



**SUPREME COURT OF ILLINOIS**

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CHAMBERS OF  
CHIEF JUSTICE LLOYD A. KARMEIER

January 31, 2019

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 2018 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. In the fall of 2018, the Supreme Court amended Rule 41 to reconstitute the Illinois Judicial Conference into a smaller, active strategic planning and policy body focused on long-term statewide strategic planning for the judicial branch. As such, most of the 2018 Judicial Conference year served as a period of transition for the five subject-based committees (alternative dispute resolution, civil justice, criminal justice, juvenile justice and strategic planning) to complete existing projects and to act as a resource for developing the new Judicial Conference.

The newly reconstituted Judicial Conference held its inaugural meeting on November 28 and 29, 2018, with a theme of "Planning for the Future of the Illinois Judicial Branch, Developing a Strategic Roadmap for the Illinois Courts." The format and agenda of the meeting were structured to develop a mission for the Illinois judicial branch, a vision for the judicial branch's future and core organizational values as a basis for drafting a strategic agenda in 2019.

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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 five former standing committees. As reflected in the summary, 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.

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 2018 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,

A handwritten signature in blue ink that reads "Lloyd A. Karmeier". The signature is written in a cursive style with a large initial "L".

Lloyd A. Karmeier  
Chief Justice  
Supreme Court of Illinois

Enclosure

c: Members of the General Assembly

## **Annual Report to the General Assembly on the 2018 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.

Prior to Conference Year 2018, the Court approved a plan to transition the existing Judicial Conference to a structure focused on long-term statewide strategic planning for the judicial branch. In the fall of 2018, the Court amended Supreme Court Rule 41 to reconstitute the Judicial Conference from its subject-matter committees to a smaller, active strategic planning and policy body that included judges and non-judges working in and with the judicial branch.

The newly reconstituted Judicial Conference held its inaugural meeting on November 28 and 29, 2018 in Chicago, Illinois. As the Conference Chair, Chief Justice Lloyd A. Karmeier convened the Conference by welcoming its new membership. Chief Justice Karmeier stated that it was an historic day for the Conference and for the judicial system. He commented that it was a new era in how the Supreme Court formulates its policies, sets its priorities, and plans for the future.

Chief Justice Karmeier acknowledged that the courts operate in a world of ever advancing technology, rapidly changing social and political norms, shifting demographics, and economic uncertainty. The need of individuals to access judicial services continues to climb while their ability to do so is in steep decline. He then explained that the practice of law is racing to adapt and in the process is being transformed. He stressed that if the judicial branch is to deliver on its promise of equal justice under the law, it is critical that it move forward by developing a better understanding of what it needs to do, how to do it, and when to get it done. He advised that anticipating and preparing for the future is the reason this meeting is dedicated to formulating a strategic agenda for the court system. As a final matter, Chief Justice Karmeier commented that the new members (judges, circuit and appellate clerks, trial court administrators, non-judge judicial branch personnel, attorneys in private practice and public service, and representatives of the public) were chosen because the Supreme Court believed that their background, training, and experience make them uniquely suited to help guide this critical work for the new Judicial Conference.

Chief Justice Karmeier concluded his remarks by thanking the new Judicial Conference members and introducing Marcia M. Meis, Director of the Administrative Office of the Illinois Courts, to further elaborate on the new role of the Judicial Conference

Director Meis began her remarks by requesting that the new Judicial Conference members think about how a strategic agenda for the judicial branch can facilitate what each of them does for the justice system. Specifically, she posed the questions: "What do you think works well in our courts? What do you find deficient or lacking with our courts?" Before delving into these questions, Director Meis provided a history of the Illinois Judicial Conference, noting that there have been many iterations of the Conference. She further pointed out that the Supreme

Court in 2012 created the Committee on Strategic Planning as one of the subject-matter committees of the Judicial Conference. As such, she noted that the Supreme Court has been thinking about strategic planning for some time. Director Meis highlighted that the Committee on Strategic Planning took on projects related to the future of the courts and court improvements; however, it was never charged with developing a statewide strategic plan for the courts. For that reason, she explained that the Supreme Court reconstituted the Judicial Conference from a subject-committee structure to a strategic planning body composed of judges and court system stakeholders with the goal of focusing on long-term statewide strategic planning for the judicial branch. The result was an amendment to Supreme Court Rule 41 to create a strategic planning body consisting of 29 voting members: 15 judges and 14 non-judges. She noted that the non-judge justice partners allows for system collaboration and recognizes their contributions.

