



## *NWSBA Presents 20th Annual Mock Trial Event*

Timothy Christian High School emerged victorious at the 20th Annual Northwest Suburban Bar Association Mock Trial Invitational. The event was held on Wednesday, February 24, 2016 at the Third Municipal District Courthouse in Rolling Meadows. Twenty area high schools participated in the competition with more than 400 students, coaches, volunteers and parents in attendance.

Scott Roelfs, Mock Trial Team Coach at Timothy Christian High School was very pleased with the outcome for his students.

“This is always a great tournament. We compete in real courtrooms, in front of real judges and attorneys. We appreciate the time and effort to put this together and everyone who donated their time to make it happen. They fed us, too (which is always a plus!)”, said Roelfs.

The Hon. William O. Maki, presiding judge of the Third District, welcomed students, coaches, parents, judges and attorneys to the event and thanked the high schools for participating.

“I also want to thank the NWSBA for all of their hard work in making sure this is a successful annual event,” said Maki.

He then introduced Ronald F. Wittmeyer, Jr., President of the Northwest Suburban Bar Association, who acknowledged all of the dedication these students exhibit when preparing for this competition.

“All of you are trial lawyers for one afternoon, and you get to see first-hand all of the hard preparation and



*NWSBA President, Ronald F. Wittmeyer (far right) with the team from Timothy Christian who took First Place in the 20th Annual Mock Trial Invitational.*

tedious work that attorneys have to do, but then you see how that work makes for positive results in the courtroom.”

He concluded by telling everyone to be confident, but most importantly, “Have fun!”

Chicago Christian High School took second place, as well as Outstanding Witness which was awarded to Jimmy Brady.

“Chicago Christian High School was very pleased to take second amidst a wide field of many well-respected mock trial programs. Also, Jimmy Brady’s excellent double duty as Chris Davies and Dr. Taylor Worsley surely helped him secure the best witness award,” said Neil Okuley, Mock Trial Coach at Chicago Christian.

St. Charles North High School finished third in this highly competitive invitational.

The Outstanding Attorney category ended in a tie, and was awarded to both Catherine Buchaniec of Maine West High School and Alexandria Cahill of York High School. This is the first time in the twenty year history of this NWSBA event that an award has ended in a tie.

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# PRESIDENT'S PAGE

BY: RONALD F. WITTMAYER, JR.

## RECENT DEVELOPMENTS

During the busy holiday season at the end of last year, my wife and I had the opportunity to attend the 2015 Unity Dinner & All-Bar Swearing in Ceremony and Reception. This annual dinner was hosted by the Diversity Scholarship Foundation (DSF) and was held at the Chicago Hilton's Grand Ballroom. Second Vice President, Michael Rothmann, attended last year's Unity Dinner and talked about what a wonderful event this Foundation put on each year. The DSF is a not-for-profit organization that provides scholarships to diverse and deserving law students. All bar presidents in attendance (well over 30) were introduced and sworn in by Chief Judge Timothy Evans on a very crowded stage. Mike Rothmann, my wife Carol, and I had the pleasure of sitting at dinner with one of this year's very impressive scholarship recipients – Bianca C. Serrato. Ms. Serrato attended Rolling Meadows High School, and is now a 1L at Northwestern University Law School. Bianca is a bright young lady who speaks fluent Spanish, and has volunteered as a translator for Mexican doctors in the Yucatan and for under-represented persons needing assistance in the court system here. The photo shows Mike Rothmann, Carol and I with Ms. Serrato, who promised to come visit us at the NWSBA sometime soon.



Our new arrangement with IICLE to create online CLEs is off and running! In the past 30 days IICLE has recorded two of our live seminars – Estate Planning & Probate and Matrimonial Law. Both of these NWSBA recorded seminars will be available for sale soon both on IICLE's website, and at a discounted rate to NWSBA members through our website. Watch the NWSBA Updates for more news on this exciting development.

The hard work of our substantive law committee chairs is starting to pay off. So far this fiscal year they have held 55% more monthly committee meetings than last year, and attendance at monthly committee meetings is also up 55%. Last month I enjoyed attending the monthly committee meeting of the Law Practice Management Committee, where a round table discussion about hiring of associates was lead by co-chair Jonathan Anderson. As you may know, Jon is the founder of Anderson & Associates, which focuses on Family Law and other consumer legal needs. With five offices and over 12 lawyers, Jon has hired many new graduate lawyers as well as associates with several years of experience over the past several years. I also picked up a few valuable tips, and made several changes to our office procedures after attending the civil litigation committee meeting last month. There, Joe Vito, formerly defense counsel to a major insurance company led a round table discussion of pre-trial and trial strategies in personal injury cases.

