



**SUPREME COURT OF ILLINOIS**

**1100 SOUTH MILL STREET  
PO BOX 266  
NASHVILLE, IL 62263  
(618) 327 9751  
FAX (618) 327 9756**

**CHAMBERS OF  
CHIEF JUSTICE LLOYD A. KARMEIER**

January 31, 2018

The Honorable Michael J. Madigan  
Speaker of the House  
House of Representatives  
Springfield, IL 62706

The Honorable John J. Cullerton  
President of the Senate  
State Senate  
Springfield, IL 62706

The Honorable Jim Durkin  
Minority Leader  
House of Representatives  
Springfield, IL 62706

The Honorable William E. Brady  
Minority Leader  
State Senate  
Springfield, IL 62706

Dear Legislative Leaders:

I am pleased to provide the Annual Report of the activities for the 2017 Illinois Judicial Conference as required by Article VI, Section 17, of the Illinois Constitution of 1970. In keeping with this Constitutional mandate, Illinois Supreme Court Rule 41 creates the Illinois Judicial Conference and charges the Conference with considering the work of the courts and suggesting improvements in the administration of justice. As this annual report shows, the past year has been a very productive one.

The Judicial Conference consists of an Executive Committee and six standing committees that address issues of: (1) alternative dispute resolution, (2) civil justice, (3) criminal justice, (4) judicial education, (5) juvenile justice and (6) strategic planning. The annual meeting of the Judicial Conference was convened on October 19, 2017, with a theme of *Sustainable Court Governance: Strategic Planning and Management*. The format and agenda of the annual meeting were structured to promote active participation by all attendees in our effort to identify innovative and promising improvements in the administration of justice.

In further compliance with Article VI, Section 17 of the Illinois Constitution, this report includes a summary of the work performed by each of the six standing committees. Each committee of the Judicial Conference provided the Supreme Court a written report summarizing initiatives undertaken during Conference Year 2017 and proposing projects for 2018.

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The work of the Judicial Conference supports the Supreme Court's overall commitment to the efficient administration of justice, management of our court system, and the prudent stewardship of both human and financial resources. The Supreme Court will continue to set goals and develop plans to assure that the judiciary provides equal access justice to all and to uphold the rule of law. The focus of this year's Judicial Conference was the development of a strategic plan for the Illinois court system. To achieve this goal, the Judicial Conference members were divided into six small groups to address the following discussion topics about the Court's mission, organizational values, strengths, weaknesses, opportunities and challenges to be addressed in a strategic plan, and further, the development and implementation of a judicial branch strategic plan. Each group was then tasked to deliver their results in the form of an oral report during the afternoon session of the Judicial Conference.

This report also includes a summary of several Supreme Court decisions from the past year that are offered for the General Assembly's consideration. In offering these cases, the Court is mindful of the distinct roles of the General Assembly and the Court. While we intend no intrusion upon the prerogatives of the General Assembly in the exercise of its authority, we do respectfully offer these cases for your consideration and look forward to the General Assembly's continued responsiveness and support.

On behalf of the Court, I respectfully submit the Supreme Court's Annual Report to the Legislative Leaders of the General Assembly on the 2017 Illinois Judicial Conference. This report is also available to the other members of the General Assembly on the Supreme Court's website at [www.illinoiscourts.gov](http://www.illinoiscourts.gov).

Respectfully,



Lloyd A. Karmeier  
Chief Justice  
Supreme Court of Illinois

Enclosure

c: Members of the General Assembly

## **Annual Report to the General Assembly on the 2017 Illinois Judicial Conference**

Article VI, Section 17, of the Illinois Constitution mandates that the Illinois Supreme Court convene an annual Judicial Conference to consider the work of the courts and to suggest improvements in the administration of justice. Illinois Supreme Court Rule 41 implements this constitutional requirement by defining the duties and the membership of the Illinois Judicial Conference. The Conference is composed of judges from every level of the judiciary and represents Illinois' five judicial districts. The Chief Justice of the Supreme Court of Illinois presides over the Conference, and the other Justices serve as members.

