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Bench & Bar

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

Editor's column

BY HON. EDWARD SCHOENBAUM (RET.)

Welcome to the September issue. This is a very special issue and we hope you all enjoy reading these excellent articles. We want to thank all of the people who contributed to lining up authors, writing, editing and organizing this issue. Please send suggestions for the future.

We all want to hear from you and are preparing a survey which we hope many of you will fill out when you receive it later this month.

We also want many of you who read this to volunteer to write an article for you to share your experiences, insight, knowledge and understanding of the Bar, the Bench, and the Rule of Law and how we can improve the process and the citizens understanding of Justice. ■

The people's court in the island across the pond

BY HON. JESSE G. REYES

> "The interpretation of the laws is the proper and peculiar province of the courts."[1]

This summer I had the opportunity to travel to London with my family. As most tourists are apt to do, we went to see the Crown Jewels, Shakespeare's Globe, Buckingham Palace and many other well-known historical sites. Surprisingly, one of the most interesting stops we made while sightseeing was the United Kingdom's (UK) Supreme Court. On the day we arrived, we were provided with a tour and even had an opportunity to sit in on an oral argument, or as they like to refer to it, an oral hearing. Our guide was quite knowledgeable and well informed on the various facets of the building and the inner-workings of the Court. While the UK's Supreme Court may not be on everyone's "top-ten list" of must-see tourist attractions, it is worth while exploring the building - both as a beautiful piece of architecture and as a historical site rich in legal history. "The story that a building tells through its design may be as important to the community it serves as is its function…"[2] This sentiment perfectly captures the essence of the UK's Supreme Court building. Through the utilization of traditional and contemporary architecture, art, decoration and ornamentation, the

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The people's court in the island across the pond

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Court is communicating a message of independence, openness, transparency, unity, and justice. What follows is an interpretive description of how the courthouse and the Court have effectively expressed the view that the UK's highest court is the people's court.

The Supreme Court sits in the former Middlesex Guildhall, on the western side of London's Parliament Square. Middlesex Guildhall, the building of the new Supreme Court, was built in 1913, renovated between 2007 and 2009, and restored to its previous grandeur to serve as the home of the highest court in the United Kingdom. The location of the Court is symbolic of the United Kingdom's separation of powers, balancing the judiciary and legislature across the open space of Parliament Square, with the other two sides of the square occupied by the Treasury building and Westminster Abbey. On the way to the courthouse, one may be striding along one or two streets located nearby called the "Little Sanctuary" and the "Broad Sanctuary," both of which date back to the time of Edward the Confessor (1042-1066). The street names are due to the fact that the entire area encompassing Parliament Square, including where the courthouse stands today, was originally part of the sanctuary grounds of Westminster Abbey. Right across from the courthouse, in Parliament Square, a visitor from Illinois will with particular pride notice amid the statutes of Churchill, Gandhi, and Mandela, the statute of Abraham Lincoln, known as the "Standing Lincoln." The statute was installed and unveiled in 1920, to commemorate the 100 years of peace between Great Britain and the United States. The statute of President Lincoln in the square is a replica and its original can be found in Chicago's Lincoln Park.

The exterior of the courthouse is gothic in style and decorated with stone carvings and corner turrets. Above the arched entrance to the Supreme Court is a frieze depicting King John handing the Magna Carta to the barons at Runnymede. Passing through the double wooden doors in the front of the building, one steps into an entrance hall and is greeted by a large emblem of the Supreme Court emblazoned on glass panels. The Court's emblem, while utilizing traditional symbolisms representing the four jurisdictions within the United Kingdom[3] and the Greek letter Omega signifying finality, is at the same time very modern in its design. Visible from the other side of the glass panels are the double doors to the library, which are etched with the words from the Magna Carta. The walls of the entrance hall and the grand spiral staircase which leads to the other floors in the building have a stonework look to them. It should be noted that while the Supreme Court is situated in London, it is a UK judicial forum, legally separate from the English and Welsh courts as it is a Supreme Court for Scotland and Northern Ireland as well. The repeated use of the symbols from the four jurisdictions throughout the building serves as a reminder that the Supreme Court is a court for all of the people in the United Kingdom.[4]

The Supreme Court building contains three courtrooms. Court One is the largest room and is located on the second floor. This courtroom is an ornate wood-trimmed room with wood-carved benches for public seating. This courtroom and the other two courtrooms in the building are furnished with very contemporary looking crescent shaped benches and counsel's tables which are level with one another. In fact, the entire courtroom is literally arranged on one level. Thus, during an oral hearing, the justices and appellate counsels are facing each other at eye level across an oval space. Another unique feature of Court One is its colorful carpet which is decorated with the symbols of the four nations of the United Kingdom. The carpet was designed by British pop artist Sir Peter Blake, who is better known for having created the cover of the Beatles' Sergeant Pepper album.

The first floor of the building contains Court Two, a very modern style courtroom

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which is much smaller in size than Court One. On the front wall high above and behind the bench is an elegantly designed glass sculpture of the Supreme Court emblem. The walls on each side of the courtroom are decorated with colorful tapestries. The gallery in the back of the courtroom is separated by a glass wall which is etched with the phrase, "Justice cannot be for one side alone but must be for both." The quote is actually etched into the glass twice and is visible upon entering and exiting the courtroom. The quote is attributed to former First Lady Eleanor Roosevelt.

On the ground floor mounted in the lobby outside of Court Three is a bronze bas-relief of Queen Elizabeth II. This courtroom is the home of the Judicial Committee of the Privy Council. The Privy Council is the court of final appeal for the UK's overseas territories, crown dependencies, and commonwealth countries. Situated on the top of the bench are tiny flags representing the various jurisdictions that the Privy Council oversees.

Also on the ground floor is what I consider to be the gem of the building: a magnificent triple-height library. During the renovation, the floors between the second and first floors of the building were removed to create an expansive open look. Another distinctive feature of the library is the impressive vaulted ceiling with the Royal Coat of Arms in the center. Along the walls, immediately beneath the ceiling, are intricately detailed stained glass windows. Also hanging from the walls are portraits of some of the UK's past distinguished jurists. Further down the walls are dark wood shelves containing an impressive array of legal books, treatises, and manuscripts from around the world.

Situated in the middle of the library is a beautiful wood and glass balustrade engraved with quotes chosen by the Supreme Court Justices themselves. All told, there are 16 quotations from various notable historical figures such as of Aristotle, Cicero, Disraeli, and Dr. Martin Luther King. Prior to exiting the library, one is likely to notice sitting on a shelf all by itself, a single volume book entitled Sir George Croke's Reports, which is a selection of cases from the reign of Queen Elizabeth I. This treatise was printed in 1661 and is one of the oldest books in the library. The entire motif of the library not only creates an atmosphere which is conducive to study and reflection but very eloquently brings the common law's past and future together.

Right outside of the library, the stone spiral staircase leads one down to the lower level of the building. An excellent exhibition center with a café open to the public is located on the lower ground floor of the Court. From the exhibits on display, one can gain some insight into the evolution of the law in the UK. The history of the common law is very succinctly and chronologically set forth from the Magna Carta to the present system of justice, which now encompasses the Court.