Also last month both myself and our parliamentarian (and associate attorney with our firm), Matthew "Matt" Hess had the opportunity to participate in High School Law Day. This consisted of a panel discussion by six attorneys from the Northwest Suburban Bar Association held at the Rolling Meadows Courthouse, and moderated by an attorney from the Law Office of Miriam Cooper, Kristin Flanagan. Along with Matt and I, the panel was past NWSBA president, Don Cosley, Dave Corbett, Kristin Flanagan, and Jennifer Howe. The panel of lawyers spoke with over 150 high school students interested in a career in law. The students were from HS Districts 214, 211, and Barrington High School. Each attorney on the panel gave their perspective on what it takes and what it is like to work as a lawyer in private practice. The students asked some pointed questions, like how much does a starting attorney make and how hard was the bar exam. The panelists gave the student audience a sense of the cost of going to law school today, and also stressed the importance of excelling in their studies, starting right now.

## UPCOMING PROGRAMS & EVENTS

In addition to the many monthly committee meetings taking place, there are several more 2 to 3 hour CLE programs planned for this spring – please watch for the weekly updates from the NWSBA office. The Spring Dinner Meeting will be held on Thursday March 31, 2016 beginning at 5pm at Ditka's in Arlington Heights. Dinner Committee Chairs, Joette Doran and Joel Weiner have secured two excellent speakers to discuss buying, selling, and combining law practices. Pending approval, this seminar will qualify for 2 hours of ethics CLE credit. John Cesario of the ARDC will discuss the ethical issues involved and Kerry Lavelle will talk about the business issues involved in these transactions.

And then on April 7, 2016 starting at noon will be the kick off for our new Women's Law Committee, organized by the Women's Law Committee chair, Joette Doran. This first meeting will feature a round table discussion on how to establish a successful law practice by the three partners at WPD, Nichole Waltz, Millie Palmer, and Susan Dawson.

So, please watch for the NWSBA weekly updates (or check our website at [nwsba.org](http://nwsba.org)), and plan to grow, learn, and network at an upcoming NWSBA event or program soon.

Stay Safe & Be Well,  
Ron Wittmeyer

## VOLUNTEER THANK YOU!

The NWSBA and the co-chairs of the Pro-Bono Committee want to extend an extremely grateful thank you to those attorneys that volunteered their time at the Third District Municipal courthouse in February. The NWSBA could not run these voluntary community outreach programs without the generous time given by NWSBA attorneys. The following NWSBA attorneys staffed the Pro Bono Desk, and served as paternity and/or court facilitators during the month of February:

### **Pro Bono Attorneys:**

Gregory Martucci

Sheila Genson

Matthew Hess

David Barts

Todd Benison

Ashley Steinhoff

### **Paternity Facilitators:**

Angela Peters

### **Court Facilitators:**

Howard Bernstein

Ellen Grennier

Nichole Waltz

Jen Howe

Joel Weiner

Steven Koukios

Angel Traub

Margaret Zuleger

Attorneys who staff the Pro Bono desk assist pro-se litigants in a wide variety of matters – the desk is open from 1:00 p.m. through 3:00 p.m. on Friday afternoons outside courtroom 206. The Paternity Facilitators and Court Facilitator Attorneys assist pro-se litigants and judges in Domestic Relations cases and attorneys volunteer their time on Thursdays from 9:00 a.m. to 12:00 p.m.

Stay warm!!

Again, thank you for your service,

Pro Bono Committee Co-Chairs:

**Janet Maxwell-Wickett (Committee Coord.)**

630-916-6000

**Jonathan Anderson**

847-995-9999

**Robert Kaplan**

847-995-8800

**Lance C. Ziebell**

847-705-7555

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## Newsbriefs

Published by: NWSBA

Editor: Scott Zambo

Production Editor: Julie Barth

Deadline to submit:  
15th of the month

Advertising Rates:  
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### Northwest Suburban Bar Association

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Association Attorney: *Michael Moran*

Parliamentarian: *Matthew Hess*

### Need Help?

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Lawyers Assistance Program

Continued From Page 1



*SECOND PLACE: The team from Chicago Christian High School.*

Rick Rosenberg, Mock Trial Head Coach at Maine West High School extended his gratitude for creating such an excellent learning and teaching program for students.

