Dear Attorney Jane Doe and Attorney John Doe:

As a young lawyer, you are in a place that I left some time ago. However, I have watched you step into jury courtrooms with a level of anticipation and excitement that is refreshing. While a few of you mask it well, I know there is also some anxiety lurking in the background. Don’t worry, because that anxiety strikes even the most seasoned litigators. Now I sit on the bench, and I sometimes wish I could call a time out during the trial to share with you some simple tips that will put you more at ease as you proceed with your case.

Being a member of the judiciary is an honor that comes with extraordinary powers and responsibilities. These powers do not include a coach’s ability to call for substitution of players, so in this note I want to briefly address some basic practical pointers to improve your overall practice as well as touch upon the specific issue of presentation of evidence to a jury. I hope by doing so I give you peace of mind and contribute, in a small way, to your growth as a fine attorney.

**Basic Pointers**

How quickly you acclimate yourself to courtroom practice depends in large part on you, your learning style, and how many opportunities you have to appear before the court. In the beginning, you may feel overwhelmed by the number of items you must remember, track and recall at a moment’s notice. In your haste, you may overlook a few very basic points that can actually help you. Here’s a brief list:

- Be on time. Factor into your schedule delays caused by traffic jams, security checkpoints and elevator.
- Be prepared. That’s your job.
- Admit what you know and what you don’t know. Don’t try to fool the judge and jury.
- Keep all conversations about the case (including settlement discussions) between you and judge on the record.

Continued on page 6

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**Get more value from your YLD!**

Check out our LinkedIn page, [tinyurl.com/29jugau](http://tinyurl.com/29jugau)

And our Facebook page: [tinyurl.com/2fqy8o8](http://tinyurl.com/2fqy8o8)

**If you’re getting this newsletter by postal mail and would prefer electronic delivery, just send an e-mail to Ann Boucher at aboucher@isba.org**

**Notice to librarians:** The following issues were published in Volume 53 of this newsletter during the fiscal year ending June 30, 2009: August, No. 1; October, No. 2; December, No. 3; February, No. 4; April, No. 5; June, No. 6.)
3rd Annual YLD Day at the Races

Come join the Young Lawyers Division at the 3rd Annual YLD Day at the Races Event. The event will take place at Arlington Park Racecourse in Arlington Heights, Illinois on Saturday, September 25th. Ticket prices for this fun-filled day are only $30 apiece. Children age 4-17 are $15 and kids under 4 are free of charge. The cost of each ticket will include: admission to the park, a daily racing guide, assigned box seat, a sandwich with chips, macaroni salad, cookie, a soft drink, and a fabulous day of thoroughbred racing! Come enjoy the day with the young lawyers and students from all around the area. Whether meeting new friends or catching up with colleagues, the YLD Day at the Races is the place to be. Get your tickets early to ensure your entry into this annual event. The last day to purchase tickets will be September, 15th. To sign up online, please visit <www.isba.org/sections/yld>. We look forward to seeing everyone there.
Another Policyholder Dividend for 2009!

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ISBA Law Student Division: Get in early, while the getting is good

By Julie Neubauer

There is a general assumption by those of us in the profession that the first opportunity for Bar Association involvement commences upon passing the Bar Exam and our automatic enrollment for a FREE year of membership in the ISBA. At that point many new attorneys first investigate how to become more involved and more exposed by signing up to receive Section Council and Committee newsletters, petitioning for an elected seat on the Assembly or through self-nomination to join the council of the YLD or other Section Councils.

In fact, long before we receive that all-important license, opportunities exist for exposure, networking, participation and involvement with thousands of attorneys in all practice areas of the profession, by joining the ISBA while a law student. Membership is free and you can begin to receive any and all Council newsletters and other ISBA publications for free or at a reduced price. Most importantly though, joining early allows you the opportunity to get to know the prominent and often published lawyers in your practice area of choice and keep up on the cutting-edge issues of law.

