

# Law Related Education

The newsletter of the Illinois State Bar Association's Committee on Law Related Education

## A Message From The Chair

BY BILLIE CONSTANT

As I write this, I feel extremely privileged to take on the role of chair. LRE had a very busy previous 12 months. The past chairs of our committee have set the bar high. I am grateful to Sandi Sweeney for taking time to sit and talk with me several times over the last year. Her time as chair has proved successful and fruitful.

I hope to manage expectations but also, keep things moving in the right direction.

Our first in person meeting in roughly

two years was exciting and allowed for all LRE members new and old to convene for another productive year! It is my goal to hold consistent, constructive meetings within the hour time commitment. I know that our subcommittees are diligently scheduling their next meetings and will provide updates at our next online meeting (August 17, 2022, at 3:30 p.m.).

Here's the gentle reminder that there are

*Continued on next page*

A Message From The Chair  
1

You Have the Right to Remain  
Silent, But Not to Sue  
1

## You Have the Right to Remain Silent, But Not to Sue

BY BRITTANY SHAW

Many Americans, young and old alike, are able to recite at least one of their rights afforded by *Miranda v. Arizona*, a landmark case decided by the U.S. Supreme Court in 1966.

In its holding, the Court essentially ruled that police must recite some form of your basic rights, upon making an arrest and ensure that you understand them. Those rights, collectively referred to as a "Miranda warning", allow you to remain silent, request that an attorney be appointed to you, and decide whether you would like to answer questions or continue engaging in any form of conversation with law enforcement.

These rights are intended to protect and effectively enforce your right against self-incrimination under the 5th Amendment of the United States Constitution. When these rights are not stated or are unable to be understood due to incapacitation such as intoxication, mental condition or age, certain legal consequences exist.

When physical or verbal evidence is obtained in violation of the Constitution, the Court may deem it as "fruit of the poisonous tree" and render it unable to be used against you. For example, if you were arrested, not read your Miranda rights, and during interrogation you admitted to

*Continued on next page*

## 2022 ISBA High School Mock Trial Invitational

CONTINUED FROM PAGE 1

subcommittees who need your expertise and your time. If you do not have a place yet, let me know where you would like to serve... or even what you would like to know more about, we'll get you connected.

Law Related Education for the Public is so important, particularly in the current climate. We can help people be educated and informed. I think that's a high honor. Thank you for your time, effort, and dedication to our committee. ■



## You Have the Right to Remain Silent, But Not to Sue

CONTINUED FROM PAGE 1

possessing drugs which were later found in a location the police otherwise would not have looked, but for your admission, your defense attorney may be able to argue that it should be thrown out because the police did not follow *Miranda v. Arizona*.

By the same token, if you were arrested, your rights were not stated and the evidence was used against you in trial and you were found not guilty, you previously may have been able to file a civil rights lawsuit against the offending officer.

However, the Supreme Court recently ruled in *Vega v. Tekoh*, that this remedy is no longer available even in the case of a clear violation. In *Vega*, respondent was a healthcare worker who

had been detained, interrogated and threatened with force or deportation, and ultimately coerced into writing a false apology letter for a crime he did not commit.

While the Court's ruling does not change the fact that Miranda warnings should still be given, it limits one's ability to seek redress or remedy for the officer's failure to adhere to *Miranda v. Arizona*. The reasoning: Miranda rights are not constitutional rights, but rather a "rule" that is designed to protect constitutional rights from being violated.

The Court's reasoning is somewhat circular and calls into question whether Miranda warnings truly exist to protect one from abuse of civil rights or simply to have the appearance of protection. The failure to make this distinction, may result in a lack of accountability among law enforcement where an individual has no remedy other than suppression, which is not guaranteed, and may be convicted or otherwise harmed by a violation.

Despite this latest ruling, I encourage you to continue enforcing your rights if you end up in a position of search, arrest, and/or interrogation, and consult with an attorney for next steps

### Call to Action

Have you ever dreamed of having your thoughts put in print and disseminated to interested readers? If so, we encourage you to share your knowledge with us and members of the public by submitting an article! Feel free to send your thoughts to [bshaw@archcitydefenders.org](mailto:bshaw@archcitydefenders.org). ■

## Law Related Education

Published at least four times per year.

To subscribe, visit [www.isba.org](http://www.isba.org) or call 217-525-1760.

### OFFICE

ILLINOIS BAR CENTER  
424 S. SECOND STREET  
SPRINGFIELD, IL 62701  
PHONES: 217-525-1760 OR 800-252-8908  
[WWW.ISBA.ORG](http://WWW.ISBA.ORG)

### EDITORS

Brittany Jenay Shaw

### PUBLICATIONS MANAGER

Sara Anderson

✉ [sanderson@isba.org](mailto:sanderson@isba.org)

### LAW RELATED EDUCATION COMMITTEE COUNCIL

Billie J. Constant  
Hon. John J. O'Gara, Vice-Chair  
Melissa M. Olivero, Secretary  
Sandra L. Sweeney, Ex-Officio  
Robert O. Ackley  
Hon. Michael J. Chmiel  
Philip J. Davidson  
Sharon L. Eiseman  
Kelli Fennell  
Lesley D. Gool  
Hon. Rex L. Gradeless, II  
Hon. Justin M. Hansen  
Stephen D. Iden  
Adam Michael Janes  
Stephanie P. Klein  
Theresa M. Lechner  
Joseph P. Lyons  
Raquel G. Martinez  
Howard Peritz  
Brittany Jenay Shaw, Newsletter Editor  
Sarah J. Taylor  
Christine G. Zeman  
Mark C. Palmer, Board Liaison  
Kimberly A. Furr, Staff Liaison  
Nancy G. Easum  
Kateah M. McMasters, Associate Member  
Stanley N. Wasser, Associate Member

DISCLAIMER: This newsletter is for subscribers' personal use only; redistribution is prohibited. Copyright Illinois State Bar Association. Statements or expressions of opinion appearing herein are those of the authors and not necessarily those of the Association or Editors, and likewise the publication of any advertisement is not to be construed as an endorsement of the product or service offered unless it is specifically stated in the ad that there is such approval or endorsement.

Articles are prepared as an educational service to members of ISBA. They should not be relied upon as a substitute for individual legal research.

The articles in this newsletter are not intended to be used and may not be relied on for penalty avoidance.