“In an educational environment which empha-

sizes testing and data, it is refreshing to participate in a program where the process itself is the highlight and where judges and lawyers connect to help our students in a real and meaningful approach,” said Rosenberg.

The students were judged on a point-scale of (1) non-effective to (5) outstanding on various courtroom roles, ranging from witness performance, direct exam by attorneys, to cross and re-cross exam by attorneys.

Preparations for this type of tournament begin at the start of the school year, requiring diligence and dedication on the part of the students. These students have invested hundreds of hours preparing for this courtroom drama by absorbing the details of the case, memorizing parts, getting into character and rehearsing. This year’s fictional case was Pat Dunn vs. Chris Davies, a case involving a dispute between two hockey players arising out of a hockey game that spiraled out of control, which the teams presented in actual courtrooms.

Many teams move on to the state tournament in Champaign, Illinois in March.



*THIRD PLACE: The team from St. Charles North High School.*

This year, The Mock Trial event was co-chaired by Richard Karwaczka, Kenneth C. Apicella, Frank J. Serio and Colin Gilbert, all members of the NWSBA; while the Hon. Judge Thomas Roti assisted with securing all of the presiding judges.

Apicella thanked the NWSBA, as well as all of the participating judges and volunteer attorneys.

“It is truly amazing to have such talented high schoolers take part in the Mock Trial, and to see how comfortable some of these students are in the courtrooms, as well as how well prepared they are. Many of them could be actual attorneys now!” said Karwaczka of the participating students.

Twelve Cook County Circuit Court judges volunteered their time and expertise to preside over the students’ cases, while more than 40 attorneys from the NWSBA served as competition judges and event volunteers.



*OUTSTANDING ATTORNEY (Tie): Catherine Buchaniec, Maine West High School & Alexandria Cahill, York High School*

The judges this year included Samuel Betar III, Joseph Cataldo, Jill Cerone-Marisie, Steven Goebel, Joel Greenblatt, Bridget Hughes, Thomas Roti, Richard Schwind, Sandra Tristano (ret), and Steven Wagner.

While every student that participates in mock trials will not go on to become an attorney, this intensive event gives them an opportunity to fine tune such skills as team-building, research and public speaking

all skills that can only benefit them later in life.



*OUTSTANDING WITNESS: Jimmy Brady, Chicago Christian High School*

The evening concluded with comments from Wittmeyer.

“Every one of these students have a lot to be proud of. We were quite

impressed with the work you all put into this completion. You are all winners!”

The invitational was presented by The Northwest Suburban Bar Association. Corporate sponsors for this event were American Landscaping, Inc., DeWald Law Group PC, Drost, Gilbert, Andrew & Apicella, LLC. and Fidelity National Title. This event was funded in part with a grant from the Illinois State Bar Association.



*Visit our Facebook Page to see more photos!*

# NORTHWEST SUBURBAN BAR ASSOCIATION



## Traffic Law CLE

Co-Chairs: Dick Adler and Thomas Moran

**March 15, 2016**  
5:45 PM - 9:00 PM

Forest View Education Center  
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Parking Lot B  
Entrance #1 located off  
Goebbert Road

\$50 –Members  
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After : 3/8/16

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*Seminar will begin promptly at  
5:45 PM and will include  
digital materials and a light  
dinner*

*To receive full credit,  
attendees **MUST** be checked in  
by 5:45 pm.*

This program is appropriate for  
**ALL LEVELS**

### DUI/Criminal Trial Techniques

Donald Ramsell, Ramsell & Associates

### Legislative Update/Secretary of State Hearings

Larry Davis, The Davis Law Group PC

### DUI Case Law Update

Thomas M. Moran, Ahern & Moran LLC

### Retrograde Extrapolation of Alcohol & Defending Prescription Drug DUI/DRE Cases

Dr. James O'Donnell, Pharmaconsultant Inc.

