can help others. Some only want to cut taxes and cut services and ignore the poor and their suffering. An answer must be found. The authors' article raises many questions. I have here articulated a few more questions.

I look back to a time before *Gideon* was decided in 1963 (as I was finishing college and beginning my law school education). We took for granted a system that was unfair until we saw a new path on the horizon for legal institutions to help more

people. Many core rights were established in that period of time, affording new rights for citizens and responsibilities for public officials. The Bench and Bar Section Council has been in the forefront of movers to provide better access for justice to more, if not all. Since I joined the section council in 1975 as a coeditor for the newsletter until today (with only a few years off), I have been involved with the Bench and Bar Section Council. It had been known as the Judicial Administration Section Council but the mission stayed the same. May the dialogue continue with beneficial changes springing forth. If judges like James Shapiro actively work for change to better the lives of people and some say show themselves as activist, I say activity in support of justice shall have no limitations. Let the dialogue continue. ■



## Rule of Law Symposium 2026 – Defending Democracy: Protecting the Rule of Law

*Presented by the ISBA Human & Civil Rights Section  
Co-presented by the ISBA Bench & Bar Section, ISBA  
Diversity Leadership Council, and ISBA's Standing  
Committee on Racial & Ethnic Minorities*

**Chicago | Friday, May 8, 2026 | 9:00 – 5:00 p.m. | 6.0 hours MCLE credit**

**Program Coordinator/Moderator:**

*Hon. Junaid Afeef, Administrative Law Judge, Illinois Department of Public Health*



[isba.org/cle/upcoming](https://isba.org/cle/upcoming)

# The NextGen Bar Exam

BY MICHAEL G. CORTINA

**CURRENT LAW SCHOOL 1LS WHO** plan to take the Illinois Bar Exam in 2028, will be taking the NextGen Uniform Bar Examination as opposed to the current Uniform Bar Exam.

What's different? I'm glad you asked.

The NextGen Uniform Bar Examination ("NextGen Bar") will focus on integrated question sets, performance tasks, and a reduced number of legal subjects. In addition to foundational concepts and principles—*e.g.*, Civil Procedure, Contract Law, Torts, etc.—the NextGen Exam will also test lawyering skills such as Legal Research, Legal

Writing, Client Counseling, Negotiation and Dispute Resolution, and Client Relationship and Management. This topic is of interest to me because in addition to a full-time practice, I am an adjunct professor at Northern Illinois University College of Law that teaches Introduction to Lawyering Skills. My class helps prepare students not only for the real world, but also for the skills portion of the NextGen Bar.

We all likely remember taking the usual classes in law school—Torts, Contracts, Criminal Law—but very few courses focused on the practical skills of lawyering save for Legal Research and Writing. Some schools had more courses that were skills-based, like courses in Mediation, but most

classes focused on teaching students legal concepts and principles. The times, they are a changin'.

How will the NextGen Bar test skills? The National Conference of Bar Examiners that created and administers the NextGen Bar actually provide sample questions that demonstrate how skills are to be tested. In one example, a student is given excerpts of notes from a client meeting regarding a woman whose apartment flooded, an excerpt from the lease, and a sample statute regarding a landlord's duty to maintain the premises. Using the provided documentation, the student is then asked a series of questions related to them, like what is the accurate application of the statute to the facts? The student is then

**2026**  
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WELCOMING PERRY J. BROWDER AS THE 2026-27 ISBA PRESIDENT

Join us in the dynamic Clayton business district of St. Louis for our 2026 Annual Meeting. Indulge yourself in the luxurious amenities the Ritz-Carlton has to offer and explore beautiful downtown St. Louis! You won't want to miss this great opportunity to connect with fellow colleagues and attend our excellent lineup of programming.

*We hope to see you there!*

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asked to list two specific facts that support the position that the landlord violated the duty owed to the client. Third, the student is asked to list two specific actions—other than eviction—that the landlord could take that would cause the client to relocate. Fourth, the student is asked to state which of the facts listed provide the most support for a cause of action against the landlord. Fifth, the student is provided with a sample settlement offer from the landlord and asked to provide two specific drawbacks for the client if the landlord’s settlement proposal is accepted, taking into consideration the client’s stated objectives, interests, and constraints. Finally, the student is given information that the apartment building is actually owned by the landlord, individually, not by the LLC that signed the lease and claimed ownership, so the student is asked to list two specific facts that support the position

that the LLC’s veil of limited liability can be pierced.

The sample questions quiz about more than just legal doctrine. A student will be required to not only know certain legal subjects like Corporate Law in order to be able to answer the veil piercing question, but must also be able to understand the client’s position and desires and then advise the client. Could a veil-piercing action against the LLC succeed? Possibly, but the fact that the client cannot afford to relocate means that protracted litigation against a corporate entity with superior funding is not in the client’s best interest and does not comport with the client’s stated objectives and constraints. A student must be able to demonstrate the skills necessary to properly represent the client in this situation, not simply parrot the elements of a veil-piercing case.

In order to ensure that students

are prepared for the NextGen Bar, law schools are providing more skills-oriented classes. These classes teach students how to practice law, not just the legal subjects themselves. Drafting of pleadings and discovery, client counseling, depositions, and settlement negotiations are oftentimes part of the curriculum.

