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Every year, tens of thousands of Illinoisans struggle to navigate the legal system due to a lack of financial resources. While there is a constitutional guarantee for legal representation in criminal matters, no such guarantee exists for civil matters. Those facing abuse, discrimination, divorce, eviction and other civil legal problems are left to sort through those issues alone. Through public interest law and pro bono service, the legal community plays a vital role in ensuring our legal system is fair and accessible for all by providing free legal help to those in need.

**PILI’s mission** is to cultivate a lifelong commitment to public interest law and pro bono service within the Illinois legal community to expand the availability of legal services for people, families and communities in need.

**We envision** a legal community with a deeply rooted culture of service, where law students, lawyers and legal professionals at all stages of their careers engage in public interest law or pro bono work, and remain committed to addressing the unmet legal needs of the poor and underrepresented.

**OUR PROGRAMS:**

PILI’s **Law Student Internship** and **Graduate Fellowship Programs** place law students and recent law school graduates at public interest law organizations, with PILI providing supplemental educational, networking and mentoring opportunities.

Our **Alumni Network** builds and maintains the connection between past PILI Interns and Fellows and the public interest law community through educational, networking, leadership, and service opportunities.

Our **Pro Bono Program** works to increase the availability of pro bono legal help for those who cannot afford an attorney in Illinois by developing innovative pro bono opportunities, offering pro bono programming and resources, cultivating best practices, and celebrating the life-changing pro bono performed throughout the state.
Pro Bono Volunteer Opportunities

Through the below pro bono opportunities, you can provide critically needed legal services to individuals and families in need. We hope you will get involved and also help spread the word!

**ILLINOIS ARMED FORCES LEGAL AID NETWORK**

Illinois Armed Forces Legal Aid Network (IL-AFLAN) provides civil legal services across Illinois to veterans, active duty military and their spouses and dependents. As an IL-AFLAN member, PILI refers pro bono matters to volunteer attorneys in the 101 counties outside of Cook County.

- Offer advice • Provide limited scope representation • Take a case

**PILI PRO BONO MENTORSHIP PROGRAM**

Through PILI’s Pro Bono Mentorship Program, volunteer attorneys who lack experience in a particular area of law will be paired with a more experienced attorney for advice and counsel to ensure competent representation of pro bono clients. The purpose of this program is to increase the number of clients who receive pro bono assistance while simultaneously offering a unique and invaluable learning opportunity for attorneys.

- Offer advice • Network with Other Attorneys • Increase Pro Bono Volunteerism

---

**Be a volunteer!**

Name: __________________________ Email: __________________________ Phone: __________________________

For which pro bono opportunities would you like to volunteer?

- [ ] Illinois Armed Forces Legal Aid Network
- [ ] Become a Pro Bono Mentor

---

**Thank you!**

Please turn this into a PILI staff member and someone will follow up about these pro bono opportunities soon.

Sarah Taylor  
Public Interest Law Initiative (PILI)  
P.O. Box 5095  
Champaign, IL 61825  
217-693-6017  
staylor@pili.org
12th ANNUAL JOINT CLE CONFERENCE

April 26, 2019

8:00 – 8:45 a.m.  Registration & Breakfast

8:45 – 9:00 a.m.  Welcome

9:00 – 10:00 a.m. Overview of Legal Issues & Protections for Veterans (1.0 MCLE)  
Martin D. Parsons, JD, Director, Veterans’ Legal Assistance Program, SIU School of Law

10:00 – 11:00 a.m. Dismantling Assimilationism in the Legal Profession (1.0 MCLE, incl. 1.0 PMCLE*)  
Christopher Pickett, JD, Officer, Litigation Practice Group & Chief Diversity Officer, Greenfelder, Hemker & Gale

11:00 – 11:15 a.m. Break

11:15 – 12:15 p.m. The Basics of Adult Guardianships (1.0 MCLE)  
Rebecca J. O’Neill, JD, Clinical Professor, SIU School of Law

12:15 – 1:00 p.m. Lunch–Sponsored by ISBA Mutual Ins. & Provided by Panera Bread Co.  
(Followed by a word from our sponsors)

1:15 – 2:15 p.m. Limited Scope Representation: A New Tool in Your Lawyer Toolkit (1.0 MCLE, incl. 1.0 PMCLE*)  
(Moderator Sarah J. Taylor, JD, Public Interest Law Initiative (PILI); Michael G. Bergmann, JD, Executive Director, Public Interest Law Initiative (PILI) & Steve Splitt, JD, Senior Counsel, ARDC

2:15 – 2:30 p.m. Break

2:30 – 3:30 p.m. Session 1: New Cases on the Block: Pending Decisions & Recent Precedent in Criminal Law (1.0 MCLE)  
Timothy J. Ting, JD, Assistant Public Defender, Jackson Co. Public Defender  
OR

Session 2: On Behalf of Children: Child Development for Attorneys (1.0 MCLE)  
Dr. Stacy D. Thompson, Ph.D, Professor, Dept. of Curriculum & Instruction, SIUC; Dr. Holly Cormier, Ph.D, Director, SIU Clinical Center

3:40 – 4:40 p.m. Mitigating Cyber Perils for Lawyers (1.0 MCLE, incl. 1.0 PMCLE*)  
Brian Olson, Director of Member Services, ISBA Mutual Insurance Co.

4:45 – 6:00 p.m. Reception-Sponsored by Chicago Title Land Trust Co.

Note: Statements/opinions of speakers are not necessarily those of, nor endorsed by, SIU/JCBA/WCBA/sponsors.  
*Professionalism Credit has been applied for.
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Overview of Legal Issues & Protections for Veterans

Martin D. Parsons, JD
Director, Veterans' Legal Assistance Program
SIU School of Law
About The Faculty

MARTIN PARSONS is an adjunct professor and the Director of SIU School of Law’s Veterans’ Legal Assistance Program (“VLAP”). The VLAP assists veterans in VA disability claims appeals, petitions for discharge upgrades in limited circumstances, and referrals for other civil legal matters.

Martin retired from the military after spending four years on active duty in the Marine Corps and twenty-two years, part-time and full-time, in the Illinois Army National Guard. While in the National Guard, Martin served in Iraq from 2005 to 2006 with the 2-130th Infantry Battalion in support of Operation Iraqi Freedom. After retiring from the military, Martin decided to attend law school and graduated from SIU School of Law in May of 2015. Martin received his Bachelor of Arts from Western Illinois University in 2006.

Martin is a member of American Bar Association, Illinois State Bar Association, Jackson County Bar Association, Southern Illinois American Inns of Court, Southern Illinois Veterans Coalition, and American Legion Post 384.

He is licensed in Illinois and Missouri. He is admitted to practice in the U.S. District Court for the Southern District of Illinois, and is an Accredited Attorney for claims for veteran’s benefits before the Department of Veterans Affairs. He is also Vice-Chair of ISBA Standing Committee on Military Affairs.

Faculty Contact Information

Martin Parsons, J.D., Director
Veterans’ Legal Assistance Program
SIU School of Law
1150 Douglas Drive
Carbondale, IL 62901
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martin.parsons@siu.edu
OVERVIEW OF LEGAL ISSUES AND PROTECTIONS FOR VETERANS

Martin Parsons
Director - SIU School of Law
Veterans' Legal Assistance Program

DISCLAIMER

VETERAN DEFINED

• Title 38 of the Code of Federal Regulations defines a veteran as "a person who served in the active military, naval, or air service and who was discharged or released under conditions other than dishonorable."

• DD Form 214
DISCHARGE UPGRADES

- Discharge characterizations
- Benefits lost
- Hagel Memo
- Process for upgrade
- Great *pro bono* opportunity!

VETERANS BENEFITS...

- VA Health Care
- VA Pensions
- Disability Compensation
- Education and Training
  - Post 9/11 GI Bill
- VA Home Loan Guaranty
- VA Life Insurance
- Burial and Memorial Benefits
- Real Estate Tax Reduction or Exemption (Illinois)
- Dependent and Survivors Health Care
- Dependents and Survivors Benefits
  - Accrued Benefits
  - Dependency and Indemnity Compensation (DIC)
  - Death Pension

FAMILY LAW – GENERAL ISSUES

- Divorce
- Parenting Time
- Child Support and Modification
- Orders of Protection
FAMILY LAW - SPECIFIC ISSUES

• Division of retirement benefits
• Entitlement to disability payments by non-military spouse
• Impact of PTSD or other psychological or physical disability on ability to work

OTHER CIVIL LEGAL ISSUES


SERVICEMEMBERS CIVIL RELIEF ACT (SCRA)

The SCRA covers all active duty servicemembers, Reservists, and the members of the National Guard while on active duty. The protection begins on the date of entering active duty and generally terminates within 30 to 90 days after the date of discharge from active duty.
SCRA - PROTECTIONS

• Protections against eviction
• Stops foreclosure without a court order
• Vehicle can't be repossessed without a court order
• Can't be taken to court for civil proceedings, including divorce and child support
• Self-storage facility owner can't sell belongings without a court order

SCRA - BENEFITS

• May terminate telecom contract
• Terminate vehicle lease
• Terminate housing lease if dep. 90+
• Military spouse home of record choice
• Limits interest on loans
• Delayed payment won't reflect on credit score

EMPLOYMENT PROTECTIONS

• USERRA
• ISERRA
• IHRA
• ADA
CRIMINAL CHALLENGES AND ALTERNATIVE RESPONSES

• Affects of PTSD on behavior
• Alcohol or drug dependency
• Veterans Treatment Courts

MILITARY BENEFITS

• Monthly Pay Check
• Retirement Pay
• Health Care

VA BENEFITS

• Monthly Disability Compensation
• VA Pension
• VA Health Care
VA COMPENSATION
APPLICATION PROCESS

• Application by Veteran or VSO.
• Response from VA – Approval or Denial.
• If denied – Veteran, VSO, or attorney files NOD.
• Response from VA.
• If denied – Veteran, VSO, or attorney files appeal.
• Response from VA.
• If denied – Attorney files appeal with CAVC.

VOLUNTEER OPPORTUNITIES

• PILI - Illinois Armed Forces Legal Aid Network for civil matters.
  POC – Sarah Taylor at staylor@pili.org or 1-217-693-6017 or
  http://pili.org/pro-bono/il-aflan

• SIU School of Law Veterans’ Legal Assistance Program for discharge upgrades. 1-618-453-8280

RESOURCES

• Illinois Attorney General’s Military and Veterans Rights Bureau. 1-800-382-3000
• Illinois Armed Forces Legal Aid Network.
  1-855-452-3526
• SIU School of Law Veterans’ Legal Assistance Program. 1-618-453-8280
WHAT ARE YOUR QUESTIONS?

Contact information:

- Martin Parsons
  - martin.parsons@siu.edu
  - Office number: 618-453-8797
FREE LEGAL AID

ILLINOIS ARMED FORCES LEGAL AID NETWORK

Civil legal issues such as . . .
- Family
- Discharge Upgrades
- Housing
- Consumer
- VA Benefits

Call to speak with an attorney
Monday - Friday
9:00 a.m. - 4:30 p.m.

ELIGIBILITY:
- Active Duty
- Veteran
- National Guard
- Reserve
- Qualified spouse or dependent
- 80% Chicago area median income (statewide)
- Not dishonorably discharged
- Spouse/dependent cannot take legal position adverse to veteran

855-IL-AFLAN (452-3526)

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Volunteer to Help Veterans

The Illinois Armed Forces Legal Aid Network (IL-AFLAN) provides civil legal services across Illinois to veterans, active duty military and their spouses and dependents. As an IL-AFLAN member, PILI refers pro bono matters in the 101 counties outside of Cook County. If you would be willing to take one of these cases, please sign up!

www.pili.org/il-aflan

Questions?
Contact Sarah Taylor at staylor@pili.org or 217-693-6017.