### Commercial Driver's License/Overweight

Richard Adler, Attorney at Law

*NWSBA is going "Green". All registered/paid attendees will receive the seminar booklet in PDF format prior to the seminar via Email. Attendees can choose to print the booklet or reference the document from their smart phone or electronic device. A very limited supply of hardcopy booklets will be available that evening for \$10 each.*

NORTHWEST SUBURBAN  
BAR ASSOCIATION

Northwest Suburban Bar Association  
800 E. Northwest Highway  
Suite 502  
Palatine, IL 60074

Phone: 847-221-2601  
Fax: 847-221-2844

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# NORTHWEST SUBURBAN BAR ASSOCIATION

## Spring Dinner Meeting

**THURSDAY, MARCH 31, 2016**

JOETTE DORAN & JOEL WEINER, MCLE/DINNER MEETING CO-CHAIRS  
KERRY LAVELLE & JON ANDERSON, LAW PRACTICE MANAGEMENT COMMITTEE CO-CHAIRS

**ETHICAL ISSUES WE SHOULD BE AWARE OF IN BUYING, SELLING AND COMBINING LAW PRACTICES**  
*JOHN CESARIO, ARDC*

**BUSINESS ISSUES FOR LAW OFFICE SUCCESSION INCLUDING BUYING, SELLING AND COMBINING PRACTICES**  
*KERRY LAVELLE, LAVELLE LAW, LTD.*

TIME: 5:00 PM COCKTAILS (CASH BAR)  
6:00 PM DINNER & PRESENTATION



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## IRS Practice and Procedures

By: Joshua Nesser, Lavelle Law, Ltd.

### **HOBBY VERSUS FOR-PROFIT ACTIVITY – *Estate of Sutter v. U.S.A.*, 2016 U.S. App. Lexis 1233 (7th Cir. 2016)**

**Why This Case is Important:** Taxpayers may assume that any losses incurred by their S corporations are deductible on their personal income tax returns, regardless of their corporations' activities. As this case demonstrates, losses are only deductible if they are incurred with respect to activities engaged in for profit.

**Facts:** In *Stuller*, the taxpayer and her deceased husband bred horses on their Tennessee farm, with their S corporation operating the horse-breeding "business." This corporation operated on a farm owned by the taxpayers, personally. The corporation incurred significant expenses, including payments to a horse trainer and \$80,000 in annual rent paid to the taxpayers for use of the farm. Most years, the S corporation incurred a tax loss of over \$100,000, with the corporation having a couple years of slight profitability. For the years of 2002 through 2005, the corporation incurred losses of approximately \$430,000, which the taxpayers used to offset other taxable income on their personal returns. The taxpayers also reported as taxable income the rent paid to them by the S corporation. The IRS audited their personal tax returns for 2003 through 2005 and determined that the S corporation's activities were not carried on for profit. Accordingly, it disallowed the taxpayers' personal deductions for the S corporation's losses and assessed a significant tax liability against the taxpayers. The taxpayers paid the liability and filed suit to claim a refund of the amounts paid based on their argument that the corporation's activities were carried on for profit and the losses should have been allowed. Alternatively, the taxpayers argued that if they were prohibited from deducting the corporation's losses, they should not have been required to report the rent paid by the S corporation as income. When the district court found in favor of the IRS, the taxpayers appealed.

**Law and Analysis:** Section 183 of the Internal Revenue Code permits tax deductions for losses from S corporation activities engaged in for profit. Treasury Regulations list the following factors to be reviewed in determining whether an activity is engaged in for profit: (1) the manner in which the taxpayer carries on the activity; (2) the expertise of the taxpayer or his advisors; (3) the time and effort expended by the taxpayer; (4) the expectation that assets may appreciate in value; (5) the taxpayer's success in other similar or dissimilar activities; (6) the taxpayer's history of income or losses; (7) the amount of occasional profits, if any; (8) the financial status of the taxpayer; and (9)

elements of personal pleasure or recreation. Focusing on the fact that the S corporation consistently incurred significant taxable losses, but the taxpayers never attempted to change the operation to make it profitable, the Court upheld the determination that the horse-breeding activity was a hobby rather than a for-profit venture. The Court also held that, regardless of whether the taxpayers were entitled to a flow-through deduction for the rent paid by the S corporation, the rent constituted personal income to them and had to be reported and taxed accordingly.

### **IRS VIOLATION OF CLOSING AGREEMENT – *Davis v. U.S.*, 2016 U.S. App. Lexis 1167 (9th Cir. 2016)**

**Why this Case is Important:** Taxpayers may assume that if the IRS violates a contractual agreement with a taxpayer regarding the procedures it must follow for assessing taxes that the related assessment would be rendered invalid. As this case demonstrates, that is not necessarily the case.

