



- Home
- Courts ▾
- Documents ▾
- E-Business ▾
- Information ▾
- Judicial College
- Media ▾
- AOIC ▾

- Quick Links >>>
- Legal Community >>>
- E-Business Online >>>
- Citizen Self-Help >>>
- Education >>>

Local Court Information:  
 Select a County ▾

## Annual Report to the General Assembly on 2014 Judicial Conference

Annual Reports to the General Assembly Archives ▾

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, with six from the First Judicial District (Cook County) and two each from the Second, Third, Fourth, and Fifth Judicial Districts. The Executive Committee reviews the written reports of the Conference committees and submits an annual meeting agenda for the Supreme Court's approval. During Conference Year 2014, the Executive Committee also helped frame the membership, charge and projects for a new Supreme Court Committee on Equality.

Eight standing committees carry out the work of the Conference throughout the year. These committees are: the Alternative Dispute Resolution Coordinating Committee, the Automation and Technology Committee, the Study Committee on Complex Litigation, the Criminal Justice Committee, the Committee on Discovery Procedures, the Committee on Education, the Juvenile Justice Committee, and the Committee on Strategic Planning. The committees' membership includes appellate, circuit, and associate judges, who also serve as members of the Judicial Conference. Their work is aided by judges, law professors, and attorneys appointed by the Supreme Court as advisors. Senior level staff of the Administrative Office of the Illinois Courts serve as liaisons to support the committees' activities.

On October 23, 2014, 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.

Chief Justice Rita B. Garman convened the meeting. In her opening remarks, Chief Justice Garman welcomed those in attendance, including the current Justices of the Supreme Court. Chief Justice Garman began her comments by noting that the topic for this year's Conference would take a slightly different approach. Usually, the Conference focuses on topics such as improvements to court procedures, implementation of new technologies, or alternative approaches to dispute resolution. While noting those are all important topics for the Court, Chief Justice Garman stated that this year's Conference would focus on how the public perceives the judicial system and ways to improve public perception and trust in the judicial process.

The Chief Justice stated that many litigants' understanding of the judicial process is based on their exposure to television shows and movies that give a false impression that judges are confrontational, lack self-restraint, and make rulings based on their subjective impressions of the people before the court. Misunderstandings about the judicial process may also result from inaccurate media reports. She also noted that members of the public may swap stories about their experiences with the legal system, resulting in the perpetuation of what has been described as "bar law," or things people tell each other in bars or in other causal encounters. Examples include the commonly held belief that a noncustodial parent does not have to pay child support if he or she does not exercise visitation rights, the person who thinks that a couple has a common-law marriage because they have lived together for seven years, or the litigant who believes that the outcome of a case will be influenced by writing a letter to a judge. Chief Justice Garman went on to state that these examples reveal just some of the many misconceptions the general public has about the judicial process, both with regard to the outcomes of well publicized cases and the role of the judiciary in our society.

The Chief Justice then emphasized the difficulties judges face with trying to correct these inaccuracies. The Judicial Canons prohibit individual judges from commenting on specific cases, writing a letter to the editor to explain why a reporter's report on a verdict was inaccurate, or calling a reporter to explain why certain evidence had to be excluded or why a mistrial had to be declared. However, it was her belief that, as a group, judges could do a much better job of educating the public about the work of the judiciary and judicial processes. Chief Justice Garman indicated that the first step to improving public perception of the judicial process is to learn what the public believes, so that strategies can be formulated to respond to those beliefs.

She presented data from a survey conducted by the National Center for State Courts which showed that while the public viewed the judiciary in a generally favorable manner, there were some areas of concern. The survey results revealed that eighty percent of the participants agreed that judges are generally honest and fair; eighty-five percent agreed that the courts protect a defendant's constitutional rights; and almost seventy-five percent agreed that court personnel are helpful and courteous. However, while these numbers seem positive, Chief Justice Garman then pointed out that only twenty-three percent of the survey participants expressed a great deal of trust or confidence in the judicial system as a whole. In addition, the survey revealed that only sixty percent of the respondents thought that the people involved in court cases understood court rulings.