Pursuant to Illinois Supreme Court Rule 41, an Executive Committee acts on behalf of the Conference when it is not in session. The Executive Committee consists of fourteen judges: six from the First Judicial District (Cook County) and two each from the Second, Third, Fourth, and Fifth Judicial Districts. The Executive Committee previews the written reports of the Conference committees and submits an annual meeting agenda for the Supreme Court's approval.

Six standing committees carry out the work of the Conference throughout the year. These committees are: the Alternative Dispute Resolution Coordinating Committee, the Civil Justice Committee, the Criminal Justice Committee, the Juvenile Justice Committee, the Committee on Education, and the Committee on Strategic Planning. The committees' membership includes appellate, circuit, and associate judges, law professors, and attorneys appointed by the Supreme Court as advisors. Senior level staff from the Administrative Office of the Illinois Courts serve as liaisons to support the committees' activities.

On October 19, 2017, the Illinois Judicial Conference held its annual meeting in Lombard, Illinois. The meeting was concentrated into one full day to minimize the judges' time away from the bench and to reduce costs.

Administrative Office of the Illinois Courts Director Marcia M. Meis opened the 2017 Conference by introducing herself, and on behalf of the Administrative Office and the Illinois Supreme Court, welcomed those in attendance. Director Meis introduced the Chief Justice and Justices of the Illinois Supreme Court.

Director Meis then provided the history and purpose of the Illinois Judicial Conference, stressing the importance of the Judicial Conference and that it is mandated by the Illinois Constitution. Director Meis concluded her remarks by expressing optimism that much important work would be accomplished at this year's Conference and by introducing Illinois Supreme Court Chief Justice Lloyd A. Karmeier.

Chief Justice Karmeier began his remarks by thanking Director Meis for convening her first Conference as Director of the Administrative Office of the Illinois Courts, and on behalf of himself and his colleagues, welcomed everyone to the conference. The Chief Judge expressed his appreciation to the members of the Judicial Conference Executive Committee and members of the Conference for their hard work to plan and organize this year's conference. He also thanked the leadership of the Administrative Office, and especially the Judicial Education Division, for developing the framework of this year's conference. Chief Justice Karmeier concluded his



expression of gratitude by thanking the committees for their work during the conference year to improve the quality of justice in Illinois.

Chief Justice Karmeier then discussed the theme for this year's Judicial Conference, that of sustainable court governance and the critical role of strategic planning and management. He explained that strategic planning is critical to the health and vitality of the judicial branch in order for the court system to address advancements in technology, changing social and political norms, and shifting demographics and economic uncertainty. The Chief Justice advised that, in order for Illinois courts to advance into the future, it is essential to develop a better understanding of what it needs to do, how to do it, and when to do it. Chief Justice Karmeier indicated that previous strategic planning initiatives were a prelude to a more systemic incorporation of advanced planning strategies into the work of the Court, and in general, the role of the Judicial Conference. With this strategic planning effort, the Chief Justice stressed that the Court will be taking another big step toward improving how the judicial branch meets the future and that the members of the Judicial Conference will help lead the way.

Chief Justice Karmeier also explained that this year's Judicial Conference would differ from prior years. He said that the remainder of the morning session would be dedicated to learning how strategic planning enhances the abilities of the courts to deliver judicial services by hearing of the challenges and successes other court systems have experienced with strategic planning efforts; and that the afternoon session, rather than convening each of the conference committees to focus on their specific charges, would involve pre-selected discussion groups being led by members of the Strategic Planning Committee for the purpose of exploring the development and implementation of a long term strategic plan for the Illinois courts. Chief Justice Karmeier stressed how valuable the membership's input would be, especially their thoughts on a mission statement, formation of the core values of the Illinois court system, obstacles that may arise in the implementation of those values, and what other stakeholders might be needed to achieve the strategic planning goals.

As a final matter, Chief Justice Karmeier introduced the remaining presenters: Hon. Thomas M. Donnelly, Associate Judge from the Circuit Court of Cook County and Chair of the Illinois Judicial College Board of Trustees; Ms. Mary McQueen, President of the National Center for State Courts; and Hon. S. Gene Schwarm, retired Justice from the Fifth District Appellate Court and Chair of the Conference's Strategic Planning Committee.

