



LegalEase

December 2020

Newsletter of the Peoria County Bar Association, an Accredited Provider of Continuing Legal Education.

President's Message

As we enter the last month of 2020, rest assured that the PCBA has already put plans into action to help you launch your legal practice in 2021 without the help of NASA, SpaceX, or Elon Musk. Yes, you may occasionally look at the launches or landings of the Dragon spacecraft to remind yourself that the Earth keeps spinning and revolving around the Sun, but you will not find a better series of CLE webinars crafted for your practice than the upcoming January 9, 2021 Family Law, January 15, 2021 Technology in the Courtroom, January 23, 2021 Estate Planning & Probate, January 29, 2021 Government & Public Interest, and February 6, 2021 Civil Practice webinars. Also check out your options on the PCBA web page which include registering for all 5 seminars for the price of 4, a deal that no other bar association offers you for new content that is created, designed, and presented for attorneys who practice in Central Illinois. You will not find any comparably useful materials at such a reasonable price. It must be acknowledged that unlike other years we cannot attend in person and hold "informal" case management conferences with other members of the bar. However, the Zoom option does allow you to attend in whatever is your favorite winter attire, drinking your favorite cold weather beverage, and in the company of whoever can follow along without interrupting your learning process. In addition, you can still email opposing or other counsel during the seminars as lightbulbs turn on in your brain during each jam-packed session of great speakers. Those who have attended Zoom webinars already presented by the PCBA have expressed appreciation for the platform and the quality of the seminars held to date on Zoom. As part of maintaining the high quality of all of its seminars, the PCBA is open to considering all reasonable proposals that help our organization keep pace as the premier bar association located in downstate Illinois.



The Great Bard, William Shakespeare, wrote that "Small cheer and great welcome makes a merry feast." Balthasar speaks this line in Act 3, Scene 1 of what many scholars believe was his first play-The Comedy of Errors. Balthasar is a merchant invited to attend a dinner hosted by Antipolus of Syracuse, who has been seeking his long-lost identical twin brother. Even though Balthasar's host, Antiphilus, only promises cheap meat and even cheaper talk, the witty reply from Balthasar notes that a good time may still be had, even under their regime's severe laws that threaten certain visitors with the most severe punishment. No, the play does not involve a pandemic, but it was wisely chosen by a theater company in Malta as its first post-pandemic production. So yes, while we must take our work seriously, allow time to at least chuckle at yourself during this holiday season. Otherwise you set yourself up for the famous punch line by the British polymath and philosopher Bertrand Russell. "If I were a medical man, I should prescribe a holiday to any patient who considered his work important." Happy Holidays to all PCBA members and their families and friends!

Court News *By Chief Judge Paul P. Gilfillan*



1. ALERT: New A.O. 2020 -21: Tenth Circuit Remains Open, Limited Access, Jury Trials Paused, Remote Hearing Options Stressed. Please read the entirety of the most recent Covid related Court Operations Order, posted on our website: www.10thcircuitcourtil.org.
2. Supreme Court Amends Rule 23 to allow citation to unpublished appellate court rulings. Read the entirety of the Rule change on the Supreme Court's website: www.illinoiscourts.gov.
3. New Marshall County Resident Circuit Judge Paul E. Bauer was sworn into the judiciary on November 19, 2020, via live stream broadcast, which can still be viewed on our website. After filling out retired judge McCuskey's CR 214 docket in Peoria for the rest of 2020, he will begin his first full-time assignment in Tazewell County CR 202 in

January 2021. Welcome to bench Judge Bauer!

4. I wish to announce I will step down as Chief Judge of the Tenth Circuit at the end of my second term on January 4, 2021. For more details, see our website: www.10thcircuitcourtil.org. My sincere thanks to the PCBA for all they do to better our profession in Central Illinois!

