

YLDNNews

The newsletter of the Illinois State Bar Association's Young Lawyers Division

'Ladies and Gentlemen of the Jury, We Rise for You'

BY JUDGE HEINZ RUDOLF

The last time I had the privilege to submit a writing to the Illinois Young Lawyers Division was in March of 2021. I had surpassed 15 years on the bench and Covid-19 was a major threat to the proper administration of justice in our courts. The Illinois Supreme Court, along with the chief judges throughout the state, worked tirelessly to aid Illinois judges in becoming

well-versed in areas like remotely held court proceedings.

It is now February 5, 2024, and lawyers and litigants are returning to court. In a few days, it is my honor to have served on the bench for 18 years. As I reflect on these years, I earnestly recognize just how much I have learned from the lawyers and

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A Rural Practitioner's Plea for Action

BY LINDY A. GIESLER

Some practitioners argue rural Illinois is a desolate place in regard to practicing attorneys. While rural Illinois was once the home to a greater number of legal practitioners and law firms, these firms have struggled in recent years to attract new attorneys that are willing to take positions in rural areas.

The lack of attorneys in rural Illinois is not only an issue in private practice, but also an issue for government-funded positions in offices like the state's attorney or public defender. For example, multiple

counties have the funding for positions like assistant state's attorney or assistant public defender, however, these positions remain open, likely due to a lack of interest.

Some might argue that less attorneys just means less competition for business. While less competition sounds great to some in the legal community, there is nonetheless the troublesome issue that rural counties are running out of attorneys to keep up with the legal needs in those communities. There are not enough

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‘Ladies and Gentlemen of the Jury, We Rise for You’

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litigants who have appeared before me daily. I am also very cognizant of the major role played by our citizenry who sit as jurors listening to the evidence presented at trial. Such triers of fact are paramount to the continued existence of our judicial system.

When one really takes a moment and explores the past and present status of our jury system, a major conclusion comes to mind. These ladies and gentlemen undoubtedly place their lives on hold sometimes for a week or two, and sometimes even longer to assist the court, the lawyers, and the litigants who more than likely just all met when they walked into the courtroom for the first time.

Oftentimes, I and my colleagues remark to jurors when introductions are made during voir dire: “Please understand we rise for you every time you enter the courtroom. Outside of military service

(which some of you have also provided) we recognize your service as jurors today and throughout as one of the most important examples of public service.”

Thankfully, we are returning to many in-person proceedings including trial by jury. During many of those Covid-19 months, we were simply unable to hold jury trials. Now more than ever, we collectively see just how important this right to trial by jury is in our country. We have our fellow citizens to thank for that opportunity.

While I am fortunate enough to be able to preside over jury trials and witness excellent lawyering, address a concern of a juror, or handle an evidentiary issue unable to have been anticipated in a motion in limine, I am grateful for our right to trial by jury. Ladies and gentlemen of the jury, we rise for you. ■

A Rural Practitioner’s Plea for Action

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attorneys willing to locate to rural Illinois to replace those that are retiring from the legal practice. There is simply too much demand and not enough attorneys.

Before diving deeper into the issue of the legal field in rural communities, it is important to clarify what makes a community “rural.” According to the Illinois Primary Health Care Association, a “rural county” is a county in Illinois that has a population of 60,000 or fewer people.¹ While there are multiple opinions on what makes a county “rural,” for the purposes of this article, “rural Illinois” is any county with less than 60,000 residents.

Affected Rural Communities

According to a 2020 census by the Illinois Department of Public Health, approximately 79 counties in Illinois had fewer than 60,000 residents. Illinois

is home to 102 counties. This means that many of the counties in Illinois are considered “rural.” The author of this article practices in Mason County, Illinois, and therefore, this article focuses on rural counties in Central Illinois.

Mason County, Illinois is located along the Illinois River and according to a 2022 census, is home to just under 13,000 residents.² Mason County was once home to a number of practicing attorneys. Today, there are only four attorneys that have their primary office in Mason County, and among those attorneys, only one is under the age of 50. Thus, it is expected that the number of practicing attorneys in Mason County will only continue to decline without further action.