**Facts:** In *Davis*, the taxpayer, Al Davis, held the largest interest in a limited partnership that owned the Oakland Raiders and was the president of the corporation that was the general partner and tax matters partner of that partnership. The partnership and the IRS were involved in Tax Court litigation. In 2005, the parties reached a closing agreement in settlement of the disputes regarding the partnership's taxable income for the tax years of 1988 through 1994. A term of the closing agreement was that the IRS would compute the effect of the settlement on the various partners' tax liability and then would give each of the partners at least 90 days to review and comment on those computations before the assessments were made final. When the IRS did not make these computations until less than 60 days prior to the statute of limitations was to expire, which would have prevented the IRS from making any adjustments to the years in question, the IRS finalized its assessment prior to the expiration of the review period mandated by the closing agreement. The taxpayer paid the resulting tax liability and filed a suit for a claim of refund, asserting that the IRS breached its closing agreement, rendering the assessments invalid, and that to comply with the closing agreement, the assessments could not have been finalized within the statute of limitations. The district court found for the taxpayer and the IRS appealed.

*Continued on the Next Page*

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**Law and Conclusion:** The IRS admitted that it breached the closing agreement. At issue was whether this invalidated the tax assessments. Citing prior cases, the Court stated that closing agreements are generally treated as general contracts and are governed by federal common law, not the Internal Revenue Code. The Court held that, because the taxpayer's obligation to pay taxes assessed by the IRS came from the Internal Revenue Code and not the closing agreement, the IRS's breach of the closing agreement did not relieve him of his statutory obligation to pay the taxes assessed against him. While the breach of a closing agreement by the IRS may entitle a taxpayer to damages, the taxpayer was not seeking damages; he was seeking to invalidate the IRS's tax assessments, which relief the Court ruled was not proper. Accordingly, the Court overruled the district court and found in favor of the IRS.

#### **TAX PENALTIES AND REASONABLE CAUSE – *Alfred S. Co v. C.I.R.*, T.C. Memo 2016-19 (2016)**

**Why This Case is Important:** Most taxpayers understand that when they do not pay their taxes on time, they will be required to pay these past-due taxes in the future along with interest. However, they often fail to take into account that in addition to paying the tax and interest, they will be required to pay significant penalties. As this case demonstrates, though, for certain taxpayers who do not pay their taxes due to reasonable mistakes, relief from penalties is available.

**Facts:** In *Alfred*, the taxpayer worked overseas as an engineer for the U.S. Department of State, Office of Overseas Buildings Operations (OBO), from 2007 through 2012. At the end of each year, the OBO issued the taxpayer a W-2 reporting his wages and the federal income and FICA taxes that it withheld and remitted to the IRS. In preparing his income tax returns for each year, the taxpayer submitted forms 2555, Foreign Earned Income, electing the foreign earned income exclusion available under Section 911 of the Internal Revenue Code. This exclusion allows certain individuals to exclude from their U.S. taxable income amounts received from performing services in a foreign country. However, this exclusion is not available with respect to amounts paid by the U.S. or its agencies. The IRS examined the taxpayer's 2007 and 2008 returns and determined that the taxpayer was entitled to take the exclusion. The IRS subsequently examined the taxpayer's 2009 through 2012 returns and determined that the taxpayer was not entitled to take the exclusion, despite the taxpayer's circumstances being the same as in 2007 and 2008. The taxpayer filed a Tax Court petition and the Court

held that the determination in the second examination was correct – the taxpayer was not entitled to take advantage of the foreign earned income exclusion. The only remaining issue was whether the taxpayer should have been assessed penalties for his resulting tax underreporting.

**Law and Analysis:** Section 6662(a) of the Internal Revenue Code imposes an accuracy-related penalty equal to 20% of a tax underpayment due to a substantial understatement of income tax or negligence or disregard of rules and regulations. This penalty does not apply to the extent that there was reasonable cause for such underpayment and the taxpayer acted in good faith. In determining whether a taxpayer acted with reasonable cause and in good faith, regulations state that the most important factor is the extent of the taxpayer's effort to assess his or her proper liability. Circumstances that may indicate reasonable cause and good faith include an honest misunderstanding of fact or law that is reasonable in light of all facts and circumstances, including the taxpayer's experience, knowledge, and education. While in this case there was a tax underpayment due a substantial understatement of tax, the Court held that there was reasonable cause for this understatement, and that the accuracy-related penalty therefore should not have been assessed. In reaching this determination, the Court focused on the fact that the taxpayer relied on a prior IRS examination in claiming the foreign earned income exclusion for the years at issue. Taking this into account along with the taxpayer's limited tax and accounting experience, the Court found that the taxpayer's underreporting was a reasonable and honest misunderstanding of law.