Chief Justice Garman observed that parties' trust and confidence in the judicial process is the key to their acceptance of the legitimacy of the decisions. The Chief Justice stated that academics use the term "procedural justice" to describe this process. Participants in the judicial process, whether parties, witnesses, or jurors, are more likely to accept the process as legitimate if they feel that during their interaction with the court system, they have been treated with dignity, their stories were heard by objective decision makers, and the process was fair. She further noted that an individual who feels that he or she has been treated fairly, that their side of the dispute has been given due consideration, and that the judge making the decision was fair and impartial, will more likely accept the decision as legitimate and will more likely comply with the court's order. Thus, striving to

deliver not only substantive justice, but procedural justice, is a crucial concern for judges in improving the public perception at the micro level.

Chief Justice Garman also detailed macro-level efforts by the Illinois Supreme Court designed to increase the public's perception of the Illinois judicial process by increasing accessibility and transparency. She noted that the Court's website contains links to a wide variety of resources for both attorneys and members of the public. Via the website, any member of the public may view appellate and Illinois Supreme Court oral arguments, read opinions online, access the Attorney Registration and Disciplinary Commission website to research an individual attorney's history, and read rules governing judicial conduct and the rules of professional responsibility. She also highlighted the vital role that the Supreme Court Commission on Access to Justice plays in improving public understanding of the judicial process. Specifically, translation services for non-English speakers and simplification of certain routine proceedings, such as name changes, have increased access to justice and demonstrated that the court system is responsive to the needs of individuals.

In closing, Chief Justice Garman noted that the Supreme Court and the various committees of the Judicial Conference continue to look for ways to increase public understanding and trust in the judicial process. She stated, "We are open to ideas and suggestions. For only if members of the general public are well informed about the working of the court system and the role of judges in the trial court and in the appellate process, will there be public confidence in the work we do. That would be a great achievement." Chief Justice Garman then wished everyone a successful meeting and urged them to share personal experiences and to learn from each other, so that they would be able to return home with new ideas and a renewed commitment to serve the people of Illinois and to improve public perception of the court process.

Chief Justice Garman then introduced two nationally renowned court consultants from the National Center for State Courts who provided a presentation: "*Strategies to Gauge and Improve the Public Perception of the Illinois Court System.*"

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

### **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 mandatory arbitration statistics to monitor program efficacy.

During this Conference year, the Committee finalized a comprehensive report to the Court regarding the results of a survey conducted to gauge the perceptions of judges and attorneys regarding civil mediation. The Committee drafted two surveys, one to judges and one to attorneys. The results of the judicial survey showed a positive attitude towards mandatory civil mediation. In particular, seventy-eight percent (78%) of respondents had referred cases to mediation; fifty-six percent (56%) found mediation to be very helpful in achieving settlement of cases; and sixty percent (60%) found that mediation expedited resolution of cases. The results from the attorney survey also revealed a positive attitude towards civil mediation. Four hundred and fifteen (415) attorneys replied to the survey and, like the judges, generally expressed a positive attitude towards mediation. Forty-two percent (42%) of the respondents utilized mediation in civil cases with a value of more than fifty-thousand dollars (\$50,000.00), excluding mortgage foreclosure cases. Fifty-two percent (52%) found mediation to be somewhat helpful in achieving settlement, and the same percentage found that mediation expedited the resolution of cases.

Based on these survey results, the Committee anticipates examining Supreme Court Rule 99 (Mediation Programs) to determine if that rule needs expansion and/or clarification to standardize guidelines for requesting Supreme Court approval of new mediation programs and the day-to-day operation of existing mediation programs.

The Committee also collected forms used in civil mediation by the circuit courts. The purpose of this request was to determine the need to develop standardized forms for use in civil mediation. Analysis of these forms revealed disparities in the types and content of the forms currently in use. This topic requires further discussion by the Committee with resulting recommendations to the Court.