The Supreme Court, as an institution, is a relatively new concept to the UK's system of justice. Part 3 of the Constitutional Reform Act of 2005 provided for the creation of a Supreme Court for the United Kingdom. Prior to the establishment of the Court, the 12 most senior judges – the "Law Lords" as they were often referred to – sat in a small chamber in the House of Lords as the Appellate Committee of the House of Lords. For centuries, this was the highest court in the realm. The decisions of the Law Lords were binding on all lower courts. As members of the House of Lords, the judges, however, played a dual role. Not only did the judges hear cases, but they were also able to take part in debating and subsequently enacting legislation. This system which existed and persisted for over 600 years came to a close on July 30, 2009, when the Law Lords delivered their final decision,[5] thus ending the judicial function of The House of Lords as the highest appeals court in the UK and thereby paving the way for a new appellate innovation.

The rationale of creating the Supreme Court was to establish a forum that is separate from Parliament. The Court's geographic location provides all with a visual reminder that the individuals who serve on the final court of appeal in the UK are in fact judges and not legislators. While no one alleged that the Law Lords were actually conflicted or influenced by the legislative or executive law makers, that was beside the point. A change was needed to increase transparency at the top of the judicial system. Along those lines, the Supreme Court put into place various means of enhancing the Court's transparency. For example, all of the Court's hearings are filmed and broadcasted on the major television and radio news networks. The public can also watch the proceedings on the Court's website at www.Supremecourt.uk. It is reported that approximately 20,000 view this stream each month. The Court also issues press summaries about pending and decided cases. At the conclusion of the hearing, the Court will take the matter under advisement. Thereafter, a written judgment will be forwarded to the parties in a draft form and then the justices will schedule a hearing date when they will formally and publicly hand down their decision for all to see and hear. Through this process, the public will witness justice in action. This also enables the court's decisions to be subject to public scrutiny and critique. It can be said that the glass walls and partitions throughout the building are symbolic of the transparency which the Court is striving to project throughout all its proceedings.

When departing the courthouse one will walk through glass doors which have etched upon them the words "to do right by all manner of people, after the law and usages of this realm, without fear or favour, affection or ill will." which is the oath the justices pledge to respect, honor and uphold as they administer justice in the people's court. ■

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1. Alexander Hamilton, *Federalist* No.78 in *The Federal Papers*.

2. Justice Stephen G. Breyer, *Forword* to Steven Flanders, Celebrating the Courthouse: A Guide for Architects, Their Clients, and the Public (W. W. Norton & Company 2006).

3. England, Scotland, Wales, and Northern Ireland.

4. The Tudor Rose symbolizes England, the thistle is for Scotland, and the flax flower represents Ireland. All three are connected by the leaves of a leek, which is a symbol associated with Wales.

5. Purdy, Regina (on the application of) v. Director of Public Prosecutions, [2009] UKHL 45; [2009] 3 WLR 403.

Jury instruction update: "Do you hear what I hear?"

BY JUDGE BARB CROWDER, EDWARDSVILLE

Whether we are talking about a universal desire for peace as the 1962 song did,[1] or a universal desire for the ability of all litigants to have meaningful access to justice, the importance of meaningful communication cannot be overlooked. Interpreting court proceedings for litigants and jurors should be one of the areas that the legal system stresses. Fortunately for all of us, the Supreme Court and its Access to Justice Commission have been addressing the needs of self-represented litigants, jurors and witnesses through policies, forms, articles, and new jury instructions.[2] This article will discuss the 2017 changes made thus far to Illinois Pattern Jury Instruction for Civil Cases since the revisions focus on language access.

The first change is in IPI – Civil 1.07. Gone are the days when attorneys and judges may have excused a hearing-impaired juror. A truly representative jury panel should be able to accommodate adults with many disabilities. This instruction addresses the presence of an interpreter for a hearing-impaired juror and how an interpreter is an exception to the Jury Secrecy Act. (705 ILCS 315/1). The new instruction provides:

> **"1.07 Interpreter for a Hearing-Impaired Juror**
>
> One of the jurors in this case is hearing impaired and has the right to be accompanied by a court-appointed interpreter during the trial and deliberations. When addressing the hearing- impaired juror, you should speak directly to the juror, and not to the interpreter. Although the interpreter is not a juror, and you may not discuss the case with the interpreter, [he] [she] will keep strictly confidential all matters discussed during deliberations. If you have reason to believe that the interpreter is doing more than interpreting, let me know immediately by writing a note and giving it to the [clerk] [bailiff] [deputy]."

This instruction should be read to the courtroom at the start of the trial so that all present are clear that the interpreter is there to help the juror and will remain through deliberations but is NOT the juror. Plus, trial judges appreciate this instruction so that we can point it out to counsel as further support for the importance of including more individuals in juries so that the juries are truly representative of the community.

In making the above instruction number 1.07 in March of 2017, the prior 1.07 was moved to number 2.05. That newly-numbered instruction is worthy of review here as it deals with witnesses who have interpreters either because the witness is using sign language or a language other than English. It provides:

> **"2.05 Testimony through Interpreter**
>
> You are about to hear testimony from _____ who will be testifying in [language to be used] through the interpreter. You should give this testimony the same consideration you would give it had the witness testified in English.
>
> Although some of you may know [language to be used], it is important that all jurors consider the same evidence. Therefore, you must accept the English translation of [his] [her] testimony.
>
> If, however, you believe the interpreter translated incorrectly, let me know immediately by writing a note and giving it to the [clerk] [bailiff] [deputy]. You should not ask your question or make any comment about the translation in front of the other jurors, or otherwise share your question or concern with any of them. I will take steps to see if your question can be answered and any discrepancy can be addressed. If, however, after such efforts a discrepancy remains, you must rely only on the official English translation as provided by the interpreter."

Obviously the court reads this instruction to the jury and others present before the witness testifies. And if a juror knows the language the witness is using, it is important that the juror understands he or she cannot translate for the other jurors. If the juror thinks the interpreter failed to interpret correctly, the juror needs to raise it at the time so that any problem can be resolved. As the court has adopted rules for certifying interpreters, the hope is erroneous translations will be less frequent or eliminated.

Communication is a two-way street. The Supreme Court is addressing the myriad ways that persons using court may fail to understand what is expected and what is happening. Plain language forms, assistance in courthouses and greater responsibilities placed on lawyers and judges are helping. The use of interpreters to bridge the communication gap aids everyone when language is a barrier to meaningful communication. Interpreters may be needed because of an individual with a hearing impairment or because of

a witness who uses a language other than English. Whatever the reason, standardized jury instructions guarantee that the law and rules governing the use of interpreters are explained and all "hear" the same thing. ■

This article was originally published in the August 2017 issue of the ISBA's Civil Practice & Procedure newsletter.

