



SUPREME COURT OF ILLINOIS

**CHAMBERS OF
CHIEF JUSTICE MARY JANE THEIS**

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January 31, 2023

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 Tony McCombie
Minority Leader
House of Representatives
Springfield, IL 62706

The Honorable John Curran
Minority Leader
State Senate
Springfield, IL 62706

Dear Legislative Leaders:

I am pleased to provide the Annual Report of the activities for the 2022 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, the Illinois Judicial Conference (IJC) is guided by the Supreme Court's [Strategic Agenda](#), which was developed by the IJC and approved by the Court. The Strategic Agenda identified 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 Judicial Branch
4. Understanding of and Confidence in the Judicial Branch
5. Sufficient Funding and Effective Use of Judicial Branch Resources

For 2022, the IJC identified 10 new initiatives, which were assigned to existing Supreme Court Commissions, Boards, and Committees, as well as to newly created Task Forces.

January 31, 2023
Page 2

For a high level overview of the initiatives undertaken over the last year, please see [At-A-Glance Illinois Judicial Branch—Operational Plan \(2022\)](#).

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 2022 Illinois Judicial Conference. This report is also available to the members of the General Assembly on the Supreme Court's website at <https://www.illinoiscourts.gov/>.

Respectfully,

A handwritten signature in blue ink that reads "Mary Jane Theis". The signature is written in a cursive, flowing style.

Mary Jane Theis
Chief Justice
Supreme Court of Illinois

Enclosure

c: Members of the General Assembly

Annual Report to the General Assembly on the 2022 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 2022, the IJC was focused on completing 10 initiatives that had been created to achieve four of the five Strategic Goals set forth in the [Strategic Agenda](#).

The four Strategic Goals that were focused on in Conference Year 2022 are as follows:

Goal 1: Accessible Justice and Equal Protection Under the Law

Goal 2: Procedural Fairness, Timeliness, and Operational Efficiency

Goal 4: Understanding of and Confidence in the Judicial Branch

Goal 5: Sufficient Funding and Effective Use of Judicial Branch Resources

Each of the 10 initiatives were assigned to either an existing Supreme Court Board, Committee, or Commission, or to a newly created Task Force whose sole objective was to complete its assigned initiative. The IJC met three times to receive reports 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. Summary of Pandemic Practices—Strategic Goal 1

In 2020, the Supreme Court and the IJC appointed the Court Operations During COVID-19 Task Force to study, analyze, and provide guidance related to new and ongoing pandemic related challenges facing the Illinois Judicial Branch and circuit courts. The Task Force has provided guidance and recommendations to the Supreme Court and AOIC throughout the pandemic. It also has reported on its work to the IJC.

In 2022, this Task Force continued to provide guidance and recommendations to the Supreme Court and AOIC as needed. It also prepared a final report summarizing its findings over the past 18-24 months. Specifically, reviewing new practices and other changes made by courts across Illinois during the pandemic. It also made recommendations to the Supreme Court regarding the continuation of Administrative Orders/Rules entered during the pandemic.

2. Encourage Remote Proceedings—Strategic Goal 1

The focus of this initiative was to promote the progress that has been made during the pandemic and work to continue and expand the use of remote appearances for civil, criminal, traffic, juvenile, and quasi-criminal cases. This was assigned to a new Remote Proceedings Task Force who recommended amendments to Supreme Court Rule 45. When considering changes, the Task Force assessed the impact on judges, employees, attorneys, litigants, other court participants (e.g., jurors, witnesses, interpreters) and vetted the changes with stakeholders and

impacted parties. The Supreme Court adopted those amendments in November of 2022 with an effective date of January 1, 2023.

3. Implement Time Standards—Strategic Goal 2

The Data & Performance Measures Task Force studied and recommended the Supreme Court adopt time standards for all case types in the 2022 Manual on Recordkeeping. Time standards represent the time during which the court exercises control and is accountable for the progress and timely closure of a case.