As the first presenter, Judge Donnelly focused his presentation on the role of the Illinois Judicial College in the future of judicial education. He began his presentation with a video depicting how important judicial education is for a smooth, efficient, and fair trial court system. At the conclusion of the video, Judge Donnelly detailed the three characteristics of the Illinois Judicial College, which are: "guided by judges", "taught by judges" and "helps judges," and explained that these characteristics will be achieved by engaging in collaborative training between judges and other court system personnel, such as probation officers and guardians' *ad litem*. This collaborative approach will create a more seamless system to better deliver justice in a timely, effective, and fair manner.

The Conference was then addressed by Ms. Mary McQueen, President of the National Center for State Courts. Ms. McQueen's address stressed the difficulties court systems face in developing and implementing a strategic plan due to the collaborative and negotiated structure of a court system. Ms. McQueen explained how court systems are "loosely coupled organizations" in that organizational decisions require a complex knowledge base which is constantly developing. Ms. McQueen next discussed the steps necessary in strategic planning: (1) set broad principles of what the Illinois court system is committed to doing now and in the future; and (2) establish a vision statement which details the steps in order to accomplish the goals of the strategic plan. Ms. McQueen concluded her remarks on how strategic planning can assist the judiciary with budgetary matters, employment recruitment and retention, and stabilizing the costs associated with litigation.

The next presentation consisted of a panel discussion facilitated by Justice Schwarm. Included on the panel were Ms. McQueen, Hon. Eric T. Washington, former Chief Judge of the District of Columbia Court of Appeals, and Dr. Cheryl R. Bailey, Deputy Executive Officer for the District of Columbia Courts. The panel shared their experiences in the District of Columbia regarding strategic planning, including the formation of a leadership council comprised of judicial officers, court executives and line staff, as well as performing outreach to individuals and groups that interact with the courts. The panel then fielded several questions from the facilitator and Conference members regarding the challenges faced and lessons learned during the formation and implementation of their strategic plan.

The afternoon session of the annual meeting divided the Conference members into six breakout groups with the charge to discuss the following four questions: what should be the mission of our court system; what should be the court's organizational values; what are the court's strengths, weaknesses, opportunities and challenges that need to be addressed in a strategic plan; and how does the judicial branch of Illinois develop and implement a strategic plan? When the plenary session resumed, each group's spokesperson presented their findings and conclusions to the Conference members. Justice Schwarm concluded by indicating that all of the responses provided would be utilized to help shape the vision statement, mission statement, and organizational values that would be incorporated into a strategic plan. He then expressed his appreciation for everyone's participation and engagement in the Conference.

Chief Justice Karmeier provided concluding remarks by thanking the Conference members in attendance, and by expressing his appreciation to the other invited presenters and the Strategic Planning Committee for all their work in preparation for this year's conference. Chief Justice Karmeier reminded the Conference that formulation of a meaningful and effective strategic plan is a challenge for every large and complex organization like the Illinois courts, and that this type of planning does not happen overnight, but that discussions like those held at this conference were critical to the process. Chief Justice Karmeier concluded by stating that the Illinois courts are truly fortunate to have so many talented members who are willing to step forward each year and help shape the future of the court system.

Each of the six standing committees of the Illinois Judicial Conference provided a written report to the Supreme Court. Their reports are briefly summarized below.

## **2017 Judicial Conference Committee Reports**

### **Alternative Dispute Resolution Coordinating Committee**

The Alternative Dispute Resolution Coordinating Committee monitors and assesses court-annexed mandatory arbitration and mediation programs, approved by the Supreme Court. Along with the Administrative Office of the Illinois Courts, the Committee tracks both arbitration and mediation statistics to monitor the efficacy of those programs.

During Conference Year 2017, the Committee, in consultation with the Administrative Office of the Illinois Courts, continued to assist with the development of uniform data collection instruments for use by all alternative dispute resolution programs throughout the state of Illinois.