#### **Automation and Technology Committee**

During the 2014 Conference Year, the Automation and Technology Committee collaborated with the Administrative Office of the Illinois Courts to recommend the creation of a centralized governance structure charged with reviewing both the policy and technical aspects of e-Business initiatives and data exchange programs and to make recommendations to the Court on standards, policies, and rules. Effective January 1, 2015, the Supreme Court created the e-Business Policy Advisory Board and Technical Committee. As a result, the Automation and Technology Committee will be sunset until further notice from the Supreme Court of Illinois.

The Committee continued to monitor electronic filing and access programs in the trial courts, worked through the Chief Circuit Judges to identify and document e-Business initiatives, recommended improvements in implementation, and evaluated their benefits. The Committee studied a request submitted by the Eighteenth Judicial Circuit to expand electronic filing to include criminal cases. A recommendation was submitted to the Supreme Court to revise the Court's Electronic Filing Standards and Principles.

The electronic citation program, and in particular, the capture and retention of electronic and original wet-ink signatures on court documents/citations was briefly discussed. The topic was linked, in part, with the recommended changes to the Court's e-Filing Standards and Principles allowing for the filing of criminal cases and included e-Citations. However, because of the complexity and scope in the e-Citation program and electronic signatures, thorough analysis was deferred and recommended for study by the new Supreme Court e-Business Policy Advisory Board.

#### **Study Committee on Complex Litigation**

The Study Committee on Complex Litigation continued revising, updating, and simplifying the Manual on Complex Criminal Litigation (Criminal Manual). The Criminal Manual has not been updated since 2005. Accordingly, the Committee reviewed and revised existing content and added new material and topics to the Criminal Manual. The finished product will be published in hard copy and CD-ROM format.

The Committee also tracked and identified changes to Illinois civil law and procedure that would necessitate updates or revisions to the Manual on Complex Civil Litigation (Civil Manual), revised most recently in 2011. The Committee revised and updated the Civil Manual accordingly and decided to publish the revisions and updates as a supplement to the Fourth Edition of the Civil Manual.

The Committee was notified that, after the conclusion of Conference Year 2014, it would be consolidated with the Committee on Discovery Procedures to form a new Civil Justice Committee. The Committee was therefore charged with determining an appropriate committee to house and revise both the Civil and Criminal Manuals going forward. The Committee believed that responsibility for upkeep of both Manuals should be undertaken by a single committee. Therefore, it determined that the Committee on Education was the most appropriate committee for the task. The Committee on Education is tasked with identifying the educational needs for the Illinois judiciary and designing educational programs that address those needs. In addition, the Committee on Education is currently charged with reviewing and updating all judicial benchbooks. The Study Committee on Complex Litigation believed this made the Committee on Education uniquely suited to undertake responsibility for the Civil and Criminal Manuals.

The Committee was also charged with coordinating with the Committee on Discovery Procedures to develop recommendations for membership and tasks for the Civil Justice Committee for Conference Year 2015. The Committee met both separately and jointly with the Committee on Discovery Procedures to discuss the issue and to finalize a proposal for the Civil Justice Committee. In addition, the Chair of the Committee met several times with the Chair of the Committee on Discovery Procedures to develop a proposed statement of purpose, general charge, and projects and priorities for the 2015 Conference Year, based on input received from each of the respective Committees. The resulting proposal was approved unanimously by both Committees and forwarded to the Court for its consideration. The proposed statement of purpose and general charge for the new Civil Justice Committee closely mirror the corresponding language of the Criminal Justice Committee's statement of purpose and general charge, with revisions to allow for a focus on civil justice, as opposed to criminal. The list of proposed projects and priorities for Conference Year 2015 was developed based on suggestions of the membership from both Committees, as well as input from the AOIC Director and staff.