In 2022, the Task Force submitted a draft Order to the Supreme Court for formal approval of Time Standards. The proposed order included a lengthy Preamble which incorporated language from the 2021 Final Report of the Task Force. The Preamble outlined the work of the Illinois Judicial Conference and a strategic planning goal for uniform statewide data collection and Time Standards for all case types. It highlighted the purpose of Time Standards as a court management tool to assist courts in meeting their fundamental obligation to resolve disputes fully, fairly, and promptly. That order was made effective July 1, 2022.

4. Modernize Service of Process—Strategic Goal 2

The purpose of this initiative was to explore best practices, statutes, and court rules related to service of process in Illinois and in other states. This initiative was assigned to the Illinois Judicial Conference Service of Process Task Force, wherein it developed recommendations which are designed to modernize service of process in Illinois and better assist court users in effectively and efficiently managing service of process. The recommendations include amendments to Supreme Court Rules and statutes as well as the creation of technology for effectuating and reporting return of service, and additional research in ways to standardize the requirements in summons.

5. Promote Availability of Statewide Video Interpreter Services—Strategic Goal 2

The purpose of this initiative was to study why, despite having statewide virtual interpreter services available for use by circuit courts, these services are underutilized. This strategic initiative was assigned to the Language Access Committee of the Illinois Supreme Court Commission on Access to Justice (Committee). The Committee studied and evaluated the use of Remote Interpreting (RI) in Illinois and nationwide. RI is a method of providing interpreting services to court users from a remote location by telephone or video conference (VRI).

The Committee conducted surveys, evaluated available local and national information and data relating to RI, studied entities that provide RI services, and researched the practices of federal courts and certain state courts relating to RI. The Committee sought to identify the benefits of RI and determine ways to promote its use in our state courts. The Committee also recommended steps to increase and enhance the use of RI, and in particular VRI, in Illinois. The IJC approved those next steps.

6. 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/>.

For the 2022 implementation year, the Website Task Force responded to public and stakeholder feedback on the new site to identify new features and enhancements for the website.

7. Implement Public Relations Plan—Strategic Goal 4

The purpose of this ongoing initiative is to raise the profile of the Judicial Branch – share positive stories, educate about the Branch, etc. A comprehensive Public Relations Plan was developed and adopted by the IJC in 2020. In 2021, the Task Force focused on continuing to implement the PR Plan with specific focus on completing a juror orientation video, creating, developing, and supporting a Public Information Officer (PIO) network in the circuits and appellate districts, promoting consistent messaging, etc.

In 2022, the Task Force continued implementing elements of the PR Plan, which included: building out the PIO Intranet; promoting consistent messaging by updating the Strategic Agenda PowerPoint Presentation; and training speakers to ultimately increase the number of educational presentations made to stakeholders and the public through partnership with existing organizations.

8. Workload and Weighted Caseload Study—Strategic Goal 5

The purpose of this initiative is to ensure the effective allocation of judicial resources across Illinois for the circuit courts based on a weighted caseload study that measures judicial work time, develops average case weights based on average case processing times, and provides recommendations for more effective allocation of judicial resources. With guidance from the Weighted Caseload Study Task Force, created by the IJC, the National Center for State Courts conducted a judicial worktime assessment study in Illinois' circuit courts using state-of-the-art research practices.

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

The focus of this ongoing initiative in 2020 and 2021 was to determine the cost of the court system and identify and explain the multiple sources of funding. Additionally, in 2021, the Task Force identified and made recommendations regarding unique funding opportunities for infrastructure improvements.

In 2022, this Task Force finished its work by preparing a short, fiscal impact summary for varied uses including but not limited to funding discussions with the state legislature.

10. Improve Statewide Technology Infrastructure—Strategic Goal 5

The purpose of this strategic initiative was to improve the technology infrastructure in all courthouses. To do so, the IJC felt it must understand local technology needs. Therefore, a statewide cost analysis study was undertaken, which will help predict additional funding needed to implement the minimum technology standards in all courthouses.

