



SUPREME COURT OF ILLINOIS

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January 31, 2022

The Honorable Emanuel C. Welch
Speaker of the House
House of Representatives
Springfield, IL 62706

The Honorable Don Harmon
President of the Senate
State Senate
Springfield, IL 62706

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

The Honorable Dan McConchie
Minority Leader
State Senate
Springfield, IL 62706

Dear Legislative Leaders:

I am pleased to provide the Annual Report of the activities for the 2021 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 regarding the administration of justice.

As we have reported previously, on October 2, 2019, the Illinois Judicial Conference (IJC) unveiled the Supreme Court's [Strategic Agenda](#), which was developed by the IJC and approved by the Court. The Strategic Agenda identifies five strategic goals listed below:

1. Accessible Justice and Equal Protection Under the Law
2. Procedural Fairness, Timeliness, and Operational Efficiency
3. Professionalism and Accountability throughout the Branch
4. Understanding of, and Confidence in, the Judicial Branch
5. Sufficient Funding and Effective Use of Judicial Branch Resources

Work on these strategic goals was the focus for implementation year one in 2020. Specifically, the IJC identified 15 new initiatives, which were assigned to existing Supreme Court Commissions, Boards, and Committees, as well as to newly created Task Forces. That work continued for implementation year two in 2021 with 11 new and continuing initiatives.

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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 2021 Illinois Judicial Conference. This report is also available to the members of the General Assembly on the Supreme Court's website at www.illinoiscourts.gov.

Respectfully,



Anne M. Burke
Chief Justice
Supreme Court of Illinois

Enclosure

c: Members of the General Assembly

Annual Report to the General Assembly on the 2021 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 regarding 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 IJC).

During Conference Year 2021, the IJC was focused on completing 11 new and continuing initiatives that had been created to achieve the five Strategic Goals set forth in the [Strategic Agenda](#). The five goals are:

- Goal 1: Accessible Justice and Equal Protection Under the Law
- Goal 2: Procedural Fairness, Timeliness, and Operational Efficiency
- Goal 3: Professionalism and Accountability throughout the Branch
- Goal 4: Understanding of, and Confidence in, the Judicial Branch
- Goal 5: Sufficient Funding and Effective Use of Judicial Branch Resources

Each of the 11 initiatives were assigned to either an existing Supreme Court Board, Committee, or Commission, or to Task Forces whose sole objective was to complete its assigned initiative. The IJC met three times to receive reports back on each initiative and served as a clearing house for all reports, recommendations, memorandums, policies, or rule changes proposed as a result of work on each initiative. A summary of the accomplishments under each initiative is detailed below.

1. Statewide Court Technology Assessment & Standards—Strategic Goal 1

The purpose of this initiative was to strengthen the use of technology in courts across Illinois thereby enhancing remote access to services, court and case information, and court appearances and operational efficiency. A statewide technology survey of the circuits was completed in 2020. As a continuation of this work, in 2021, model technology standards were developed and recommended for all courts in the state. The standards focus on functional benchmarks, to promote remote access to court services, court and case information, and court appearances and operational efficiency. The standards were approved by the IJC in October 2021 and submitted to the Supreme Court. The Court adopted the standards in November 2021.

2. Successful Pandemic Practices and Modifications—Strategic Goal 1

The purpose of this initiative was to document and analyze how practices and services changed in courts across the state in response to the pandemic. This initiative included documenting and assessing new practices, and modifications to existing practices that were successfully utilized in the holding of court and in the operations of the court system during the pandemic. It involved gathering input from judicial officers, court employees, clerks, attorneys, probation, court security, and other stakeholders. A report was presented to the IJC with findings from the audit.

3. Court Operations During a Pandemic—Strategic Goal 1

This initiative was created in response to challenges the judicial branch faced as it balanced the administration of justice with the safety of staff and court patrons. The Task Force assigned to this initiative suggested to the Supreme Court ways to address residential eviction proceedings, reduction of unnecessary in-person court appearances. A list of the orders that resulted can be found [here](#). The work of the Task Force is ongoing.