The Committee continued to discuss what information a final mediator report should contain to best assist judges with docket management and began to develop uniform documents for use by all court-annexed mediation programs to provide the trial judge with detailed results of the mediation session(s).

The Committee discussed the pros and cons of utilizing fee waiver and fee refunds as an encouragement to utilize alternative dispute resolution processes. The Committee examined the process currently used by McLean County's small claims mediation program which allows for the respondent's appearance fee to be waived if the parties agree to participate in mediation at the first appearance and the case is settled at that time. Several Committee members expressed reservations that such a fee waiver/refund scheme would only be practical for small claims mediation programs because other programs rely on filing fees as a major funding source for program administration and continuation.

The Committee also began discussion on monitoring ADR operations to reflect the status of the Court's electronic filing initiative. Specifically, discussion focused on how to integrate court-annexed dispute resolution programs into the electronic filing program. Continuing discussion will ensure the operation of court-annexed dispute resolution operations are seamlessly integrated into the e-filing program as the initiative progresses.

The Committee also discussed a letter received from the Court requesting the Committee to research, report, and comment on the filing trends of other state's mandatory arbitration programs, what the cause for filing declines may be and recommendations to increase the use of mandatory arbitration in Illinois. Results found that seven states have programs similar to Illinois' and that four of those states had a decline in their filings between 2013 and 2015, the most recent data that was available for research purposes. Causes of the filing declines in Illinois included various intangible societal factors, such as race, income level, immigration status, trust in the court system, residents' understanding of the court system, costs to file a case in mandatory arbitration are prohibitive, and an overall population decline in Illinois. In addition, car safety improvements, with a corresponding reduction in the number of traffic accidents resulting in personal injuries are positive factors impacting this decline. Finally, use of pre-litigation arbitration, especially in the business and technology sectors, is rapidly becoming the preferred method of dispute resolution over the traditional use of a court system. Based on these findings,

it was recommended that consideration be given to waiving the jury trial fee in arbitration cases until a party rejects the arbitration award and to explore developing mandatory arbitration programs for specific areas of practice, especially higher dollar value cases.

### **Civil Justice Committee**

The Civil Justice Committee has an overarching mandate to advise the Illinois Judicial Conference and the Illinois Supreme Court in matters affecting civil justice. The Committee's charge for Conference Year 2017 was to review and make recommendations on matters affecting civil justice. The Committee was to review, analyze and examine new issues arising out of legislation and case law that impact civil law and procedures and any aspect of civil justice. The Committee members possess significant trial experience, from various jurisdictions, both large and small.

The Committee has undertaken projects designed to provide valuable information to the Illinois Supreme Court to assist it in determining ways to ensure that the Illinois civil justice system is functioning effectively. In Conference Year 2017, the Civil Justice Committee focused on three projects:

- (1) Beginning to analyze a statewide survey of civil jury trials to elicit information regarding the comprehension, satisfaction and efficiency of the civil jury trial system with *pro bono* assistance from DecisionQuest;
- (2) Considering the elimination of the discovery/evidence deposition dichotomy. Illinois is the last remaining state in the country to have a bifurcated system of two types of depositions. Amending the Supreme Court Rules to have only one deposition that can be used for all purposes would bring Illinois in line with every other jurisdiction in the country, including the federal courts; and
- (3) Exploring a civil mandatory disclosure pilot project in the Circuit Court of Cook County, Commercial Law Division, and 23<sup>rd</sup> Judicial Circuit. The proposed disclosures would essentially parallel those required in federal court by Federal Rule of Civil Procedure 26. The rationale for such disclosures would be to give the parties necessary information as soon as possible to advance the possibility of early settlement or dispositive motion.

In Conference Year 2018, the Civil Justice Committee hopes to continue exploring and analyzing the statewide results of the civil jury trial questionnaires to assess ways to improve the juror deliberative process and evaluate the use and effectiveness of jury instructions before, during and after the presentation of evidence. If the Court approves, the Civil Justice Committee also hopes to conduct the pilot project requiring mandatory disclosures of basic information by litigants in certain case types in both the Circuit Court of Cook County, Commercial Law Division and 23<sup>rd</sup> Judicial Circuit to analyze its impact and make recommendations to the Court on how and whether to expand this pilot.