1. Song Released in November 1962. Composer Gloria Shayne Baker, Lyrics by Noel Regney. Written in response to the Cuban missile crisis, this song became a holiday hit urging "pray for peace people everywhere."

2. Hopefully, everyone is aware that the court system has a monthly newsletter, *Illinois Courts Connect*. It started in April, 2017. The April issue outlined four programs dealing with access to justice. The June issue includes an article, "The Silent Injustice of Ineffective Interpreting and How Courts Can Prevent It" by Sophia Akbar. Go to www.illinoiscourts.gov under the Media tab to read the issues and sign up to receive them.

The bench, the bar and the lunch table

BY EVAN BRUNO

The courtroom is a stuffy place. Attorneys and judges interact with each other at arm's length. Formality is a virtue. Jokes aren't really funny. And it's almost never a good idea to say what you're really thinking.

Perhaps that's the way it should be. Serious business happens in the courtroom, and practitioners of the law should not allow outward signs of joviality to distract from the gravity of the business at hand. In courtrooms, clients want to see their lawyers as dignified professionals soldiering through the case, suffering alongside them. And that's okay. Appearances are important in this profession, and serious work often demands humorless hands. The glum courtroom is important to a healthy legal community.

But a healthy legal community also needs a pressure release valve. Attorneys and judges need a common escape from the courtroom in which they can sit down with one another, without an agenda, roundtable-style, and chew through whatever conversation—or food—they like. In my experience, the lively lunch table is as important to the legal profession as the glum courtroom.

In Champaign County, where I practice criminal law, Bunny's Tavern in Urbana is every Wednesday's lunch spot. A hundred yards from the courthouse, the long table at the end of the bar (next to the poker machines) is usually full by noon on Wednesdays. Lawyers and judges pull up chairs to break bread and shrug off the tensions of the courtroom. The Bunny's lunch table has its weekly regulars, its every-once-in-a-while attendees, and the occasional "Oh my God—*he's* still practicing!?" Any lawyer or judge, regardless of practice area or experience, is welcome. The federal judge doesn't mind squeezing down to make room for the first-year associate. No one is unapproachable. No one is presiding. There is no record. There are no clients.

Every legal community needs such a lunch table.

The lunch table is where judges and lawyers can come together as equals to share insight, perspective, and friendly gossip. It's where prosecutors and defense attorneys can scream and yell at each other about last night's football game while sharing sighs of relief over the completion of a tough case. The lunch table offers an oasis where courtroom adversaries can discover their common ground. In my experience, the bonding and candid discussion that happens at the lunch table improves what happens in the courtroom. The lunch table lets in the empathy that the courtroom pushes out. Not all problems are solved. Not all future problems are avoided. But the trust, understanding, and companionship found at the lunch table carry over to the courtroom.

And even for those not interested in making friends, the lunch table offers practical benefit. It is a live-action bulletin board in which lawyers and judges share scuttlebutt, tradecraft, and premonitions. It is the courthouse's debriefing room. A lawyer can learn more about the practice of law sharing a plate of nachos than he can at a routine hearing. Once a lively lunch table forms within a legal community, you don't want to be the lawyer who doesn't show up.

I encourage all lawyers and judges to seek out their local lunch table. Come prepared to talk about your latest legal quandary, client gripe, or the political outrage *du jour*. And if no local lunch table exists, start your own. All it takes is one other practitioner, a centrally located food joint, and an appetite for camaraderie. ■

Shakespeare's cold wisdom—Too early seen unknown, and known too late?

BY EDWARD CASMERE

A little over 10 years ago, I was trying an extremely difficult case in downtown Los Angeles. I was teamed up with a friend and mentor from the West Coast, who also happened to be one of the greatest trial lawyers I've ever had the honor of standing with in the well of a courtroom. Among his many talents was a mastery of the works of William Shakespeare. The plays, he once told me, had such tremendous insight into the power of storytelling, that anyone who wanted to be a great trial lawyer simply had to study Shakespeare's work.

The curiosity, depth, and earnestness with which my mentor approached every element of trying a case were inspiring. He was exceptionally skilled at jury selection, cross-examination, and finding themes that fit every situation. He knew how to talk with people, and found a way to be relatable to everyone on some level. According to my colleague, much of his success was attributable to his study of Shakespeare and the playwright's observations of human nature. One evening during the middle of our case, my trial partner suffered a massive stroke. By some small miracle, we found him, and through the heroic efforts of people other than me, we got him in the hands of amazing medical professionals at a Los Angeles county hospital. The initial prognosis was ominous: with an enormous amount of work, recovery of speech may be possible, but reading and writing were likely out of reach.

The medical community picked the wrong trial lawyer to challenge. His rehabilitation was long and hard, but he poured himself into that effort in the same way I saw him tirelessly prepare and try a case. His recovery astonished all but those who knew him best. Eventually, my friend called and asked if I would like to assist in his recovery by reading and discussing Shakespeare's plays. I jumped at the chance even though I was grossly unqualified. I limped my way through the obligatory few Shakespeare plays that were required reading in my public high school. In my four years of night law school and first several years as a lawyer, I noticed a handful of Shakespearean quotes in briefs and court opinions, but I paid little attention to, and frankly did not appreciate or understand, them. I certainly did not comprehend the power, nuance, and insight woven into so many elements of Shakespeare's plays from which those quotes were lifted.

For several years, I diligently read, studied, and discussed Shakespeare with my colleague as part of his recovery. Before reading each play, I read at least two essays from Shakespearian scholars about the piece. I supplemented my reading by watching the play live at the Shakespeare Theater on Navy Pier in Chicago, renting a movie version (including several phenomenal adaptations by Akira Kurosawa), or downloading BBC presentations on my iPad.[1] I needed all the help I could get just to keep up.

The experience has had a profound impact on my professional life in numerous ways. My former trial partner is now retired, but he passed on his passion for studying Shakespeare and how those centuries-old works are still relevant to the practice of law today. For me, the force of that message is amplified by the powerful life-changing events that thrust the works upon me.[2]

Through my friend's recovery, I discovered that Shakespeare's plays can be incredible teaching tools for lawyers. Portia's cross-examination of Shylock in *Merchant of Venice*; Isabella's plea to Angelo for Claudio's life in *Measure for Measure*; and Marc Antony's funeral speech in *Julius Caesar* are just three examples.[3] Plays like *Hamlet*, *Macbeth*, and *King Lear* shine a light into the deep waters of human nature. Shakespeare does not bore or overwhelm with detail. He shows how to literally set the stage with just enough backstory, just the most essential facts necessary, to bring the audience up to speed so they can follow the story he wants to tell. He masterfully offers scraps of information so powerful that they instantly give a character depth and reach, while providing the audience with insight into that character's motivation.[4] Shakespeare doesn't oversell or tell you how you should feel. He allows the audience to make up its own mind, to make the play, and its characters, their own.