Opportunities for deeper involvement also begin long before you get that J.D. Three students from each of the nine Illinois law schools and also from surrounding regional private law schools such as Valparaiso, Notre Dame, Washington University and St. Louis University, nominate themselves or are elected as representatives to the Law Student Division of the ISBA (LSD) as part of their Student Bar Associations.

This year, Tarek Fadel and George Schoenbeck of the YLD council are serving as the co-chairs of the LSD council, while Julie Neubauer, am honored to serve as the YLD liaison. Each student rep has the task of promoting the ISBA at their school to encourage membership enrollment and attends four meetings each year with the reps from the other schools. In return for their service, the student reps are invited to attend YLD networking functions, including the Annual Holiday Party, Day at the Races, Summer Soirée and all happy hour events. Each year we try to coordinate at least one YLD/LSD meeting so that the students get to know the active young lawyers on the YLD council and open those networking doors wide open.

Finally, the YLD worked with the ISBA Board of Governors and the Bar leadership to open two seats for law students on the Assembly. The ISBA Assembly is the voting body of the organization and is made up of elected members, all practicing attorneys, from all the Illinois Judicial Circuits. The ISBA Assembly votes on not only internal Bar affairs, but also often addresses and takes a position on hot topics and pending state legislation such as same-sex marriage/civil unions, death penalty moratorium, and numerous other pending bills in Springfield affecting all practice areas of law. The Assembly also influences the adoption of Illinois Supreme Court Rules. Most notably, soon after the ISBA unanimously voted to support a controversial pro bono work reporting requirement, the Illinois Supreme Court enacted the annual pro bono hours reporting mandate for license renewal, confident that with Bar support, it would be well accepted. As an elected student member of the Assembly, you attend the Annual and Mid-year meetings (with 90 percent travel and lodging expense reimbursement) and truly get in on the ground floor of the most pressing and important legal issues for our state.

All law students are encouraged to get involved whether at the simple free membership level or on a more dedicated level as student rep or Assembly member. Whatever you choose, there is no doubt that the earlier you begin your ISBA involvement, the more quickly you begin to reap the benefits that will only build over time.

Julie A. Neubauer, Esq.
Aronberg Goldhaber Davis & Garmisa
ISBA YLD Law Student Division Liaison

Navigating Illinois’ child support enforcement agencies

By Christina Marie Webb

New and sometimes experienced attorneys find it difficult to navigate State and local agencies responsible for the establishment of paternity and the collection of child support in the State of Illinois. The responsibility is shared by three agencies: the Illinois Department of Healthcare and Family Services (IDHFS), the Illinois Attorney General, and the local State’s Attorney.

Generally, individuals seeking to establish paternity or enforce an order for support at no cost must first contact IDHFS. IDHFS will then refer the case to the Illinois Attorney General or the local State’s Attorney. In 13 counties, IDHFS refers cases to the local State’s Attorney. Outside those 13 counties, IDHFS refers its cases to the Illinois Attorney General.

In counties where the Attorney General represents IDHFS, the local State’s Attorney may handle its own cases pursuant to the Illinois Parentage Act and the Non-Support Punishment Act. The local State’s Attorney has the authority pursuant to the Illinois Parentage Act of 1984 “to represent the mother or child in the trial court,” 750 ILCS 45/18(b), and may pursue criminal charges under the Non-Support Punishment Act. 750 ILCS 16/1 et seq. Individuals outside those 13 counties seeking assistance should be encouraged to contact both the local State’s Attorney and IDHFS for assistance.

Private attorneys frequently navigate into uncharted waters when referring clients who can no longer afford private legal services to these agencies, which generally provide services without cost to the client. In addition, private attorneys representing the respondent (or a defendant in a failure to support case) should understand the responsibilities of each agency. Understanding the responsibilities of each agency is necessary to avoid repetitive work for the practitioner and to properly refer individuals unable to afford private legal services.