As a final matter, Director Meis outlined the process of developing and implementing a strategic agenda for the judicial branch. She indicated that she hoped the history of the Judicial Conference provided a context for what the new members were asked to do – articulate a vision for the future and inspire justice stakeholders to believe in it.

The remainder of the meeting and small group discussions were facilitated by retired Appellate Court Justice S. Gene Schwarm, who is the strategic planning project manager, and Dr. Brenda J. Wagenknecht-Ivey, who over the past 20 years has consulted and facilitated numerous court systems on strategic planning. Justice Schwarm discussed the focus of strategic planning; namely, deliberating in many voices but governing in one. He explained that it involved communicating openly and regularly with those that work in the justice system and with justice partners to identify strategies that meet future needs. As such, he stressed that the end result is that ideas will not only come from the top but also from the bottom, middle and even outside.

Dr. Wagenknecht-Ivey indicated that the focus of the meeting was to develop a judicial branch mission statement, vision statement, and core values. Before breaking into small groups, Dr. Wagenknecht-Ivey explained each of the terms. A mission statement defines an organization's purpose. A vision statement describes what the organization will ideally look like and be accomplishing in the future. Core values are carefully composed declarations of an organization's beliefs, ethics, and code of desirable behaviors intended to guide day-to-day actions. The meeting concluded with a review of the strengths, weaknesses, opportunities, and threats (S.W.O.T. analysis) of the judicial branch and a review of applicable external and internal trends including case filings, technology, poverty, and politics to assess future implications for the judicial branch.

This inaugural meeting triggered the development phase of the strategic planning initiative. Currently, judges, court personnel, justice partners, and stakeholders are being surveyed on strategic planning areas of importance. With that additional information, the Conference will continue to meet in 2019 to identify a strategic focus area, long-range goals, strategies, and strategic initiatives. It is currently forecasted that the strategic agenda will be completed in 2019 and the Judicial Conference will move into the implementation phase in 2020, which includes communication with judges and justice partners.

Having set forth the reconstituted Judicial Conference's role as a strategic planning body for the judicial branch, the remainder of this report includes a brief summary of the reports of the five former committees of the Illinois Judicial Conference, which have been sunset.

## **2018 Judicial Conference Committee Reports**

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

The Alternative Dispute Resolution Coordinating Committee (Committee) monitored and assessed court-annexed mandatory arbitration and mediation programs, approved by the Supreme Court. Along with the Administrative Office of the Illinois Courts (AOIC), the Committee tracked both arbitration and mediation statistics to monitor the efficacy of those programs. The Committee found the climate for alternative dispute resolution (ADR) to remain favorable and the legal community continued to be receptive to the various ADR processes.

During Conference Year 2018, the Committee, in consultation with the AOIC, continued to collect uniform data collection from all sixteen counties that operate an ADR program throughout the state of Illinois and provided detailed program data to each program, as well as overall program data, including year by year comparisons. The Committee also continued to provide service to arbitration practitioners, make recommendations on mediation and arbitration program improvements, facilitate information to Illinois judges and lawyers regarding alternative dispute resolution programs, data, and trends, and promoted the expansion of court-annexed alternative dispute resolution programs in 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).

Committee discussion from 2017 continued regarding the pros and cons of utilizing fee waiver and/or fee refunds as an encouragement to utilize alternative dispute resolution processes. Several Committee members expressed reservations that such a fee waiver/refund scheme would be practical, except perhaps for small claims mediation programs, because other programs rely on filing fees as a major funding source for program administration and continuation. Further, the Committee cited conflicts with a circuit clerk's statutory mandates for recordkeeping and fee collection. Overall, the Committee believed that such a fee waiver/refund scheme would not increase the use of mediation, nor increase the effectiveness of mediation programs, but stressed that a chief circuit judge should maintain the flexibility to implement a fee waiver/refund scheme if deemed appropriate.