Shakespeare's works are today, as they were 400 years ago, somewhat controversial. The nature and extent of the controversies have evolved over time, but one thing is clear, his works remain relevant on one level or another. Shakespeare is also credited (with some controversy of course) with inventing many common phrases and utterances still used in the English language: *foul play, one fell swoop, cold comfort, play fast and loose, pomp and circumstance, go down the primrose path, budge an inch, flesh and blood, be cruel to be kind, and vanish into thin air*.[5] The Oxford English Dictionary has credited Shakespeare with over 33,000 quotations, and more than 1,600 words for which he is the first-cited author.[6]

During my journey through the plays, I stumbled across numerous interesting and thought-provoking quotes for lawyers. Below is a list of 10 such quotes from some of the less "popular" or less widely-read plays.[7] Shakespeare's words are often used completely out of context, and sometimes contradictory, to their original use. But, that simply highlights the beauty and utility of the language (and the borrowing author's creativity). The quotes[8] in no particular order:

"Who cannot be crushed with a plot?"— *All's Well that Ends Well* (Act 4, scene 3, line 346)

"For they say every why hath a wherefore." —*The Comedy of Errors* (Act 2, scene 2, lines 45 - 46)

"The quality of mercy is not strained. It droppeth as the gentle rain from heaven upon the place beneath. It is twice blessed: it blesseth him that gives and him that takes." —*The Merchant of Venice* (Act 4, scene 1, lines 190 - 193)

"If he had been as you, and you as he, you would have slipped like him, but he like you, would not have been so stern."— *Measure for Measure* (Act 2, scene 2, lines 84 - 86)

"For pity is the virtue of the law, and none but tyrants use it cruelly." —*Timon of Athens* (Act 3, scene 5, lines 8 - 9)

"Things sweet to taste prove in digestion sour. You urged me as a judge, but I had rather you would have bid me argue like a father. O, had it been a stranger, not my child, to smooth his fault I should have been more mild. A partial slander sought I to avoid, and in the sentence my own life destroyed." —*Richard II* (Act 1, scene 3, lines 242 - 248)

"But this swift business I must uneasy make, lest too light winning make the prize light."— *The Tempest* (Act 1, scene 2 lines 542 - 545)

"A night is but small breath and little pause to answer matters of this consequence."—*Henry V* (Act 2, scene 4, lines 154 - 155)

"This offer comes from mercy, not from fear."—*Henry IV* (part II) (Act 4, scene 1, line 159)

"This is nothing . . . . Then 'tis like the breath of an unfee'd lawyer." —*King Lear* (Act 1, scene 4, lines 132 - 133)

The resiliency of Shakespeare's work and its relevance to lawyers continues centuries after the words were first scratched onto parchment and performed on the shores of the River Thames in London. The point of this article is not to advocate for a campaign of carpet-bombing legal briefs and arguments with quotes from Shakespeare, but rather to suggest that this giant of the literary world has gifted lawyers with timeless insights that may help us better "suit the action to the word, the word to the action"[9] as we practice our craft. My mentor's traumatic experience in the middle of our trial was a lesson for me in many ways, including to not let Shakespeare's "cold wisdom" be "too early seen unknown, and known too late."[10] ■

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1. If you are a fan of *Hamlet*, I highly recommend the 1990 movie *Rosencrantz & Guildenstern Are Dead* with Gary Oldham, Tim Roth, and Richard Dreyfuss.

2. "Some are born great, some achieve greatness, and some have greatness thrust upon 'em." *Twelfth Night* (Act 2, scene 5, lines 149 - 150)

3. It would take more space than we have here to even begin to give proper treatment to all the lessons lawyers can learn about being a lawyer from reading Shakespeare.

4. For example, the couple lines in *Romeo and Juliet* where we learn that Juliet's nurse lost a child (Susan) the same age as Juliet profoundly influences our views on the character, her conduct, and her relationship with Juliet.

5. Bryson, Bill, Shakespeare: The World as Stage, at 115 (Harper Collins, 2007).

6. *See* <http://public.oed.com/the-oed-today/recent-updates-to-the-oed/previous-updates/december-2011/100000-entries-published-and-counting/>. These figures have changed over the years (more controversy again), but the point remains the same – Shakespeare has had a profound influence on the English language.

7. I excluded quotes from plays like *Hamlet*, *Othello*, and *Macbeth* because those plays could each produce a substantial list of quotes on their own.

8. All of the cited quotations come from the Folger Shakespeare Library editions of the plays as published by Simon and Schuster.

9. *Hamlet* (Act 3, scene 2, lines 18 - 19)

10. "Cold wisdom" comes from *All's Well That Ends Well* (Act 1, scene 1, line 110), and "too early seen unknown, and known too late" comes from *Romeo and Juliet* (Act 1, scene 5, line 153).

To disgorge or not to disgorge? That is the question

BY EMILY A. HANSEN

On September 20, 2017, the Illinois Supreme Court will hear oral argument on the issue of whether or not funds already paid to and earned by a divorce attorney are "available" to a court to be allocated in an interim attorney fee award pursuant to 750 ILCS 5/501 (c-1). If the Supreme Court answers in the affirmative, trial courts would be able order one divorce attorney to pay the other divorce attorney earned and paid fees during the pendency of the dissolution proceeding.

The trial court could only order this relief after the finding that neither litigant has the financial ability to pay, and only in pre-decree divorce matters as attorney fees in parentage cases and post-decree matters are governed by Section 508 of the Illinois Marriage and Dissolution of Marriage Act. The Illinois Supreme Court will hopefully resolve the split in the Appellate Court Districts regarding this issue. The case that is set for oral argument is *In Re the Marriage of Christine Goesel and Andrew Goesel* (Laura A. Holwell, contemnor-appellee) coming out of the Third District Appellate court.

The predecessor case to *Goesel* is *In re the Marriage of Earlywine*, 2013 IL 117779 (2013) ¶ 29, where the Supreme Court held that funds belonging to an attorney, but subject to reimbursement, may be disgorged, such as advanced retainers. This case is relied heavily on by the Appellant/Wife in *Goesel* as described below.

Under Section 501(c-1) of the Illinois Marriage and Dissolution of Marriage Act, the court may assess an interim fee award while a dissolution case is pending for fees, whether already incurred or soon to be incurred. This is the statute that "levels the playing field" between parties going through a divorce to allow each party to "patriciate adequately in the litigation" where it is shown "that one party can pay fees and the other party cannot." See 750 ILCS 5/501(c-1)(3); *In Re Marriage of Nash*, 2012 IL App (1st) 113724, ¶ 5. The 1997 amendment to the Illinois Marriage and Dissolution of Marriage Act attempted to correct the occurrence of an economically advantaged spouse utilizing his or her access to income or assets as a tool in making it difficult for the disadvantaged spouse to retain counsel or otherwise participate in the litigation. *In re the Marriage of Earlywine*, 2013 IL 117779 (2013), ¶ 26.