For more information about IL-AFLAN, visit www ilaflan.org.
Dismantling Assimilationism in the Legal Profession

Christopher Pickett, JD
Officer, Litigation Practice Group & Chief Diversity Officer
Greensfelder, Hemker & Gale
About The Faculty

CHRIS PICKETT is an Officer in Greensfielder, Hemker & Gale, P.C.’s Litigation Practice Group. He focuses his practice on complex commercial litigation, securities litigation and arbitration and employment disputes. Chris began his career as a public defender, enabling him to first chair over forty jury trials and successfully brief and argue matters before the appellate courts. He received his Bachelor’s degree at St. Louis University in 1996 and he is a 2001 graduate from St. Louis University School of Law.

Chris now represents plaintiffs and defendants in a wide array of business litigation matters. His particular areas of expertise are employment disputes, unfair competition, and securities litigation. He regularly defends employers in discrimination claims, covenants not to compete, trade secret disputes, and claims of breach of fiduciary duty and unfair competition. Chris has a network of local counsel that has allowed him to seek and obtain hundreds of injunctions in approximately forty states. His securities practice also includes representing brokerage firms in recruiting and raiding cases as well as investor actions before the Financial Industry Regulatory Authority (FINRA). He has first chaired dozens of matters before FINRA arbitration panels.

Chris also is the firm’s chief diversity officer, leading efforts to foster an increasingly diverse and inclusive workplace and to recruit and retain diverse talent. Since joining Greensfelder in 2012, he has helped lead the firm’s diversity initiatives first as chairman of the firm’s Diversity & Inclusion Committee and later as chief diversity officer. In addition, in 2013, he was named as a Leadership Council on Legal Diversity fellow, participating in a national leadership program for high-performing attorneys from diverse backgrounds. Chris received the Missouri Lawyers Media Diversity & Inclusion Award in July 2018. Among his published works on a variety of topics, Chris published “A holistic approach to true law firm diversity” in the Westlaw Journal in December 2017 and “The Power of Accountability to Achieve Diversity and Inclusion” in Today’s General Counsel, October-November 2017.
Faculty Contact Information

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St. Louis, MO 63102
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Dismantling Assimilationism in the Legal Profession
CLE Training
Chris Pickett, Chief Diversity Officer, Greensfelder, Hemker & Gale PC

Outline:

I. Where we Are (10 minutes)
   a. Assimilation
   b. Assimilationism
   c. Current legal industry demographics

II. How and Why we Got Here (20 minutes)
   a. Why the specific focus on assimilation?
   b. Why is the legal profession behind other sectors in their diversity and inclusion progress?
   c. How assimilationism plays out
      i. Audience Participation
   d. Which groups and communities are impacted most by expectations of conformity and assimilation?
   e. How are people from said communities affected by those expectations of conformity and assimilation?
   f. Consequences of not assimilating
   g. What are the costs to the legal industry if they do not learn to practice true inclusion?

III. How to do Better (15 minutes)
   a. Key takeaway: assimilation is not inclusion
   b. Get clear on how your organization really defines “inclusion”
   c. Question everything/Ask why
   d. Get uncomfortable
   e. Start with the people you already have
   f. Revisit on a regular basis

IV. Audience Questions and Feedback (15 minutes or remainder)

See also, Discomfort at Work: Workplace Assimilation Demands and the Contact Hypothesis, by Tristin K. Green, Professor of Law and Associate Dean for Faculty Scholarship, University of San Francisco School of Law.
https://scholarship.law.unc.edu/cgi/viewcontent.cgi?article=4300&context=nclr.
Dismantling Assimilation in the Legal Profession

A Talk by Chris Pickett
Chief Diversity Officer @ Greensfelder, Hemker & Gale, P.C.
Definitions

- **Assimilation**
  - The process whereby individuals or groups of differing ethnic heritage are absorbed into the dominant culture of a society.

- **Assimilationism**
  - The practice or policy of assimilating or encouraging the assimilation of people from all ethnic groups and cultures of origin.
Current Demographics
(source: Institute for Inclusion in the Legal Profession, 2016)

- In 2015, minority representation among lawyers was 14.5%, compared to 24.5% among financial managers, 28.2% among accountants and auditors, 44.2% among software developers, and 31.2% among physicians and surgeons

- Women make up only 17.4% of equity partners in law firms

- "Minority" women are especially underrepresented, making up just 2.6% of law partners nationally
How and Why we got Here

- Why the specific focus on assimilation?

- Why is the legal profession behind other sectors in terms of progress on diversity and inclusion?

- Which groups and communities are impacted most by expectations of conformity and assimilation and how are they affected?
How Assimilation Plays Out

- Audience feedback
How and Why we got Here

- What are the consequences to the legal industry if they do not learn how to implement inclusion in their cultures?
How to do Better

- Understand: Assimilation is not inclusion

- Get clear on how your organization really defines “inclusion”

- Question everything/Ask why
How to do Better

- Get uncomfortable
- Start with the people you already have
- Revisit on a regular basis
Audience Questions & Feedback
The Basics of Adult Guardianships

Rebecca J. O’Neill, JD
Clinical Professor
SIU School of Law
About The Faculty

For the past twenty-eight years, REBECCA J. O’NEILL has been a civil practice attorney and clinical professor at Southern Illinois University School of Law in the Civil Practice Legal Clinic for Elderly, a clinic devoted to serving persons age 60 and older in the southern thirteen counties in Illinois. During her tenure at the law school, Rebecca also taught Family Law for ten years. Prior to joining the law school, Rebecca was in private practice for three years.

Rebecca has written numerous articles for law journals and other publications on family law, grandparents’ rights, health law, and surrogate decision-making. She has presented numerous trainings to attorneys, judges, physicians, nurses, mental health workers, social workers, other law professors, and to the public. Rebecca served as a Professor for the Administrative Office of Illinois Courts for several years and wrote Bench Books and conducted court trainings in family law, juvenile law, and domestic violence.

In 2005, Rebecca was honored by Southern Illinois University with the Lindell W. Sturgis Memorial Public Service Award, for service to the community, area, state and nation. In 2010, Rebecca received the Southern Business Journal Leaders Among Us award for making the Southern Illinois Region a Better Place to Work and Live, for her efforts toward Artstarts Company, a non-profit that provides opportunities in the arts for children throughout the region. In 2010, the Southern Illinois Chapter of the United Nations Association of the United States of America honored Rebecca with the Human Rights Defender Award.

Faculty Contact Information

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GUARDIANSHIP IN ILLINOIS
April 26, 2019
12th Annual Joint CLE Conference-SIU School of Law
The Basics of Adult Guardianships
Rebecca J. O'Neill, Clinical Professor, SIU School of Law

Disabled Adults - §11a of Probate Act

Minors - §11 of Probate Act

I.    General Provisions
A.    Disabled Person - §11a-2
    A person 18 years or older who (a) because of mental deterioration or physical
    incapacity is not fully able to manage his person or estate, or (b) is a person with
    mental illness or developmental disability who is not fully able to manage his
    person or estate, or (c) because of gambling, idleness, debauchery or excessive
    use of intoxicants or drugs, so spends or wastes his estate as to expose himself or
    his family to want or suffering, or (d) is diagnosed with fetal alcohol syndrome or
    fetal alcohol effects.

B.    Determine type
1.    Plenary / Limited
2.    Person / Estate

C.    Determine who will be guardian - §11a-5
    A person 18+ who is a resident of US and is not of unsound mind, an adjudged
    disabled person or a convicted felon and who the court finds is capable of
    providing an active and suitable program of guardianship.
1.    Office of State Guardian - estate of less than $25,000
2.    County Public Guardian
3.    Volunteer Guardian

II.   Procedures to get guardian appointed
A.    Petition - §11a-8
B.    Physician’s Report - §11a-9(a)
C.    Guardian Ad Litem - GAL - §11a-10
D.    Summons - §11a-10(c)
E.    Notice - §11a-10(f)

III.  Hearing - §11a-11 and §11a-23
A.    Ward should be present unless excused by Court
B.    Ward has a right to jury trial and an attorney and to a closed proceeding
IV. **Specific Findings §11a-14-14.1**
Court has to make specific findings
1. Limited guardianship not sufficient
2. Person / Estate
3. Order for residential placement
4. Sale of real estate §20-1-§20-24

V. **Oath and Bond §12-2-12-9**
A. Every guardian shall take and file an oath or affirmation that the individual with faithfully discharge the duties of the office according to law and shall file and have approved by the court a bond binding the guardian. §12-2
B. Court may waive the filing of the bond. §12-2
C. Surety-every bond must have not less than 2 sureties or one surety company qualified to do business in IL. §12-3
D. Security is sometimes excused. §12-4
E. **Amount of Bond.** Not less than double the value of the personal estate if individuals act as sureties or if the bond security is excused and not less than 1 ½ times the value of the personal estate if surety company acts as surety. §12-5
F. Additional bond required for proceeds of sale of real estate. The bond shall be for an amount not less that double the value of the personal estate likely to come in the hands from the proceeds of the sale or mortgage. §12-9

VI. **Legal Affect of Guardianship**

*Does not defeat a Power of Attorney*

5/11a-17(c) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian has no power, authority, duty or liability with respect to any personal or health care matters covered by the agency.

5/11a-18(e) Absent court order pursuant to the Illinois Power of Attorney Act directing a guardian to exercise powers of the principal under an agency that survives disability, the guardian will have no power, authority, duty or liability with respect to any property subject to the agency.

45/2-10 **Agency-court relationship** (See this statute below)

40/25 (a) Guardian of the person becomes the first party in priority for making health care decisions or life-sustaining treatment decisions under the Health Care Surrogate Act. Guardian of the estate is last in priority.
VII. Post hearing procedures

A. Letters of Office
B. Notice of right to seek modification - §11a-19
C. Inventory (within 60 days after issuance of letters) §14-1
D. Report §11a-17(b) at intervals indicated by court
E. Accounts §24-11

755 ILCS 45/2-10. Agency-court relationship.
(a) Upon petition by any interested person (including the agent), with such notice to interested persons as the court directs and a finding by the court that the principal lacks either the capacity to control or the capacity to revoke the agency, the court may construe a power of attorney, review the agent's conduct, and grant appropriate relief including compensatory damages.
(b) If the court finds that the agent is not acting for the benefit of the principal in accordance with the terms of the agency or that the agent's action or inaction has caused or threatens substantial harm to the principal's person or property in a manner not authorized or intended by the principal, the court may order a guardian of the principal's person or estate to exercise any powers of the principal under the agency, including the power to revoke the agency, or may enter such other orders without appointment of a guardian as the court deems necessary to provide for the best interests of the principal.
(c) If the court finds that the agency requires interpretation, the court may construe the agency and instruct the agent, but the court may not amend the agency.
(d) If the court finds that the agent has not acted for the benefit of the principal in accordance with the terms of the agency and the Illinois Power of Attorney Act, or that the agent's action caused or threatened substantial harm to the principal's person or property in a manner not authorized or intended by the principal, then the agent shall not be authorized to pay or be reimbursed from the estate of the principal the attorneys' fees and costs of the agent in defending a proceeding brought pursuant to this Section.
(e) Upon a finding that the agent's action has caused substantial harm to the principal's person or property, the court may assess against the agent reasonable costs and attorney's fees to a prevailing party who is a provider agency as defined in Section 2 of the Adult Protective Services Act, a representative of the Office of the State Long Term Care Ombudsman, the State Guardian, a public guardian, or a governmental agency having regulatory authority to protect the welfare of the principal.
(f) As used in this Section, the term "interested person" includes (1) the principal or the agent; (2) a guardian of the person, guardian of the estate, or other fiduciary charged with management of the principal's property; (3) the principal's spouse, parent, or descendant; (4) a person who would be a presumptive heir-at-law of the principal; (5) a person named as a beneficiary to receive any property, benefit, or contractual right upon the principal's death, or as a beneficiary of a trust created by or for the principal; (6) a provider agency as defined in Section 2 of the Adult Protective Services Act, a representative of the Office of the State Long Term Care Ombudsman, the State Guardian, a public guardian, or a governmental agency having regulatory authority to protect the welfare of the principal; and (7) the principal's caregiver or another person who demonstrates sufficient interest in the principal's welfare.
(g) Absent court order directing a guardian to exercise powers of the principal under the agency, a guardian will have no power, duty or liability with respect to any property subject to the agency or any personal or health care matters covered by the agency.
(h) Proceedings under this Section shall be commenced in the county where the guardian was appointed or, if no Illinois guardian is acting, then in the county where the agent or principal resides or where the principal owns real property.
(i) This Section shall not be construed to limit any other remedies available.