4. Court Data and Performance Measures—Strategic Goal 2

The purpose of this initiative, which was started in 2020 and was completed in 2021, was to study and make recommendations regarding time standards for case resolution in Illinois. It included reviewing and making a report to the IJC on time standards adopted in some Illinois circuits and other states, as well as national best practices (e.g., from organizations such as the ABA, NCSC, Conference of Chief Justices/Conference of State Court Administrators, etc.) and recommendations for the Illinois Judicial Branch. The report was adopted by the IJC and submitted to the Supreme Court in November of 2021.

5. Innovative Court Access and Dispute Resolution Methods—Strategic Goal 2

The purpose of this initiative was to explore, study, and recommend non-traditional, innovative, and/or emerging ways to access the courts and resolve disputes (e.g., online dispute resolution – ODR; restorative justice, etc.). For 2021, the Task Force focused on the current state of mediation across Illinois and submitted a report which included a summary of the current state of mediation in Illinois (statutory requirements, barriers to accessing/using mediation, different models of mediation, costs of mediation services, etc.) and recommendations for improvement and expansion. The Task Force’s final report made many recommendations including amending Supreme Court Rule 99 to make clear that assessment waivers apply to mediation program fees. The Court approved amending the Rule in November of 2021.

6. Codes of Professional Conduct—Strategic Goal 3

The purpose of this initiative was to promote and maintain high standards for professional conduct among all Judicial Branch employees and partners. Employee groups with existing codes of conduct were the focus of work in 2020. In 2021, the focus was on developing and recommending Codes of Professional Conduct for groups with no previously established code. This included: Clerks, Deputy Clerks, Clerk personnel (i.e., circuit, appellate, supreme court); Trial Court Administrators/other administrative staff in the Office of the Chief Circuit Judge; Judicial Branch State Paid Employees (non-judicial officers); Court Appointed Mediators; Guardian Ad Litem; Court Bailiffs/Court Security Officers; Public Defender’s Officers; and Court Annexed Arbitrators. The Task Force submitted a final report to the IJC in October of 2021 and it was adopted.

7. Illinois Courts Website—Strategic Goal 4

A new, modern, informative, and user-friendly Illinois Courts website was launched in May of 2021 and can be found here: <https://www.illinoiscourts.gov/>.

8. Public Relations Plan—Strategic Goal 4

The purpose of this initiative was to raise the profile of the Judicial Branch – share positive stories, educate about the Branch, etc. – through a comprehensive Public Relations Plan. As part of fulfilling the Public Relations Plan finalized in 2020, the Task Force completed the production and rollout of a Jury Orientation video. It also established a statewide PIO network in each circuit. A comprehensive report was provided to the IJC in October of 2021.

9. Workload and Weighted Caseload Study—Strategic Goal 5

The purpose of this initiative was to ensure the effective allocation of judicial resources across all Circuit Courts. In 2020, the focus was on exploring and reporting on the feasibility of conducting a statewide judicial caseload and workload study that weights cases, measures judge time, and provides recommendations for more effective allocation of judicial resources. In 2021, the focus was on overseeing and serving as a resource to/working with the National Center for State Courts (NCSC) in conducting the statewide study, which is expected to be completed in 2022.

10. Funding, Cost, and Fiscal Needs of the Court System—Strategic Goal 5

The purpose of this initiative was to explore and determine the complete cost of the court system and to identify and explain multiple sources of funding. The work on this initiative provided key information about court system funding, including current court system costs and funding sources. Using the data/information collected in 2020 and 2021, the Task Force summarized the costs of the court system and explained the sources of funding and the amount coming from each source. A comprehensive report was provided to the IJC in October of 2021.

11. Statewide Costs of Pre-Trial, Probation, & Detention—Strategic Goal 5

The purpose of this initiative was to better understand, explain, and answer questions about statewide costs of Pre-Trial, Probation, and Detention for adults and juveniles. The Task Force assigned to this initiative focused on collecting statewide information about costs, both by individual county and throughout the state, of pre-trial detention, pre-trial supervision, probation, and incarceration. A final report was provided to the IJC in October 2021.