Section 501(c-1) of the Illinois Marriage and Dissolution of Marriage Act provides two methods for obtaining interim fees during the pendency of a dissolution proceeding. First, the court can order that fees be advanced from one party to the other if "the party from whom attorney's fees and costs are sought has the financial ability to pay reasonable amounts and that the party seeking attorney's fees and costs lack sufficient access to assets or income to pay reasonable amounts." See 750 ILCS 5/501(c-1)(3); *In re the Marriage of Beyer*, 324 Ill. App. 3d 305, 320 (1st Dist. 2001). "At an interim fee hearing in a pre-decree dissolution marriage case, a court is simply looking at the value and accessibility of the assets and income in each party's name or under their control." *Amici Brief* filed in *In re Marriage Goesel*, Case No. 122046, P. 4.

Second, the court can allocate "available" funds to the party seeking the award. For this second option to apply, the court must find that "both parties lack financial ability or access to assets or income for reasonable attorney's fees and costs." *In Re Marriage of Nash*, 2012 IL App (1st) 113724, ¶ 18. The issue before the Illinois Supreme Court in *Goesel* is in the context of an interim fee award when both parties lack financial ability or access to assets or income to pay attorney's fees. Note, however, that one of the Appellee/Contemnor's arguments in *Goesel* is that the Third District erred when it found that the parties in *Goesel* had the inability to pay their attorney's fees.

The split in the Appellate Court Districts makes *Goesel* ripe to be decided by the Illinois Supreme Court. The Third District in *Goesel* agreed with the First District in *In Re Marriage of Altman*, 2016 IL App (1st) 143076, that a court cannot order an attorney to pay his or her earned fees to the other attorney in the matter, regardless of the litigants' inability to pay. In addition, the *Goesel* court held that fees not yet earned *at the time the attorney is given notice of the interim fee petition* are available for purposes of Section 501(c-1)(3). *See Goesel*, 2017 IL App (3d) 150101, ¶ 23.

The First District in *Altman* held that the legislature's use of the phrase "available funds" in the interim fee awards indicates that only funds which are available to the attorney or the parties are accessible to be disgorged, "whether in the form of a retainer or interim payments." *In Re Marriage of Altman*, 2016 IL App (1st) 143076 ¶ 33. The first district reasoned that "it seems to us a tortured reading of the statute to say that even though the firm has earned the fees, paid itself (as it was entitled to), and used to pay salaries, overhead and litigation expenses for such items as experts and court reporters, it can nonetheless be required to refund those fees, not its client, but to a third party." *Id.*

The holdings in *Goesel* and *Altman* contrast with the Second District Appellate Court's decision in *In re Marriage of Squire*, 2015 IL App (2d) 150271. Specifically, the *Squire* court held that the *Earlywine* decision suggests that the term "available" as set forth in the statute "simply means that the funds exist someone." *Earlywine*, 2013 IL 117779 (2013) ¶ 22. The *Squire* court reasoned that holding otherwise

would frustrate the purpose of "leveling the playing field" because "the attorney representing the advantaged spouse would have a strong incentive to earn the fees at an early stage of the litigation." *In Re the Marriage of Squire*, 2015 IL App (2d) 150271 ¶ 21.

The Appellant/Wife's brief in *Goesel* argues that the court must determine the nature of an "interim payment" to an attorney under the context of the interim fee statute. Black's Law Dictionary defines "payment" as "the performance of a duty, promise, or obligation, or discharge of a debt or liability, by the delivery of money or other value by a debtor to a creditor where the money or other valuable thing is tendered and accepted as extinguishing debt or obligation in whole or in part." *Black's Law Dictionary*, Rev. 4th Ed., page 1285. As argued by the Appellant, the legislature used the word "interim payment" in the statutory definition of available funds, and the legislature also included "interim payments" that were "previously paid", to support the Appellant's argument in favor of disgorgement. *See* 750 ILCS 5/501(c-1). The Appellant's brief argued that the amounts paid to the husband's attorney were in discharge of a debt owed by the husband and therefore "available" and any other reading would frustrate the intent of the interim fee statute where it protects against "shielding assets that one spouse may easily hire an attorney has the direct effect of making it difficult for the other spouse to hire his or her own attorney defeating the purpose and goals of the Act, which is to enable parties to have equitable access to representation." *See Earlywine*, 2013 IL 117779 (2013) ¶ 12.

The Appellee/Contemnor (attorney) brief in *Goesel* argues that the interim fee statute does not state "available funds" that "exist somewhere"; instead, it states "available funds." Further, if the Illinois Supreme Court finds in accordance with *Squire*, it poses the possibility that the attorney being disgorged no longer has possession of the funds because the funds have been paid out for his or her operating costs and are not in the possession of the attorney being disgorged. *Appellee's Brief* filed in *In re Marriage Goesel*, Case No. 122046, P. 31.

The Illinois Chapter of the American Academy of Matrimonial Lawyers and the Illinois State Bar Association filed a joint *amici curie* brief in the *Goesel* case supporting the Appellee/Contemnor position. The *amici* stresses that fees that have been paid to an attorney and which he or she has earned are the attorney's property and do not meet the definition of "available" for disgorgement. This was reasoned by the First District in *Altman*, 2016 IL App (1st) 143076 ¶ 33, and in Third District in *Goesel*, 2017 IL App (3d) 150101, ¶ 27, and supported by the Illinois Rule of Professional Conduct 1.15(a) which authorizes an attorney to withdraw funds held in his/her client trust account "as fees are earned and expenses incurred.") In addition, although Section 501 (c-1) (3) uses the phrase "previously paid" when referring to "retainer" and "interim payments" the *amici* focuses on the fact that any unused retainer or other payment must be refunded to the client. *See Goesel*, 2017 IL App (3d) 150101, ¶ 28, and 750 ILCS 5/508(f)(5) (divorce counsel may not require a non-refundable retainer fee, but must remit back any overpayment at the end of representation). Therefore, a retainer or interim payment to an attorney is "paid" but it is really a "prepaid credit that ensures payment when he earns the fee in the future." *Amici Brief* filed in *In re Marriage Goesel*, Case No. 122046, P 8. It should be noted that the *amici* also "part ways" with the *Goesel* court's "notice" holding allowing for disgorgement of fees after notice has been given of an interim fee award reasoning that the statutory authority that the Appellate Court relied on in determining this "notice" provision, namely Section 510(a) of the Illinois Marriage and Dissolution of Marriage Act that modifies maintenance and child support only as to "installments accruing subsequent to due notice by the moving party of the filing of the motion for modification," has no reference and no effect on an attorney fee award.

On September 20, 2017, the Illinois Supreme Court will decide the *Goesel* matter, which will forever shape the future of interim fee awards in dissolution proceedings and will directly impact how divorce attorneys handle payments from their clients. ■

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Strict Compliance with Supreme Court Rule 191(a) is mandatory

BY ALBERT E. DURKIN

The Illinois Appellate Court for the Second District recently ruled in the case of *Jane Doe v. Chad Coe, et al.;* Case Number 2017 IL App (2d) 160875 in an opinion filed on August 17, 2017 that strict compliance with Supreme Court Rule 191(a) was mandatory and that failure to attach documents relied upon in support of a 191(a) affidavit is fatal, in a reversal of a previously granted Motion to Dismiss.