## **Criminal Justice Committee**

In 2017, the Committee continued work on drafting a best practices guide for trial court judges hearing criminal cases. After discussion on this charge, the Committee concluded that due to the varied nature of criminal practice among the various circuits, a best practices guide would not be feasible.

The Committee also continued discussion on implementing sentencing flexibility similar to the federal sentencing guidelines. In 2016, the Committee was advised that the Illinois General Assembly had begun to address this issue legislatively and will continue to do so. As a result, discussion was suspended pending legislative action.

The Committee was charged with coordinating with the Conference of Chief Circuit Judges to promote modifications to pretrial release procedures, including risk assessment. The Committee met with Administrative Office of the Illinois Courts Director, Michael Tardy, and the Hon. Robbin Stuckert, Chief Judge of the 23<sup>rd</sup> Circuit and Chair of the Conference of Chief Circuit Judges Pretrial Subcommittee. A detailed description of the trends involving the use of evidence based practices and risk assessment tools used in other states to assist in pretrial practice was provided. The Committee was also advised that Illinois circuits which have implemented the use of evidence based practices with risk assessment tools for pretrial release have seen a 20% decline in the county jail population. Details were provided on the Pretrial Subcommittee's efforts to gather information, what next steps were being considered, and the status of the development and state wide distribution of a risk assessment tool. The Committee was advised that preliminary discussions were underway to possibly form a working group consisting of multiple stakeholders to discuss issues and concerns with the implementation of evidence based practices in pretrial release decisions. It was stressed to the Committee that evidence based practices and risk assessment tools do not remove or reduce judicial discretion to make a pretrial release decision, but is just one element to assist with the decision making process. After the presentation, the Committee voted to endorse the efforts of the Pretrial Subcommittee and offered whatever assistance was needed.

The Committee also discussed a request from the Hon. Kathryn E. Creswell, Chief Judge of the 18<sup>th</sup> Circuit, which sought Committee input on the advisability of having the jury waiver forms printed with additional languages. The Committee advised Chief Judge Creswell that including multiple languages on the waiver form was necessary so that the limited English proficiency defendants would have a better understanding of what was happening in Court, but there still may be a need for an interpreter to insure the defendant fully understands the implication of waiving his or her right to a jury trial.

## **Juvenile Justice Committee**

During Conference Year 2017, the Juvenile Justice Committee, in conjunction with the Committee on Education, developed a statewide conference for juvenile court judges (child protection and delinquency) throughout the state. The conference was held on September 27 and 28 in Springfield. The theme of the conference was *The Trauma Informed Courtroom*. The faculty included Illinois judges, as well as nationally recognized judges and mental health practitioners from other states.



The Committee was asked to further consider mandatory minimum education requirements for attorneys handling juvenile abuse and neglect cases and delinquency cases. The Committee reviewed research on the topic, discussed the pros and cons of requiring minimum educational requirements that may impact juvenile courts across the state, considered the educational opportunities that would potentially be available, and the manner in which this could be monitored. The Committee, after reviewing mandatory continuing legal education requirements for juvenile court practitioners in other states, drafted a proposal. The proposal would amend Supreme Court Rules 794 and 795, requiring any attorney practicing in juvenile court to incorporate four (4) hours of CLE courses in specified subjects related to the practice of juvenile law. The proposal is under consideration.

The Committee was also charged with the development and implementation of youth focus groups. The Department of Health and Human Services-Children's Bureau, through the Capacity Building Center for Courts and the Illinois Court Improvement Program, assisted with developing a strategy and evaluation plan. The Administrative Office will conduct focus groups with youth who are currently or recently involved in the foster care system to learn more about their court experience and perceptions of their legal representation. Administrative Office staff will provide a summary and evaluation of the results of the youth focus groups.