As evidenced by the accomplishments under each initiative, the scope of work undertaken by the Judicial Conference will continue during 2022 with continuing and new strategic initiatives. Justice S. Gene Schwarm (ret.), Project Coordinator for the Strategic Agenda, Dr. Brenda Wagenknecht-Ivy, Strategic Agenda Project Consultant, and Alison Spanner, Director of Strategic Planning, will continue to help guide the IJC throughout Conference Year 2022. As such, 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 the General Assembly May Wish to Consider

The Board of Education of the City of Chicago et al. v. Moore, 2021 IL 125785 (January 22, 2021)

At issue in this case is whether a 2011 amendment to section 34-85 of the School Code (Code) (105 ILCS 5/34-85 (West 2016)) allows for a suspension and reduction in back pay of a teacher or if once termination proceedings are initiated the Board can only dismiss or reinstate the teacher with full back pay. The Board initially suspended Moore without pay pending a dismissal hearing, the result of which was the hearing officer recommending Moore's reinstatement. The Board ultimately declined to dismiss Moore but issued a warning resolution, finding that misconduct warranted a 90-day time-served suspension with a deduction from her net back pay. Moore appealed and argued that the suspension and reduction in back pay were unauthorized by law. The appellate court agreed, holding that under section 34-85 of the Code once termination proceedings had been initiated the Board could only dismiss or reinstate Moore with full back pay. The Supreme Court reversed the appellate court's judgment and affirmed the Board's decision, determining that the amendment to section 34-85 of the Code does not diminish the Board's implied power and authority to issue a suspension once a determination is made that the conduct does not constitute cause for dismissal and finding that the Board acted within the scope of its power.

People v. Bass, 2021 IL 125434 (April 15, 2021)

Defendant had his name run during a routine traffic stop and the name check returned an investigative alert issued by the Chicago Police Department for an alleged sexual assault. Defendant was arrested and subsequently made incriminating statements to investigators, which he sought to suppress prior to trial. Defendant argued that the Chicago Police exceeded their authority in stopping and questioning him, and that the police did not have an arrest warrant and instead relied on the investigative alert which the defense argued allowed them to "avoid constitutional protections and the court procedures." Defendant further argued that that these actions violated the fourth amendment to the U.S. Constitution as well as article I, section 6, of the Illinois Constitution. The trial court denied the motion to suppress the incriminating statements and found him guilty of criminal sexual assault in a bench trial. On appeal, the appellate court determined that, while the evidence was sufficient to convict, the traffic stop did violate the fourth amendment to the U.S. Constitution because it was unlawfully prolonged. The appellate court also found that the Illinois Constitution provides greater protections than the fourth amendment as arrests based on investigative alerts, even those supported by probable cause, violate the Illinois Constitution. The State appealed and the Supreme Court held that the traffic stop did violate the fourth amendment and the motion to suppress should have been granted. The Court also determined that the State bore the burden of showing that the stop was not unlawfully prolonged and failed to meet that burden. The Court affirmed the reversal of defendant's conviction on these narrow grounds and remanded for a new trial, but vacated the portions of the appellate opinion related to limited lockstep analysis and investigatory alerts.

People v. Palmer, 2021 IL 125621 (April 15, 2021)

At issue in this case is whether the legislature intended section 2-702(g)(3) of the Code of Civil Procedure (Code) (735 ILCS 5/2-702 (g)(3) (West 2018)) to require a petitioner seeking a certificate of innocence to prove that he or she was innocent of the offense only as it was originally charged or innocent of every conceivable theory of criminal liability for that offense. The petitioner was found guilty of first-degree murder in 1998. In 2010 and 2014, the petitioner filed motions for forensic testing of previously untested evidence under section 116-3 of the Code of Criminal Procedure of 1963 (725 ILCS 116-3 (West 2010)) and in both instances the petitioner's DNA was not found on the victim or evidence. Following a postconviction petition that sought a new criminal trial based on the new forensic evidence in 2016, the circuit court ultimately vacated petitioner's conviction and sentence after the State conceded that the new evidence warranted a new trial. The circuit court also entered an order that vacated and dismissed all charges against the petitioner. The petitioner filed an amended petition in 2018 seeking a certificate of innocence pursuant to section 2-702 of the Code. The circuit court denied the amended petition, rejecting the contention that the State was limited to arguing that the petitioner was guilty of first-degree murder as charged in his criminal trial, and the appellate court affirmed. The Supreme Court, however, concluded that subsection (g)(3) of the Code requires a petitioner to prove innocence only of the offense as it was charged in the underlying criminal proceeding. The Court therefore reversed the judgments of the appellate court and circuit court and remanded the cause to the circuit court with directions to issue the petitioner a certificate of innocence.