1. The 13 counties in which the State’s Attorney’s Office handles child support enforcement for IDHFS are: Lake, Cook, DuPage, Kane, DeKalb, Kankakee, McLean, Champaign, Macon, Sangamon, Knox, Madison, and Saint Clair. See <http://www.illinoisattorneygeneral.gov/children/child_sup.pdf>.
Efficient and effective Internet research for young lawyers

By Jennifer Walsh Hammer

Whether the young lawyer is practicing commercial litigation, family law, or criminal defense, research is essential to their practice of law. Moreover, it is imperative to the young lawyer that time is managed wisely. Just as one research memorandum is delivered to a partner in the firm, there is another partner in waiting to request a motion be drafted. This article will give you an overview of what I have found to be extremely useful in the development of efficient and effective research techniques.

Lawyers often turn to Lexis or Westlaw first when beginning research, but it oftentimes is best to simply utilize the search engines we use in our everyday lives. Insert terms such as “Illinois Law” or “Illinois Case” together with more specific terms into the Google or Bing search bar. A laundry list of cases, statutes and articles often appear. These will give the associate the initial terms needed to search other subscription sources. A great second search is the Illinois Institute of Continuing Legal Education (ICLE) Smartbooks. There often exist sections relevant to what the lawyer has been asked to answer or draft. Remember to check the case law and statutes. Some of these books may be antiquated by a couple years, and the law may have changed in this area. However, the general overviews are very useful in understanding a very unfamiliar area of law and developing a comprehensive list of search terms.

After having obtained a handful of useful or relevant search terms, the lawyer should subsequently begin his or her search in Lexis or Westlaw. The reference attorneys from Westlaw or Lexis should be contacted by telephone at this point. While the lawyer is searching Westlaw or Lexis, their reference attorney is also utilizing their expertise (at no charge) to assist in finding case law or statutes on point. Lexis and Westlaw both have reference attorneys available to assist their subscribing lawyers with research. Lexis’ number is 1-800-543-6862, and Westlaw’s number is 1-800-Ref-Atty.

This method of preparatory work, before beginning Lexis or Westlaw research, will help the young lawyer hone in on the specific terms needed to have successful search results in a short period of time. In the end, there may not be a published opinion on your issue or a statute that effectively answers your question, but it is this author’s hope that this article will help expedite the process of reaching that conclusion by saving time. If followed effectively, the client will see positive results from decreased research charges, and the firm will see results in the form of a higher level of productivity.

Below is a list of additional helpful resources:

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<td>Ordinances and Minutes for Select Cities (Nationwide)</td>
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<td>State of Illinois</td>
<td><a href="http://www2.illinois.gov/Pages/default.aspx">http://www2.illinois.gov/Pages/default.aspx</a></td>
<td>Executive, Legislative and Judicial Branch information and much more</td>
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<td>Information to assist with medical terms, experts, drugs etc.</td>
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<td>Building Codes</td>
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<td>Cook County Circuit Court</td>
<td><a href="http://www.cookcountyclerkofcourt.org/">http://www.cookcountyclerkofcourt.org/</a></td>
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1. Jennifer Walsh Hammer is an associate attorney at the law firm of Giffin, Winning, Cohen & Bodewes, P.C. in Springfield, Illinois. She also serves as the President of the Central Illinois Women’s Bar Association. More information is available at www.giffinwinning.com
2. Any search engine is adequate. This article does not intend to be an opinion of which search engine is superior or should be utilized.
4. My firm has chosen Lexis as its online research provider. This article does not intend to be an opinion as to which service or search engine should be utilized or is superior.
5. Also, remember that as part of your Lexis or Westlaw subscription, the law firm is entitled to receive training on the sources to which they are subscribed.
Letter to young lawyers—Basic tips and presentation of evidence

Continued from page 1

- Make sure all the evidence you want to include in your closing argument has been admitted before presenting your closing argument.
- Confirm that you have issued trial subpoenas to all witnesses you may need to call to help lay a foundation for evidence you wish to admit.
- Be respectful of your opponent, court staff and the trial judge when communicating with them.
- Outline how you envision your case proceeding and then follow your outline.
- When things are not going your way keep an even keel and refer to your outline.