The Doe case involves a Complaint filed on behalf of Plaintiffs Jane Doe, Jane A. Doe and John Doe against multiple Defendants including the United Church of Christ (UCC) and The First Congregational Church of Dundee, Illinois (FCC) based upon the sexual misconduct of Defendant Chad Coe during his tenure as a youth pastor of the FCC. Plaintiffs allege in their Complaint that Defendant Coe groomed Jane Doe, a minor and a member of the FCC Youth Group and eventually had sexual contact with her on FCC's property. The Defendants-Appellees UCC (United Church of Christ) and others filed a hybrid 2-615 and 2-619 Motion to Dismiss (735 ILCS 5/2-615, 2-619 (West 2014)) attacking both the legal sufficiency of the Complaint and other affirmative matters including Plaintiffs allegation that Defendant Coe was an employee or agent of the Defendant. In support of their Motion, the Defendants filed affidavits of two individuals, Jorge Morales and John Dorhauer purporting to be knowledgeable representatives of the Appellees UCC and IUCC in their affidavits that they were quite "knowledgeable regarding the Constitution and Bylaws of the (UCC) as well as the ecclesiastical structure of the (UCC)." They averred that the various entities within the UCC were "separate, distinct, and autonomous," and therefore "free to choose the manner and methods in which they conduct their own business affairs." In support of their position they referred to the organizational structure of the UCC and quoted from the UCC's Constitution. They further claimed that the Defendants UCC and IUCC were not involved with (the hiring of Coe) and had no authority to be involved in his hiring and/or possible discharge from the FCC. Plaintiffs responded to the hybrid Motion to Dismiss that the affidavits of Morales and Dorhauer should be stricken for non-compliance with Supreme Court Rule 191(a) for their failure to attach the Constitution and Bylaws of the UCC being relied upon by each affiant. The trial court rejected the Plaintiffs' argument regarding the insufficiencies of the affiants' compliance with Supreme Court Rule 191(a) finding that the affidavits were "conclusive on the autonomous relationship of the church and the formation of the UCC as a congregational organization." The court further found that the affidavits were conclusive that Coe was not employed by the defendants therefore the affidavits defeated the plaintiffs' claims.

In reversing and remanding the decision of the trial court, the Second District Appellate Court in a decision written by Justice Birkett and concurred by Justice Hutchinson and Justice Zenoff reversed and remanded the trial court's decision for further proceedings on the basis that the provisions of Supreme Court Rule 191(a) with respect to said affidavits being made on the personal knowledge of the affiants and "shall have attached thereto sworn or certified copies of all documents upon which the affiant relies" are mandatory. In citing the case of *Robidoux v. Oliphant*, 201 Ill. 2d 324, 344 (2002). In *Robidoux,* Illinois Supreme Court found that the failure of the plaintiff's expert to attach papers relied upon in support of his affidavit was fatal in that "strict compliance with Rule 191(a) is necessary to insure that trial judges are presented with valid evidentiary facts upon which to make a decision." *Id.* At 336. *Robidoux* involved an affidavit in opposition to a summary judgment proceeding where the court found that the strict compliance with Rule 191(a) is mandatory, which the *Doe* Court found equally applies in a proceeding on a motion for involuntary dismissal under section 2-619 of the Code.

With respect to the Defendant-Appellees' claim that the attached-papers requirement did not mandate attachment of the UCC Constitution and bylaws because both affiants had professed personal knowledge of the same and that the same documents were referred to or quoted elsewhere in the record in plaintiff's complaint, the Court made short shrift of those arguments finding that although the defendants ultimately attached the documents to their reply brief in support of their Motion to Dismiss the strict construction of 191(a) must be enforced as written and rejected the notion that failure to comply was a mere "technical violation." As an aside, this office points out that the Defendants/Appellees attempted to sway the Appellate Court's decision regarding the attached-papers requirement citing to an unpublished decision for which the appellate court admonished them citing that the Supreme Court Rules prohibit such citations except under certain purposes, none of which were involved herein. See Ill. S. Ct. R. 23(e) (1) (eff. July 1, 2011). We cite to this admonishment in light of the repeated attempts on the part of our association to seek approval of our Supreme Court to allow citation to unpublished opinions as "persuasive authority" and not necessarily precedent. Further, the Defendants/Appellees cited the case of *Nichols v. City of Chicago Heights,* 2015 IL App (1st) 122994. The plaintiffs attacked

an affidavit submitted by the defense which failed to comply with Supreme Court Rule 191(a) by not attaching certain city resolutions on which the affiant relied. The Appellate Court, without acknowledging *Robidoux* implicitly rejected the plaintiff's argument. The Second District Appellate Court in *Doe* failed to follow the *Nichols* decision by finding that it was inconsistent with the Supreme Court decision in *Robidoux*. We therefore may have conflict between the First and Second Districts with reference to the strict applicability of the 191(a) requirement.

In light of the *Robidoux* decision the Second District panel in *Doe* found that the trial court erred in relying on the affidavits of Morales and Dorhauer in granting defendants' 2-619 motion to dismiss by their failure to attach the requisite documents being relied upon. Since the Defendants/Appellees failed to provide any other legal challenge for the sufficiency of plaintiffs complaint in their appellate argument, the court citing to Supreme Court Rule 341(h)(7) (eff. Jan. 1, 2016) reversed the decision of the trial court and remanded for further proceedings.

It would seem based upon an alternative view of *Doe* decision that we might see this case again should the defendants refile their motion to dismiss and this time attach to their supporting affidavits the UCC Constitution and Bylaws being relied upon. Until there is a decision from the Supreme Court excepting the applicability with strict compliance of Supreme Court Rule 191(a) it is suggested that any motion brought in support or opposition to a 2-19 Motion to Dismiss or 2-1004 Motion for Summary Judgment must attach to those affidavits any pertinent documents being relied upon by the affiants or said affidavits will be subject to a similar fate to those of Mr. Morales and Mr. Dorhauer in the *Doe* decision. ■

The Seventh Circuit rejects plaintiff's cancer causation theory

BY ROBERT H. RILEY AND BRIAN O. WATSON

Exposure to harmful substances is a fact of modern life. These substances are everywhere—in the air we breathe, the food we eat, and the water we drink—and it is impossible to have zero exposure to all of them. For both science and law, however, the issue is not whether someone was merely exposed. Rather, it is whether the exposure was sufficient to cause the injury.

This fundamental rule of causation applies to every tort action—including asbestos cases—the Seventh Circuit held recently. The Seventh Circuit rejected the plaintiff's expert's causation theory that "each and every exposure" or the "cumulative exposure" may satisfy the plaintiff's causation burden. The Seventh Circuit also made clear that courts cannot require a defendant to exclude a potential cause—disprove that exposure to its product could be a cause—because that impermissibly shifts the plaintiff's causation burden onto the defendant. *Krik v. Exxon Mobil Corp.*, No. 15-3112, 2017 WL 3768933 (7th Cir. Aug. 31, 2017).