The Committee also discussed monitoring ADR operations relative to the Court's electronic filing initiative. Specifically, discussion focused on how to integrate court-annexed dispute resolution programs into the electronic filing program, including arbitrator decisions, and the capability to electronically file from the arbitration center, especially for the arbitration administrator and self-represented litigants.

## **Civil Justice Committee**

The purpose of the Civil Justice Committee (Committee) was to advise the Judicial Conference and the Supreme Court in matters affecting civil justice. The general charge of the Committee 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 undertook projects designed to provide valuable information to the Supreme Court to assist it in determining ways to ensure that the Illinois civil justice system is functioning effectively. In Conference Year 2018, the Civil Justice Committee focused on two projects:

- (1) Completing initial analysis from a statewide survey of civil jury trials to elicit information regarding the comprehension, satisfaction and efficiency of the civil jury trial system wherein judges, attorneys and jurors fill out surveys at the completion of a civil jury trial.
- (2) Recommending the elimination of the discovery/evidence deposition dichotomy. Illinois is the last remaining state in the country to have this 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. This proposal engendered a wide range of responses and opinions among members of the bar, and at present, the Committee Chair has been working with the Illinois Trial Lawyers Association, the Illinois Association of Defense Trial Counsel to see whether all sides can agree on a final proposal to present to the Court.

## **Criminal Justice Committee**

The purpose of the Criminal Justice Committee (Committee) was to review and make recommendations on matters affecting the administration of criminal law, including, but not limited to, legislative, case law and proposed Supreme Court Rule changes.

During 2018 Conference Year, the Committee monitored legislation which would provide judges with greater flexibility when they deviate from the statutory mandatory minimum and maximum sentencing options by incorporating sentencing authority similar to that which is available to federal judges. Additionally, the Committee continued to conduct in depth discussion and research on the utilization of evidence based practices in both sentencing and pre-trial release decisions. The Committee was provided with a detailed description of the trends involving the use of evidence based practices and risk assessment tools in other states to assist in pretrial practice information. It was noted that the circuits which have implemented the use of evidence based practices for pre-trial purposes have seen a 20% decline in the county jail population. The Committee therefore endorsed the continued development and implementation of evidence based practices to assist judges reach a fair and just sentence.

Pursuant to Supreme Court Rule 3, the Committee provided input on Proposal 16-07 (proposal), which sought to amend Supreme Court 13 to provide a mechanism for a represented incarcerated party to respond, object, and challenge any motion seeking withdrawal of counsel during post-conviction proceedings as causing undue delay and/or inequality in the proceedings. The proposal also sought to create new Supreme Court Rule 14 which, if adopted, would provide for an interim designation of a *pro se* party to file motions and pleadings until the court appoints new counsel or allows a party to proceed as a self-represented litigant. After due consideration and debate, the Committee recommended rejecting the proposed amendment to Supreme Court Rule 13. While agreeing that a party needs to be notified of the motion to withdraw and be present at the hearing on the motion to withdraw, the Committee believed that notification and presence would be better addressed as a procedural manner than by rule.

The Committee also rejected the proposed language for new Supreme Court Rule 14 for the following reasons:

- Using the filing of a Motion to Withdraw as a trigger to begin allowing defendants to file motions would create unnecessary confusion by allowing the filing of multiple *pro se* motions prior to any decision on the motion of counsel to withdraw.
- If the Motion to Withdraw is denied, the proposal would create an additional burden on attorneys by forcing the attorney to review each *pro se* motion to ascertain which have merit, thus causing additional undue delay.
- Procedures are currently in place to allow a trial court to properly inquire of a party the ability to act *pro se* in post-conviction procedures. This proposal would eliminate a trial court's ability to make these necessary inquiries.

The Committee also discussed Proposal 17-11 (proposal), which sought to amend Supreme Court Rule 434 to mandate that at least 50% of the members of a petit jury in a criminal case be of the same race as the defendant. After careful evaluation of the proposal, the Committee recommended that the requested change(s) to Supreme Court Rule 434 be rejected because both the current rule allowing challenges for cause and the application of the well-known *Batson* decision mitigates the necessity of this requested rule change.