As evidenced by the accomplishments under each initiative, the scope of work undertaken by the Judicial Conference will continue during 2023 with continuing and new strategic initiatives. 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 That the General Assembly May Wish to Consider

Int'l Ass'n of Fire Fighters, Loc. 50 v. City of Peoria, 2022 IL 127040 (January 21, 2022)

At issue in this case is whether the City of Peoria's definition in an ordinance that defined a catastrophic injury to full-time line-of-duty workers as one which "permanently" prevented an individual from performing any gainful work was in compliance with the Public Safety Employee Benefits Act ("Act"), originally passed in 1997. The International Association of Fire Fighters ("Union") sought declaratory judgment on the definitions in the ordinance. The circuit court granted summary judgment in favor of the Union and the appellate court affirmed. The City of Peoria appealed to the Supreme Court and the Court found the ordinance's definitions "inconsistent" with the requirements of the Act. The Court affirmed the grant of summary judgment in the Union's favor and denial of the City's motion for summary judgment.

Munoz v. Bulley & Andrews, LLC, 2022 IL 127067 (January 21, 2022)

Subcontractor plaintiff was injured at the worksite of his sub-contractor and obtained workers' compensation benefits as a result. The plaintiff additionally filed a personal injury action against the general contractor, Bulley & Andrews, and others for negligence. The defendant moved to dismiss this suit, contending that plaintiff's claims were barred by the exclusive remedy provisions of the Workers' Compensation Act (Act), and arguing that it had a preexisting legal obligation to pay for plaintiff's workers' compensation benefits and that it did so by paying more than \$76,000 of his medical bills. The circuit court granted the motion to dismiss, finding that the employer was legally obligated to pay for the workers' compensation insurance and benefits that the plaintiff received. The appellate court affirmed this decision. The Supreme Court reversed the judgment of the appellate and circuit courts, holding that the exclusive remedy provisions under sections 5(a) and 11 of the Act do not extend to a general contractor who is not the employee's immediate employer, and remanded the case for further proceedings.

People v. Salamon, 2022 IL 125722 (April 21, 2022)

Defendant was found guilty by a jury on counts of first-degree murder, armed robbery, and burglary for a 2009 bar robbery and sentenced by the circuit court for an aggregate of 33 years. Prior to the trial, the defendant filed a motion to suppress a statement he made to the officers investigating the death and to an assistant state's attorney. This motion was denied by the circuit court. The defendant filed a motion for a new trial in which he asserted, *inter alia*, that the circuit court erred in denying his motion to suppress. The circuit court denied defendant's motion for a new trial and on appeal the appellate court held that, even if defendant's statement of confession was involuntary, any error in its admission was harmless based on the other evidence of his guilt. The Center for Wrongful Convictions and The Innocence Project petition for leave to appeal was allowed by the Supreme Court. The Court held that defendant's inculpatory statement was involuntary and should have been suppressed but that the admission of that statement was harmless beyond a reasonable doubt, affirming the judgment of the appellate court, which affirmed the judgment of the circuit court.

People v. Grant, 2022 IL 126824 (April 21, 2022)

Defendant was convicted by a jury of aggravated criminal sexual assault and criminal sexual assault. The trial court merged the counts and sentenced defendant to 14 years in prison. In 2013, defendant filed a motion for forensic testing of a hair that was discovered during a post-assault examination of the victim. It was subsequently discovered that all the forensic evidence in the defendant's case was destroyed in 2007, pursuant to Peoria Police Department policy. The defense counsel moved for a new trial or judgment, which was denied by the circuit court. The appellate court reversed the circuit court, vacated the defendant's conviction, remanded for further proceedings, and ordered a jury instruction at any retrial that the State failed to preserve potentially exculpatory evidence as required and that the jury may construe that fact against the State. The Supreme Court reversed the judgment of the appellate court, determining that the appellate court erred by ordering a *vacatur* of the defendant's conviction, and affirmed the judgment of the circuit court.