Now, I’m going to move onto the specific issue of presenting evidence at criminal and civil trials. From my years as a practicing attorney as well as on the bench, I have noticed that litigators are not always aware of how they present evidence to the jury. This is unfortunate because the manner in which you present evidence to them can greatly affect the outcome of your case. To better assist you, I will give you an overview of how to present evidence at both criminal and civil trials.

Criminal Trials

Criminal trial attorneys can enhance their trial practice by remembering a few points: take advantage of all available exhibits, consider the size of each piece of evidence in the context of a large courtroom and how it will appear to the jury. In general, items presented to the jury include bats, knives, guns, articles of clothing, blood, DNA, foot and/or finger prints, et cetera. Attorneys introduce this type of evidence to clarify facts for the judge and jury. Keep in mind that not all evidence may be categorized as demonstrative. Demonstrative evidence includes charts, graphs, enlarged copies of documents, x-rays, computer simulations, diagrams of scenes, videos, and models.

First, trial attorneys often do not take full advantage of the exhibits available to them. They hold up an exhibit and put it down too quickly. Before replacing any exhibit, such as a photograph, make sure that all of the jurors see it. If you are presenting a photograph, consider the impact you want to make. While a 5x7 photograph seems large in your hand imagine six to twelve sets of eyes straining to see it from the jury box. Instead, consider using blown-up photographs, especially of important exhibits, to emphasize a particular scene or event.

Also, consider the power of presenting an actual item into evidence, rather than a diagram or photograph of the item, if possible. For example consider jurors’ reactions when they view a photograph of the gun at issue versus their reaction to seeing you holding up the gun. Offering the exhibit itself, when it is available, will have an indelible impact on jurors.

Back to the 5x7 photograph—an attorney who shows the photograph to a witness on the stand and points “right there” conveys nothing to the jurors. Jurors are not comfortable speaking out in court and you want each juror to clearly see the exhibit, especially if the material is important to your case. To solve this problem, place your oversized photograph on an easel in the courtroom. Scout out possible locations to place the photograph prior to the start of the trial. You want to make certain the jurors and judge all have an unobstructed view of the image. Then, with the court’s permission, ask the witness to leave the stand and point out the necessary information. As an aside, if possible do not use black and white photographs. Often times, these photographs are grainy or out of focus, especially if you enhance a portion of it.

Don’t disregard the possibility of publishing photographs. I have found that many judges are amenable to this idea. Of course, you must publish it properly. To publish a photograph, you must first lay the foundation for each photograph and then obtain the judge’s permission to publish. Then you may distribute the photographs to the jury to pass around.

Similarly, to show evidence to a jury during trial, lay the foundation, ask the judge to strike the identification numbers of on each exhibit, and then ask for permission to put the exhibit into evidence. Lastly, ask to publish the exhibit and then publish it in the manner just described.

Finally, consider situations where you want a witness to describe specific actions they or someone else took. In these scenarios, it is very easy to confuse yourself, the witness and the jury. A simple solution is to have the witness step off the stand, with the judge’s permission of course, and have them demonstrate the action to the jury. This is very powerful and will capture any juror’s attention. Do not forget to describe the witness’s actions for the record.

Most importantly, make sure you lay the proper foundation for each item you intend to introduce into evidence. While discussed at length in evidence books, foundation requirements actually consist of several simple questions. Immediately below is a compilation of foundation questions for different types of evidence:

Photographs:
- Is the witness familiar with the scene in photographs?
- Is the witness familiar with scene on that date?
- Does the photograph truly and accurately display the scene as it appeared on the relevant date?
- Who took the photograph?