### **Juvenile Justice Committee**

The Juvenile Justice Committee (Committee) was charged with advising the Judicial Conference on matters affecting juvenile justice. As such, it reviewed, analyzed and examined issues arising out of legislation and case law that potentially impacted juvenile law, practice and procedures. In addition, the Committee reviewed emerging issues in juvenile law and made recommendations regarding training for juvenile court judges.

Across our nation, the Committee continued to see considerable attention to juvenile justice initiatives and reforms. Several states have already made significant changes to their juvenile court systems and many others are exploring similar changes. In both child welfare and juvenile delinquency, new and emerging medical research continues to evolve on the impact that

brain development, trauma and other factors have on juvenile growth, development and behavior. The Committee believed that its work in reviewing and assessing these current trends, reviewing and assessing Illinois practices in relation to these trends, and providing instruction and recommendations for the handling of juvenile cases to judges was a valuable source of information for the Conference and those judges who preside over juvenile matters in Illinois.

The following topics represent the projects/priorities considered by the Committee in Conference Year 2018:

1. Biennial Juvenile Court Conference

Members of the Committee are on the planning committee for the biennial statewide conference on juvenile issues. The conference will be held in June of 2019. The two-day conference will be expanded to include representatives from juvenile probation and guardians *ad litem* in child abuse and neglect cases.

2. Youth Focus Groups

The Committee was asked to develop focus groups with parents and youth from both the juvenile justice and abuse and neglect caseload to assess court experiences and identify areas of improvement. Focus groups were convened in Mt. Vernon, East St. Louis, Peoria, Springfield, Champaign, Aurora, and Chicago in conjunction with the Illinois Department of Children and Family Services Regional Youth Advisory Boards. The number of participants in the individual focus groups ranged from 5 to 20 youth, with a total of 93 participants. The age of youth ranged from 14-21 and many who participated were placed in group homes, while others were placed in a traditional foster care setting. Therefore, youth represented experiences from many different counties across the entire state. Analysis of the discussion identified ten overarching themes across all focus groups: (1) Positive court experiences; (2) Frustration with not being heard; (3) Desire more control of their life; (4) Poor understanding of the court system/lack of preparation; (5) Positive behaviors are overlooked in favor of negative behaviors; (6) Frustration over the difficulty in speaking with GAL; (7) Timeliness of the system; (8) Caseworker reports are overemphasized; (9) Logistics when placement is distant from case location; and (10) Caseworkers often control youth access to court.

Youth overwhelmingly expressed a desire to be involved in their case, to come to court hearings and provided some tips for judges and attorneys. Youth emphasized the need to speak directly with them. Being allowed to speak with their own voice directly to the judge was universally viewed as positive. While occasionally described as scary or stressful, participants were overwhelmingly pleased to have the opportunity to speak in court. Nearly every youth who reported positive court experiences spoke about how the judge and/or GAL recognized when they were doing well. In contrast, youth reporting more negative feelings about court felt that it is unfair that the positive strides they make are ignored and only negative behaviors are highlighted.

### 3. Bench cards

The committee finalized bench cards for juvenile delinquency cases and bench cards from abuse and neglect cases were under final review. The bench cards essentially update and replace the checklists from older juvenile bench books. The bench cards will be available on an ongoing basis to new judges, and will be updated periodically, as the law changes.

### 4. Web-based Repository for Juvenile Court Program

The AOIC is continuing to develop the platform for the web-based repository for juvenile court programs. The link will be provided to judges through the Supreme Court's website.

### 5. Restorative Justice Programs

The committee approved a proposed rule creating a privilege for any statements made during the course of a restorative justice program. This rule was forwarded to the Supreme Court Rules committee for review and public comment. The Supreme Court declined to adopt the proposed rule as privileged communication has historically been the province of the legislature, and neither created nor recognized by Supreme Court Rule. However, the Court recognized the benefits of restorative justice practices.