Credits
GUARDIANSHIP IN ILLINOIS
TIME TABLE FOR EVENTS
April 26, 2019
12th Annual Joint CLE Conference-SIU School of Law
The Basics of Adult Guardianships
Rebecca J. O'Neill, Clinical Professor, SIU School of Law

1. Physician’s Report. A physician’s report must be filed at least 10 days prior to the hearing. The report must be based upon an examination that was performed within 3 months from the date of filing the petition. 755 ILCS 11a-9. Normally, the physician’s report is obtained prior to filing the petition and is filed when the petition is filed.

2. Hearing must be scheduled within 30 days from the date the petition is filed. 755 ILCS 11a-10.

3. Temporary Hearing. A temporary hearing can be scheduled any time the court allows. The maximum period for a temporary guardianship is 60 days.

4. Notice of Hearing. The petitioner must give notice of the time and place of the hearing to those persons named in the petition, including the proposed guardian, not less than 14 days prior to the hearing. 755 ILCS 5/11a-10.

5. Summons. The respondent, must be served with a copy of the petition and summons not less than 14 days before the hearing. 755 ILCS 5/11a-10 (e).

6. Notice of Right to Seek Modification. At the time of the appointment of a guardian the court shall inform the ward of his right to petition for termination of adjudication of disability, revocation of the guardianship or to modify the guardianship. 755 ILCS 5/11a-19.

7. Inventory. Within 60 days from being appointed guardian of the estate, the guardian must file an inventory of the real and personal property of the ward. 755 ILCS 5/14-1.

8. Reports. The guardian of the person has a responsibility to file a report with the court, at intervals indicated by the court, stating the ward’s current status. 755 ILCS 5/11a-17.

9. Accounts. A guardian of the estate must file an account of all transactions made on behalf of the ward within 30 days after the expiration of one year after issuance of letters or within time court allows, and then as directed by the court, and if no time is set by the court, then once every 3 years from the date letters of office were issued. 755 ILCS 5/24-11.

10. Guardianship training program required for guardian of person within 1 year from date of issuance of letters of office. 755 ILCS 5/11a-12(e).
Limited Scope Representation: A New Tool in Your Lawyer Toolkit

Michael G. Bergmann, JD
Executive Director
Public Interest Law Initiative (PILI)

Steve Splitt, JD
Senior Counsel
ARDC

Moderated by
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Public Interest Law Initiative (PILI)
About The Moderator

SARAH J. TAYLOR has been the Pro Bono Program Manager for the Public Interest Law Initiative (PILI) since June 2018. In that capacity, she is responsible for managing PILI’s statewide Pro Bono Program, including its pro bono referral program through the Illinois Armed Forces Legal Aid Network (IL-AFLAN) and several Self-Represented Litigant Help Desks. She has been employed as an associate attorney with the Carbondale, Illinois law firm of Barrett, Twomey, Broom, Hughes & Hoke, LLP since 2004. As an associate attorney, her areas of practice have included probate litigation, guardianships, mediation, family law, eminent domain and civil litigation. From 2002 to 2004, she was employed as a research attorney with the Illinois Supreme Court in Springfield, Illinois.

Sarah received a Bachelor’s Degree in Cinema and Photography in 1997 from Southern Illinois University-Carbondale and a Juris Doctor in 2002 from Southern Illinois University School of Law.

Sarah is on the First Judicial Circuit’s Guardian ad Litem and Civil and Family Mediation rosters. She has also taught Client Interviewing and Counseling and Mediation Skills courses at Southern Illinois University School of Law as an adjunct professor.

She is a member and past President of the Jackson County Bar Association, a member of the Illinois State Bar Association, including its Family Law Section Council, Delivery of Legal Services Committee, and Standing Committee on Law-Related Education for the Public. She is also President of the Dispute Resolution Institute, Inc. She has completed basic mediation, civil and family mediation and advanced guardianship/eldercare mediation training programs. She has also represented clients as a pro bono attorney for Land of Lincoln Legal Aid and is a past member of its Board of Directors.
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About The Faculty

MICHAEL BERGMANN has served as PILI’s Executive Director since 2010. He originally joined PILI in 2006 as Pro Bono Initiative Director and more recently served as Director of Programs. Prior to joining PILI, Michael served as the Guardian Ad Litem Program Director for Chicago Volunteer Legal Services.

Michael is a frequent speaker on issues relating to legal aid, pro bono and public interest law at the state and national level. He is an Adjunct Professor at the DePaul University College of Law, where he also serves on the Dean’s Council. He also serves on the Advisory Board of the Chicago Lawyer Chapter of the American Constitution Society and the National Association for Law Placement’s PSJD Advisory Group. He previously served on the Cook County Elder Justice Center Task Force for the Elder Law and Miscellaneous Remedies Division for the Circuit Court of Cook County.

An active member of the American Bar Association, Michael is currently serving as Chair of the Section Officers Conference and in the ABA’s House of Delegates. He previously served as Chair of the ABA’s Judicial Division; only the third non-judge to hold that post. He is also a past chair of both the ABA Young Lawyers Division and of the Lawyers Conference of the Judicial Division. Michael is also a member of the Illinois State Bar Association where he serves on and is a past chair of the Standing Committee on the Delivery of Legal Services, and serves on the Bench & Bar Section Council and the ISBA Assembly.

Michael attended The Catholic University of America in Washington, D.C., where he earned his Bachelor of Arts in Politics. He received his Juris Doctor from DePaul University College of Law. Prior to and during law school, Michael was a consultant with PricewaterhouseCoopers LLP.

STEVE SPLITT is a senior counsel at the Illinois Attorney Registration and Disciplinary Commission and is one of three attorneys in the ARDC’s Appellate Group. He handles appeals of disciplinary cases before the Commission’s Review Board and the Illinois Supreme Court. He presents information about the ARDC and lawyer ethics to law schools and bar groups. He taught Lawyering Skills II at the John Marshall Law School from 1994 to 2015. Prior to joining the ARDC in 1998, he spent several years in the Illinois Attorney General’s Criminal Appeals Division working on death penalty cases. He also served as a law clerk to former Justice Lawrence Inglis of the Illinois Appellate Court, Second District.
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Limited Scope Representation: A New Tool for Your Lawyer Toolkit

12th ANNUAL JOINT CLE CONFERENCE
Jackson County Bar Association & Williamson County Bar Association
Friday, April 26, 2019
Today’s Agenda:

- What is Limited Scope Representation?
- Limited Scope Representation in Practice
- Limited Scope Representation and Pro Bono
- Limited Scope Representation Resources
Our Mission:

PILI’s mission is to cultivate a lifelong commitment to public interest law and pro bono service within the Illinois legal community to expand the availability of legal services for people, families and communities in need.

Our Vision:

We envision a legal community with a deeply rooted culture of service, where law students, lawyers and legal professionals at all stages of their careers engage in public interest law or pro bono work, and remain committed to addressing the unmet legal needs of the poor and underrepresented.
What is Limited Scope Representation?

- Also known as “unbundled” legal services
- Is a lawyer’s provision of legal services on a single or limited portion of a client’s legal matter.
- It can be litigation or non-litigation and take the form of:
  - advising a client on discrete aspects of a transaction or proposed course of conduct;
  - advising a client as to how to respond to proposals or the arguments of an adverse party;
  - reviewing or drafting pleadings to be filed by the client;
  - attending and participating in certain depositions or court hearings;
  - and more.
- Adopted in at least 18 other states.
Why Limited Scope Representation?

Increasing numbers of self-represented litigants in state courts across the country, due to:

• an inability of legal consumers (including middle class consumers) to afford lawyers;
• decreasing funds for legal aid services, especially government funding; and
• a preference for self-representation encouraged by the availability of non-traditional legal assistance such as on-line information and forms.

The increasing number of self-represented litigants adversely affects the administration of justice.
Changes to Supreme Court Rules and Rules of Professional Conduct

Illinois Rules of Professional Conduct of 2010:
• Rule 1.2(c): “A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.”

2013 Rule Changes Approved by Illinois Supreme Court:
• Supreme Court Rule 11 (amended to clarify when a lawyer making a limited scope appearance must be served)
• Supreme Court Rule 13 (amended to allow attorneys to file limited scope appearances regarding one or more specific aspects of a proceeding, and then withdraw on motion after completing the agreed scope of representation)
• Supreme Court Rule 137 (amended to permit attorneys to assist self-represented persons in drafting or reviewing pleadings, motions and other documents without filing a general or limited scope appearance)
• Comments to Rule of Professional Conduct 4.2 (amended to clarify communications by an attorney with a person represented on a limited basis)
• Comments to Rule of Professional Conduct 1.2 and 5.5 (cross references added)
Rule 1.2 – Scope of Representation and Allocation of Authority Between Lawyer and Client

...a lawyer shall abide by a client’s decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued...

Except:
(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.
Supreme Court Rule 13 (c) (6) - Appearances:

An attorney may make a limited scope appearance on behalf of a party in a civil proceeding pursuant to Rule of Professional Conduct 1.2(c) when the attorney has entered into a written agreement with that party to provide limited scope representation. The attorney shall file a Notice of Limited Scope Appearance [provided in the form appendix], identifying each aspect of the proceeding to which the limited scope appearance pertains.

An attorney may file a Notice of Limited Scope Appearance more than once in a case. An attorney must file a new Notice of Limited Scope Appearance before any additional aspect of the proceeding in which the attorney intends to appear. A party shall not be required to pay more than one appearance fee in a case.”
Rule 137 (e): Attorney Assistance Not Requiring an Appearance or Signature

An attorney may assist a self-represented person in drafting or reviewing a pleading, motion, or other paper without making a general or limited scope appearance. Such assistance does not constitute either a general or limited scope appearance by the attorney. The self-represented person shall sign the pleading, motion, or other paper. An attorney providing drafting or reviewing assistance may rely on the self-represented person’s representation of facts without further investigation by the attorney, unless the attorney knows that such representations are false.
How Does Limited Scope Representation Work?

- For litigation matters:
  - Attorney must enter into written agreement with party to provide limited scope representation (SCR 13(c)(6) and RPC 1.5(c));
  - Attorney shall file Notice of Limited Scope Appearance identifying each aspect of the proceeding to which the appearance pertains;
  - Attorney may file a Notice of Limited Scope Appearance more than once in a case.
  - After an attorney files a Notice of Limited Scope Appearance service of all documents shall be made on both the attorney and the party represented on a limited scope basis until the limited scope representation is complete. Rule 11(e)
  - Upon completing representation, attorney shall withdraw by oral motion or written notice;
How Does Limited Scope Representation Work?

- **Oral Motion:** Attorney can withdraw by oral motion without prior notice if representation is completed at or before a hearing attended by the party. This is the preferred method. Rule 13(c)(7)(i)

- **Written Notice:** May file written Notice of Withdrawal using the form in the appendix. Must be served on the party the attorney represents, other counsel of record and other parties not represented by counsel, and the judge then presiding over the case. Proof of service must be on file.
  - Party has 21 days to file an Objection to Withdrawal of Limited Scope Appearance (attached to rule). If no timely Objection is filed, limited scope appearance automatically terminates without entry of a court order after 21 days. If Objection is filed, attorney must notice up hearing. Rule 13(c)(7)(ii)
How Does Limited Scope Representation Work?

- Withdrawal for any reason other than completion of representation shall be requested by motion; and
- Court must grant motion unless party objects that Attorney did not complete representation. If notice, withdrawal automatic in 21 days when no objection lodged.
- The written limited scope agreement is extremely important!
  - The only legitimate objection to withdrawal is that the attorney has not completed representation - so it is really, really important that the written agreement and appearance specifically and accurately describe the limited scope representation.
  - Written agreement (retainer) and appearance should use the same language.
How Does Limited Scope Representation Work?