With students being provided instruction on lawyering skills in addition to doctrinal law, young lawyers may be able to actually practice law in some capacity immediately upon licensure instead of just learning how to do so for their first few years. Time will tell if the shift into more skills-based training is positive for the legal community, but we should all expect the new lawyers in 2028, to be a bit less green when they first step-up to the podium. ■

## Member Appreciation & Recognition *Reception*

May 14, 2026 | The Morton Arboretum | Lisle, IL

### *Celebrate* Member Appreciation Month!

Join us on May 14 from 5:30-7:30 p.m. for our annual Member Appreciation and Recognition Reception. Congratulate the 2025-2026 ISBA Award recipients, connect with your ISBA friends and colleagues, and enjoy an evening of networking at the beautiful Morton Arboretum. The reception will feature hors d’oeuvres and complimentary beer and wine. We hope to see you there!

[isba.org/events/memberappreciation](https://isba.org/events/memberappreciation)



# New Ethics Opinion Addresses Federal Judges' Public Engagement

BY PAMELA S. MENAKER

**THE U.S. JUDICIAL CONFERENCE'S COMMITTEE ON Codes of Conduct** has released a new advisory opinion ([Advisory Opinion No. 118, Feb. 12, 2026](#)) that addresses the increased criticism and attacks on the federal judiciary. The opinion explicitly provides that federal judges are now permitted to publicly defend their judicial independence and the rule of law, so long as they avoid partisan politics and preserve impartiality. For advocates of judicial independence, the opinion should come as a welcome affirmation of the judiciary's important role in our judicial system.

## Guidance for judicial independence

At its core, the opinion affirms a principle that might seem uncontroversial to those outside the judicial system: Federal judges have a role in publicly defending the institutions they serve. For decades, the code of conduct has reminded judges that their integrity, independence, and impartiality are indispensable to the rule of law and that they should avoid even the appearance of impropriety. However, until now, there has been limited formal guidance on whether and when judges may speak publicly in response to direct attacks on the judiciary.

The opinion allows judges to respond to illegitimate criticism and threats in ways that protect judicial independence and the rule of law. In doing so, judges now have the ability to discuss judicial security, the need for adequate funding, and the importance of maintaining public confidence in a coequal branch of government. It affirms that "judges may choose to engage in a wide range of civic engagement activities, including speaking and writing on core judiciary matters such as advocacy for the rule of law and judicial independence" but urges caution when judges are "expressing their personal views to preserve the integrity of the judiciary and to promote public confidence in the courts."

This is important guidance that addresses contemporary challenges. For example, the committee notes that judges can defend colleagues from unfounded attacks that risk undermining the judiciary's role. The opinion allows judges to make "public statements about the need for judicial security." These statements align with judicial duties and are supported by principles that also "permit judges to speak or write about the independence of the judiciary or advocate for the rule of law in general, including why both values are crucial to our system of government."

## The permission to speak comes with guardrails

The opinion reinforces the importance of remaining mindful of the code of conduct's enduring canons, and notes that there are "prudent limits" to judges' public remarks and civic engagement. Specifically, it points to sections of the code that warn judges not to "detract from the dignity of the judge's office" and to always act "in a manner that promotes public confidence in the impartiality of the judiciary." Thus, judges should avoid "demeaning, acrimonious, or partisan rhetoric," consider tone and context in their statements, and refrain from public commentary that could raise questions about their impartiality.

The opinion does not rewrite the code of conduct or allow political advocacy. Rather, it highlights a growing recognition of the judiciary's responsibility to uphold both the actual and perceived integrity of the courts. As debates about judicial ethics and independence continue, the true impact of this opinion will be measured ultimately by its influence on public trust and the conduct of those who serve on the federal bench. ■

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# Recent Appointments and Retirements

1. Pursuant to its Constitutional authority the Supreme Court has appointed the following to be circuit court judges:

- Hon. Julia A. Yetter, 16th Circuit, February 2, 2026
- Jack M. Kiley, 6th Circuit, February 27, 2026
- Hon. Randy A. Yedinak, 11th Circuit, March 18, 2026

2. Pursuant to its Constitutional authority, the Supreme Court has assigned the following judge to the appellate court:

- Hon. Thaddeus L. Wilson, Cook County Circuit, 1st Subcircuit, to 1st District, February 6, 2026

3. The circuit judges have appointed the following to be associate judges:

- Chad M. Loughrey, 3rd Circuit, February 20, 2026
- Aaron C. Kaney, 15th Circuit, March 23, 2026

4. Pursuant to its Constitutional authority the Supreme Court has reinstated the following to be an associate judge:

- Hon. Colleen CM Ramais, 6th Circuit, February 17, 2026

5. The following judges have retired:

- Hon. Dominique C. Ross, Cook County Circuit, 5th Subcircuit, February 27, 2026
- Hon. Jennifer H. Bauknecht, 11th Circuit, March 17, 2026
- Hon. Terrence J. Lavin, 1st District Appellate Court, March 31, 2026

6. The following judge has deceased:

- Hon. Scott Norris, Associate Judge, Circuit Court of Cook County, February 5, 2026

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