Another example of a declining legal community in rural Illinois sits just across the Illinois River: Fulton County,

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Illinois. The county seat of Fulton County is Lewistown – an incorporated city with a population of approximately 2,000 residents.³ While Lewistown's population is small compared to many other county seats, Fulton County is made up of six cities and/or villages and is home to approximately 33,000 thousand residents.⁴ Fulton County is home to approximately fifteen lawyers, some of which are no longer practicing full time or practice very limited areas of law.

Representation for Indigent Clients

Circuit court judges are among those in the legal sphere that have witnessed how the legal community has changed in rural Illinois. While the list of attorneys in rural counties continues to decline, some Judges are struggling to find attorneys willing to take court appointments. Attorneys willing to take court-appointed cases are paramount to ensuring that low-income citizens have competent representation when it comes to protecting their rights in Illinois Courts.

Money Talks

One of the reasons for attorneys being reluctant to practice in rural Illinois could be that smaller firms typically pay associate attorneys less than bigger firms in urban areas. Even though most rural attorneys would prefer to have a successor to take over their practice upon retirement, these small firms simply cannot compete with salaries of large firms in bigger cities. As a result, many young attorneys are attracted to jobs in bigger cities because they provide more financial stability. While small practices can end up being quite lucrative, young attorneys do not usually reap the benefits of a small practice until years later when they are a partner or own a firm. In the meantime, those young attorneys have student debt that they struggle to pay off and are forced to take higher-paying jobs out of law school.

A Step in the Right Direction

While there may not be an immediate resolution to the issues presented in this

article, one thing remains true, the need for legal help in rural areas is an issue that must continue to be addressed. The downward trend in the number of practicing attorneys in rural areas simply cannot continue or these small rural practices will cease to exist. The efforts of the Rural Practice Initiative Committee are recognized and a step in the right direction. It is imperative the Illinois State Bar Association continue supporting the Rural Practice Initiative to help attract young lawyers to these small practices in desperate need of attorneys. ■

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1. www.idph.state.il.us/RuralHealth/Rur_Urb_2021.pdf.
2. United States Census Bureau "QuickFacts" 2022.
3. *Id.*
4. *Id.*

Learning Professional Growth

BY OLIVIA BASU

When I started 2023, I entered my third year of practicing law. Even though it was only my third year, I was exhausted. I was still adjusting to how to do this job as an attorney, rather than a law clerk. The first few years of practice are difficult not only because you are re-learning to balance the demands of the occupation as an attorney with your personal life, but there is still a steep learning curve in your profession, even after years of experience as a law clerk in school. The growth and change from law clerk to attorney, and even lead attorney, felt so overwhelming that at one point, I did not believe I could do this career, which I have worked towards for many years. I graduated in 2020 and took the Illinois bar exam at the height of the COVID-19 pandemic. I also work in the extremely personal and emotionally charged field of family law,

which comes with difficulties and challenges that made me feel like I was failing. I hated that it affected me so much emotionally and could not understand why it felt like I was constantly fighting (and failing) an uphill battle. Fortunately, I have been with my firm for four years, where I started as a law clerk, so I have the support of my employer and co-workers, but it still felt like I was doing everything wrong and was failing my clients and peers despite beginning my third year of practice. I loved this field at one point, so how could I rekindle that feeling? How could I find that passion for law again, the passion I felt in law school? Because there was no easy answer to these questions, or anyone to help me answer them, I decided that to pick myself up from the trenches, change my mindset, and 2023 resulted in a year of transformation for me. What

I learned was that the daily approach to my day could improve my overall outlook immensely. This newly gained insight came from my time working with a professional coach.

When I first learned what a professional coach is, I thought it sounded very similar to a professional therapist, so much so I even told my professional coach during our first session! Because of the overlap, not only was I extremely hesitant about my sessions, but I was also apprehensive as to how much the professional coach could *actually* teach me. I truly did not think I would benefit in the slightest, but I was willing to try something to reconnect with my passion and again love my job as I used to. I met with my professional coach for 10 sessions over the course of four months in 2023. During my sessions, we

discussed my professional strengths and weaknesses, as well as what I needed to do to improve my productivity and regain the mentality of loving my job again. It was not an easy process, nor was the progress linear, but through it all I learned so much from my professional coach, even if some of the topics discussed were ones I already knew. I learned that the vast majority of productivity on a daily basis circle back to the you set intention for the day, such as being mindful of tasks, deadlines, goals, etc. This sounds like a given but surprisingly, young attorneys can forget to be intentional and mindful, especially when it feels like every day is about constantly tending to the ongoing small fires that arise. This rang especially true for me, as a family law attorney, and I know this is a feeling that resonates with young lawyers who are in the early years of practice. When asked, more experienced attorneys say that you just have to get through the metaphorical first couple of years “hump” in your career – but how?