Schultz v. St. Clair County, 2022 IL 126856 (April 21, 2022)

At issue in this case is whether the absolute immunity provided by the Tort Immunity Act (the Act) or the limited immunity provided by section 15.1(a) of the Emergency Telephone System Act (ETS Act) applies to claims premised on a St. Clair County 911 dispatcher's allegedly intentional or reckless refusal to dispatch emergency services when the caller was unable to provide an exact address. The plaintiff had called 911 seeking a police dispatch to prevent his wife, whom he believed to be intoxicated, from driving away in her vehicle. He provided the name of the store where his wife was but not an address, and the dispatcher repeatedly advised him that police would not be dispatched without an exact address. While plaintiff attempted to locate an exact address, his wife drove away from the convenience store and drove her vehicle off the road and died from her injuries. The plaintiff filed wrongful death and survival action against St. Clair County, its public safety agencies, and the dispatchers. The defendant sought dismissal of the motion, arguing they were immune from civil liability under section 4-102 of the Act. The circuit court granted the defendants' motion, finding that they had absolute immunity from civil liability under section 4-102 of the Act, and that the decedent's decision to drive while intoxicated was the sole proximate cause of her injuries and death. The appellate court affirmed the circuit court's dismissal. The Supreme Court affirmed the judgment of the appellate court, albeit on different grounds, and likewise affirmed the judgment of the circuit court.

Illinois Road and Transportation Builders Ass'n v. County of Cook, 2022 IL 127126 (April 21, 2022)

At issue in this case is the 2016 Transportation Taxes and Fees Lockbox Amendment or Safe Roads Amendment (Amendment), which provides that money generated from taxes, fees, excises, and license taxes on transportation infrastructure or operations shall only be spent on transportation purposes. Contracting firms in the public transportation construction and design industry filed suit for declaratory and injunctive relief against Cook County, with the plaintiffs alleging that the County was violating the Amendment by diverting "revenue from transportation-related taxes and fees to the County's Public Safety Fund" and impermissibly spending the revenue on non-transportation related purposes. The County filed a motion to dismiss, asserting that

“allocation of revenue to the Public Safety Fund is proper under the Amendment’s legislative history and ballot summary. The circuit court dismissed the complaint, finding that plaintiffs lacked standing and that the complaint failed to state a constitutional violation. The appellate court disagreed as to the issue of standing, concluding that plaintiffs had established associational standing but did not reach the plaintiffs’ alternative contention that they had standing as taxpayers and affirmed the circuit court’s dismissal. The Supreme Court reversed the circuit court’s dismissal, finding that the plaintiffs have associational standing and the moneys derived from the Cook County Transportation Taxes are subject to the Amendment.

Robinson v. Village of Sauk Village, 2022 IL 127236 (April 21, 2022)

At issue in this case is a question of whether the Local Governmental and Governmental Employees Tort Immunity Act (Act) provides immunity to several police officers and their government employers for injuries suffered by a pedestrian who was hit by a fleeing vehicle during a police chase, because the person the police officers were chasing was not “an escaped or escaping prisoner.” The circuit court granted the defendants’ motions for summary judgment, ruling that person the police were pursuing was in custody when the police officers pointed their weapons at him and ordered him to show his hands was an escaping prisoner after that point and that the defendants had absolute immunity from liability for plaintiff’s injuries. The appellate reversed the circuit court, holding that at the time when plaintiff was struck by the car the man was not “an escaped or escaping prisoner” as required for absolute immunity under section 4-106(b) of the Act. The Supreme Court affirmed the appellate court, concluding that the Act requires a showing that police officers directly limited or controlled a person’s freedom of movement to a particular place to trigger the absolute immunity.

People v. Leib, 2022 IL 126645 (June 16, 2022)

At issue in this case is whether a registered sex offender was in violation of his status by attending an event held in a parking lot across the street from a school. During trial, the defendant filed a motion for a directed verdict, arguing that the State had not established beyond a reasonable doubt that defendant knew the parking lot is “real property comprising any school.” This motion was denied by the circuit court and the defendant was found guilty of being a child sex offender knowingly present on real property comprising any school. The defendant appealed, claiming that the State did not prove beyond a reasonable doubt that the St. Louis Avenue parking lot is “real property comprising any school.” The appellate court affirmed the circuit court. The Supreme Court affirmed the appellate court, finding that the evidence presented in the bench trial was not so improbable or unsatisfactory as to create a reasonable doubt of defendant’s awareness of being on school grounds.