- For non-litigation matters:
  - A written agreement is not required, but is highly recommended.
  - An attorney may assist a self-represented person in drafting or reviewing a pleading, motion, or other paper without making a general or limited scope appearance.
  - Attorney may rely on the self-represented person’s representation of facts without further investigation by the attorney, unless the attorney knows that such representations are false.
  - Attorney’s name does not need to appear on pleadings (but it can).
  - No Notice of Limited Scope Appearance required (because you are not appearing in the court case).
  - These Rule apply only to state court proceedings – NOT federal court.

Rule 137(e)
Limited Scope Representation in Practice
Reasons to Consider Limited Scope

- It works for your private practice and pro bono practice!
- Reduces the number of pro se litigants (who are pro se only because they can’t afford an attorney)
- Helps judges manage courtrooms
- Makes lawyers more accessible and affordable
- Opens the market of some low, but mostly moderate income clients and creates new business opportunities for litigation attorneys
- Rules allow withdrawal without court approval
Consumer Demand for Limited Scope

- 70% not at all familiar with unbundled services
- 2/3 interested in exploring unbundling as an option
- 2/3 say they would consider the availability of unbundling when choosing a lawyer
- Demand higher among younger and lower income

2010 ABA/Harris Survey – www.americanbar.org
Reasonableness of Limitations

Although an attorney may limit the scope of representation:

- the limitation must be **reasonable under the circumstances**; and
- the client must give **informed consent** to the limitation.

*RPC 1.2(c)*
You Can Really Withdraw!

Comment to Rule 13: “[T]he **court must allow the attorney to withdraw** unless the court expressly finds that the attorney has not completed the representation specified in the Notice of Limited Scope Appearance.... A court’s refusal to permit withdrawal of a completed limited scope representation, **or even its encouragement of the attorney to extend the representation**, would disserve the interests of justice by discouraging attorneys from undertaking limited scope representations out of concern that agreements with clients for such representations would not be enforced.”
Limited Scope in Practice

- Draft initial pleading without signing the pleadings and without entering an appearance
- Take a deposition in a case or prepare written discovery
- File and argue a motion to vacate a default judgment in a foreclosure case
- Represent a client at an OP hearing within a divorce case
- Negotiate and write a joint parenting agreement
- Represent a client in mediation
Limited Scope Representation and Pro Bono
Poverty Locally

Poverty in Jackson County:
- Poverty Rate: 23.4% (13%)
- Number of People in Poverty: 59,188

Poverty in Williamson County:
- Poverty Rate: 15.9% (13%)
- Number of People in Poverty: 67,336

Source: Social Impact Research Center’s Report on Illinois Poverty
The Need for Legal Services

• Low-income Illinoisans faced over 1.3 million civil legal problems

• Almost half of the low-income households in Illinois faced a legal problem, with an average of 1.7 legal problems per household

• Less than 420 full-time legal aid attorneys in Illinois, with less than 150 available to serve the legal needs of low-income people in the 101 counties outside of Chicago
  ➢ 1 legal aid attorney available for every 6,415 low-income people
  ➢ 1 private attorney for every 429 people in the general population who are above the poverty threshold.

PILI & IL-AFLAN

PILI is a member of the Illinois Armed Forces Legal Aid Network (IL-AFLAN). IL-AFLAN provides civil legal services across Illinois to veterans, active duty military and their spouses and dependents. It is a network comprised of legal aid organizations and law school clinics across Illinois.

Through IL-AFLAN, PILI is responsible for accepting referrals through the Network and placing them with pro bono attorneys in 101 counties in Illinois, excluding Cook County. PILI recruits volunteer attorneys, provides training and support, and offers malpractice coverage.

Visit [www.pili.org/pro-bono/il-aflan](http://www.pili.org/pro-bono/il-aflan) to register to help!
PILI’s Legal Help Within Reach Project

PILI recruits attorney and law student volunteers from urban areas to volunteer at free legal clinics for low-income Illinoisans living in rural and underserved communities. These clinics will provide much needed and otherwise inaccessible legal assistance to low-income people, families and communities in need.

Trips are usually up to one full business day in length, with training being provided during the travel to the clinic site. The first clinic will likely be in the greater Quad Cities area in Spring 2019.

Visit www.pili.org/pro-bono/legal-help-within-reach to register to help!
ABA & ILAO Legal Answers

Legal Answers is a secure website where lower income Illinois residents can ask a lawyer for help with a legal issue. Qualified users post questions about civil legal problems. Volunteer lawyers then log onto the site and select questions to answer. It’s like a virtual walk-in legal clinic.

Visit [www.IL.freelegalanswers.org](http://www.IL.freelegalanswers.org) to register and help!
Limited Scope Representation
Resources & Information
Who You Gonna Call?

ARDC Ethics Inquiry Hotline for Guidance on Rules:

- Chicago office:
  (312) 565-2600 or (800) 826-8625

- Springfield office:
  (217) 522-6838 or (800) 252-8048
Limited Scope Resources

- http://www.illinoiscourts.gov/civiljustice/resources/attorneys/limited_Scope_rules.asp

- https://www.isba.org/practicehq/limitedscoperepresentation

- http://lpmt.chicagobar.org/il-limited-scope/
QUESTIONS?
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You agree to represent a woman in a post-decree matter for $500. You state on the limited appearance form: “Hearing on enforcement of child support, on August 15, 2013; and in any continuance of that proceeding.”
You appear on Aug. 15, and FOUR further dates because the husband and his attorney continually fail to show up, or ask for more time to comply with financial records production. Nothing has really happened yet. It’s getting ridiculous, and you are starting to lose money on this deal now.

What should you do?

What is best practice here?
From time to time, you represent an Indian-American businessman who owns a successful spice-manufacturing business.

The businessman is quite astute. He was born in India and speaks with a thick accent. Based on prior dealings, you sometimes wonder about his grasp of the English language. You are also aware that he frequently leaves the country for long periods of time with little or no notice.

You and this businessman client enter into a limited scope agreement which limits your legal work to drafting, filing and arguing a motion for summary judgment in a case involving a business-related dispute. The notice and written agreement you draft make it clear that you are not assisting on ANY other part of the case.
While your work on the motion is ongoing, you get served, as does the client, with a set of requests for admission of facts. You look at them, but do nothing because you are not working on the discovery aspect of the case. You later learn that the client does not respond to the requests either, and the opponent moves for an order deeming the facts therein admitted. The admissions are critical in the case.

*Have you done anything wrong?*

*What is best practice here?*
You agree to file a limited scope appearance for the defendant, John Smith. The form states: "At the following deposition(s): defendant, John Smith"
The written representation agreement states the representation is limited to: "for the deposition of John Smith."

At the deposition, you make numerous objections, and instruct Smith not to answer. Plaintiff brings a motion to compel the defendant’s testimony, arguing that your objections and instructions not to answer were improper. John brings you the motion to compel. Feeling partly responsible for the situation, you tell John that you will take care of the situation. You throw the motion in a pile of documents on your desk and it gets misplaced. You subsequently learn that both the deadline to file a written response to the motion to compel, and the court date to defend the defendant on the motion have passed.

Are you in trouble?
Same limited scope agreement/Different Facts:

You have never filed a written response to a motion to compel, nor have you ever argued such a motion. You figure that since this is beyond the scope of what John paid you to do, you will take a stab at it. Having gone to law school, whatever you can produce is better than what John’s *pro se* response would be, right? You are soundly defeated in your oral argument defending the motion and you are reprimanded by the judge for wasting the court’s time with your inane response and ridiculous argument. John is required to sit for the deposition and answer all of the questions posed by plaintiff’s counsel. At the second deposition, John answers questions that expose him to enormous liability and he has no insurance.

Have you violated any rules?

What is best practice here?
The purpose of this toolkit is to assist attorneys who are licensed in Illinois and seeking to offer limited scope representation as one of their service offerings to potential clients who have civil matters in Illinois trial court. The toolkit includes the following:

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This toolkit is a project of the Illinois Supreme Court Commission on Access to Justice, the Chicago Bar Foundation, Justice Entrepreneurs Project, The Lawyers Trust Fund of Illinois, and The Chicago Bar Association. These organizations would like to thank the following individuals for their assistance in the development of the toolkit: Jessica Bednarz, Samira A. Nazem, David Holtermann, Patricia Wrona, Sari Montgomery, Trisha M. Rich, Roya Samarghandi, Alyease Jones, and Sonny R. Thatch. If you have questions about the toolkit or limited scope representation more generally, please contact the CBF’s Director of Innovation & Training for the Justice Entrepreneurs Project Jessica Bednarz at ibednarz@chicagobar.org or (312) 554-8022.
INTRODUCTION: How to Use This Toolkit

This toolkit contains resources designed to aid attorneys in developing and managing a practice that includes limited scope representation. Attorneys are encouraged to read through all of the documents and consider modifying them to fit their needs.

The Identifying Good Candidates for Limited Scope Representation and Discussing Limited Scope Representation with Potential Clients Checklists can be used in conjunction with an attorney’s initial consultation checklist or client interview forms.

The Engagement Agreement for Legal Services and Attorney and Client Task Assignment Checklist are designed to help attorneys develop engagement agreements that properly define the limited scope of the representation and outline who is responsible for each associated task. The two documents are intended to be used together. As a best practice, attorneys should walk through the checklist with the client, and both the attorney and the client should sign and date each document to memorialize their understanding of the division of tasks associated with the representation. Attorneys may also choose to incorporate the Attorney and Client Task Assignment Checklist into the Engagement Agreement for Legal Services. Once the attorney has completed the representation, the attorney should send a Disengagement Letter to the client.

The Court Forms have been approved by the Illinois Supreme Court and must be used when an attorney provides court-based assistance by making a limited scope appearance. The attorney must complete and file the Notice of Limited Scope Appearance when making such an appearance. Under Supreme Court Rule 13, the preferred method for ending a limited scope appearance is by oral motion to the court at a proceeding where the client is in attendance. If the attorney seeks to terminate the limited scope appearance outside the courtroom, the Notice of Withdrawal of Limited Scope Appearance must be filed with the court and served on the client (and all other parties of record), along with the form Objection to Withdrawal of Limited Scope Appearance. The objection form is to be used by client litigants who believe the attorney has not completed the scope of representation identified in the Notice of Limited Scope Appearance.

The Appendix contains the Court Forms and some additional resources that may be helpful to attorneys as they build their limited scope practices.

Please note: This toolkit is intended as a practice aid to attorneys who seek to provide limited scope representation in civil matters in Illinois trial courts. Accordingly, it highlights ethics and procedural rules as well as best practices that relate to limited scope representation. An attorney’s duty of care and obligations under the Rules of Professional Conduct in any legal representation extend beyond those discussed in this toolkit. Use of the toolkit is a supplement to, not a substitute for, the attorney’s familiarity with the ethics rules and professional duties, and the attorney’s exercise of judgment in providing representation.
OVERVIEW: Limited Scope Representation and Relevant Rules

Limited scope representation, often referred to as “ unbundling,” allows attorneys to help potential clients for part of a case rather than seeing it through from beginning to end. This type of assistance is permitted under Illinois Rule of Professional Conduct 1.2(c) so long as it is reasonable under the circumstances and the client gives informed consent.

Limited scope representation allows potential clients who cannot afford to pay for full representation to still hire an attorney for what the potential client, with the attorney’s counsel, determines to be the portion(s) of the matter for which an attorney is most needed. Limited scope can be used for both discrete tasks, such as drafting pleadings or providing advice and coaching on an issue, and particular issues in a case, such as the custody portion of a dissolution case. Unbundling also allows the attorney to charge a fixed fee by task or phase of a case. Fixed fees help attorneys distinguish themselves in the market and allow them to focus on providing value rather than on billing time. They also provide clients with predictability and certainty with respect to legal fees, creating a win-win for both attorney and client.