The Committee explored and approved a proposed rule creating a privilege for any statements made during the course of a restorative justice program. This rule has been forwarded to the Supreme Court Rules Committee for review and public comment.

The Committee finalized a set of juvenile justice benchcards. In addition, the Committee drafted a set of benchcards for abuse and neglect cases that are currently being finalized. The benchcards essentially update and replace the checklists from the older Juvenile Law Benchbook(s). The benchcards are being distributed to all juvenile court judges and will be available on an ongoing basis to new judges as well as updated periodically, as the law changes.

A proposal was raised at the 2016 October Illinois Judicial Conference meeting to create a mentoring program. The proposal was to allow judges who are new to juvenile courtrooms, or judges who only sporadically handle juvenile court cases, to have someone that they could contact to discuss juvenile law, get tips and talk about their cases. The Committee has changed this to a 'buddy' system, where any judge who wishes to be paired with one or more other judges dealing with juvenile court cases may register. A form was prepared and was distributed at the September 2017 juvenile conference, and is administered by the AOIC. This buddy system will be updated on a regular basis, as new judges are assigned to juvenile courts throughout the state.

### **Committee on Education**

During Conference Year 2017, the Committee on Education, continued its charge to provide judicial benchbooks, and design, deliver and evaluate continuing judicial education programs for Illinois judges under the auspices of the Illinois Judicial Conference, through June 30, 2017, at which time the Committee of Education was sunset. As of July 1, 2017, the 2017 Conference Year projects and activities of the Committee on Education were managed by the Illinois Judicial

College Committee on Judicial Education in coordination with the Administrative Office of the Illinois Courts.

The Committee on Judicial Education is one of six standing Committees of the Illinois Judicial College and is not a Judicial Conference Committee. The Judicial College will expand continuing education opportunities beyond judges and the work of the Committee on Judicial Education, to probation, court administrators, circuit court clerks, judicial branch staff, and guardians' *ad litem* through the remaining five Judicial College Committees established to focus on the continuing education needs of each of these stakeholders.

Eight Illinois Judicial Benchbooks were released in the Fall of 2017, namely, Civil Law and Procedure, Criminal Law and Procedure, Domestic Violence, DUI/Traffic, Evidence, Family Law and Procedure, Juvenile Law, and Mortgage Foreclosure. Benchbooks serve as judicial resources; however, the Supreme Court has determined that these resources are not citable as legal authority.

New Judge Seminar (January and December, 2017), DUI/Traffic Seminar (March 2017), the first Biennial Juvenile Conference (September 2017), and Bail Reform Webinar (December 2017) were planned, delivered and evaluated in 2017 in addition to the planning of Education Conference 2018, the Court's biennial conference attended by all Illinois judges.

### **Committee on Strategic Planning**

During Conference Year 2017, the Committee continued its mission to assist the Supreme Court of Illinois in advancing the Court's goal of an impartial, accessible and efficient justice system. The Committee has undertaken projects designed to provide valuable information to the Supreme Court to assist it in determining ways to ensure the Illinois court system is functioning in a just and efficient manner. The Committee has continued to maintain communications with the Conference of Chief Circuit Judges and other Supreme Court Committees and Commissions in order to keep abreast of developments related to strategic planning and to collaborate where possible.

The Committee met during the course of the Conference Year and engaged in thorough and extensive discussions about the Committee's priorities. These discussions involved in depth review of the history of the formation of the Committee as well as a detailed data analysis and review of the current landscape of civil cases and court calls in the Illinois courts. The Committee found that civil case trends have profoundly shifted. Data indicates that almost 50% of all civil cases are contract/tort cases under \$50,000. Approximately 25% of all civil cases are domestic relations cases and the remaining 25% of civil cases include chancery, probate, law cases with values above \$50,000, mental health, etc. Data also showed a large number of self represented litigants ("SRLs") participating in court proceedings.