Cooke v. The Illinois State Board of Elections et al., 2021 IL 125386 (May 20, 2021)

At issue in this case is a complaint against the Committee for Frank J. Mautino (Committee) filed with the Illinois State Board of Elections (Board). Cooke alleged that, in violation of the Election Code (Code), the Committee had filed inadequate expenditure reports and made expenditures that did not comply with section 9-8.10 of the Code (10 ILCS 5/9-8.10 (West 2014)). The Board held that the Committee willfully violated its order to amend its expenditure reports and imposed a \$5,000 fine against the Committee. Cooke appealed because the Board did not reach the merits of his complaint, namely, whether the Committee violated sections 9-8.10(a)(2) and 9-8.10(a)(9)2 of the Code. The appellate court remanded the cause to the Board with directions to reach the merits and on remand the Board deadlocked in a 4-to-4 vote on both issues and found that Cooke had not met his burden in establishing violations of either section. Cooke appealed again and the appellate court reversed the Board's findings that Cooke had not met his burden in establishing violations of the sections. The Committee filed a petition for leave to appeal. The Supreme Court found that in making expenditures for gas and repairs for vehicles it neither owned nor leased, the Committee violated section 9-8.10(a)(9), but affirmed the Board's decision to decline to find a violation of section 9-8.10(a)(2). The Court remanded the cause to the Board for a determination of whether the Committee's violation thereof was knowing pursuant to section 9-8.10(b) of the Code.

Palos Community Hospital v. Humana Insurance Company, Inc., 2021 IL 126008 (May 20, 2021)

At issue in this case is whether the "test the waters" doctrine constitutes a valid basis on which to deny a party's motion for substitution of judge as of right under section 2-1001(a)(2) of

the Code of Civil Procedure (Code) (735 ILCS 5/2-1001 (a)(2) (West 2016)). In 2013, Palos Community Hospital alleged that it sustained roughly \$20 million in damages as a result of Humana underpaying for medical services that Palos provided to members of its health insurance plans. Humana moved to dismiss the amended complaint under section 2-619.1 of the Code, arguing that Palos failed to state a claim for either common-law or constructive fraud because its complaint did not satisfy the strict requirements for pleading fraud and that Palos' breach of contract claim was time-barred. The trial court granted Humana's motion to dismiss the complaint with prejudice and Palos moved the court to reconsider. The trial court partially granted Palos' motion to reconsider and reinstated Palos' claim for breach of contract in 2014. Following the appointment of a retired judge as discovery master, Palos filed a motion in 2017 for substitution of a judge, citing section 2-1001(a)(2) of the Code. The trial court denied Palos' motion for substitution of judge as a matter of right and stated that a substitution motion can be denied when the party "had an opportunity to test the waters and form an opinion as to the court's disposition of an issue." In 2018, the jurors in the trial court found in favor of Humana. Among other post-trial motions, Palos filed a motion challenging the court's denial of its request for substitution of judge. The appellate court affirmed the trial court. The Supreme Court reversed the appellate court, holding that the "test the waters" doctrine is incompatible with the text of section 2-1001(a)(2) and that the trial court erred in denying Palos' motion for substitution of judge as of right because its motion satisfied the statutory criteria. The cause was remanded to the trial court with directions to vacate all orders entered by the court after April 20, 2017, for further proceedings.