Examples of how attorneys can limit the scope of their representation include, but are not limited to:

- Providing legal advice during a one-time consultation;
- Drafting and/or reviewing documents for a self-represented litigant to file;
- Coaching a self-represented litigant on presenting a case in court; and
- Appearing in court on behalf of a self-represented litigant on a one-time or ongoing basis pursuant to a limited scope appearance.

Additional examples can be found in the Attorney and Client Task Assignment Checklist.

Contrary to popular belief, attorneys who have incorporated limited scope representation into their practices have not seen corresponding increases in their malpractice insurance premiums. Instead, many malpractice carriers support limited scope representation because the limited nature of the representation requires attorneys to carefully document the details of each representation in writing and to stay in constant communication with their clients, typically resulting in strong, positive attorney-client relationships.

Attorneys offering limited scope representation to potential clients should familiarize themselves with the following rules which address the provision of unbundled services by Illinois attorneys, including civil matters litigated in state trial courtrooms:

- Illinois Rule of Professional Conduct 1.2(c) permits attorneys to limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.
- **Illinois Rule of Professional Conduct 4.2** clarifies when attorneys may communicate with a person represented by counsel on a limited basis.

- **Illinois Rule of Professional Conduct 5.5** clarifies that attorneys may counsel self-represented litigants without filing an appearance in the case.

- **Illinois Supreme Court Rule 11** requires that the opposing party or counsel serve all documents on both the attorney and the party while a limited scope appearance is in effect.

- **Illinois Supreme Court Rule 13** allows an attorney to make a limited scope appearance on behalf of a party in a civil court proceeding pursuant to Illinois Rule of Professional Conduct 1.2(c) when they have entered into a written agreement with the party to provide limited scope representation.

  An attorney can withdraw from the limited scope appearance by oral motion or written notice to all parties of record. The notice shall advise the client that they have 21 days after the entry of the order of withdrawal during which to either retain another attorney or to file a supplementary appearance with the clerk of the court. At the end of the 21-day period, the representation will automatically terminate. See the form **Notice of Withdrawal of Limited Scope Appearance**.

- **Illinois Supreme Court Rule 137** allows attorneys to assist self-represented litigants by preparing and reviewing pleadings, motions, and other documents without signing the pleading or filing an appearance.

**Note:** The procedural rules described above pertain only to limited scope representation in civil matters in Illinois trial court.
CHECKLIST: Identifying Good Candidates for Limited Scope Representation

While limited scope representation is a helpful option for many clients, it is not appropriate for every client and legal problem. Attorneys who want to offer unbundled legal services should determine whether they know the area of law well enough to limit their representation to specific issues or tasks, and to explain those limitations to their clients. Assuming they do, attorneys then need to determine whether limiting the scope of the representation in any particular matter would be reasonable under the circumstances and obtain the client’s informed consent pursuant to Illinois Rule of Professional Conduct 1.2(c).

Attorneys must determine whether it is reasonable to limit the scope of representation based on the circumstances at the time of the engagement. This requires attorneys to consider both the complexity of the legal matter and the capabilities of the client.

Complexity of the Legal Matter:

- Is the case simple enough substantively, strategically, and procedurally to be broken down into discrete steps that can be easily divided between the attorney and the potential client?

Capabilities of the Client:

- Does the potential client have realistic expectations about their ability to handle all or parts of the case on their own?

- Does the potential client have the mental, physical, and emotional capacity to handle parts of the case on their own? When making this determination, an attorney should consider many factors including, but not limited to, disability status, English proficiency, and whether the potential client is a victim of trauma.

- Is the potential client capable of appearing independently in court?

- Does the potential client have the ability to follow instructions?

- Does the potential client have access to the technology needed to comply with e-filing and other court requirements and do they know how to use it?

If the answer to any of the above questions is “no,” the attorney should consider carefully whether limiting the scope of representation will be reasonable. However, the attorney should also keep in mind that reasonableness does not require the lawyer to predict that the client will prevail in the matter with limited scope assistance, but merely that there is a reasonable chance the litigant will do so.
CHECKLIST: Discussing Limited Scope Representation with Potential Clients

During the initial consultation, it is important that the attorney discuss the following items with the potential client before entering into a limited scope representation.

- **The differences between limited scope representation and full representation.** The attorney should identify the differences between the two models to the potential client. The attorney also should explain why limited scope representation would be reasonable in the potential client's case and make sure the client fully understands his or her role and responsibilities associated with limited scope. The attorney needs to make the limitations of the representation clear (e.g., "If you hire me to only draft and review court documents, this means I will not go to court with you."). Attorneys can use the Attorney and Client Task Assignment Checklist to facilitate this discussion with the potential client. Having this conversation will help the attorney satisfy the informed consent requirement in Rule 1.2(c).

- **Apportion tasks in writing.** If the client agrees to limited scope representation, using a document like the Attorney and Client Task Assignment Checklist will clarify the division of tasks associated with the representation, and memorialize the understanding of both the attorney and client. This checklist can also be incorporated into the Engagement Agreement for Legal Services.

- **Discuss and document changes in the scope of the representation.** The scope of the representation in a case may change for a variety of reasons including, but not limited to, the client later deciding that they would like the attorney to handle additional tasks associated with the matter. If this happens, the best practice is for the attorney and the client to complete, sign, and date a new Attorney and Client Task Assignment Checklist and Engagement Agreement for Legal Services. If an attorney fails to document changes in the scope of a representation, they risk assuming responsibility for the entire case. Because changes in the scope of the representation are common, attorneys should consider having a conversation about this with potential clients who are considering limited scope representation in an effort to manage expectations and reduce surprises down the road.

- **The proper filing and service of pleadings and deadlines.** During the initial consultation, the attorney should provide specific instructions to the potential client regarding proper filing and service of pleadings, including e-filing requirements, and advise them of the importance of deadlines and their responsibility to keep track of them.
• Ancillary issues outside the scope of representation. Attorneys should be aware that the court decisions in several states, including Illinois, have held that there is a duty to inform clients of issues that fall outside the scope of representation. See for example Keef v. Widuch, 747 N.E.2d 992, 321 App. 3d 571, 254 Ill. Dec. 580 (Ill. App., 2001), which found that an attorney whose representation was limited to a workers' compensation matter nonetheless had a duty to advise the client of the possibility of third-party claims and applicable statutes of limitation. This “peripheral” duty to advise does not require proactive representation by the attorney, and should not discourage attorneys from offering limited scope services when appropriate. There are several steps a practitioner can take to more effectively manage the duty to advise:
  o Attorneys should stick to areas of law with which they are familiar when providing limited scope representation. Knowledge and expertise in a practice area makes it easier to spot related issues that may fall outside the scope of representation.
  o Use a checklist or other screening document to ensure that initial client interviews include inquiries about commonly occurring ancillary issues.
  o Make sure discussions with clients about limiting representation address any ancillary issues and the risks of leaving those issues outside the scope of representation.
  o Document any advice given to clients about ancillary issues.

• Communication with opposing counsel on matters outside the limited scope representation. The attorney should advise the client that the client will need to communicate directly with opposing counsel on matters outside the scope of the limited representation. Outlining the scope and type of such communications on the Attorney and Client Task Assignment Checklist can be one helpful way to prepare the client for this. Once a limited scope appearance has terminated, the attorney may find it helpful to communicate that in writing to both the Circuit Clerk’s office and the opposing counsel to ensure future case communications are directed to the correct person. If the attorney receives filed documents pertaining to matters outside the limited scope representation (or after the limited scope representation has terminated), the attorney has a duty to deliver such documents to the client in a timely manner.

• Confirm the limited scope representation has ended. Once the limited scope engagement ends, a best practice is for the attorney to send the client a Disengagement Letter to memorialize the end of the representation.
CHECKLIST: Attorney and Client Task Assignment

You can download this checklist as a word document.

This checklist is designed for an attorney to use during an initial limited scope representation consultation to explain to clients the various tasks that their case will entail and to visually outline how responsibility for those tasks will be allocated between the attorney and the client. A best practice would be to attach the completed checklist to the Engagement Agreement for Legal Services, especially in cases where attorneys are handling multiple tasks in a case. This will make clear to the client what the attorney will and will not be handling for them. The checklist is not designed for any particular practice area and the list of tasks within it is not exhaustive. Attorneys should therefore consider tailoring the checklist to fit their respective practices.

When using this checklist, offer a detailed description about any tasks to be completed by attorney. To the extent possible, avoid using legal jargon or other terminology that may be unclear to the client (this is particularly important because limiting the scope of the relationship requires informed consent). Make sure that the checklist is updated if the scope of representation changes after its initial completion.

<table>
<thead>
<tr>
<th>SERVICES TO BE PERFORMED (TASKS)</th>
<th>ATTORNEY TO DO</th>
<th>CLIENT TO DO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Advice</td>
<td></td>
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<tr>
<td>Provide advice about legal rights, responsibilities, procedures, and/or strategy on a one-time basis. Describe:</td>
<td></td>
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<tr>
<td>Provide advice about legal rights, responsibilities, procedures, and/or strategy on an ongoing basis. Describe:</td>
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<tr>
<td>Document Preparation</td>
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<tr>
<td>Draft documents on behalf of client. Describe:</td>
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<td></td>
</tr>
<tr>
<td>Review documents prepared by client. Describe:</td>
<td></td>
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<tr>
<td>Draft discovery requests on behalf of client. Describe:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Review discovery requests on behalf of client. Describe:</td>
<td></td>
<td></td>
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<tr>
<td>Draft or review correspondence. Describe:</td>
<td></td>
<td></td>
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<tr>
<td>File and serve documents. Describe:</td>
<td></td>
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</tbody>
</table>
**Case Preparation and Investigation**

- Conduct a factual investigation (e.g. contact witnesses and/or expert witnesses, obtain documents, public record searches).
  - **Describe:**

- Prepare discovery responses on behalf of client.
  - **Describe:**

- Review discovery responses prepared by client.
  - **Describe:**

- Take or defend depositions.
  - **Describe:**

**Settlement Negotiations**

- Review an outstanding settlement offer or agreement.
  - **Describe:**

- Negotiate specified issue(s) for settlement.
  - **Describe:**

**Trial Preparation**

- Draft or review subpoenas for trial.
  - **Describe:**

- Draft or respond to motions for trial.
  - **Describe:**

- Outline witness testimony and/or argument for trial.
  - **Describe:**

**Court Appearances**

- Appear in court on a one-time basis.
  - **Describe:**

- Appear in court on an on-going basis.
  - **Describe:**

- Represent Client at trial.
  - **Describe:**

**Miscellaneous**

- Other (describe):

- Other (describe):

Any other task not set out in this Checklist is the responsibility of Client.

Client Initials ____________  Attorney Initials ____________

Date ____________________
SAMPLE AGREEMENT: Engagement Agreement for Legal Services

You can download this agreement as a word document.

Engagement Agreement for Legal Services

This agreement (Agreement) is made between Client, ______________________ (Client), and Attorney, ______________________ (Attorney). Attorney only represents Client. Attorney does not represent any other person in this matter.

1. The Client’s Goals. Client has engaged Attorney to help them achieve certain goals. Client’s goals in this case include:

   a. ____________________________________________________________

   b. ____________________________________________________________

   c. ____________________________________________________________

2. The Scope of the Representation. To accomplish Client’s goals, Attorney will provide legal services that are limited to the following (describe scope of representation – be specific):

   ______________________________________________________________

   ______________________________________________________________

   Client and Attorney have discussed the difference between full representation and limited scope representation and agree that limited scope representation is an appropriate option for Client at this time based on Client’s case, abilities, goals, and budget.