### **Criminal Justice Committee**

Conference Year 2014 began a new era for the Criminal Justice Committee. Since its inception, the Committee was known as the Criminal Law and Probation Administration Committee; however, starting with this Conference Year, the Committee is now named the Criminal Justice Committee, dedicated to addressing issues that directly impact the day-to-day operations of the criminal justice system in Illinois. During this Conference year, the Committee addressed the following topics.

The Committee developed a survey to assess the use of and attitude towards videoconference technology in criminal cases. Responses to a survey revealed that seventeen (17) circuits currently utilize videoconference technology in criminal cases and wish to continue its use. However, the Committee also learned that Cook County's use of videoconference technology in criminal cases was discontinued at the request of the Chief Judge due to concerns by the defense bar about a lack of privacy when speaking with the accused. The Committee emphasized that the purpose behind recommending a proposed video conferencing rule was for the utilization of video conference technology to be a chief judge's initiative implemented within guidelines established by the Court, and to mirror the existing statute relating to a defendant's appearance by closed circuit television and video conference.

The Committee considered whether an amendment to Supreme Court Rule 402(d) is required to address a potential increase in ineffective assistance of counsel claims based on the United States Supreme Court decisions of *Missouri v. Frye* and *Lafler v. Cooper*. After much debate, the Committee reached a consensus that an amendment to Supreme Court Rule 402 would not be recommended because it would give a defendant grounds for filing a postconviction petition in addition to those that currently exist, contrary to the purpose of such an amendment. However, the Committee will continue to discuss the possibility of developing a best practices guide on taking pleas in an effort to reduce the number of postconviction petitions that allege ineffective assistance of counsel.

The Committee also considered whether Supreme Court Rule 604(d) should be amended due to the decision of *People v. Tousignant*, 2014 IL 115329. The *Tousignant* decision reversed a plea agreement because the plea certification did not contain both the plea and the sentence. After debate on whether this decision would negatively impact the court process, the Committee decided the best way to avoid these circumstances in the future was to recommend amending Supreme Court Rule 604(d) to be consistent with the ruling in *Tousignant*.

Finally, the Committee considered whether Supreme Court Rule 411 should be amended to require discovery prior to a defendant's appearance in bond court. One question raised by the Committee was whether amending Rule 411 would be beneficial to the process. The Committee is in the process of drafting a proposed amendment to Rule 411 for discussion in 2015.

### **Committee on Discovery Procedures**

During Conference Year 2014, the Committee discussed the issue of e-Discovery. The Committee considered proposed changes offered by the Supreme Court Rules Committee to the Discovery Committee's proposed e-Discovery amendments, which were referred to the Supreme Court in Conference Year 2013. The Committee agreed with those changes, which were suggested in light of comments made at a public hearing to consider the proposed amendments. The Supreme Court subsequently considered and adopted the proposed e-Discovery amendments, which became effective July 1, 2014.

In a related project, the Committee drafted a guide that would act as a reference tool for trial court judges faced with e-Discovery issues and disputes. The Reference Guide provides a summary of the e-Discovery amendments adopted by the Court and includes some definitions, links to organizations addressing e-Discovery, and citations to pertinent cases and articles. The Committee also considered proposals to amend Supreme Court Rules 205, 206, 207, 208 and 236 that were forwarded from the Supreme Court Rules Committee. As a final matter, the Committee, in coordination with the Study Committee on Complex

Litigation, drafted a statement of purpose, charge and recommended projects for the new Civil Justice Committee, which will result from the consolidation of the two committees in Conference Year 2015.

### **Committee on Education**

The Committee on Education is charged with identifying the ongoing educational needs of the Illinois judiciary and developing short-term and long-term plans to address those needs. For Conference Year 2014, the Supreme Court of Illinois gave the Committee on Education a charge to develop a *Acore@* judicial education curriculum for Illinois judges and a model for a Judicial College. This charge to the Committee includes identifying emerging legal, sociological, cultural, and technical issues that may impact judicial decision making and court administration. Under this broad topic of judicial education and training, the Committee continues to consider and recommend topics and faculty for judicial education training events, including the annual *Self-Represented Litigants and Access to Justice Training*, the *New Judge Seminar*, the *Faculty Development Workshop* and the *Seminar Series*, which is comprised of multiple training events on emerging topics such as Public Health and the Law. In addition, the Committee plans the biennial training events: the *Advanced Judicial Academy* and the *Education Conference*.