Personally, I began with small tasks. I thought these would be easier to digest and implement, rather than an immediate and complete overhaul of my processes. I began doing weekly case reviews, designating an hour of my time to do so. I even scheduled it in the calendar with a signature nickname, a novelty that would remind me of what I needed to do. During this time, I would review all my cases, strategize the next steps in each case, and was ready to discuss them with the managing partner for the case. Part of growing as an attorney is learning to anticipate what comes next, so these case reviews engage me to think about what should be done next in a case on a regular basis. I also set aside time out in my calendar to complete tasks. While I had done this previously, I was no intentional about blocking my time, allowing me to effectively utilize openings in my calendar to my advantage, rather than randomly assigning blocks of time to unprioritized tasks. While it may look different for everyone, the takeaway is to figure out what works for you, personally. Then the small tasks you create can be implemented to make your life and job easier.

I also began to outline my week ahead in

a weekly written calendar. While I am a fan of the online platforms for calendars just as much as the rest of us, there is something deeply nostalgic, rewarding, and satisfying about being able to cross off a completed task I had written down. The notion of physically crossing of a completed task, to me, feels like a greater reward – one more satisfying than simply deleting it from a type-written list. This allowed me to be more mindful of what tasks I could delegate. Although I would prefer to do everything myself, that is not only unrealistic, but also unattainable. I was constantly burnt out, thinking I had to do everything, and be everywhere, simultaneously. No one can do that, especially as a new attorney and the over-extension will catch up to you eventually. I learned to accept the fact that sometimes this field throws curve balls every week, if not every day. New attorneys would benefit from learning to pivot and how to prioritize tasks, especially while under pressure. New attorneys may even need to work with a senior attorney to not only learn these skills, but also to prioritize what needs to be done and what can be a future project, all while keeping an overall plan and timeline in mind. As I said, while I started 2023 exhausted, I spent it learning that it was partially my fault how my professional life had gotten to this point.

The mindfulness I learned with my professional coach for my professional career, I also had to learn to implement when viewing myself. As new attorneys, there is this constant feeling that you are not doing enough or smart enough to do a task at hand. However, you need to be realistic with yourself, both in your expectations and in your skill set. You cannot do everything all at once. The most well-seasoned attorneys out there started out just like you. They learned to lean on others, whether within their firms or their field. As a newer attorney, delegating does not mean you transfer all of your tasks to clerks or paralegals, but learning when you can and should delegate or when not to. As a younger attorney, part of the process of learning is figuring out when to lean on your superiors for assistance and when to take the initiative and learn for yourself.

Turns out, professional coaching was a bit like professional therapy. You have to learn to be honest with yourself and be upfront about your own strengths, weaknesses, and abilities, which learned about myself during this process. I also learned forgiveness to myself for my mistakes and how to grow using what those mistakes taught me.

I learned a lot about communication with my professional coach. Part of the job of being an attorney is communicating with a vastly different audience: clients, opposing counsels, co-workers, employers, colleagues, and mentors. Each audience has its own communication style and as a new attorney, you need to learn to communicate effectively with them based on their style of communication, their respective unique language. While some people can directly communicate, without “fluff”, some people are analytical and detailed in their communications. Effective communication is learning what your personal style of communication is matching that with the communication style of the intended audience, as this indicates how to approach and speak to that audience. A straightforward person may not want the annotated details and facts, but an analytical communicator may want them, and vice versa. As a newer attorney, by observing what type of communicator an individual is, you can really streamline tasks and negotiations with counsels, clients, and the like.