3. Attorney Responsibilities.

   a. Assigned Services. Client and Attorney have completed the Attorney and Client Task Assignment Checklist (Checklist) and attached it to this document. Attorney is only responsible for completing the services marked “Yes” in the “Attorney To Do” column of the Checklist. Client is responsible for completing all other tasks, including, but not limited to, those tasks marked “Yes” in the “Client To Do” column of the Checklist. [Note: It is a best practice to complete the Checklist and append it to the Agreement. If an attorney chooses not to do this, the attorney should outline in the Agreement which tasks they will and will not be responsibility for during the engagement.]

   b. Additional Services. If Attorney is requested or required to provide additional services, Attorney and Client will complete and sign a new Checklist and Engagement Agreement for Legal Services. Client will pay additional fees (to be agreed upon by Client and Attorney) for additional services.
4. **Client Responsibilities and Control.** Client will handle all parts of the case except those that are assigned to Attorney in the Checklist. Client will be in control of the case and will be responsible for all decisions made during the case. Client agrees to:

   a. Cooperate with Attorney and Attorney's staff by promptly giving them all information they reasonably request about the case.

   b. Promptly tell Attorney anything they know about the case, including any concerns they have, and to update Attorney as new information or concerns arise.

   c. Promptly provide Attorney with copies of all court documents and other written materials that Client receives or sends out about the case.

   d. Immediately provide Attorney with any new court documents, including pleadings or motions, received from the other party or the other party's attorney.

   e. Keep all documents related to the case together and organized in a file for Attorney to review as needed.

   f. Maintain an active phone number and email address by which Attorney can communicate with Client about the representation and where Client can receive documents and notifications from Attorney and the circuit clerk's office in litigated matters. Client will check their voicemail and email account at least once every couple of days. If there are circumstances that prevent Client from doing this, Client will decide what the best way for Attorney to communicate with Client is and will provide written notice to Attorney of their decision.

5. **Method of Payment for Services.**

   a. **Legal Fees.** In exchange for the legal services provided by Attorney, Client agrees to pay a fee of $_______. Client has initialed the payment option below that works best for them.

      ________ Client will pay the entire flat fee listed above when this Agreement is signed.

      ________ Client will pay a partial fee of $______ when this agreement is signed. Client will pay the remaining $______ by or before ____________.

      ________ Client will pay off the flat fee listed above in installments as described here:

      __________________________________________________________

* A best practice is to offer flat fee and other pricing options that provide potential clients with predictability and certainty. Attorneys have the option of offering other fee arrangements to clients, including, but not limited to, offering their services pro bono, and if they do so, they should customize this provision to reflect that pricing model.
b. **Costs.** The fee does not include costs and expenses incurred to provide those services. In addition to the fee above, Client agrees to pay any costs and expenses including, but not limited to, fees associated with filing the case, private investigators, expert witnesses, court reporters and transcripts, service of subpoenas, and travel expenses which Attorney considers necessary and proper for the preparation and execution of the Attorney's commitments. Attorney will seek Client's approval before incurring these costs and explain why these costs are necessary to accomplish Client's goals. Client agrees to pay costs within thirty (30) days of receiving an associated invoice.

6. **Right to Seek Advice of Other Counsel.** Client has the right to ask another attorney for advice and professional services at any time during or following this Agreement.

7. **No Guarantees.** Client agrees that Attorney has not made any promises or guarantees that their involvement in the case will cause a certain outcome or result.

8. **Termination.** Client and Attorney have entered into a voluntary relationship and may end that relationship at any time. Client may end the relationship for any reason. Attorney may end the relationship if Attorney learns that Client has misrepresented or failed to disclose material facts to Attorney, if Client fails to follow Attorney's legal advice, if Client fails to cooperate in the representation, if Client fails to make the agreed upon payment(s), or for any other reason allowed by the [Illinois Rules of Professional Conduct](https://www.courts.illinois.gov/...). If the relationship ends, Client has a right to request a copy of their file, which includes all of the information given by Client to Attorney and any legal work completed by Attorney on Client's behalf.

   Client is responsible for payment of all outstanding costs and expenses incurred prior to termination and attorney shall have a right to keep an appropriate proportion of the fees paid or due based on the legal services provided to Client. In the event there is a disagreement over the fees owed to Attorney, Illinois law provides attorneys with the right to seek judicial relief for outstanding fees, including a retaining lien to enforce payment of the bill, after an attorney's withdrawal or a client's request for the attorney to withdraw.

9. **Withdrawal of Attorney.** Attorney's obligation to Client is over once Attorney has completed all of the services identified in the attached Checklist. If Attorney has made a limited scope appearance on behalf of Client, that appearance should be terminated or withdrawn in a timely manner. In addition, Attorney may withdraw from the representation at any time as permitted under [Illinois Rule of Professional Conduct 1.16](https://www.courts.illinois.gov/...). Even if Attorney withdraws, Client must pay Attorney for all services provided and must reimburse Attorney for all out-of-pocket costs incurred prior to the withdrawal.

10. **Release of Client's Papers and Property.** Once all of Attorney's services are performed, Attorney will return all original documents to Client. If Client requests that all paper and property be returned, Attorney will release all of Client's papers and property to Client within a reasonable period of time. If Client does not make this request or give other direction, Attorney may dispose of the papers and property after seven (7) years following completion of services.
11. Client has carefully read this Agreement and understands all of its provisions. Client agrees with the following statements by initialing each one:

a. [__] Attorney has accurately described my goals in Paragraph 1.

b. [__] I am responsible for my case and will be in control of my case at all times as described in Paragraph 4.

c. [__] The services that I want Attorney to perform in my case are identified by the word “YES” in the “Attorney To Do” column of the Checklist that is attached to this Agreement. I take responsibility for all other aspects of my case, including, but not limited to, those tasks assigned to me under the “Client To Do” column in the Checklist.

d. [__] Attorney discussed the difference between full representation and limited scope representation and I understand and accept the limitations on the scope of Attorney’s responsibilities identified in Paragraphs 2 and 3.

e. [__] I will pay Attorney for services as described in Paragraph 5.

f. [__] I understand that any amendments to this Agreement must be in writing as described in Paragraph 3.

g. [__] I acknowledge that I have been advised by Attorney that I have the right to consult with another independent attorney to review this Agreement and to advise me on my rights as a client before I sign this Agreement.

Client Signature ____________________________ Date: __________________________

Attorney Signature ____________________________ Date: __________________________
SAMPLE LETTER: Disengagement

You can download this letter as a word document.

[Client Name]
[Client Address 1]
[Client Address 2]
[Client Email]

[Date]

Re: Termination of Legal Services

Dear [Ms./Mr. Client’s or Client Representative’s Last Name]:

Thank you for allowing [Law Firm Name] to represent you in [Legal Matter]. [Enclosed/Attached] is a copy of [Relevant Document(s)—e.g., an order that was just entered]. I have completed the scope of legal representation agreed to in our Engagement Agreement for Legal Services. Accordingly, our attorney-client relationship has come to an end and I am no longer providing legal representation on your behalf. I am therefore closing your file. I will retain a copy of your file for seven (7) years after which I may destroy all documents in your file. You should keep all of your information and documentation concerning this matter in a safe place in case you need it in the future. If you would like to have copies of anything from my file, please let me know as soon as possible.

It has been a pleasure working with you. I hope this matter was concluded to your satisfaction. If you or someone you know needs legal assistance in the future, please feel free to contact my office to arrange a consultation. [Optional for mailed letter: I have included a few of my business cards.] I wish you the best of luck in your endeavors!

Best regards,

[Law Firm Name]

[Attorney’s Name]

[Enclosures/Attachments]: [Relevant Document(s)]Resources
APPENDIX: Court Forms and Other Resources

Court Forms

- **Notice of Limited Scope Appearance**
- **Notice of Withdrawal of Limited Scope Appearance**
- **Objection to Withdrawal of Limited Scope Appearance**

Webinars

- The Chicago Bar Association's [Unbundled Services to Expand your Practice](#) (April 2017)
- The Illinois State Bar Association CLE program [Limited Scope Representation: When Less is More](#) (October 2016)
- M. Sue Talia/Practising Law Institute's (free) [Expanding your Practice Using Limited Scope Representation](#) (February 2015)

Articles

- [Rule Changes Permitting Limited Scope Representation in Litigation: Increasing Access & Opportunity](#)
- [Why Judges Should Embrace Limited Scope Representation](#)

Other

- The Illinois State Bar Association’s Limited Scope Representation [Consumer Legal Guide](#)
- The American Bar Association’s [Unbundling Resource Center](#)
- The Chicago Bar Foundation’s [Pricing Toolkit](#)
Session 1: New Cases on the Block: Pending Decisions & Recent Precedent in Criminal Law

Timothy J. Ting, JD
Assistant Public Defender
Jackson County Public Defender
TIMOTHY JAMES TING is an advocate and an educator. Presently, Professor Ting works as an Assistant Public Defender in Jackson County, Illinois, where he handles a wide array of felony cases. Additionally, Professor Ting teaches for both the Southern Illinois University School of Law as well as the Southern Illinois University Paralegal Studies Program. Professor Ting’s prior practice experience includes roles at both the appellate level (as an Appellate Prosecutor for the Fifth Appellate District of Illinois) as well as the trial level (as an Assistant Public Defender in Williamson County, Illinois). Professor Ting’s teaching experience includes teaching PARL 300B (Legal Analysis, Research, & Writing II), PARL 380 (Law Office Technology), UHON 499 (Undergraduate Honors Thesis), LAW 537 (Trial Advocacy), and LAW 594 (Criminal Procedure: Post-Investigations).

Professor Ting received his A.A. degree from John A. Logan College (English, *Summa Cum Laude*), his B.S. degree from Southern Illinois University (Carbondale – Paralegal Studies, *Summa Cum Laude*), and his J.D. degree from Southern Illinois University School of Law (Moot Court Board, *Order of the Barristers*). Professor Ting’s scholarly articles have appeared in the Illinois Bar Journal and several of his cases have become published precedent in Illinois law. He is a member of the Jackson County Bar Association and the Illinois State Bar Association. Professor Ting has served as both the Vice President (2016-2017) and President (2017-2018) of the Jackson County Bar Association, as a member of the Illinois State Bar Association’s Judicial Advisory Committee (2017-2018), and as a member of the Illinois State Bar Association’s Standing Committee on Continuing Legal Education (2016-2017). He is a current and long-standing member of the Illinois State Bar Association’s Criminal Justice Council (2016-Present). Professor Ting has received numerous accolades during the tenure of his legal career, among the highest being *The Teaching Excellence Award*, (Southern Illinois University – University-Level Distinguished Teacher Recognition [Non-Tenure Track Faculty], 2017) and a *National Outstanding Young Lawyer Finalist* (American Bar Association, 2016).
Faculty Contact Information

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New Cases on the Block

Pending Decisions and Recent Precedent in Criminal Law

Timothy James Ting
Recent Developments from the United States Supreme Court

- The Eighth Amendment’s ban on cruel and unusual punishments precludes executing a prisoner who - after sentencing - has deteriorated to such delusional behavior that he is legally incompetent.

- The United States Supreme Court established the appropriate competency standard: A State may not execute a prisoner whose “mental state is so distorted by a mental illness” that he lacks a “rational understanding” of “the State’s rationale for his/her execution.”

- Whether a state can execute a prisoner whose competency has been compromised by a degenerative medical condition that prevents him from remembering the crime for which he was convicted?
Recent Developments from the United States Supreme Court


In a 5-3 majority Opinion, Justice Kagan noted that the Eighth Amendment may allow for the execution of a prisoner who does not suffer from delusions if the prisoner's memory loss does not preclude him/her from having a rational understanding of why the state is imposing the death penalty.

Justice Alito (with Justice Thomas and Gorsuch) vigorously dissented, noting that the issue before the Supreme Court was improperly litigated because the issue was “switched” from whether the defendant could be executed when he no longer remembered he committed a crime to whether the defendant could competently understand why the State would impose the death penalty based on his conviction.
Recent Developments from the United States Supreme Court


Fifth Amendment – Double Jeopardy (dual sovereignty)

“If the States are free to prosecute criminal acts violating their laws, and the resultant state prosecutions bar federal prosecutions based on the same acts, federal law enforcement must necessarily be hindered.”


Whether a defendant can be convicted of both a state and federal weapons charge for the same conduct.
Recent Developments from the United States Supreme Court


Armed Career Criminal Act

The judge was required to impose that special sentence if the offender also has three prior convictions for certain violent or drug-related crimes. 18 U. S. C. §924(e) (emphasis added).