Schedule of Events & Court Holidays

December

- 23 PCBA Office Closed**
- 24 Christmas Eve, Courts & Courthouse closed/PCBA Office closed**
- 25 Christmas Day, Courts & Courthouse closed/PCBA Office closed**
- 31 PCBA Office Closed**

January

- 1 New Year's Day – Courts & Courthouse closed/PCBA Office closed**

Committee Meetings

All meetings are through Zoom unless otherwise noted

December

- 2 Lincoln Memorial Banquet**
- 8 Family Law Section**
- 16 Commercial Law & Litigation**

Committee Reports

Communications & Technology

The 2021 Attorneys' Directories will be available in mid-December. An email will be sent to the membership once they are delivered with details on pick-up times.

Diversity by: Melodi Green, Diversity Committee Chair

“The way to right wrongs is to turn the light of truth upon them.”- Ida B. Wells-Barnett

As Chair of the Peoria County Bar Association's Diversity Committee, I would like to express my gratitude for everyone who made the 17th Annual Diversity Luncheon a success. Carrying out this program in the face of the Covid-19 crisis was a grand accomplishment. I and the larger committee are grateful to have had three dynamic speakers who continue to not only speak about diversity, equity, true inclusion, and justice, but who's words are manifested in meaningful ACTION. Lieutenant Governor Juliana Stratton, St. Louis County Prosecutor Wesley Bell, and Peoria Public Schools Safety Chief, Demario Boone, are all proof that those in positions of power can effect positive change, even in face of resistance. Additionally, the Diversity Committee would like to again congratulate the scholarship winners, Malcolm Wickware, Gabriela Rosiles, and Tatiyana Rodriguez. This year's event was comparable to previous years and the Diversity Committee was able to raise approximately \$2,500 towards scholarship awards for 2021. Lastly, I would like to give a personal thanks to Pastor Marvin Hightower who stepped in at the last minute to provide our Benediction, and to Alyssiya Green who sang the Star-Spangled Banner.

Local Continuing Legal Education

2021 Winter Series

All seminars will take place through Zoom. See the attached flyer for topics & speakers. Cost is \$65 per seminar for PCBA members. As always, we will have our PCBA Member only deal, all 5 seminars for the price of 4...only \$260! Registration is now open!

Saturday, January 9, 8:30 – 11:45 – Family Law

Friday, January 15, 1:00 - 4:15 – The New Digital Courtroom

Saturday, January 23, 8:30 – 11:45 – Estate Planning & Probate

Friday, January 29, 1:00 – 4:15 – GPIL & Landlord/Tenant

Saturday, February 6, 8:30 – 11:45 – Civil Practice

Membership

We have received applications for membership from Julie Monroe and Mitchell Kavanagh. Julie is an attorney with Littler Mendleson, P.C. and Mitchell is an attorney with Heyl Royster. If there are no objections, their applications will be presented to the Board in January for approval.

Memorials



On November 5, 2020, a member of the association, Honorable Calvin R. Stone, passed away. Calvin was a graduate of Bradley University and attended the University of Illinois College of Law. After graduation, he practiced law for 20 years and taught law courses at Bradley University. He was then elected circuit Judge of the Tenth Judicial Circuit where he served for 20 years before retiring to Florida in 1988. Contributions to the Peoria County Bar Association Foundation may be made online by clicking [here](#), or by sending a check to the Peoria County Bar Association Foundation in memory of Honorable Calvin R. Stone

Substantive Law

Appellate Practice Section by: David Radley, Appellate Section Chair
CONUNDRUM – THE MISSING OXFORD COMMA

FACTS: Trust agreement provided trustee could make distributions to his wife, "...whether because of sickness, accident or otherwise, and for educational purposes." There was no comma after accident, so the word "otherwise" was limited to distributions for "sickness, accident" or "educational purposes," Right?

(SEE ANSWER BELOW IN RED)

RECENT AMENDMENTS TO SUPREME COURT RULES ON APPEALS by: Mike Fleming, Appellate Section member

There have been two recent amendments to the Supreme Court Rules affecting or governing appeals.