I am still constantly growing, learning, and making my own mistakes, yet I am also easier on myself than I was a year ago. I am slowly growing more confident in my skills because I am actively being intentional every single day. I am taking what I learned during my brief time with a professional coach and adjusting my mindset so I can once again love my job. I continue to implement my weekly case reviews, maintain my written weekly calendar, and relish every time I can cross out a task from my seemingly never-ending list, even after finishing my sessions with my coach. I continue to delegate tasks that can be, and no longer feel guilty for doing so. I now understand it is vital for me to avoid burnout in order to continue doing my job

effectively. I specifically observe how an individual communicates with me, whether it is my opposing counsel, client, boss, or co-worker, so I can better communicate with them.

All of these small items and changes may sound simple, but it took a lot for me to start actively implementing them into my daily routine. If you are a newer attorney who feels like you are drowning in work, please know that you are not alone. I felt that way for a long time and specifically and

proactively decided to change this last year. While I started 2023 exhausted, I ended it being promoted to senior associate which is how I am starting this new year. Even though it was a long, arduous year for me, I feel vastly more accomplished and at peace in my job than I did before. For individuals who feel the same way I felt, wanting to go back to loving what they do, here is my advice: go back to the basics and be kind to yourself. Your greatest asset to blossoming into your own attorney is knowing that you

are not alone, as your firm, colleagues, and co-workers have felt the same way at some point. ■

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Getting the Most Out of Your ISBA Membership

BY JOE SOULIGNE

Congratulations! If you're reading this, then you've already made the excellent choice to become a member of the Illinois State Bar Association and the Young Lawyers Division. But whether you're a new member who is still exploring all that the ISBA has to offer or a veteran member of multiple section councils, it can be easy to overlook or forget about all the great benefits that ISBA has to offer. While the full catalogue of perks can be found on the ISBA's website at <https://www.isba.org/membership/benefits>, here are a few highlights to ensure you're making the most of your membership.

Section Councils

In addition to the YLD, the ISBA also maintains more than 40 substantive law sections. For just \$35 per year, members can join a section and enjoy access to section newsletters (just like this one) discussing updates and practice tips relevant that particular area of law, as well as the ISBA Central, an online forum for practitioners to discuss questions or issues with other lawyers around the state.

If you're looking for a more active role, each section also has a section council that meets regularly to comment on proposed legislation, make recommendations on changes to supreme court or ethical rules,

and organize CLE presentations, among other activities. Self-nominations for section council positions can be made at the beginning of each calendar year.

Continuing Legal Education

The ISBA can also be a one-stop shop for all of your CLE needs each reporting period. No matter whether you prefer in-person, webcast, or pre-recorded presentations, ISBA offers a plethora of options on topics ranging from substantive law to practice tips to ethical issues. Members are able to access up to 15 hours of On-Demand CLE through the ISBA's website, including six hours of Professional Responsibility credit, each bar year. Members of ISBA's sections also receive discounts on CLE events sponsored by that section, and many events also offer discounts for new lawyers in their first five years of practice.

Practice Assistance

Especially useful for new attorneys, the ISBA also offers multiple tools to help assist members as they grow and maintain their practice. For example, Practice HQ offers checklists and resources on every step of practice creation, from opening a firm to building, managing, and protecting it. Many service providers of products like practice management software, insurance, and even

travel and entertainment services also offer special discounts to ISBA members. And E-Clips, the ISBA's daily legal newsletter, can offer valuable updates on newly published decisions or other updates to keep attorneys up to date.

Networking

While the above tangible benefits can be extremely useful to young lawyers, perhaps no benefit is greater than the opportunities the ISBA provides for new attorneys to meet and work alongside experienced members of the profession, as well as form career-long friendships with other YLD peers. The Annual and Midyear meetings, as well as various other events (such as the YLD's upcoming Speed Networking and Wine Tasting event) are invaluable gatherings of those who were are now or once were in your shoes and, the overwhelming majority of the time, are eager to pass along their knowledge and experience. ■

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Time Is Limited

BY NICHOLAS CORRELL

Does anyone else cringe when they hear the acronym FOIA? Maybe it's just me. However, I don't think I'm the only one. I attended a conference this fall and one of the topics covered was related to the Freedom of Information Act or commonly referred to as FOIA. I can still hear the attorney giving the presentation say, "Thank god I don't have to do this on a daily basis." Well for those of us who do deal with FOIA on a regular basis, I think it may be time for the legislature to revisit the statute.