People v. Brown, 2022 IL 127201 (June 16, 2022)

This case, involving a defendant who had been charged with possessing a rifle for home self-defense without a Firearm Owners Identification (FOID) card, had previously come before the Supreme Court on direct appeal when in 2020 the Court vacated the judgment of the circuit court and remanded the case with directions to enter a specific order. On remand the circuit court concluded it would not be in the “best interests of justice” to follow the Court’s directions and

entered a different order. The Supreme Court determined that the circuit court had no authority to set aside the directions of the Court, entertain the defendant's motion to reconsider, and enter a different order. The Court vacated the circuit court's judgement and remanded the case to circuit court, stating that the circuit court shall not entertain any motion from any part nor take any action other than entering the modified order.

Holm v. Kodat, 2022 IL 127511 (June 16, 2022)

At issue in this case is whether the plaintiff has a right to kayak the entire length of the Mazon River free of claims of trespass which had been formally asserted by the defendants. The plaintiffs requested an order declaring that they had the right as riparian owners to kayak along the entire length of the Mazon River, including through property owned by the defendant, who owns a competing fossil business on the Mazon River. On summary judgment, the court found that the plaintiffs had a right to use of the surface water of the Mazon River to travel from their access property to their landlocked property and then from their landlocked property to a bridge. The defendants filed an amended motion to reconsider and vacate the circuit court's order and the court reversed its original decision, concluding that the plaintiffs' riparian rights of access were not superior to the defendants' rights of private ownership. The appellate court affirmed the circuit court's order granting summary judgment in favor of defendants. The Supreme Court affirmed the judgments of the circuit court and appellate court and concluded that the legislature would be the best venue to consider the plaintiffs' request for the creation of a new public policy on riparian rights for nonnavigable rivers and streams in Illinois.

Noland v. Mendoza, 2022 IL 127239 (September 22, 2022)

At issue in this case is whether the Salary Reduction Laws passed by the General Assembly violated the Legislative Salary Clause of the Illinois Constitution. The plaintiffs, who are former legislators, were seeking a writ of *mandamus* compelling the defendant, the Comptroller of the State of Illinois, to pay them and all affected legislators their disputed salaries. Both parties filed motions for summary judgment, and the circuit court found that the affirmative defenses of *laches* (an equitable doctrine that precludes the assertion of a claim by a litigant whose unreasonable delay in raising that claim has prejudiced the opposing party) and waiver failed as a matter of law and that the statute of limitations defense lacked merit. The circuit court did find however that the plaintiffs were entitled to relief for themselves but could not obtain relief on behalf of nonparty legislators, finding the laws at issue facially unconstitutional. The circuit entered partial summary judgment for the plaintiffs, ruling that they were entitled to *mandamus* relief against defendant on their claims seeking payment of their disputed salaries. Because the circuit court's judgment invalidated a statute of the State of Illinois, the appeal was taken directly to the Supreme Court. In the direct appeal to the Court that followed, the Court reversed the judgment for plaintiffs based on the defense of *laches*. The record established both elements of this equitable doctrine: (1) plaintiffs failed to diligently to bring their lawsuit, and (2) the delay prejudiced defendant, the comptroller.

In re Kelan W., 2022 IL 128031 (October 6, 2022)

This case addresses whether, under Section 5-120 of the Juvenile Court Act (705 ILCS 405/5-120) (the Act), the State can bring a delinquency petition against a minor for conduct committed entirely outside of Illinois. The respondent, a minor who resides in Illinois, was accused of taking a car in Missouri by force or the threat of force along with an adult accomplice. The two then drove the car to Illinois where they were apprehended. Following a four-count charge in Illinois, the respondent filed a motion to dismiss count I (aggravated vehicular hijacking) on the ground that the circuit court did not have the authority to consider a prosecution for acts committed by a juvenile entirely outside of Illinois. In response, the State asserted that juvenile court procedure is defined by statute and that delinquency proceedings based on out-of-state conduct are explicitly permitted under the Act. The circuit court entered an order holding that it did not have the authority, or the required jurisdiction, to rule on violations of Missouri law and dismissed count I while allowing the remaining three counts to proceed. The appellate court found that the plain language of section 5-120 of the Act is clear and unambiguous and that it authorizes delinquency proceedings against a minor in Illinois who violates another state's law and reversed the dismissal of the charge contained in count I by the circuit court. The Supreme Court affirmed the reversal of the appellate court, finding the language of section 5-120 unambiguous and remanded the case to the circuit court for further proceedings.