*If you would like more details about these cases, please contact me at 312-888-4113 or [jnesser@lavellelaw.com](mailto:jnesser@lavellelaw.com)*



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*NWSBA Substantive Committee Meetings are held at the times and locations listed below. Please note that all meeting times/locations are subject to change. We encourage you to consult the NWSBA Event Calendar on a regular basis for the most up to date information.*

NWSBA Committee Schedules  
2015/16

<b>Committee</b>	<b>Date</b>	<b>Time</b>	<b>Location</b>
Civil Lit	4th Monday of the Month	Noon - 1:15pm OR 5:15 - 6:30pm	121 S. Wilke, Ste. 401 Arlington Heights, IL
Criminal Law	1st Tuesday of the Month	Noon - 1:15pm	Ditka's Arlington 2000 W. Euclid Avenue Arlington Height, IL
Business Law	2nd Tuesday of the Month	Noon - 1:15pm	Peggy Kinnane's 8 N. Vail, Arlington Heights, IL
Debtor/Creditor	1st Wednesday of the Month	Noon - 1:15pm	Tuscan Market 141 W. Wing Street Arlington Heights, IL
Employment Law	3rd Tuesday of the Month	Noon - 2:00 pm	Favaro & Gorman 835 N. Sterling Palatine, IL
Estate Planning & Probate	Last Thursday of the Month	7:45am - 9:00 am	Elly's Pancake 372 E. Golf Road Arlington Heights, IL
Law Practice Management	4th Wednesday of the Month	Noon - 1:15pm	Elly's Pancake 372 E. Golf Road Arlington Heights, IL
Real Estate	3rd Tuesday of the Month	Noon - 1:15pm	Lower Level Conference Room 1699 E. Woodfield Rd, Schaumburg, IL

The law office of

## ***Amari & Locallo***

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## New & Noteworthy

By: Crystal Bush

### THE LAW OFFICE OF ROBERT J. ROSS



This month's New & Noteworthy will feature a notable law firm. The Law Office of Robert J. Ross is a family business. Robert practices law alongside his two sons Patrick Ross and the newest member of

the firm Daniel Ross. Robert and his sons practice mainly in the areas of estate planning, estate and trust administration and business law. Daniel became a member of the Northwest Suburban bar association in December and is a recent DePaul University College of Law Graduate.

Robert developed an interest in the law at age twelve while traveling along Route 66 on a family trip to California. He became keenly aware of how downtrodden some people were, and this sparked in him a desire to want to help advocate for those who were unable to help themselves. This desire eventually led him to the Practice of Law.

Patrick and Daniel developed their interest in the law while working at their father's law firm in high school. Both of them worked during the summers and also on winter break. Whereas Patrick knew early on that he wanted to become a lawyer, Daniel wasn't quite sure. A class he took in logic really helped him to decide on the legal profession as a career.

Robert, Patrick and Daniel are all graduates of DePaul University College of Law. When I asked Patrick and Daniel if they felt any pressure to attend DePaul given that their dad was an Alumnus, they both said no. Robert attended DePaul because he believed the school not only had an excellent legal program, but the professors were down to earth and had a way of balancing the needs of the students with that of legal training. Daniel was actually conflicted about the law school he was going to attend, his final choices being Chicago Kent or DePaul, but ultimately his decision was based on DePaul offering him a better Scholarship.

Robert initially worked for about six years in the area of estate planning at two other law firms prior to starting his own practice. The decision to venture out on his own was based on the fact that he was now married, had small children at home and wanted

to secure the families future. He felt that working in private practice would be the best way to do that. He already had the people and technical skills required to be a business owner so he took the plunge. Most of his clients come to him based on his reputation. He mentioned that one of the things he's most proud of is that his clients include Judges, attorneys, accountants and other related professionals. He believes that his keys to success are not only his legal skills but that he really cares about his clients and tries to advocate for them in the best way possible. He is also an excellent listener and never misses an opportunity to stay in touch with his clients. He handed me a copy of his firm's newsletter as an example of one of the many ways he stays in touch. He also stated that he does get a reasonable amount of clients form the internet so it's important to have a good web presence.