The Supreme Court, upon the sunset of the Juvenile Justice Committee, approved the creation of the Special Supreme Court Committee on Juvenile Courts to review and make recommendations on matters affecting juvenile law and juvenile courts. That committee is charged with reviewing, analyzing, and examining the impact of legislation and case law as it relates to juvenile law and procedures and any aspect of the juvenile court process. The new Supreme Court Committee was created to address juvenile delinquency and child protection matters, as well as any projects that remained pending with the former Juvenile Justice Committee.

## **Committee on Strategic Planning**

The Committee on Strategic Planning continued its mission to assist the Supreme Court in advancing the Court's goal of an impartial, accessible and efficient justice system by identifying emerging trends and issues affecting the delivery of justice and developing specific objectives, and actions to address each trend and issue. As such, the Committee also functioned as an advisory "think tank" to research and offer tactical responses to such matters as future trends, economics, and public policies that will impact the future of courts.

During 2018 Conference Year, the Committee served as consultant to the Administrative Director's Strategic Planning Workgroup. The primary objectives of the Strategic Planning Workgroup were to develop a structure for the new Illinois Judicial Conference and to prepare for the convocation of the new Illinois Judicial Conference. Throughout Conference Year 2018, the Committee engaged in extensive discussions about the new Judicial Conference. The Committee provided the Strategic Planning Workgroup with recommendations for the structure and function of the new Judicial Conference, as well as suggestions for the content of the strategic agenda for the Illinois courts.

Continuing its work from 2017, the Committee focused on the priority of remote access to court proceedings (e.g. court appearances via video or telephone). The Committee determined that in order to develop policies and initiatives in this regard, it would be beneficial to get a sense of what, if any, types of remote court appearances are currently taking place across Illinois, what impediments exist to allowing remote court appearances and what judges' thoughts and opinions are on allowing case participants to appear in court remotely. In order to obtain this information, the Committee and the Administrative Office of the Illinois Courts conducted a survey of a cross section of the Illinois circuit courts. The results of the survey indicated that remote court appearances are being allowed throughout Illinois in jurisdictions that vary in size and location and that there is a great interest in the circuit courts in expanding remote access to court proceedings.

Next, the Committee engaged in extensive discussions about the implications of the results of the remote court appearance survey and what next steps should be taken. The Committee partnered with the Access to Justice Commission, which has also explored remote court appearances. Both groups agreed that a remote court appearance policy should be developed and recommended to the Supreme Court. The development of a remote appearance policy is in process and the Committee has provided input on the current draft. Due to the amount of time it will take to finalize such an important and innovative policy, the Access to Justice Commission will take over this project after the Committee sunsets and will submit a draft policy to the Supreme Court at a later date.

## **Conclusion**

As evidenced by these summaries, the scope of work undertaken by the now sunset Judicial Conference Committees in 2018 was broad and included recommendations on improving efficiency, access and professional development. Continuing to utilize technology to enhance efficiency and effectiveness remains a focus, as does seeking the feedback of those that come before the courts. Amendments to Supreme Court Rules were offered, as well as recommendations on how to enhance fairness in the administration of justice.

Although many projects and initiatives were completed in the 2018 Conference Year, some will continue on the list of topics and issues for the new Judicial Conference, or perhaps will be transferred to other committees of the Supreme Court. 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. Chairez*, Case No. 2018 IL 121417 (February 1, 2018).

Defendant pleaded guilty in 2013 to possessing a firearm within 1000 feet of a park in Aurora, Illinois, under the Unlawful Use of a Weapon statute (UUW) (720 ILCS 5/24-1(a)(4), (c)(1.5). Defendant filed a post-conviction petition in 2015 to vacate the conviction on the basis that the statute was unconstitutional under the second amendment of the United States

Constitution. The circuit court declared that section 24-1(a)(4), (c)(1.5) of the UUW was unconstitutional, concluding that such restrictions placed impossible burdens on the owner of a legal firearm, and vacated the conviction. The Supreme Court agreed in part, concluding that section 24-1 was facially unconstitutional and that the conviction would be vacated. The Court determined that the State did not establish a close fit between the 1000-foot public park restriction and the public interests served by it. The Court also ruled that the unconstitutional provision could be severed from the rest of the UUW statute. The Court overturned the circuit court's ruling that additional portions of section 24-1, beyond the specific section that defendant was convicted on, were unconstitutional.