As the Seventh Circuit summarized,

> the principle behind the "each and every exposure" theory and the cumulative exposure theory is the same—that it is impossible to determine which particular exposure to carcinogens, if any, caused an illness. In other words, just like "each and every exposure," the cumulative exposure theory does not rely upon any particular dose or exposure to asbestos, but rather all exposures contribute to a cumulative dose. The ultimate burden of proof on the element of causation, however, remains with the plaintiff. *Requiring a defendant to exclude a potential cause of the illness, therefore, improperly shifts the burden to the defendants to disprove causation and nullifies the requirements of the "substantial factor" test.*

Id. at *5 (emphasis added).

In *Krik*, the plaintiff developed cancer after smoking a pack and a half of cigarettes every day for 30 years. He also claimed occupational exposure to asbestos through his service in the U.S. Navy and later as a union pipefitter. The plaintiff sued scores of companies claiming that they were responsible for exposing him to asbestos and that the combination of smoking and asbestos combined to synergistically cause his lung cancer. After a two-week trial, the jury concluded that cigarette smoking was the sole proximate cause of the plaintiff's cancer.

In support of his claim, the plaintiff proffered expert witness testimony that every exposure to asbestos contributes to the total cumulative dose and that the cumulative dose caused the cancer. Thus, according to the plaintiff's theory, every exposure that contributes to the cumulative dose is a "substantial factor" in causing the injury. The defendants challenged the admissibility of this causation theory in pre-trial motions, and the district court held that plaintiff "had not established that the 'any exposure' theory was sufficiently reliable to warrant admission under Rule 702 and the Supreme Court's seminal case on the admissibility of expert witness testimony, *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993)." *Id.* at *1.

During trial, the plaintiff tried to skirt the district court's ruling and introduce the same causation theory, this time packaging it as a "cumulative exposure" theory. In excluding the expert witness testimony, the district court held that the "each and every" theory and the "cumulative exposure" theory were virtually identical, and equally lacking in scientific merit. Indeed, the theory was "not tied to the specific quantum of exposure attributable to the defendants, but was instead based on his medical and scientific opinion that every exposure is a substantial contributing factor to the cumulative exposure that causes cancer." *Id.* at *2.

In affirming the district court, the Seventh Circuit explained that the plaintiff's "each and every exposure" theory and "cumulative exposure" theory were scientifically and legally bankrupt, and would nullify the substantial factor causation test. The Seventh Circuit joined the Ninth and Sixth Circuits that "such a theory of liability would render the substantial-factor test essentially meaningless. Allowing causation to be established through testimony like the expert's would 'permit imposition of liability on the manufacturer of any asbestos-containing product with which a worker had the briefest of encounters on a single occasion.' This is precisely the sort of unbounded liability that the substantial factor test was developed to limit." *Id.* at *6 (quoting *McIndoe v. Huntington Ingalls Inc.*, 817 F.3d 1170, 1177 (9th Cir. 2016) and citing *Lindstrom v. A–C Prod. Liab. Tr.*, 424 F.3d 488, 493 (6th Cir. 2005)).

The Seventh Circuit also held that the district court had properly excluded the so-called "Helsinki Criteria" as substantive evidence or as a foundation for inadmissible causation testimony. The "Helsinki Criteria" was a set of consensus principles announced at an international public policy conference in 1997 that includes the proposition that "[c]umulative exposure on a probability basis should thus be considered the main criteria for the attribution of a substantial contribution by asbestos to lung cancer risk." The "Helsinki

Criteria" were not admissible, however, as substantive evidence or as foundation for otherwise inadmissible causation testimony—a ruling that is consistent with the decisions of many other courts across the nation. *Id.* at *6-7.

The Seventh Circuit went on to reject the plaintiff's arguments about any possible "juror investigation." During jury selection, the prospective jurors were asked if they knew any of the parties or potential witnesses. After the jury was sworn, one juror advised the trial court that she and the plaintiff might have attended a birthday party together for a friend that happened to be in the same union as the plaintiff. The plaintiff told the district court that he did not know the juror's friend and did not think he was at the party. One defendant then hired an investigator to find the "friend" who had the birthday party. The investigator found the man, and confirmed that the plaintiff was not at the party. Neither the court, nor the plaintiff's counsel, learned about the investigation until after the jury's verdict. The Seventh Circuit concluded, "[f]or this case, however, we need not rule about the propriety of such a practice because we have determined that there was no prejudice to Krik and that the investigation could not have altered the course or outcome of the trial. The investigator questioned [the juror's] friend and not [the juror]. [The juror] herself notified the court about the birthday party, thus indicating that she recognized that it might be relevant, and decreasing the chance that its revelation would bring about any embarrassment or surprise for her. As the district court noted, the 'nature of the investigation was relatively benign and there is no proof that prejudice was reasonably likely.'" *Id.* at *9.

At bottom, the Seventh Circuit answered two critical questions that thousands of parties face every year in Illinois asbestos cases. First, does a defendant ever have the burden under Illinois law of "disproving" the allegation that exposure to its product was a substantial contributing factor in causing the plaintiff's injury? Second, are the plaintiff's "each and every exposure" theory and "cumulative exposure" theory admissible to prove causation under Illinois law? The Seventh Circuit answered both questions, "No." ■

The authors are counsel of record for one of the defendants in the case.

Recent appointments and retirements

1. Pursuant to its Constitutional authority, the Supreme Court has appointed the following to be Circuit Judge:
   - John S. Fotopoulos, Cook County Circuit, August 7, 2017
   - Hon. Litricia Payne, Cook County Circuit, 1st Subcircuit, August 7, 2017
   - Oran F. Whiting, Cook County Circuit, August 8, 2017
2. The Circuit Judges have appointed the following to be Associate Judge:
   - Christopher W. Matoush, 4th Circuit, August 1, 2017
   - Kevin D. Tippey, 8th Circuit, August 4, 2017
3. The following judges have retired:
   - Hon. Thomas Brannon, Associate Judge, 8th Circuit, August 2, 2017
   - Hon. Orville E. Hambright, Jr., Cook County Circuit, 1stSubcircuit, August 4, 2017
   - Pamela Hughes Gillespie, Associate Judge, Cook County Circuit, August 31, 2017
   - ohn F. Joyce, Associate Judge, 15th Circuit, August 31, 2017
   - William O. Maki, Cook County Circuit, 12th Subcircuit, August 31, 2017
4. The following Judge is deceased:
   - Robert P. LaChien, 20th Circuit, August 31, 2017 ■

Upcoming CLE programs

TO REGISTER, GO TO WWW.ISBA.ORG/CLE OR CALL THE ISBA REGISTRAR AT 800-252-8908 OR 217-525-1760.

October

Wednesday, 10-04-17 LIVE Webcast— Issues to Recognize and Resolve When Dealing With Clients of Diminished Capacity. Presented by Business Advice and Financial Planning. 12-2 pm.