The question presented was whether a previous Burglary conviction – particularly burglary of a structure or vehicle that has been adapted for overnight accommodation – could be considered a “violent crime” for the purposes of validating the 15 year minimum prison term.

In a Unanimous Decision, the Supreme Court affirmed the enhanced sentence that was imposed based, in part, on the notion that the prior Burglary conviction was a “violent” crime.
Recent Developments from the United States Supreme Court


The United States Supreme Court unanimously held that when counsel informs the defendant of the strategy to concede guilt in a capital case in order to focus on mitigating factors for sentencing and the defendant is mostly unresponsive, counsel’s strategic choice is not impeded by any blanket rule demanding the defendant’s explicit consent.


In a 6-3 decision, the United States Supreme Court clarified Florida v. Nixon, if defendant makes a clear response to not concede guilt, counsel cannot employ a concession strategy at the trial stage. A defendant has the right to choose the objective of his defense and to insist that his counsel refrain from admitting guilt, even when counsel's experienced-based view is that confessing guilt offers the defendant the best chance to avoid the death penalty.

Justice Alito (with Justice Thomas and Gorsuch) vigorously dissented – noting that, while defense counsel conceded that the defendant had killed three victims, defense counsel still argued that the defendant lacked the intent to kill – thus, not truly conceding the defendant’s guilt.
Recent Developments from the United States Supreme Court


Whether the Government conducts a search under the Fourth Amendment when it accesses historical cell phone records that provide a comprehensive chronicle of the user’s past movements?

In a hotly contested 5-4 decision, Chief Justice Roberts gave the Majority Opinion for the court, noting: “In light of the deeply revealing nature of CSLI, its depth, breadth, and comprehensive reach, and the inescapable and automatic nature of its collection, the fact that such information is gathered by a third party does not make it any less deserving of Fourth Amendment protection.”

Justices Alito, Thomas, Gorsuch, and Kennedy all made separate Dissenting Opinions pertaining to the nature of the third party carrier and their cautionary admonition for the extension of the Fourth Amendment beyond its intended scope.
Recent Developments from the United States Supreme Court

  - A defendant in a state court may constitutionally be convicted of a crime by a 10-2 verdict.

  - A defendant in a state court may constitutionally be convicted by a 9-3 verdict (later amended by Louisiana State law to 10:2).

- Dale Lambert – Convicted of Second Degree Murder in Louisiana. His case was denied to be heard from the United States Supreme Court in October 2017.
  - Sixth Amendment – Due Process of Trial
  - 2018 – Midterm elections; Louisiana Amendment 2 requires unanimous jury verdicts for criminal trials now (does not apply retroactively).

- The New Orleans Advocate researched over 1,000 jury convictions in a 6 year span: “40 percent of trial convictions … came over the objections of one or two holdouts. When the defendant was black, the proportion went up to 43 percent, versus 33 percent for white defendants.”

- **Oregon remains the only state to allow non-unanimous jury verdicts in criminal cases (does not apply to capital cases).**
Recent Developments from the United States Supreme Court


The United States Supreme Court held that when an attorney’s deficient performance costs a defendant an appeal that the defendant would have otherwise pursued, prejudice to the defendant should be presumed “with no further showing from the defendant of the merits of his underlying claims.”


Sixth Amendment – Right to Effective Counsel

Whether an attorney is presumed ineffective when an attorney refuses to file a notice of appeal after a defendant requests an appeal after signing a guilty plea with an express appeal waiver clause.

In a 5-3 majority decision, the United States Supreme Court held that when “an attorney performed deficiently in failing to file a notice of appeal despite the defendant’s express instructions, prejudice is presumed “with no further showing from the defendant of the merits of his underlying claims.”

Justices Alito, Thomas and Gorsuch all dissented again – “The majority finds Garza’s counsel constitutionally ineffective, holding that an attorney’s performance is per se deficient and per se prejudicial any time the attorney declines a criminal defendant’s request to appeal an issue that the defendant has waived.”
Recent Developments from the United States Supreme Court


Whether the Eighth Amendment’s excessive fines clause been incorporated for the states under the Fourteenth Amendment – specifically, can the State acquire a Land Rover used in the commission of Heroin Distribution as a result of the Defendant’s conviction when the value of the Land Rover was more than four times the maximum $10,000 monetary fine assessable for the defendant’s drug conviction?

In a Unanimous Decision, the United States Supreme Court ruled that the Eighth Amendment’s Excessive Fines Clause is an incorporated protection applicable to the states under the Fourteenth Amendment’s Due Process Clause.
People v. Ashley, 2018 IL App (4th) 150293-U

Stalking Statute – A facially unconstitutional statute?

Whether the “knowingly or negligently threatening another” provision is facially unconstitutional violation of the First Amendment.

“How does one negligently threaten someone?”
People v. Johnson, 2018 IL App (3d) 150352.

Burglary Statute – zealous prosecution or an overbroad interpretation?

Whether a defendant can “enter without authority” into a store during business hours if that defendant only enters the store to commit a theft therein.
Interesting Pending Cases Before the Illinois Supreme Court (as of March 9, 2019)

- People v. Clark, 2017 IL App (3d) 140987.
  - Escape Statute – The definition of “in custody”
  - Whether a defendant has committed escape by failing to report to jail immediately after her discharge from a halfway house as ordered as a condition of her temporary recognizance bond.
  - Custody is not defined in either the Illinois Compiled Statutes or the Unified Code of Corrections. People v. Clark, 2017 IL App (3d) 140987, ¶ 11, appeal allowed, 94 N.E.3d 657 (2018).
People v. Smith, 2018 IL App (1st) 151312-B.

One Act, One Crime Rule

Whether the defendant’s Robbery and Aggravated Battery of a Senior Citizen convictions are in violation of the One Act, One Crime Rule when the defendant hit the victim a single time from behind and then proceeded to take deposit bags from the victim.
Recent Interesting Illinois Supreme Court Decisions

People v. Witherspoon, 2019 IL 123092.

Home Invasion Statute – Consent of the victim is usurped by Order of the Court.

A person who enters the dwelling place of another in violation of a court order thereby enters the dwelling “without authority” under the home invasion statute (even if there is evidence that the homeowner provided consent for entry).
Recent Interesting Illinois Supreme Court Decisions

People v. Newton, 2018 IL 122958.
- Unlawful Delivery of a Controlled Substance within 1,000 feet of a church.
- The Court found that evidence of the title of the building ("First Christian Church") and a cross and goblet on the building was sufficient to establish the building as a “church” beyond a reasonable doubt.
- Justice Burke and Neville dissented: “Unlike the majority, I would adhere to the plain meaning of the statute and require the State to present evidence beyond a reasonable doubt that the building alleged to be a church was used primarily for religious worship on the date of the offense.” People v. Newton, 2018 IL 122958, ¶ 44.
Recent Interesting Illinois Appellate Court Decisions

- Illinois Supreme Court Rule 431(b) – Jury admonishments (based on *People v. Zehr*, 103 Ill. 2d 472 (1984)).

“‘The language of Rule 431(b) is clear; the four principles are set forth succinctly, and the two questions to be asked, in whatever manner the court chooses, are simple: ‘do you understand’ and ‘do you accept.’” *People v. Stevens*, 2018 IL App (4th) 160138, ¶ 26.
Recent Interesting Illinois Appellate Court Decisions

People v. Barnes, 2018 IL App (5th) 140378.

Armed Robbery Statute and the Proportionate Penalties Clause of the Illinois Constitution

The mandatory fifteen year firearm enhancement was unconstitutional because by depriving the trial court of discretion, the enhancement “violated the community’s evolving standard of moral decency” pursuant to the Proportionate Penalties Clause of the Illinois Constitution.
People v. Lee, 2018 IL App (1st) 6313698.

Constitutionality of the Sex Offender Registration Act

“SORA restrictions do not rise to the level of implicating a fundamental right, although we do agree that SORA's burdens and restrictions significantly impact a registered sex offender's life.”

Court then applied the Rational Basis Review test. While not every offender is necessarily inclined to commit another sex offense, subjecting the group as a whole to certain restrictions serves a legitimate state purpose which SORA is rationally related to achieve, even though it may not be perfect in its execution. People v. Lee, 2018 IL App (1st) 152522, ¶ 52.
Recent Interesting Illinois Appellate Court Decisions

- **People v. Crowder**, 2018 IL App (1st) 5961437.
  - Aggravated Unlawful Use of a Weapon and the affirmative defenses of Self Defense and Necessity
  - “There appears to be no Illinois case raising this precise issue, but this court accepted the analogous defense of necessity for an unlawful possession of a gun in **People v. Gullens**, 2017 IL App (3d) 160668.” **People v. Crowder**, 2018 IL App (1st) 161226, ¶ 27.
  - “To properly raise an affirmative defense, a defendant is required to present some evidence on the issue, unless the State's evidence itself raises the defense. Generally, the quantum of proof necessary to raise an affirmative defense is evidence sufficient to raise a reasonable doubt as to defendant's guilt or innocence, which is a relatively low threshold.” **People v. Crowder**, 2018 IL App (1st) 161226, ¶ 23.
Recent Interesting Illinois Appellate Court Decisions

People v. Garner, 2018 IL App (5th) 150236.

The Sixth Amendment and a Judge’s policy to prohibit re-cross examination.

“The trial court made an arbitrary ruling that we cannot uphold as a matter of discretion because it allowed the State to present evidence on redirect that defendant was unable to confront.” People v. Garner, 2018 IL App (5th) 150236, ¶ 20.
Session 2:
On Behalf of Children:
Child Development for Attorneys

Dr. Stacy D. Thompson, Ph.D
Professor, Dept. of Curriculum & Instruction
SIUC

Dr. Holly Cormier, Ph.D
Director
SIU Clinical Center

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About The Faculty

STACY D. THOMPSON is a Professor at Southern Illinois University. She earned her doctoral degree from Iowa State University in Child Development in 1998. She is currently a faculty member in the department of Curriculum and Instruction. She coordinates the Early Child and Child and Family Services programs.

Dr. Thompson is a member of the Society for Research on Child Development and the National Council on Family Relations. Previously, she has worked in a Maternal Child Health Unit and as a Child Development Specialist. She teaches courses in development, assessment of young children, abuse and neglect, theories of development and learning as well as other courses. Her research focuses in the areas of fathers of infants born to adolescent mothers, the father’s role in feeding young children, parenting children during separation and divorce, and sensory integration issues. She co-authored the book, “Feeding Challenges in Young Children”.

HOLLY CORMIER is a licensed clinical psychologist (Illinois, Missouri, and Ontario). She received her doctoral degree at the University of Toronto in 2004. Dr. Cormier is the director and chief psychologist at the SIU Clinical Center. She has lecturer status in the department of Psychology at Southern Illinois University, and supervises graduate students training to become mental health professionals.

Dr. Cormier has special interests in the areas of trauma, disordered eating, depression, anxiety, interpersonal functioning, grief, and separation/divorce. Dr. Cormier has also held positions in several university counseling centers, operated a private practice, and worked at the Centre for Addiction and Mental Health in Toronto, Canada. Dr. Cormier has received several training and research awards including the Eli Lilly Postdoctoral Fellowship and the Soroptimist Foundation of Canada Award. Dr. Cormier has published articles in areas of women’s mental health and neuroscience.
Faculty Contact Information

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On Behalf of Children: Child Development for Attorneys

Stacy Thompson, Ph.D., Professor of Child Development at SIU & Holly Cormier, Ph.D., Director of the Clinical Center at SIU

Agenda
- The Role of the Professional when Working with Children
- What Children Need
- Child Development
- Impact of trauma

The Role of the Professional when Working with Children

Parents/Caregivers are Critical*
- A baby’s well-being relies on responsive caregiving.

Brain Development
- “The first three years of life represent the most critical phase of brain development. It is during the first 36 months that the foundation is being laid for how a child perceives the world around him or her:
  - Is it a safe encouraging setting where the child is surrounded by loving adults and has every opportunity to become a happy child and a curious learner?
  - Or is it a dangerous and hostile territory where adults cannot be relied on to respond appropriately to the child’s needs?”