People v. Stewart, 2022 IL 126116 (October 20, 2022)

At issue in this case is whether a defendant who was 17 years old when he was convicted of his first felony offense in 2013 was eligible for Class X sentencing, under which the defendant was sentenced to six years in prison. The defendant was convicted in the circuit court of possession of a stolen motor vehicle and given his two predicate felony convictions was found eligible for Class X sentencing. The defendant appealed and argued that, following amendments to the Juvenile Court Act of 1987, if he had committed the residential burglary on August 13, 2016 (the date that the current offense was committed) it would have resulted in a juvenile adjudication, not a felony conviction. He argued, therefore, that it was not a qualifying felony offense for Class X sentencing. The appellate court held that defendant's first felony offense in 2013 was not a qualifying offense for Class X sentencing under section 5-4.5-95(b) of the Unified Code of Corrections (Code) and vacated the defendant's Class X sentence and remanded the cause to the circuit court for resentencing as a Class 2 offender. The State petitioned for appeal and the Supreme Court held that the trial court erred in sentencing the defendant as a Class X offender under section 5-4.5-95(b) of the Code and affirmed the judgment of the appellate court.

People v. Sauls, 2022 IL 127732 (November 28, 2022)

This case addresses whether the trial court erred in quashing the defendant's pretrial subpoena *duces tecum* without first reviewing *in camera* the requested discovery documents and if the State failed to prove the defendant's guilt beyond a reasonable doubt. The defendant was charged in 2018 with one count of predatory criminal sexual assault of a child. During pretrial hearings, the defendant sought Department of Children and Family Services (DCFS) documents pertaining to an investigation against the complainant's mother and the mother's "live-in girlfriend." The State responded that it requested the documents from DCFS but was not successful

in obtaining them and that it had searched local police databases for police reports that would satisfy defendant's request but that it appeared no such reports existed. The trial judge entered an order directing the circuit court clerk to issue a subpoena *duces tecum*, drafted by the defense counsel, to DCFS. The DCFS, through the Attorney General of Illinois, filed a motion to quash the subpoena, contending that the records sought by the subpoena pertained to an unfounded report, which was "confidential and inadmissible under Illinois law." The DCFS offered to turn over the report to the trial court for an *in camera* review. The State objected to an *in camera* review of the requested documents because the DCFS report was unfounded and not admissible at trial, while the defense counsel argued that the information in the reports was relevant. After hearing argument from both parties, the trial court granted DCFS's motion and quashed the subpoena, without requiring production or *in camera* review of the requested documents. The defendant was found guilty in trial court and sentenced to 20 years in prison. The defendant appealed and the appellate court affirmed the conviction, holding that the evidence was sufficient to sustain the conviction beyond a reasonable doubt and rejecting the defendant's argument that the trial court deprived him of his constitutional right to material evidence by quashing his subpoena *duces tecum* without first reviewing the documents *in camera*. The Supreme Court reversed the appellate court, determining that DCFS did not object to the subpoena *duces tecum* on the grounds that the moving party must show the sole basis for the motion to quash was that the documents were confidential and inadmissible under the Reporting Act. On the question of reasonable doubt, the Court determined that a rational trier of fact could have found the required elements of the crime beyond a reasonable doubt and found the evidence at trial sufficient to convict the defendant. The Court remanded the case to trial court to perform an *in camera* review of the documents described in the subpoena to determine whether they contain information which could have changed the outcome of the trial and that if so, the defendant should be granted a new trial; and if not, his conviction should not be disturbed.