The last major overhaul to the Freedom of Information Act was in 2009, which became effective January 1, 2010, though Public Act 96-542. We are now entering the year 2024, 13 years after the last major overhaul of the statute. Over the years there have been several changes to the statute, including adding, modifying, removing, or clarifying various exemptions and adding other laws that intersect with FOIA. It requires public bodies countless hours and manpower to not only find the relevant information requested, but also to review the information requested to determine whether or not a particular exemption applies. In Illinois, generally public bodies are only allowed five business days to respond to a request for public records, unless they utilize the one extension they have available for an additional five business days.¹ This provides public bodies ten

business days to respond to a request for public records, unless the request can be treated differently under the statute.

South Carolina allows public bodies 10 days (excepting Saturdays, Sundays, and legal public holidays) to respond to a person making a request for public records.² Michigan requires public bodies to respond to a request for a public record within five business days after the public body receives the request.³ However, the public body is allowed one extension, which shall not exceed 10 business days.⁴ Washington D.C., allows public bodies 15 days (except Saturdays, Sundays, and legal public holidays) to respond to a person making a request for public records.⁵ Public bodies in D.C. may also extend the deadline to respond to the request up to an additional 10 days.⁶ Moreover, if a request is for body-worn camera footage recorded by the Metropolitan Police Department, the public body is allowed 25 days to make the requested recording available or notify the person making the request of its determination not to make the requested recording available.⁷

The federal government is allowed 20 days (excepting Saturdays, Sundays, and legal public holidays) to respond to a FOIA request unless there are "unusual circumstances."⁸ The Office for Information Policy (OIP) released its annual FOIA

report for fiscal year 2022 on March 2, 2023.⁹ The OIP reported that the "demand for FOIA reached a record high in FY 2022 with 928,353 incoming requests."¹⁰

In the ever-increasing world of email correspondence, digital information, and demand for information, 10 business days is often not enough time for public bodies to respond to FOIA requests. Ten days to gather the information requested and review the material for applicable exemptions puts a significant strain on public bodies and the limited resources they have available. In the event that the legislature ever revisits the language in the statute, I hope they consider extending the time limit on FOIA requests because time is limited.

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1. 5 ILCS 140/3(d) & (e).

2. S.C. Code Ann. § 30-4-30(C).

3. MCLS § 15.235(2).

4. *Id.*

5. D.C. Code §2-532(c).

6. D.C. Code §2-532(d).

7. D.C. Code §2-532(c)(2)(A).

8. 5 USCS § 552(a)(6).

9. <https://www.justice.gov/oip/blog/fiscal-year-2022-foia-data-available-foiagov#:~:text=OIP%20is%20compiling%20its%20Summary.record%20high%20of%20878%2C420%20requests>

10. *Id.*

Tag You're @It: Creative Service With #SocialMedia

BY JAMINE MORTON ROGERS & BLAKE KOLESIA

Though Defendant does not "mess with the rules," the rules still "mess with him." See Lawson v. FMR LLC, 571 U.S. 429, 459–60 (2014) ("We are a government of laws, not of

*men.")*¹

As individual and corporate defendants alike have reduced their physical footprints with the increasing accessibility of the

internet, litigants have asked federal courts to get more creative with service. A rise in disputes about cryptocurrencies, the blockchain, and non-fungible tokens

(NFTs) is increasingly leading those parties to attempt to and succeed at evading service. Attorneys familiar with the internet's nooks and crannies and its innumerable social media platforms may prove indispensable when needing to serve the otherwise un-servable.

In federal court, service of process on a defendant is governed by Rule 4 of the Federal Rules of Civil Procedure. The federal rules provide methods by which individuals and corporations can be served with process. One option for federal plaintiffs is to serve a federal defendant by "following state law for serving a summons in an action brought . . . in the state where the district court is located or where service is made."²

Many states, including for instance neighboring Iowa, allow courts to order alternative methods of service consistent with due process if service cannot be made by any of the methods provided by rule.³ As a result, a plaintiff looking to serve a party located in Iowa—or to serve a party to a case pending in a federal court sitting in Iowa⁴—who has exhausted traditional methods of service could seek leave to effectuate service by social media. And they have. A federal magistrate judge sitting in Des Moines has permitted service on a California resident's social media accounts after the plaintiff had exhausted traditional methods of service. That court found that the requirements of due process would be met, as "service by means of social media accounts associated with the defendant reasonably could be expected to provide her with notice of the lawsuit against her" because the plaintiff had established her frequent, regular use of social media.⁵ Specifically, that court permitted service by email and Facebook private message.