Valerio et al. v. Moore Landscapes, LLC, 2021 IL 126139 (May 20, 2021)

Defendant was accused of violating section 11 of the Illinois Prevailing Wage Act (Act) (820 ILCS 130/11 (West 2018)) by failing to pay plaintiffs the prevailing rate of wages pursuant to its contract with the Chicago Park District. Plaintiffs sought backpay, statutory punitive damages, prejudgment interest, costs, and attorney fees for landscaping work. At issue is whether section 11 of the Act affords laborers a right of action against a contractor where the laborers were not paid a prevailing wage rate even though the contracts provided that the contractor "shall pay all persons employed by [it] prevailing wages where applicable." The circuit court granted the defendant's motion to dismiss, concluding that plaintiffs may not pursue a claim for damages pursuant to section 11 of the Act because the contracts contained no stipulation to pay the prevailing wage rate. The plaintiffs appealed and the appellate court reversed and remanded, finding that the circuit court erred in dismissing plaintiffs' complaint and that the circuit court's interpretation of section 11 improperly limited the right of action of any laborer, worker, or mechanic who had been denied a prevailing wage rate for his work on a public works project covered by the Act. The Supreme Court reversed the judgment of the appellate court and affirmed the judgment of the circuit court, concluding that by including the conditional language "when applicable" in the contracts, the Chicago Park District and defendant did not clearly stipulate that defendant's payment of prevailing wage rates was applicable to plaintiffs' landscaping work.

Walker et al. v. Chasteen, 2021 IL 126086 (June 17, 2021)

At issue in this case is the constitutionality of section 15-1504.1 of the Code of Civil Procedure (Code) (735 ILCS 5/15-1504.1 (West 2012)), as well as sections 7.30 and 7.31 of the Illinois Housing Development Act (Act) (20 ILCS 3805/7.30, 7.31 (West 2012)), which involve a

\$50 filing fee for a pair of residential mortgage foreclosure cases and programs funded by the fee. Plaintiff filed mortgage foreclosure complaints in Will County in 2012 and had to pay a \$50 “add on” filing fee under section 15-1504.1 of the Code. Plaintiff filed a class action complaint against the Clerk of the Circuit Court of Will County, challenging the constitutionality of section 15-1504.1. The trial court granted partial summary judgment in favor of the plaintiff, declaring the statute unconstitutional on its face. The Supreme Court in 2015 reversed and remanded the case, holding that circuit court clerks did not fall within the state constitutional provision prohibiting fee officers in the judicial system but did not address the other constitutional claims raised by plaintiff. Following remand, the plaintiffs’ counsel amended their complaints to add an additional named party and the plaintiffs filed a second amended complaint. The second amended complaint asserted a putative class action against the circuit court clerks and sought, *inter alia*, a permanent injunction prohibiting enforcement of the statutes at issue and return of monies collected. The defendants maintained that the statutes are constitutional, and the parties filed cross-motions for summary judgment. The trial court determined that these statutes violate the free access, due process, equal protection, and uniformity clauses of the Illinois Constitution of 1970 and entered a permanent injunction enjoining the circuit courts from enforcing and following the statutes at issue as they are currently enacted but stayed enforcement of the injunction to provide the Supreme Court an opportunity to review the case. The Attorney General, on behalf of the State of Illinois and the Cook and Will County circuit clerks, filed separate direct appeals which were consolidated. The Supreme Court affirmed the order of the circuit court, concluding that the statutes violate the free access clause because the \$50 fee unreasonably interferes with foreclosure litigants’ access to the courts, and remanded the case for further proceedings.

Roberts et al. v. Alexandria Transportation, Inc. et al., 2021 IL 126249 (June 17, 2021)