As a result of the information the Committee received about current case trends and discussions about the history and purpose of the Committee, a priority that emerged was remote access to court proceedings (*e.g.* court appearances via video or telephone). The Committee researched and discussed the history of the development of remote court appearances in the Illinois courts. The Committee agreed that in order to develop policies and initiatives in this

regard, it would be beneficial to get a sense of what types of remote court appearances are currently happening across Illinois, what impediments exist to allowing remote court appearances and what judges thoughts are on allowing case participants to appear remotely. In order to obtain this information, the Committee was authorized to conduct a survey of a cross section of Illinois circuit courts that vary in size, structure and location. With the assistance of the Administrative Office of the Illinois Courts, the Committee developed a survey instrument on remote access, conducted the survey in ten circuits across the State and conducted data analysis of the results. In Conference Year 2018, the Committee and the Access to Justice Commission will develop a report on remote access to court proceedings, which will include amongst other things a discussion of the results of this survey.

## **Conclusion**

As evidenced by these Committee summaries, the scope of work undertaken by the Judicial Conference in 2017 was broad and included recommendations on improving efficiency through the continuing use and expansion of technology and alternative dispute resolution programs. Committees also focused on developing judicial education programs, continuing legal education requirements for practitioners, and presenting training on evidenced based practices. Amendments to Supreme Court Rules were offered, as well as recommendations on how to enhance access and fairness in the administration of justice.

Although many projects and initiatives were completed in the 2017 Conference Year, some will continue on into Conference Year 2018, and additional projects will be assigned in the coming year. Thus, the Judicial Conference will continue to honor its constitutional mandate and remain steadfast in its goal of improving the administration of justice in Illinois.

## **Supreme Court Decisions That the General Assembly May Wish to Consider**

*People v. Johnson*, Case No. 2017 IL 120310 (January 20, 2017).

Defendant was convicted in 2005 of first-degree murder, which was affirmed on appeal. Defendant neither filed a petition for leave to appeal nor a petition for writ of *certiorari* to the United States Supreme Court. Subsequently, defendant filed a *pro se* postconviction petition, asserting that the petition's due date was March 11, 2008, which was six months after the deadline to seek *certiorari*. Defendant relied on section 122-1(c) of the Post-Conviction Hearing Act (725 ILCS 5/122-1(c)). The Supreme Court disagreed, finding that the due date for this postconviction petition was actually December 11, 2007, which was six months after the deadline for filing a petition for leave to appeal to the Illinois Supreme Court. The Court determined that, although the statute on its face only referenced the deadline for seeking *certiorari*, the correct reading of the statute is that the post-conviction petition deadline is six months after the deadline for either a petition for *certiorari* or a petition for leave to appeal in the Illinois Supreme Court. The Court explained that the legislature's failure to include language referencing petitions for leave to appeal was an oversight.

*People v. Pearse*, Case No. 2017 IL 121072 (March 23, 2017).

Defendant was found guilty of failing to re-register his home address under Section 3 of the Sex Offender Registration Act (730 ILCS 150/3) after returning home from a short hospital stay. The defendant initially registered his home in Belvidere with local law enforcement, and then notified Forest Park authorities when he was briefly admitted to a hospital there. Defendant registered both his Belvidere address and the hospital address with Forest Park police. He was subsequently charged for failing to re-register the Belvidere address when he returned home. The Supreme Court expressed concern with both the circuit court's and appellate court's confusion as to whether section 3 or section 6 of the Act applied to the case. The Court concluded that these provisions on their face did not adequately provide notice as to what the reporting requirements are for registered offenders. The Court went on to determine that the intent of the legislature was for offenders to be tracked by giving notice to the law enforcement authorities in the jurisdiction that they leave. Defendant was not charged with failure to give that notice, and there was no evidence in any event that he failed to do so. The Court went on to suggest that, in light of the confusion exhibited by the parties and the courts, the legislature should review this statutory scheme and revise it for purposes of clarity.

*People v. Peterson*, Case No. 2017 IL 120331 (September 21, 2017).