Thursday, 10-05-17 - Webinar— Introduction to Legal Research on Fastcase. Presented by the Illinois State Bar Association – Complimentary to ISBA Members only. 12:00-1:00 pm.

Thursday, 10-05-17 – Chicago, ISBA Regional Office—The New Bankruptcy Rules and Advanced Topics in Consumer Bankruptcy. Presented by Commercial Banking, Collections & Bankruptcy. 8:55am – 4pm.

Thursday, 10-05-17 – LIVE Webcast—The New Bankruptcy Rules and Advanced Topics in Consumer Bankruptcy. Presented by Commercial Banking, Collections & Bankruptcy. 8:55am – 4pm.

Friday, 10-06-17 – Holiday Inn and Suites, East Peoria—Fall 2017 Beginner DUI and Traffic Program. Presented by Traffic Law. Time: 8:55 am – 4:45 pm.

Friday, 10-06-17 – Holiday Inn and Suites, East Peoria—Fall 2017 Advanced DUI and Traffic Program. Presented by Traffic Law. Time: 8:55 am – 4:30 pm.

Friday, 10-06-17 – Chicago, ISBA Regional Office—Pathways to Becoming Corporate General Counsel and the Issues You Will Face. Presented by Corporate Law. Time: 9:00 am – 12:30 pm

Monday, 10-09-17 – Chicago, ISBA Regional Office—Workers' Compensation Update – Fall 2017. Presented by Workers' Compensation. Time: 9:00 am – 4:00 pm.

Monday, 10-09-17 –Fairview Heights—Workers' Compensation Update – Fall 2017. Presented by Workers' Compensation. Time: 9:00 am – 4:00 pm.

Tuesday, 10-10-17 – Webinar—Outlook for Mac. Practice Toolbox Series. 12:00 -1:00 p.m.

Wednesday, 10-11-17 – LIVE Webcast—Enforcing Illinois' Eviction Laws: A Basic Guide to Landlord Remedies and Tenant Rights. Presented by Real Estate Law. 12-1 pm.

Wednesday, 10-11-17 – LIVE Webcast—Working Effectively with Interpreters. Presented by Delivery of Legal Services. 2-3:30 pm.

Thursday, 10-12-17 – Chicago, ISBA Regional Office—Illinois Medicaid Rules and Procedures Bootcamp. Presented by Elder Law. 8:15 am – 4:30 pm.

Thursday, 10-12-17 - Webinar— Advanced Tips for Enhanced Legal Research on Fastcase. Presented by the Illinois State Bar Association – Complimentary to ISBA Members only. 12:00-1:00 pm.

Monday-Friday, 10-16 to 20, 2017 – Chicago, ISBA Regional Office—40 Hour Mediation/Arbitration Training Master Series. Master Series. Monday, Wednesday, Thursday and Friday 8:30-5:45. Tuesday 8:30-6:30.

Tuesday, 10-17-17 – Chicago ISBA Regional Office (ISBA Mutual Classrooms)—Mediation Roundtable: The Discussion of Hot Topics in the Mediation of Disputes. Presented by Alternative Dispute Resolution. 12:15 – 1:15 (lunch served at noon).

Thursday, 10-19-17 - Webinar— Fastcase Boolean (Keyword) Search for Lawyers. Presented by the Illinois State Bar Association – Complimentary to ISBA Members only. 12:00-1:00 pm.

Thursday, 10-19-17 – Bloomington— Real Estate Law Update – Fall 2017. Presented by Real Estate.

Tuesday, 10-24-17 – Webinar—Law Firm Accounting 101. Practice Toolbox Series. 12:00 -1:00 p.m.

Wednesday, 10-25-17 – Webinar— Working with Low Income Clients. Presented by Delivery of Legal Services. 12-1:30 pm.

Thursday, 10-26-17 – LIVE Webcast— Diversity and Inclusion in the Practice of Law. Presented by LOME. 12-1 pm.

Friday, 10-27-17 – Chicago, ISBA Regional Office—Solo and Small Firm Practice Institute. All Day.

Friday, 10-27-17 – LIVE Webcast—Solo and Small Firm Practice Institute. All Day.

November

Wednesday, 11-01-17 – ISBA Chicago Regional Office—Anatomy of a Medical Negligence Trial. Presented by Tort Law. All Day.

Thursday, 11-02-17 - Webinar— Introduction to Legal Research on Fastcase. Presented by the Illinois State Bar Association – Complimentary to ISBA Members only. 12:00-1:00 pm.

Friday, 11-03-17 – NIU Naperville— Real Estate Law Update – Fall 2017. Presented by Real Estate.

Thursday, 11-09-17 - Webinar— Advanced Tips for Enhanced Legal Research on Fastcase. Presented by

the Illinois State Bar Association – Complimentary to ISBA Members only. 12:00-1:00 pm.

Friday, 11-10-17 – Chicago, ISBA Regional Office—Profession Under Pressure; Stress in the Legal Profession and Ways to Cope. Presented by Civil Practice and Procedure. 8:15 am-4:45 pm.

Tuesday, 11-14-17 – Webinar—Speech Recognition. Practice Toolbox Series. 12:00 -1:00 p.m.

Wednesday, 11-15-17 – Chicago, ISBA Regional Office—Microsoft Word in the Law Office: ISBA's Tech Competency Series. Master Series with Barron Henley. All Day.

Thursday, 11-16, 2017 – Chicago, ISBA Regional Office—Microsoft Excel In the Law Office: ISBA's Technology Competency Series. Master Series with Barron Henley. Half Day.

Thursday, 11-16, 2017 – Chicago, ISBA Regional Office—Adobe Acrobat and PDF Files in the Law Office: ISBA's Technology Competency Series. Master Series with Barron Henley. Half Day.

Thursday, 11-16-17 - Webinar— Fastcase Boolean (Keyword) Search for Lawyers. Presented by the Illinois State Bar Association – Complimentary to ISBA Members only. 12:00-1:00 pm.

Friday, 11-17-17 – Webcast—Obtaining and Using Social Media Evidence at Trial. Presented by Young Lawyers Division. 12:00-1:30 pm.

Tuesday, 11-28-17 - Webcast—Ethics Questions: Multi-Party Representation – Conflicts of Interest, Joint Representation and Privilege. Presented by Labor and Employment. 2:00-4:00 pm.

Tuesday, 11-28-17 – Webinar— Understanding Process Mapping. Practice Toolbox Series. 12:00 -1:00 p.m.

December

Wednesday, 12-06-17 - Webcast— Defense Strategies for Health Care Fraud Cases. Presented by Health Care. 12:00-1:30 pm.

Tuesday, 12-12-17 – Webinar—Driving Profitability in your Firm. Practice Toolbox Series. 12:00 -1:00 p.m.

Thursday, 12-14-17 – Chicago, ISBA Regional Office—Vulnerable Students: A Review of Student Rights. Presented by Education Law. 9:00 am – 12:30 pm.

Friday, 12-15-17 – Chicago, ISBA Regional Office—Guardianship Boot Camp. Presented by Trusts and Estates. 8:30 – 4:30. ■

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