Tangible Objects:
- Does the witness recognize the exhibit?
- Does the witness know what the exhibit looked like on the relevant date?
- Does the exhibit appear in the same or substantially same condition as when the witness saw it on the relevant date?

Diagrams:
- Is the witness familiar with the scene presented by the diagram?
- Is the diagram similar to the scene on the relevant date?
- Is the diagram helpful to a witness in explaining information to the jury?
- Is the diagram relevantly accurate?

Sound and video recordings:
- Did the witness see or hear what was recorded?
- After the recording was made did the witness hear/see the tape and verify it was accurately recorded? Confirm that no alterations or deletions were made to the sound or images after verification.
- Does the witness recognize sounds and images on the tapes?

Illustrations:
- Does the probative value of the dem-
Civil Trials

While the subject matter, process and procedures vary from criminal to civil trials, the basic problems in presentation of evidence remains similar. Oftentimes, civil cases involve photographs of an accident site, photographs of a product or a model of an injured body part.

In fact, graphs and charts and three-dimensional models all help witnesses explain the extent of any bodily injury to jurors. Take for example a lawsuit where a party suffered a hip injury. In this case, bring in a model of the hip joint area. You, or your expert, can use it to show the exact area on the body that is injured or the extent of the injury. Similar to criminal cases make sure the judge and jury has a clear view of your graphs and demonstrations. Projectors and PowerPoint displays also serve as good demonstrative aids.

Here are some additional mistakes that, at one point or another, have tripped up some attorneys:

• Failure to mark the demonstrative evidence as an exhibit. All exhibits should be properly marked prior to trial.

• Failure to show your exhibits to opposing counsel in advance of trial may lead to its exclusion. Copies of all evidentiary exhibits should be tendered during discovery. If you cannot tender a copy of the exhibit to counsel, i.e. model to scale, then make other arrangements in advance of trial.

• Not providing a clear view of the exhibit. Whatever you choose to use, chart or PowerPoint, double check that your jurors and judge can clearly see it. Confirm that it is viewable from a variety of angles.

• Forgetting to lay the foundation before presenting a model. As shown above, you can easily lay the foundation for a model exhibit by asking the maker of the model a few simple questions. Only if the attorneys reach an agreement regarding the source of the model and how it was constructed may you bypass the foundation step.

• Not properly planning ahead and making the most of any models or diagrams. For example, if your model is not made to scale, such as a reconstructed body part, then take additional steps to ensure your jurors derive the full benefit of having the model present. Ask the court for permission to have the witness step down from the stand, bring the model in front of the jury box, and have the witness then manipulate the model to make his/her point. Conversely, if the model is extremely large, then make arrangements to have these items brought in ahead of time.

Regardless of whether you are handling a criminal or civil trial, do not be afraid to bring everyday technology into the courtroom. As younger attorneys, you grew up in a more digitalized world. Odds are you are already comfortable with different gadgets and programs. Use that knowledge to more easily and efficiently present evidence to jurors.

For example, use a computer or other visual aid to project photographs onto a large screen. Also, consider video conferencing. With new laws regarding videotaping of statements, the number of video cameras available in cities, and the general ease and access people have to video and phone cameras, teleconferencing or video conferencing is on the rise. In fact, some courts even provide the necessary equipment upon request. Whether you borrow it from the court or, as more often will be the case, you transport it to the court yourself, set it up and make sure everything works smoothly before the jurors even come in.

As always, regardless of what means you use to present the information, whether it is a projector or graph, verify that it can be viewed by both the jurors and judge. I cannot emphasize this point enough. In a similar vein, do not overlook the importance of audio and acoustics.

Many attorneys have encountered unforeseen problems because of a given courtroom’s acoustics. By the time a case proceeds to trial, you will have examined and reexamined your exhibits numerous times. Therefore, you can pinpoint an item in a 5x7 photograph and hear every nuance in someone’s voice in a videotaped conversation. However, the jurors see the same exhibits for the first time in less than ideal conditions, and they may easily miss an important statement, or worse mistake it for something else.