Plaintiff filed a complaint for negligence under Illinois law in the United States District Court for the Southern District of Illinois following an accident involving a tractor-trailer colliding with the plaintiff’s car. Defendants, Alexandria Transportation (Alex Parties), subsequently filed a third-party complaint for contribution against several third-party defendants: Edwards-Kamalduski, LLC (E-K) the general contractor for the road construction project, and Safety International, LLC (Safety), the subcontractor E-K retained to manage (some disputed aspect of) the construction site’s worker safety program. Defendants alleged that if they are liable to plaintiffs in negligence for the crash then the third-party defendants are also liable as joint tortfeasors because they failed to keep the construction site safe for travel. E-K settled with the plaintiffs for \$50,000 and Alex Parties settled with the plaintiffs, for \$1.85 million, leaving a jury trial for the Alex Parties’ contribution claim against Safety, which had not settled with the plaintiffs. The district court ordered that Safety would pay Alex Parties only what the jury determined was Safety’s portion of fault and that the Alex Parties would remain liable for E-K’s entire share along with its own. The jury ultimately found E-K 75% liable, Alex Parties 15% liable, and Safety 10% liable, leaving Alex Parties accountable for 90% of the accident liability. Alex Parties filed a post-trial motion to alter the judgment and asked the court to revisit its determination of the reallocation issue. This motion was denied. Alex Parties filed an appeal, and the appellate court asked the Supreme Court to certify the question of “whether the obligation of a settling party is uncollectable pursuant to the Illinois Joint Tortfeasor Contribution Act” (Contribution Act) (740 ILCS 100/3 (West 2018)). The Court answered the question in the negative, determining that it would be

inequitable to require Safety to pay more than its *pro rata* share under the circumstances pursuant to the Contribution Act.

Municipal Trust & Savings Bank v. Moriarty, 2021 IL 126290 (June 17, 2021)

At issue in this case is the proper construction of section 2-202 of the Code of Civil Procedure (Code) (735 ILCS 5/2-202 (West 2016)) and whether a licensed or registered private detective may serve process in Cook County without special appointment in a case filed outside of Cook County. Plaintiff filed a complaint for mortgage foreclosure against the defendant in 2016 in Kankakee County, where the mortgaged commercial properties are located. An employee of the Diligent Detective Agency, Ltd., served the defendant in Cook County at Rush Hospital. Defendant never filed an answer to the complaint and in January 2017 the circuit court entered a judgment for foreclosure and sale. The circuit court found that the defendant was personally served with process and was in default by failing to answer the complaint or otherwise appear. A sheriff's sale was held on the property, and the plaintiff was the successful bidder and filed a motion for confirmation of the foreclosure sale. In July 2017, the defendant filed his appearance *pro se* and stated that he had not been aware of the sale, explaining that he did not receive notice. The circuit court granted the plaintiff's motion for confirmation, ruling that the plaintiff complied with the procedures necessary to obtain a confirmation of the foreclosure sale and had no obligation to give the defendant notice of the public sale. The defendant filed a section 2-1401 petition arguing that the circuit court was without personal jurisdiction to enter the default judgment in the foreclosure proceeding and asserted that under section 2-202 of the Code, a private process server cannot serve process on a defendant in Cook County without first being appointed by the circuit court. The circuit court denied the defendant's petition and found that the detective was not required to be specially appointed under section 2-202 of the Code. The appellate court affirmed, holding that the circuit court had personal jurisdiction over the defendant to enter the default judgment of foreclosure and that under section 2-202 a private detective may serve process without special appointment anywhere in the state so long as the summons was issued from a county other than Cook County. The Supreme Court reversed the circuit and appellate courts, finding that for a private detective to serve process on a defendant in Cook County he or she must be appointed by the court and that the detective in this instance did not meet the requirement of section 2-202 of the Code. The cause was remanded to the circuit court for further proceedings.

People v. Dorsey, 2021 IL 123010 (July 29, 2021)

At issue in this case is whether a good-conduct credit is relevant to the determination of what constitutes a *de facto* life sentence for a juvenile offender for purposes of applying the principles enunciated in *Miller v. Alabama*, 567 U.S. 460 (2012). Defendant in this case was convicted of first-degree murder and two counts of attempted first degree murder as a 14-year-old for a 1996 shooting at a takeout restaurant where one teen was killed and two more teens were severely injured. At the sentencing hearing, the presentence investigation described the defendant as a good student who had a tumultuous childhood and joined a gang at age 13, while the prosecution sought a "more severe sentence" given the disregard for life in the shooting. The trial court sentenced defendant to consecutive terms of 40 years for the first-degree murder and 18 years each for the attempted first-degree murder of the two injured victims, a 76-year term of imprisonment. The defendant appealed, arguing that the sentence was excessive because the trial