In other jurisdictions, where state law also allows for alternative service when traditional means have been exhausted, courts have even recognized that service by social media could better effectuate service than the alternatives of the past, such as by newspaper publication. A court of the Northern District of Texas doubted whether a difficult-to-serve "SoundCloud and TikTok rapper extraordinaire" was a regular newspaper reader or visitor to the Fort

Worth city website. Instead, the plaintiff there had demonstrated the "young bard" posted daily on Instagram, Twitter, TikTok, and SoundCloud, and the court permitted service by direct message to those accounts.⁶

The chief judge of the Southern District of Florida permitted service by social media under Rule 4(f)(3), which permits alternative service on foreign defendants so long as the alternative method is calculated to provide notice and is not prohibited by international agreement. There, the court allowed the foreign defendant to be served by email and by publishing a post on Twitter in which the defendant was tagged.⁷

Illinois courts have long been permitted to order "service to be made in any manner consistent with due process."^{8,9} Indeed, April 2023 brought with it amendments to Illinois Supreme Court Rule 102 that, according to the Court's press release, "provide for the electronic service of summons and complaints in civil proceedings in recognition of society's increased use of electronic methods to communicate."¹⁰ Specifically, the amendments affirm such service that was already allowed: "for summons to be served via social media direct message, e-mail, or text message by special order of the court, when service by traditional means is impractical."

Although service by creative, online means may become commonplace before long, being versed in the language of social media now can help young attorneys cement their value in this evolving aspect of litigation. As a starting point, familiarity with Illinois Supreme Court Rule 102(f) will be important:

- At 102(f)(1), the Rule requires a plaintiff to satisfy the court that, for the means of service proposed, the defendant "has access to and the ability to use the necessary technology to receive and read the summons and documents electronically."
- At 102(f)(2), the Rule adds additional requirements to the affidavit necessary when seeking alternative means of service under Section 2-203.1.
- At 102(f)(1)(A)-(C), the Rule specifies language that must be

included in the social media message, e-mail, or text message used to effectuate service.

- At 102(f)(3), the Rule requires that plaintiff nevertheless serve the party by mail to their last known residence.
- At 102(f)(4), the Rule states the minimum details necessary to prove service was accomplished by Rule 102(f)'s enumerated alternative methods.

Rules permitting alternative service through social media platforms, such as Iowa's open-ended rule and Illinois' rule specifically defining social media service, provide a new angle for attorneys hoping to serve the most evasive defendants. But at the same time, detailed schemes like Illinois Supreme Court Rule 102 contain pitfalls for attorneys who hope to get creative with service by their novel requirements. Young Illinois attorneys, however, will have opportunities to define the conversation around service and other aspects of litigation that will continue to be supplemented with the advent of technology. ■

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1. *Sony Music Entertainment Inc., et al. v. Dantreal Daevon Clark-Rainbolt*, No. 4:23-cv-275, slip. op. 1, n.1 (N.D. Tex. June 14, 2023).

2. Fed. R. Civ. P. 4(e)(1), (h)(1)(A).

3. Iowa R. Civ. P. 1.305(14).

4. Rule 4(e)(1) allows for service according to the law of the state where service will occur or according to the law of the state where the federal court itself is located.

5. *Maharishi Found. USA, Inc. v. Love*, No. 4:16-cv-52, 2016 WL 11606685, at *2 (S.D. Iowa Sept. 19, 2016).

6. *Supra*, note 1 at 3-4.

7. *Edwin Garrison, et al. v. Kevin Paffrath, et al.*, No. 23-cv-21023, slip op. at 2-4 (S.D. Fla. May 2, 2023).

8. 735 ILCS 5/2-203.1.

9. So too, then, have federal courts sitting in Illinois. See Fed. R. Civ. P. 4(e)(1).

10. *Illinois Supreme Court reinforces service of summons allowable via social media, text and email*, ILLINOIS COURTS (Apr. 25, 2023), available at <https://www.illinoiscourts.gov/News/1225/Illinois-Supreme-Court-reinforces-service-of-summons-allowable-via-social-media-text-and-email/news-detail/>.