Kloeppe v. Champaign County Board, 2022 IL 127997 (November 28, 2022)

At issue in this case is whether in an Illinois county with a county executive form of government, the power to appoint a person to fill a vacancy resides with the county executive or the chair of the county board. In 2016, the people of Champaign County approved a referendum to change their form of county government to a county executive form. In the 2018 general election, the plaintiff was elected to serve as Champaign County Executive. Following the election, the defendant continued to select one of its members as chair of the board and when vacancies arose in elected county offices, they were filled by the chair of the county board as they had been prior to the change in the form of county government, while vacancies in non-elected county positions were filled by the plaintiff. In 2020, the plaintiff filed a declaratory judgment action in the circuit court in which she alleged the chair of the Champaign County Board had usurped her authority as Champaign County executive by filling the vacancies in the county treasurer and county board positions. The plaintiff acknowledged that section 25-11 of the Election Code states that vacancies in elected county offices "shall be filled by the chairman of the county board," but maintained that the position of county board chair does not exist in a county executive form of government. The defendant responded that the county board chair had not usurped the power of the county executive and maintained that, under the plain language of section 25-11, the power to fill vacancies in elected county positions resides with the chair of a county board. The circuit court granted summary judgment for the plaintiff. The appellate court reversed the circuit court, agreeing

with defendant that the plain language of section 25-11 grants the power to fill vacancies in elected county offices to the chair of the county board. The Supreme Court affirmed the judgement of the appellate court, finding that the power of appointment resides with the chair of the Champaign County Board.

Channon v. Westward Management, Inc., 2022 IL 128040 (November 28, 2022)

At issue in this case is whether section 22.1 of the Condominium Property Act (Act) provides an implied cause of action in favor of a condominium unit seller against a property manager based on allegations that the property manager charged excessive fees for the production of information required to be disclosed to a prospective buyer under that statute. The plaintiff entered in a contract with a buyer for their condominium unit and were required under section 22.1 to obtain specific disclosure documents from the Association prior to a sale to provide them to potential buyers on request. The defendant charged \$245 for the documents and was later named in a class-action lawsuit by the plaintiff, who alleged that Westward violated section 22.1 of the Act by charging unreasonable fees for the statutorily required documents, and in a separate count, asserted that the defendant's conduct also violated the Consumer Fraud and Deceptive Business Practices Act (Fraud Act). The defendant's motion to dismiss was denied but the trial court certified the question of law to the appellate court, who then applied the four-factor test from *Metzger v. DaRosa*, 209 Ill. 2d 30, 36 (2004) (*Metzger*). The appellate court answered the certified question in the affirmative, concluding that the defendant could also be liable if it actively participated in breaching the Association's section 22.1 duty. The defendant appealed and the Supreme Court reversed the appellate court after also applying the test from *Metzger*, concluding that section 22.1 of the Act does not create an implied private right of action by condominium unit sellers. Having answered the certified question of law in the negative, the Supreme Court remanded the case to the circuit court.

Chicago Sun-Times v. Cook County Health & Hospital Systems, 2022 IL 127519 (November 30, 2022)

At issue in this case is whether information, which was contained in medical records, about gunshot wound patients who arrive at the defendant's emergency rooms unaccompanied by law enforcement, is exempt from disclosure under the Freedom of Information Act (FOIA). The plaintiff, the Chicago Sun-Times, was investigating whether the defendant was meeting a requirement to notify local law enforcement when so-called "walk-in" gunshot wound patients are treated. The plaintiff asked for the "time/date" of each relevant hospital admission and the corresponding "time/date" of law enforcement notification. The defendant asserted two FOIA exemptions and withheld these records, claiming they contained personal health information prohibited from disclosure by the Health Insurance Portability and Accountability Act (HIPAA) and private information barred from disclosure under FOIA. The circuit court ruled for the defendant on the parties' cross-motions for summary judgment and stated that because the year identifier was part of a medical record it was exempt from disclosure under section 7(1)(b) of FOIA. The appellate court reversed the summary judgment, holding that HIPAA and FOIA permitted the release of the year elements of the records as long as the individual identifying information was redacted because the year element, alone, does not convey identifying information. The Supreme Court affirmed the appellate court's judgement, holding that the

responsive information is not exempt from disclosure under the two exemptions addressed in the parties' cross-motions for summary judgment, and remanded the cause for further proceedings.