court failed to adequately consider his age and rehabilitative potential. The appellate court concluded that the trial court had properly considered the relevant factors to the sentence and had not abused its discretion in imposing it. In the ensuing years, the defendant filed several appeals under section 2-1401 of the Code of Civil Procedure (735 ILCS 5/2-1401 (West 2000)), which were all denied. In 2014, the defendant filed a petition for leave to file a successive petition for postconviction relief, along with the petition itself, which raised a claim that defendant's aggregate sentence violated the eighth amendment of the U.S. Constitution and the U.S. Supreme Court's ruling in *Miller*. Defendant argued that while his sentence was not a life sentence and would see him released from prison at the age of 53, it still constituted a *de facto* life sentence and such a lengthy sentence imposed on a juvenile is sufficient to trigger *Miller*-type protections. The circuit court denied the petition for leave to file a successive postconviction petition, finding both of defendant's claims to be frivolous. On appeal, the appellate court rejected the defendant's argument and affirmed the circuit court's denial of leave to file the successive postconviction petition. The Supreme Court allowed the defendant's petition for leave to appeal and affirmed the judgment of the appellate court which had affirmed the decision of the trial court to deny defendant's motion for leave to file a successive postconviction petition due to his failure to satisfy the cause and-prejudice test.

Evans, Jr. v. The Cook County State's Attorney et al., 2021 IL 125513 (September 2, 2021)

Petitioner, who has been convicted of several felonies, applied to the Illinois State Police (ISP) for a Firearm Owner's Identification (FOID) card. The application was denied and the ISP's letter explaining the decision stated that he was ineligible because of his felony convictions. Petitioner filed a petition for review with the Cook County circuit court, which was objected to by the Cook County State's Attorney. The circuit court agreed with the State's Attorney that federal law barred the petitioner from obtaining a FOID card and that he had not met his burden of showing that issuing him a FOID card would not be contrary to the public interest. The appellate court affirmed but disagreed with the circuit court that issuing petitioner a FOID card would be contrary to the public interest. The appellate court held that the petitioner was barred from obtaining a FOID card because federal law prohibited him from possessing a firearm and that the petitioner was caught in a "statutory loop" between state and federal law that prohibited him from obtaining a FOID card. The Supreme Court disagreed with the appellate court regarding the "statutory loop" but determined that the petitioner failed to meet his burden of establishing to the circuit court's satisfaction that granting him relief would not be contrary to the public interest. The Supreme Court affirmed the appellate court's judgment and held that the trial court did not abuse its discretion.

Haage v. Zavala et al., 2021 IL 125918 (September 23, 2021)

This case involved two automobile personal injury actions by plaintiffs who moved for entry of a qualified protective order (QPO) pursuant to the Health Insurance Portability and Accountability Act (HIPAA) (Pub. L. No. 104-191, 110 Stat. 1936 (1996)) and its implementing regulations (45 C.F.R. pts. 160, 164 (2018)) (Privacy Rule). Plaintiffs proposed QPOs would allow protected health information (PHI) to be released, but subject to the following restrictions: nonlitigation use or disclosure of PHI is prohibited, and PHI must be returned or destroyed at the conclusion of the litigation. State Farm Mutual Automobile Insurance Company (State Farm), the

liability insurer for the named defendants, intervened in each lawsuit and sought entry of its own protective order, which expressly allowed insurance companies to use, disclose, and maintain PHI for purposes beyond the litigation and exempted insurers from the “return or destroy” requirement. In both cases, the circuit court granted the plaintiffs’ motions, entered their QPOs, and denied State Farm’s motions. State Farm filed an interlocutory appeal in each case. The appellate court consolidated the two cases and affirmed the circuit court. The Supreme Court affirmed the appellate court, holding that the trial courts did not abuse their discretion in entering the QPOs pursuant to HIPAA and the Privacy Rule, and remanded the cases to the trial court for further proceedings.