Defendant Drew Peterson was found guilty of first degree murder. The appellate court affirmed, and defendant appealed to the Supreme Court, arguing that certain hearsay statements were improperly admitted at trial under the forfeiture by wrongdoing doctrine. Illinois Rule of Evidence 804(b)(5) identifies only two criteria that must be satisfied for the admission of hearsay statements under this doctrine: (1) that the party against whom the statement is offered "has engaged or acquiesced in wrongdoing" and (2) that such wrongdoing "was intended to, and did, procure the unavailability of the declarant as a witness." Section 115-10.6 of the Code of Criminal Procedure (725 ILCS 5/115-10.6) also requires that the time, content, and circumstances of such statements provide sufficient safeguards of reliability. The Court found that the statute's imposition of a reliability requirement created an irreconcilable conflict with a Court Rule, and as such, separation of powers principles dictated that the Rule must prevail. Thus, the Court concluded that the admissibility of the hearsay statements was governed by the common-law doctrine of forfeiture by wrongdoing, embodied in Illinois Rule of Evidence 804(b)(5), and not section 115-10.6 of the Code.

*Manago v. County of Cook*, Case No. 2017 IL 121078 (September 21, 2017).

Plaintiff was the mother of a minor child who was injured while "elevator surfing" and treated for injuries at Stroger Hospital, who in turn, asserted a lien for the cost of treatment against the minor's personal injury lawsuit. The minor did not claim any specific medical expenses as part of the lawsuit, but was ultimately awarded a monetary judgment. After judgment, plaintiff moved to extinguish the lien held by Stroger Hospital. The Supreme Court was asked to resolve an apparent tension between the Health Care Services Lien Act (770 ILCS 23/1) and the Family Expense Act (750 ILCS 65/15). It concluded that there was nothing in the plain language of the Health Care Services Lien Act to suggest that its application was limited by either age of the injured party or by the Family Expense Act's parental liability provision, thus



the hospital was entitled to the lien. The Court did not attempt to harmonize the two Acts by considering notions of public policy, as it determined that was the duty of the legislature, not the Court.

*People v. Relerford*, Case No. 2017 IL 121094 (November 30, 2017).

The Supreme Court held that certain provisions of the stalking and cyberstalking statutes (720 ILCS 5/12-7.3(a)(1) and (a)(2)) violate the First Amendment to the United States Constitution because they are overbroad and impermissibly infringe on the right to free speech by improperly criminalizing innocent conduct. The statutes define stalking and cyberstalking to include communication to or about a person that would reasonably cause that person to suffer emotional distress. The Court determined that the broad sweep of these statutes reaches a host of social interactions that a person would find distressing but are clearly protected by the First Amendment. Accordingly, the phrase “communicates to or about” is stricken from those statutory provisions. Because defendant’s convictions under those provisions could not be sustained based on other conduct, his convictions were vacated.

*Citibank N.A. v. The Illinois Department of Revenue et al.*, Case No. 2017 IL 121634 (November 30, 2017).

In this case, the Supreme Court considered whether Citibank could pursue a refund claim of Retailers' Occupation taxes that were paid through affiliated retailers in transactions financed by Citibank which ultimately resulted in uncollectible debt. The Court concluded that taxes paid voluntarily but erroneously cannot be recovered in the absence of an authoritative statute. Section 6 of the Retailers' Occupation Tax Act (35 ILCS 120/6) and the corresponding administrative regulations only authorized tax relief for "the retailer" in such circumstances. The Court refused to interpret these provisions beyond their plain language to allow lenders such as Citibank to also seek refunds. The Court further noted that if this interpretation is not what the legislature intended, that the legislature should revisit the issue and make its intent clear.

*In re Marriage of Goesel*, Case No. 2017 IL 122046 (November 30, 2017).

At issue in this case was whether fees that have already been earned by an attorney in a dissolution of marriage proceeding are considered “available funds,” such that they may be disgorged under section 501(c-1)(3) of the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/501(c-1)(3)). In resolving a conflict between three districts of the appellate court, the Supreme Court adopted the Third Appellate District's interpretation of this statute and determined that such earned fees are not "available funds" within the meaning of the Act and thus not subject to disgorgement. The Court further noted that the legislature should take another look at this statute and determine whether the Court's interpretation accurately reflects the legislature’s intent, and if it does not, then the legislature should amend the statute to make its intention clear.