Consistent with its overall charge, the Committee completed the 2013 Illinois Judicial Conference Benchbook projects; planned, delivered and evaluated Education Conference 2014, May 2014 *DUI/Traffic Seminar*, September 2014 *Faculty Development Workshop*, October 2014 *Self-Represented Litigants and Access to Justice Training*; planned the February 2015 *New Judge Seminar*, March 2015 *DUI/Traffic Seminar* and the June 2015 *Advanced Judicial Academy*.

The Committee has initiated planning for the next series of Judicial Benchbooks to be released in the fall of 2015 and for the biennial Education Conference scheduled for 2016. It is also reviewing models for a Judicial College.

### **Juvenile Justice Committee**

During Conference Year 2014, the Juvenile Justice Committee addressed several projects. First, the Committee updated Volume II of the *Illinois Juvenile Law Benchbook*, which addresses proceedings brought in juvenile court that involve allegations of abused and neglected minors.

The Committee also made recommendations for changes to select provisions of the Juvenile Court Act and Sex Offender Registration Act with the purpose of providing judges with discretion to determine whether public safety requires that a juvenile register as a sex offender, after considering specific factors regarding the juvenile.

Next, the Committee studied the procedural and legal barriers to the sharing of information among schools, law enforcement, and the courts. The Committee considered whether school conduct should be shared with the courts and the appropriate links to records between schools and community law enforcement. A number of barriers and issues were identified, including inconsistency across the State and within Chicago in regards to access to school information, as well as what information is actually provided; privacy and due process concerns, particularly in regards to psychological reports and HIPAA laws; and concerns about how schools will use information they receive from law enforcement and the courts (such as a basis to suspend or expel a child). Significant procedural barriers to information sharing exist as the result of HIPAA laws, the Illinois School Code, law enforcement regulations, and the Juvenile Court Act. The Committee concluded that these procedural barriers need to be addressed by the legislature in order to effectuate any real change. Toward that end, a state-wide subcommittee is presently addressing these issues with the Illinois Juvenile Justice Leadership Council.

As a final matter, the Committee was charged with examining the Illinois Judicial Canons to consider amendments that would allow judges to more actively participate in developing community based programs for diversion and to participate more actively in statutorily created Juvenile Justice Councils. The Committee considered Rule 64, Canon 4, and opined that nothing in the language of the canon prohibits judges from actively participating in the development of community-based diversion programs and local Juvenile Justice Councils. However, as there appears to be some concern on the part of judges, the Committee suggested that a comment be adopted to provide further clarification.

### **Committee on Strategic Planning**

The Committee on Strategic Planning continued its mission to assist the Supreme Court of Illinois 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 issues. The Committee reviewed strategic action plans developed at the 2013 Future of the Courts Conference and the 2013 Illinois Judicial Conference Annual Meeting. Based on these strategic action plans, the Committee developed short-term and long-term strategies and goals.

As a short term strategy, the Committee developed a court-user survey to assess the public's trust and confidence in the Illinois courts. The Committee is currently developing an implementation plan for the survey with a goal of the survey being conducted in all courthouses across the State. Once the survey is implemented across the State, the Committee will evaluate the results and develop strategic plans to address current problem areas.

As a long term strategy, the Committee determined that to ensure a fair and efficient court system, the Illinois court system must become more unified. To achieve greater unity, the Committee is developing strategic plans related to the structure, practices, and organization of the circuit court clerk system and court funding. The Committee is also exploring the option of conducting a study to assess the efficiency of the Illinois court system.