*Oswald v. Hamer et al.*, Case No. 2018 IL 122203 (September 20, 2018).

In this case, the Supreme Court considered whether property tax exemptions for not-for-profit hospitals, and their affiliates, are constitutional. The plaintiff filed an action in the circuit court seeking judgment on whether section 15-86 of the Property Tax Code (35 ILCS 200/15-86) violated section 6 of article IX of the Illinois Constitution. Of specific issue was the language of section 15-86, which provided that a hospital "shall be issued" a charitable property tax exemption dependent on reaching statutory criteria. The circuit court ruled that the statute was not facially unconstitutional, and the appellate court affirmed. The Court affirmed the appellate court judgment, concluding that while the language of section 15-86 of the Property Tax Code may produce future constitutional challenges, the plaintiff had failed to establish that the statute was facially unconstitutional because it cannot be said that an applicant would never satisfy both the statutory and constitutional requirements.

*Carmichael et al. v. Laborers' & Retirement Board Employees' Annuity & Benefit Fund of Chicago et al.*, Case No. 2018 IL 122793 (November 29, 2018).

At issue in this case were changes made to the Illinois Pension Code in January 2012 by the General Assembly. Plaintiffs, who are all participants in public pension funds, were challenging the constitutionality of Public Act 97-651 (Act), which modified the calculation of Illinois pension annuities. The circuit court invalidated two provisions of the Act. The two constitutional issues before the Court were those of the elimination of union service credit for leaves of absence and calculating the highest average annual salary. On the first issue, the Court agreed with the circuit court that eliminating the opportunity for participants to earn union service credit was unconstitutional because that right was a benefit within the meaning of the pension protection clause. On the second issue, the Court overturned the circuit court's ruling which had denied the use of a union salary to calculate the "highest average annual salary." The Court determined that the amendment changed the law because it deprived plaintiffs of the right to rely upon the alternative interpretation of the Act and thereby diminished retirement system benefits in violation of the Constitution.

*People v. Simms*, Case No. 2018 IL 122378 (December 13, 2018).

Defendant was convicted of first degree murder and additional felony charges in 1985 and was sentenced to death. The Supreme Court remanded a 1995 post-conviction petition and defendant's death sentence was commuted by Governor George Ryan in 2003 while the petition

was still in remand. Defendant withdrew his petition in 2004, the death penalty was abolished in Illinois in 2011, and defendant's attempt to reinstate his post-conviction petition in 2014 was denied. At issue before the Court was whether section 13-217 of the Code of Civil Procedure (Code) (735 ILCS 5/13-217) applied so as to limit the time for reinstating a voluntarily withdrawn post-conviction petition to one year. The Court determined that it was logical to apply section 13-217 because otherwise there was no deadline for such reinstatement. The Court concluded that defendant sought reinstatement well beyond the time limitation of the Code and that the delay in refiling was not due to culpable negligence but rather was intentional and strategic.

*Palm v. Holocker*, Case No. 2018 IL 123152 (December 13, 2018)

Plaintiff had been struck by an automobile driven by defendant, and defendant's attorney had refused to provide the names of health care providers who had treated his client, a diabetic, by citing physician-patient privilege. The attorney was held in contempt for his refusal, and the contemnor appealed the order. The appellate court ruled in favor of the contemnor on the basis that the information was privileged and that the defendant's health was not an issue in the case. The plaintiff appealed to the Supreme Court. Noting section 8-802(4) of the Code of Civil Procedure, the Court agreed with the appellate court that the physician-patient privilege does apply as the Code states that the information would only need to be disclosed "if the patient's physical or mental condition is an issue," and that it was not an issue in this matter. The Court went on to suggest that the legislature should address section 8-802(4) in order to clarify the intentions around the phrase "an issue," such as how one party could put another's physical or mental condition at issue or whether it applies differently to civil and criminal cases.