The more recent and more intriguing amendment is to Rule 23, which since 1994 has prohibited any citation of appellate dispositions which are determined to be non-precedential (and are thus known as "Rule 23" orders). The 1994 amendment was adopted to cut back on published (precedential) appellate opinions which at that time were still generally disseminated in the form of paperback advance sheets and hardbound books.

Despite the provision in Rule 23(b) that such cases could "be disposed of by a concise written order which shall succinctly state. . .", over time more and more Rule 23 dispositions were made by lengthy and detailed opinions; many of them would seem to be reasonably precedential at least on the basis of the particular facts; and the advent of electronic publication and eventually e-filing made the Rule 23 decisions as readily available to practicing attorneys and the general public as the precedential opinions still being printed in the hard-cover books.

The new amendment to Rule 23 relaxes the restrictions on Rule 23(b) cases as follows: while the opinion/order is still non-precedential, any Rule 23(b) order entered on or after January 1, 2021, may be cited for persuasive purposes. At this point in time, however, this change does not apply to Rule 23 cases decided in 2020 or in previous years, so citation to such cases is still prohibited.

The other recent amendment went into effect on October 1, 2020, and modified several rules, nothing earth-shattering. Most notable is the change to Rule 341, which now requires a Table of Contents at the beginning of a brief, before the Points and Authorities. Other changes include:

Rule 306 now allows a party to ask the court to order the circuit clerk to file additional records, when leave to appeal has been granted.

Rules 315 and 368 now clarify that the filing of a corrected opinion by the Appellate Court, where no petition for rehearing was filed, does not extend the time for filing a petition for leave to appeal, or the time for transmission of the mandate.

Rule 316 is amended to say that the length of an application (and answer, if permitted) for a certificate of importance for appeal to the Supreme Court, is governed by Rule 367; no answer to the application is permitted unless so requested by the Appellate Court.

Under Rule 318, when providing appellate court briefs to the Supreme Court, the appellant may file e-filed and stamped copies of the briefs.

Young Lawyers Committee



Thank you to everyone who donated to the YLC Fall Suit Drive. We had a GREAT turn out this year and the Neighborhood House was very thankful for all the donations. Project Santa is the next project for the YLC. Donations can be dropped off at the PCBA office on Tuesday, December 8 between 8:00 – 4:00 p.m. If you have any questions, please contact Project Santa Chairs, JD VanRheeden ivanrheeden@quinnjohnston.com or Tyler Eathington teathington@quinnjohnston.com

Prairie State Legal Services *by: Lydia Wagenbach*

RECENTLY CLOSED PRO BONO CASES

Prairie State Legal Services would like to thank the following attorneys who have provided free legal assistance to low income persons through our Pro Bono Program and recently closed their pro bono cases: Chad Long of Statham & Long LLC; Danny Schroeder of Hasselberg, Rock, Bell & Kuppler LLP; and Jennifer Bonesteel of Stephen P. Kelly, Attorney At Law, LLC. We would also like to give a special thanks to the following attorneys who provided legal advice over the phone to the sealing/expungement clients who were scheduled for the cancelled 2020 clinics: Donald Driscoll; Yolanda Riley of Kavanagh, Scully, Sudow, White & Frederick; and Wes Blumenshine of Caterpillar, Inc.

OPPORTUNITIES TO VOLUNTEER

Although we have cancelled the past sealing/expungement clinics scheduled for April, May, July, and August, and may have to cancel future clinics, there is still a pro bono opportunity to advise sealing/expungement clients on their record over the phone. The client's documents will be emailed to you well before you plan to call the client, and we will answer any questions you may have before you call the client. Once you've advised the client over the phone, the client's file will transfer back to our office and Prairie State will then file the client's Request on a limited scope or send to the client pro se documents to file on their own.

If you would like to volunteer services, please call me at (309) 621-4015 or email me at lwagenbach@pslegal.org. Your pro bono service will help PSLS provide legal assistance to individuals within our community who may not otherwise be able to afford legal representation.

Job Openings | Office Space Available | Misc.