### **Conclusion**

As evidenced by these Committee summaries, the scope of work undertaken by the Judicial Conference in 2014 was broad, ranging from recommendations for amendments to Supreme Court Rules, updating manuals and benchbooks, conducting surveys regarding court practices, and offering considerations on how to approach overall system improvement. Although many projects and initiatives were completed in the 2014 Conference Year, some will continue on into Conference Year 2015, 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. Clark*, 2014 IL 115776 (March 20, 2014).

In a child custody proceeding, a *pro se* defendant recorded courtroom and hallway conversations between himself, the plaintiff's attorney, and the judge, without their consent, and was subsequently charged under subsection (a)(1) of Illinois' eavesdropping statute, which criminalized the recording of any conversation without the consent of all parties. "Conversation" was defined by the statute as "any oral communication between two or more persons, regardless of whether any of the parties intended their communication to be private." (720 ILCS 5/14-2) The defendant challenged the constitutionality of the statute on first amendment and substantive due process grounds. The circuit court agreed and granted his motion to dismiss the indictment.

The Supreme Court held that, although the statute was content-neutral, it failed to survive intermediate scrutiny because it burdened substantially more speech than necessary to further the important governmental interests it was advancing. The Supreme Court agreed with the circuit court that the plain language and legislative history of the statute indicated that it was broadly designed to protect conversational privacy. Prior to 1994, however, Illinois' eavesdropping statute did not define "conversation." In 1994, the legislature amended the statute to make it apply to all communications, regardless of any expectation of privacy. Thus, after the 1994 amendment, all conversations were deemed private (and not subject to recording), even if the participants in fact had no privacy expectation.

The Supreme Court held that this was overly broad, as the statute, after the 1994 amendment, also covered wholly innocent conduct and criminalized the recording of a whole range of conversations that could not be deemed in any way to be private. This section of the statute went too far in its effort to protect individuals' interest in the privacy of their communications. Thus, it placed a substantially greater burden on speech than was necessary to further the governmental interest in protecting conversational privacy. *Circuit Court judgment affirmed.*

*People v. Melongo*, 2014 IL 114852 (March 20, 2014).

The defendant secretly recorded telephone conversations between herself and a court employee, and posted the recordings and transcripts on her website. She was subsequently charged with eavesdropping under subsection (a)(1) and publication of information obtained through eavesdropping under subsection (a)(3) of the eavesdropping law. She challenged both subsections on first amendment and substantive due process grounds. The circuit court agreed and invalidated the statute.

The Supreme Court decided this case on the same day it decided *People v. Clark*, 2014 IL 115776. As in *Clark*, the Court in this case held that subsection (a)(1) was overly broad, in that it criminalized recording of all conversations, regardless of the parties' expectation of privacy, which burdened substantially more speech than was necessary to serve any legitimate interest in protecting conversational privacy. The Court then went on to invalidate subsection (a)(3), holding that the "publication" provision of the statute criminalized publication of recordings that were not illegally obtained, in violation of existing U.S. Supreme Court case law which holds that the first amendment bars states from prohibiting disclosure of information regarding a matter of public importance if it was not obtained illegally. The Court held that the defendant could not constitutionally be prosecuted for divulging the conversations she recorded if the recordings themselves were not illegal. *Circuit Court judgment affirmed.*

-

*Kanerva v. Weems*, 2014 IL 115811 (July 3, 2014).

At issue in this appeal was the validity of Public Act 97-695 (eff. July 1, 2012), which amended section 10 of the State Employees Group Insurance Act of 1971 (Group Insurance Act) (5 ILCS 375/10 (West 2012)) by eliminating the statutory standards for the State's contributions to health insurance premiums for members of three of the State's retirement systems. In place of those standards, Public Act 97-695 requires the Director of the Illinois Department of Central Management Services to determine annually the amount of the health insurance premiums that will be charged to the State and to retired public employees. Plaintiffs include members of the State Employees' Retirement System (SERS), the State Universities Retirement System (SURS), and the Teachers' Retirement System of the State of Illinois (TRS), which are the three state retirement systems that are affected by Public Act 97-695. On motion of defendants, the circuit court of Sangamon County dismissed all of the complaints.