One solution to a tape with unclear audio is to print a transcript for jurors to follow as they view the video. Moreover, certain computer programs will run the dialogue along the bottom of the screen. In any event, keep in mind that the judge must instruct jurors that they need to rely on their own interpretation of the audio tape.

A word of caution, the purpose of utilizing technology is to create ease and efficiency in presenting evidence to jurors. If you are not comfortable with a piece of technology, then become comfortable with it before using it in front of a jury. Jurors do not want to watch you fumble or have problems with technology. I have seen trials be delayed for up to 20 minutes as the attorneys try to fix the problem or wait for assistance from their office. This tactic is especially problematic if you are a sole practitioner and such additional assistance is not available to you.

Finally, and I cannot emphasize this enough, use your exhibits strategically. Some attorneys cannot pare down their evidence. In their haste to persuade jurors, they fail to realize that one or two carefully selected photographs speak volumes. Having 100 photographs in your possession does not mean that each one will add value to your case. In fact, you may actually do yourself a disservice by presenting them all because, for example, you may distract a juror from the important photos or details. It’s a simple point, but for many new attorneys it’s easy to overlook.

Well, that’s about it for now. I hope you have found these points helpful, and I am excited that I had this opportunity to contribute to your development as an attorney. I wish you much luck.

Very truly yours,
E. Kenneth Wright, Jr.
Presiding Judge
First Municipal District
Upcoming CLE programs

To register, go to www.isba.org/cle or call the ISBA registrar at 800-252-8908 or 217-525-1760.

September

Friday, 9/24/10- Teleseminar—LIVE REPLAY: Fundamentals of Exempt Taxation. 12-1.


Tuesday, 9/28/10- Teleseminar—Art of the Debt Deal for Startup and Growth Companies. 12-1.

Wednesday, 9/29/10- Teleseminar—Art of the Debt Deal for Middle Market Companies. 12-1.

Thursday, 9/30/10- Teleseminar—LIVE REPLAY: Restructuring Trusts. 12-1.

Thursday, 9/30/10- Chicago, ISBA Regional Office—Recent Developments in State and Local Tax- 2010. Presented by the ISBA State and Local Tax Committee. 8:45-12.

October

Friday, 10/1/10 – Chicago, ISBA Regional Office—Countering Litigation Gamesmanship. Presented by the ISBA General Practice Solo & Small Firm Section, Co – Sponsored by the Federal Civil Practice Section. 9-5.

Friday, 10/1/10 – Live Webcast—Countering Litigation Gamesmanship. Presented by the ISBA General Practice Solo & Small Firm Section, Co – Sponsored by the Federal Civil Practice Section. 9-5.

Tuesday, 10/5/10- Teleseminar—Pre-Mortem Estate and Trust Disputes. 12-1.

Wednesday, 10/6/10- Webinar—Virtual Magic: Making Great Legal Presentations Over the Phone/Web (invitation only, don't publicize). Presented by the ISBA. 8-5.

Thursday, 10/7/10- Chicago, ISBA Regional Office—Probate/Estate Administration Boot Camp. Presented by the ISBA Trust and Estates Section. 8:30-4:30.

Friday, 10/8/10- Carbondale, Southern Illinois University, Classroom 204—Divorce Basics for Pro Bono Attorneys. Presented by the ISBA Committee on Delivery of Legal Services. 1-4:45. Max 70.

Friday, 10/8/10- Chicago, ISBA Regional Office—Health Care Reform. Presented by the ISBA Employee Benefits Section; co-sponsored by the ISBA Health Care Section. 9-3.

Monday, 10/11/10- Chicago, ISBA Regional Office—Advanced Worker’s Compensation- 2010. Presented by the ISBA Workers’ Compensation Section. 9-4:30.