People v. McCavitt, 2021 IL 125550 (October 21, 2021)

Defendant was a Peoria police officer against whom the State Police obtained warrants to seize and search a personal computer for evidence of two unrelated incidents: aggravated criminal sexual assault and unauthorized video filming of women using his bathroom. Defendant was acquitted of the alleged sexual assault in March 2014 and following the verdict the defense counsel orally requested the return of defendant’s personal property. Counsel specifically mentioned “collector guns” but did not ask for the computer. A motion by the defendant to have his property returned was never fully resolved, and defendant’s computer was not returned. Following the acquittal, the Peoria Police Department initiated a formal investigation of defendant. The Peoria Police Department acquired and searched a copy of the computer’s hard drive (the EnCase file), uncovering evidence of the unauthorized video recording as well as child pornography, which was not mentioned in the warrant. Based on what was found on the EnCase file, the defendant was charged with two counts of unauthorized video recording and several counts of child pornography. Defendant filed a motion to suppress and argued that the detective for the case had no authority to obtain and examine the contents of the EnCase file in March 2014 and that it was a warrantless search in violation of the fourth amendment because no criminal charges were pending at the time of the search. The detective testified at the suppression hearing that as soon as he discovered the two pornographic images, he stopped to apply for a search warrant and said he did not believe he needed a search warrant or other court order to obtain and search the EnCase file since the defendant’s computer was previously seized “[p]ursuant to a lawful search warrant.” The trial court denied the defendant’s motion to suppress. A jury found the defendant guilty of 15 of the 17 counts of child pornography and his posttrial motions were denied. The trial court sentenced the defendant on one count of Class 3 felony to five years’ imprisonment followed by mandatory supervised release of three years to life and imposed a sentence of 48 months’ probation on the remaining 10 counts, to be served consecutively to the prison sentence. On appeal, the defendant argued that the trial court erroneously denied his motion to suppress, stating that the “search of his EnCase file eight months after the initial warrant was issued and following his acquittal of sexual assault charges violated his fourth amendment rights.” The appellate court agreed and reversed the convictions, concluding that although the EnCase file was created lawfully the detective had violated defendant’s right to privacy. The appellate court held that once the defendant’s sexual assault trial ended the police were not entitled to retain any portion of the EnCase file and found that the initial search following the sexual assault acquittal violated the defendant’s fourth amendment rights. The State petitioned for leave to appeal. The Supreme Court affirmed the circuit court’s order denying the defendant’s motion to suppress the images and reversed the appellate

court, holding that the search was reasonable under the fourth amendment and resulted in the lawful discovery of child pornography in plain view.

Western Illinois University v. The Illinois Educational Labor Relations Board et al., 2021 IL 126082 (October 21, 2021)

The Illinois Educational Labor Relations Board (Board) found that Western Illinois University (University) committed an unfair labor practice in violation of section 14(a)(8) and, derivatively, section 14(a)(1) of the Illinois Educational Labor Relations Act (Act) (115 ILCS 5/14 (a)(1), (8) (West 2016)), which governs labor relations between public education employers and employees, by failing to comply with two arbitration awards. Ten professors who were laid off by the University were represented by their union when they filed grievances. The Union alleged that the University had not followed the proper procedures outlined in the collective bargaining agreement (CBA) for layoffs. An arbitrator found that the University violated the CBA and awarded arbitration, stating that he “shall retain jurisdiction for no less than 90 days to resolve any issues regarding the implementation of this Award,” and the arbitrator later issued a supplemental award. The University argued that the arbitrator lacked statutory authority to determine compliance because the Board was vested with exclusive primary jurisdiction over such review by the Act. The Board concluded that the University had violated section 14(a)(8) and section 14(a)(1) of the Act by refusing to comply with both arbitration awards. The Board also determined that the arbitrator did not exceed his statutory authority. The appellate court held that the arbitrator did exceed his statutory authority in issuing the supplemental award because the exercise of remedy jurisdiction to review a party’s compliance conflicted with the Board’s exclusive primary jurisdiction over compliance review. The appellate court vacated the Board’s opinion and remanded with directions that the Board consider all evidence relevant to whether the University complied with the original award. The Supreme Court affirmed the appellate court, determining that the arbitrator exceeded his authority by conducting a review in contravention of the Act and as a result the supplemental award he issued is not binding and the University did not commit an unfair labor practice in refusing to comply with it. The Court remanded the cause to the Board with directions to consider all evidence relevant to whether the University violated section 14(a)(8) of the Act by refusing to comply with the original award.