The Supreme Court found that the State's subsidy of health insurance for its retired employees is a benefit of membership in a State pension system within the meaning of the pension protection clause of the Illinois Constitution of 1970; and where a 2012 enactment eliminated the statutory standards for the State's contributions to that health care coverage and substituted instead a new system for administrative determinations as to how much the State should pay, allegations that the challenged statute was void and unenforceable under the pension protection clause should not have been dismissed for failure to state a cause of action. *Circuit Court judgment reversed. Cause remanded with directions.*

*People v. Patterson*, 2014 IL 115102 (October 17, 2014).

Defendant was 15 years old when he was charged with three counts of aggravated criminal sexual assault. Pursuant to the mandatory automatic transfer statute of the Juvenile Court Act of 1987 (705 ILCS 405/5-130 (West 2008)), his case was transferred to criminal court, where defendant was tried as an adult, convicted by a jury of all three counts, and sentenced to a total of 36 years in prison. On appeal, the appellate court reversed defendant's convictions and remanded the cause for a new trial.

In pertinent part, the Supreme Court upheld the mandatory automatic transfer provision against the defendant's constitutional challenges based on the federal and state Due Process Clauses, the cruel and unusual punishment clause of the eighth amendment of the federal Constitution, and the proportionate penalties clause of the Illinois Constitution, either alone or in conjunction with Illinois' mandatory consecutive sentencing scheme and "Truth in Sentencing" rules. He also contended that *People v. J.S.*, 103 Ill. 2d 395 (1984), upholding the transfer provision, was no longer valid law in light of the United States Supreme Court's recognition in *Roper v. Simmons*, 543 U.S. 551 (2005), *Graham v. Florida*, 560 U.S. 48 (2010), and *Miller v. Alabama*, 567 U.S. \_\_\_, 132 S. Ct. 2455 (2012), that the unique characteristics of youthful offenders are inconsistent with mandatory automatic transfers.

The opinion noted that the United States Supreme Court has strictly limited the application of the rationale expressed in *Roper*, *Graham*, and *Miller*, invoking it only in the context of the most severe criminal penalties. The juvenile's sentence in this case did not fall into that category. The Court expressed concern, however, over the absence of any judicial discretion in the transfer provision in light of modern research recognizing the effect that juveniles' characteristics may have on their judgment and actions. The Court therefore urged the General Assembly to review the automatic transfer provision. *Appellate court judgment reversed. Cause remanded.*

*Lake County Grading Company, LLC v. Village of Antioch*, 2014 IL 115805 (October 17, 2014).

A grading subcontractor, who had not been paid by the general contractor for work done on two residential subdivisions of the Village of Antioch, brought a common law, third-party beneficiary, breach of contract action against the Village. The circuit court granted summary judgment for the subcontractor on the basis that the Village failed to ensure that the general contractor provide the surety bonds required by the Public Bond Construction Act. Specifically, the bonds provided by the general contractor did not contain specific language guaranteeing payment to subcontractors. Thus, the bonds were merely "completion bonds," not "payment bonds," as required by the Act.

The appellate court affirmed, holding that the Village violated section 1 of the Public Construction Bond Act, 30 ILCS 550/1. The appellate court interpreted section 1 as mandating that the public entity require the general contractor to obtain a bond that contains language specifically guaranteeing payment of subcontractors.

The Supreme Court reversed, interpreting the Act to provide that bonds procured under the Act were deemed to contain both completion and payment provisions. Two members of the Court dissented. The legislature may wish to consider whether section 1 is or is not intended to implicitly incorporate a payment provision into any such bond. *Appellate court judgment reversed. Circuit court judgment reversed. Cause remanded with directions.*