Job openings and office space available can be found on the homepage of our website or by clicking the following links:

[Job Openings](#) and [Office Space](#) (office space section includes property for sale).

ANSWER TO OXFORD COMMA

WRONG! The absence of an Oxford comma does not mean the word "otherwise" is limited. The trustee's discretion was unfettered. Hatcher v. Hatcher, 2020 IL App (3d) 180096

2020-21 Board of Directors

Ambrose V. McCall – President
Emily H. Wilburn – President-Elect & Budget
Michael A. Fleming – Second Vice President
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Anne Mergen – By-Laws
Katherine Legge – Communications & Technology
Melodi Green -- Diversity
Kevin Elder – Entertainment (Golf)
Dennis Merkley – Entertainment (Holiday Party)
Robert Everett – Fitness, Health & Wellness
Joshua Herman – Government & Public Interest Law
Carol Perkins – Lawyer Referral Service
Mitch Gilfillan – Lincoln Memorial Banquet

William Loeffel – Local Continuing Legal Education
Seth TeBeest & David B. Mueller –
Membership & Memorials
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J. Logan Block – Young Lawyers
Katherine Swise – Director at Large
Syed Ahmad – Director at Large
Charles Schierer – Director at Large
B. Kip Shelby – Director at Large
Christopher Oswald – Director at Large



2021 Winter Series

Friday afternoons & Saturday mornings in January & February

SATURDAY, January 9 - Family Law – 8:30 a.m. – 11:45 a.m. via Zoom

Child Hearsay by Joseph Borsberry
Case Law Update by Retired Judge Jerelyn Maher
GAL's Involvement in Settling Cases by Ann Pieper
Stock Options by Chuck Urban & G. Edward Murphy
Attorneys' Fees by Angela Evans
Dissipation by Robert Parker
View from the Bench – Judges from the 10th Judicial Circuit Family Law Courts

FRIDAY, January 15 – The New Digital Courtroom – 1:00 – 4:15 p.m. via Zoom

Digital Voir Dire Selection by Judge Michael Risinger, William Loeffel, Scott Umland and Matt Smith
Digital Technology in Federal Court by Katherine Legge
Changes to Federal Rules Regarding Remote Court Proceedings by William Loeffel
How to Protect Yourself from Potential Client-Caused Federal Criminal/Civil Penalties by Howard Stone

SATURDAY, January 23 – Estate Planning, Probate & Elder Law – 8:30 a.m. – 11:45 a.m. via Zoom

Topics to be determined

FRIDAY, January 29 – Government & Public Interest Law – 1:00 – 4:15 p.m. via Zoom

1st Amendment Issues Affecting Employee Use of Social Media by Josh Herman
Validity of Governmental Actions During COVID by Katherine Swise
Remote Advocacy: Trials & Hearings Online by Nathaniel Strickler
Landlord & Tenant Issues during COVID by David Wentworth and Prairie State Legal Services
More topics TBD...

SATURDAY, February 6 – Civil Practice – 8:30 a.m. – 11:45 a.m. via Zoom

Tort Law Update by Robert Tenney
Employer Liability Issues Surrounding COVID by Mike Lied
Business Interruption or Professional Liability Issues surrounding COVID by Pearl Insurance
Tort Liens by J. Kevin Wolfe
UM/UIM Arbitration by Jennifer Bonesteel and Josh Smith
Zoom Depositions by Lea Cohen, Sivertsen Reporting

Early Registration price: \$65 for PCBA Members|\$80 for McLean County Bar Members|\$95 for Non-Members

PCBA MEMBERS ONLY DEAL – All 5 seminars for the price of 4, only \$260!

Registration can be done online at www.peoriabar.org and clicking on the event calendar.

Registrations increase by \$15 the Monday before each seminar

Reminders:

- Please include your ARDC number in your registration. We **must** have your number when we submit our attendance to the MCLE Board or you will not receive credit.
- You will receive materials & Zoom links by email the week of the seminar.
- Attendance certificates will be emailed after the seminar.