- Our brains develop from the bottom up as children develop, beginning in utero, outside influences create changes in the developing brain cells.
- Each area requires appropriately timed, patterned, repetitive experiences.

6 Core strengths for Healthy Child Development (Perry, 2002)
1 – Attachment - Making relationships
2 - Self-Regulation - Containing impulses
3 – Affiliation - Being part of a group
4 – Attunement - Being aware of others
5 – Tolerance - Accept differences
6 – Respect - Finding value in differences

6 R’s of a Neurosequential Model Environment
1. Relational - Safety
2. Relevant – Developmentally appropriate/matched
3. Repetitive – Patterned
4. Rewarding – Pleasurable
5. Rhythmic – Resonant with neural patterns
6. Respectful – child, family, culture

Making good decisions to support children’s healthy growth and development
- Ensure children’s primary attachments are considered in placement decisions
- Plan for transitions
• Ensure fathers and paternal relatives are identified and engaged early.

Child-Centered

Learn the Child’s History

Know Development (or where to find the information)

Infants (0 – 9 months)
• Developing trust
• Caregivers should be:
  o Able to empathize with the infant
  o Flexible and adaptable
  o Able to handle dysregulated infants
  o Positive response to infant’s needs
  o Willing to follow baby’s cues
  o Willing to play with the infant

Toddlers (9 to 24 months)
• Signs of stress in infants and toddlers

Early Childhood (2.5 to 5-year-olds)
• Very high risk group
• Signs of Stress in Early Childhood Children

Early School Age (6 to 9 years)
• Signs of Stress in 6 to 9 year olds

Later School Age - 9 to 12 years
• Signs of Stress in 9 to 12 year olds

Adolescents
• Signs of Stress in adolescents

Child Development Resources
• Thorough detailed milestones and when to be concerned:
• Quick look at a few milestones:
  o https://www.webmd.com/parenting/baby/features/is-your-baby-on-track#1
  o https://medlineplus.gov/ency/article/002002.htm

Programs for at-risk parents
• Incredible years http://www.incredibleyears.com/
• For first time parents: http://www.nursefamilypartnership.org/
• National Child Traumatic Stress Network: www.nctsn.org

Research-informed
Permanency-driven
Holistic Trauma

What is Trauma?

Psychological impact among children and youth varies.

- It is more common than not for children and adolescents to be exposed to more than one traumatic event.

Complex Trauma/Developmental Trauma Disorder

- Prolonged, repeated trauma (months, years of abuse)
- Symptoms are similar to PTSD, but increased disruption to interpersonal functioning, characterological disturbances
- Disruptions are more treatment refractory
  - More difficult to treat due to the depth and changes in the brain

Signs of Trauma

Biological Effects of Childhood Trauma

Posttraumatic Stress Disorder in Children and Teens (PTSD)

- Avoidance of situations that trigger traumatic re-experiencing
- Nightmares and/or flashbacks
- Play behavior that acts of traumatic experiences
- Impulsive or aggressive behavior
- Increased anxiety and/or depressed mood
- Emotionally disconnected/numbness
- Difficulties with concentration and school performance

Child Development in the Context of Trauma (Cook et al., 2005)

How to Support Children with Trauma History

- Provide physical and emotional safety
- Support positive and stable relationships
- Provide or advocate for resources that address emotional and psychological needs e.g. emotion regulation skills
- Help identify specific interventions
- Identify and support resources for caregivers

Resilience

- Positive, caring and protective parent or caregiver
  - Essential protective factor
  - Safeguard against adverse experiences
  - Consistent resource
  - Decisions for a child can change the child’s life forever

Resources

- [https://www.youtube.com/watch?v=brVOYtNMmKk](https://www.youtube.com/watch?v=brVOYtNMmKk)
- [http://childtrauma.org/nmt-model/references/](http://childtrauma.org/nmt-model/references/)
References
References
https://www.zerotothree.org
Mitigating Cyber Perils for Lawyers

Brian Olson
Director of Member Services
ISBA Mutual Insurance Co.
About The Faculty

BRIAN OLSON has been in the financial and insurance industries for over 14 years. He joined the ISBA Mutual Insurance Company in 2017 and serves as the Director of Member Services, developing risk management resources to benefit ISBA Mutual Insurance Company’s insureds. Brian coordinates the joint CLE efforts with the Illinois State Bar Association and creates internal ISBA Mutual CLE programming that assists Illinois lawyers and law firms.

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Mitigating Cyber Perils for Lawyers

Presented by Brian Olson
Director of Member Services, ISBA Mutual
Executive Summary

- Create awareness of cyber-risk in your law practice

- Create understanding of how hackers can access your technology to harm your practice and inhibit your efforts on behalf of your clients
Key Rules for Lawyers who use Technology

- Lawyers are required to keep up with technology -

  - Rule 1.1: Competence (eff: 1/1/2016)
    - To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.

  - Rule 1.6: Confidentiality of Information
    - (e) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.
What You Will Learn

Perils of Practicing Law in the Age of Cyber

▶ Signs that you are about to be or have been targeted
▶ Strategies used to get past your defenses
▶ Types of attacks and how they harm your practice and your clients
▶ Best practices to protect your practice and your clients
Signs of a Potential Attack

- Ransomware messages
- ‘Phishing’ scams targeting employees
- Inability to download updates
- Unfamiliar programs running in the Task Manager

Source: [https://observable.net/blog/three-commonly-ignored-signs-of-a-cyber-attack/](https://observable.net/blog/three-commonly-ignored-signs-of-a-cyber-attack/)
Cyber Attack Categories
Ransomware

Note: This is not the FBI.
Avoiding Ransomware

▶ Best Practices
  ▶ Don’t open suspicious email, attachments or click on links you’re unsure about
  ▶ Hover over the link in emails to see the true webpage
  ▶ Check for a digital signature in the subject as another level of authentication
  ▶ Backup your system and files

WARNING: Paying the ransom is no guarantee the computer/files will be released
Social Engineering is the use of personal data, taken from social networking sites for identify theft, etc.

- Facebook, Instagram or Twitter –
  - The Facebook or Instagram ‘check-in’

- Linked-In
  - How much of your professional life do you want to be Google-able?
Cyber Attack Categories: Network Reconnaissance

- Network Reconnaissance:
  - When your system is probed for vulnerabilities in your software
    - Port Scanning – via a well known ‘port-number’ as connected to the web

- Best practices to prevent reconnaissance attacks:
  - Install a Firewall
  - Intrusion Prevention System (IPS)
  - Verify that third-party vendors who have access to your data have a robust firewall and IPS
    - This includes your nephew who does web-design!
Cyber Attack Categories
Gathering Personal Information

- Deceptive Methods to Gather Personal Information
  - Vishing
    - The warning call from the IRS, or Social Security
  - Spear-Phishing
    - An email from a supposedly reputable organization
- Social Engineering
  - An attack using information from social media (Facebook, etc.)
  - Commonly used in Wire Transfer Fraud

https://usa.kaspersky.com/resource-center/definitions/spear-phishing
Cyber Attack Categories: Spear-Phishing

Tell Tale Signs:
- Email from a trusted source that leads to a bogus site with malware
- Generally contains a link or a download
- May call for urgent action
- Presents a problem that requires you to “verify” your information by clicking on the displayed link and providing information in their form

Best Practices:
- Be careful of an emotional response to an urgent call to action
- Slow down and research the facts
- Don’t let a link be in control of where you land
- Delete any request for financial information or passwords
Real-Life Claim: Third-Party Wire Fraud

- Best Practices
  - Inform your clients you will never email wire transfer instructions
  - Discuss this policy at engagement, include in your engagement letter, and in your email footer
  - Independent Verification
  - Verbal confirmation
Insurance Solutions

Finally, a conversation about Insurance!

- The risk of a cyber loss can be mitigated by an insurance product for your law firm
  - ISBA Mutual provides $50K of limit to current policyholders at no additional cost
    - Increased policy limits (Up to $1M) are available with individual underwriting
  - Risk Management tools are available online
    - [www.cyber-isbamutual.com](http://www.cyber-isbamutual.com)
- ISBA Mutual offers First and Third-party coverage to our insureds
  - First-party coverage is for the firm, and its equipment
  - Third-party coverage indemnifies the firm against claims from others
Insurance Solutions
Continued

Liability Coverage Components:
▶ Multi-Media
▶ Security and Privacy
▶ Privacy Regulatory Defense and Penalties
▶ Breach Repair Costs
▶ Brand Repair
▶ Network Asset Protection
▶ Cyber Extortion and Crime
▶ PCI/DSS Liability

Unique to ISBA Mutual Program:
▶ Coverage for data stored with third parties
▶ Property damage exclusion does not apply to electronic data
▶ Rogue employee coverage
▶ Extended reporting, 1-3 years available
▶ Forensic analysis of your system
Cyber Security Recommendations

- Have a Security Mindset
  - It’s your clients’ information at risk
  - Have a policy for all employees that is reviewed annually and enforced
    - White Hat Exercise

- Carefully evaluate your third-party providers/Cloud

- Keep your technology up to date

- Password management and remote log-in protocols
  - Two-Step Verification (a code to your mobile number)
  - Secure password management programs

- Use file-sharing / encryption services
Top Cyber Security Threats to Your Firm
Continued

- Infection magnification
- Rogue employees
- Employees who use the same password for business and personal accounts
- Using unsecured Wi-Fi
- Leaving documents unprotected while travelling
- Employees who Bring, or Connect their Own Device to your network
- Sharing log-ins or passwords
Perils of a Multi-Media Age

- Be wary of images that could violate trademark and copyright protections
  - Proper licenses are required for all images – being on the internet doesn’t make it free
  - Make sure that photographers and subjects in photos taken for your Firm sign releases – including employees
- Ensure that your web designer is using licensed products and images
Best Practices for Law Firms

- Client communication
  - Add disclaimer language to every email footer noting that wire-transfer instructions will not be delivered by email
  - Two-Factor Authentication for all devices that touch client information

- IT Asset Management
  - Keep an inventory of hardware, software and all data (serial numbers, locations of devices, etc.)
  - Catalog all software with keys, passwords, licenses, etc.
  - Dispose of obsolete hardware properly

*Be Prepared. Have a plan!*
Best Practices for Law Firms Continued

- Complete system review
  - System access is on a ‘need to know basis’
  - Updated Firewalls and anti-virus software
  - Evaluate vendor security

- Policies and staff training
  - Drill and Enforce with a White Hat Exercise

- Use secure methods to handle your client’s data
- Is your backup system secure? Tested?

- Remember, with ISBA Mutual, you have a Cyber Policy, and you can buy up to $1M in coverage

Thank You
Any Questions?
Terminology

- **Cloud**: Technology that allows us to access our files/services through the internet from anywhere in the world. Computers not owned/controlled by you.

- **Virtual Private Network (VPN)**: A tool that preserves privacy on the internet by masking the location and encrypting traffic.

- **Breach**: When a hacker successfully exploits a vulnerability in a computer or device and gains access to its files and network.

- **Firewall**: Technology used to keep those who aren’t welcome out of your network.

- **Malware**: An umbrella term that describes all forms of malicious software, including viruses, trojans, worms and ransomware.

- **Virus**: A type of malware aimed to corrupt, erase or modify information on a computer before spreading to others.

- **Trojan horse**: A piece of malware that often allows a hacker to gain remote access to a computer through a “back door”.

- **Worm**: A piece of malware that can replicate itself in order to spread the infection to other connected computers.

- **Phishing or Spear Phishing**: A technique used by hackers to obtain sensitive information. For example, using hand-crafted email messages designed to trick people into divulging personal or confidential data such as passwords and bank account information.

- **Two-Factor Authentication**: A system that asks the user to input a code transmitted over a separate band (text message) when out of the office, etc.

- **Vishing**: A combination of the word “voice” and the word “phishing”. It refers to phishing scams done over the phone.
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