The Law Office of Robert J. Ross consists of his two sons, two paralegals, a legal secretary, an office manager and another son, Liam who is his IT person. Liam has his own IT firm called [chimbly.com](http://chimbly.com) where he provides IT services to clients in a variety of areas.

I asked Patrick and Daniel what is the most challenging part about working in a family business. Patrick mentioned that since they are all family, sometimes it can be difficult being tough on one another. They tend to work well as a team, so when one is critiqued they understand that the goal is to help them develop their potential and to provide the best service possible to their clients. Daniel mischievously mentioned that sometimes he questions his father, because he doesn't always believes his father is right. He's usually proven wrong, but nevertheless, he's still at that age where he challenges his parents. He did admit however that both his father and his brother are great mentors.

Robert stated that running a family business has a certain amount of pressure associated with it. One of the reasons is that all of the family eggs are in one business. In addition, if someone makes a business related mistake, it can affect the family relationship. Robert has been quite successful in handling the family dynamics which is evidenced by the continued growth of the business and because his sons really want to work with their father. It was fascinating watching their interacting with each other.

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I came away with a sense that they were creating something that was quite special. It's not often that children want to work with their parents. Robert further mentioned that this is a plus for his clients, because they are not worried about the issue of business succession. They already know and are developing relationships with his sons who will one day take over the practice.

When I asked Daniel what he found as a new attorney to be his biggest challenge, he stated that managing the client load with the need to learn more about his specific practice area takes some balancing. He also finds it challenging when he submits a document to his father or brother for review, and it comes back quite edited. Still he knows he's in the learning phase of his career. Patrick stated that for him the work life balance can be challenging. He's excited that Daniel has decided to join the practice because he brings a youthful perspective. Robert stated that the biggest challenge is the combination of running a business while practicing law. In addition, because there is so much information available on-line, he finds that his clients are more engaged in the process because they have done some prior research. Robert also stated that sometimes clients don't always appreciate or understand how much you've helped them until later, so there is a bit of delayed gratification involved.

Robert believes that what has made him so successful is that he has a faith centered practice.

What he means by that is that he has a servant's heart. He really wants to advocate and help his clients. He enjoys the practice of law because it gives him the opportunity to live out his values. "You can do some amazing work for people once they trust you." The end result and the benefit to the client is worth the extra time to research a matter or even doing something as simple as drafting a letter. He continued that some lawyers may become discouraged by the practice of law if they view it simply as a business. Being a lawyer is more than a business, its client advocacy as well. He believes that if people practice law with that in mind, the profession will be quite fulfilling. One of the things he noted about the American Legal System is that although we may have the highest numbers of lawyers compared to other countries, our citizens also have the most amounts of rights.

When not practicing law, Patrick currently is working on a number of do it yourself projects around the house. Daniel has a pilot's license, enjoys rock climbing and is a bit of a musician. He plays the piano, banjo and guitar. Robert is a world traveler and has recently returned from a trip to Nairobi, Kenya.

*Crystal R. Bush is an attorney at CR Bush Law where she practices in the areas of estate planning, real estate, business and probate law.*

## Members in the News

Congratulations to past president **William F. Kelley** for being recognized as a SUPER LAWYER.

**Martin L. Glink**, founder of the Law Office of Martin L. Glink, presented during the Illinois State Bar Association's CLE program, "Foundations, Evidence and Objections" on Wednesday, February 17th, at the ISBA Chicago Regional Office. His talk was on "Laying Foundations." The program was a success.

The Law Office of Martin L. Glink formally welcomes **Erin Calandriello**, as a litigation associate. Erin concentrates in medical and hospital negligence cases, nursing home and general injury work.



# NORTHWEST SUBURBAN BAR ASSOCIATION



## Debtor/Creditor CLE

Scott Kuntz, Chair

**April 26, 2016**  
4:45 PM - 8:00 PM

Forest View Education Center  
2121 S. Goebbert Road  
Arlington Heights, IL

Parking Lot B  
Entrance #1 located off  
Goebbert Road

\$50 – Members  
\$100 – Non-Members  
After April 19th:  
\$60 Members, \$110 Non-Members

*Seminar will begin promptly at  
4:45 PM and will include  
digital materials and  
a light dinner*

*To receive full credit,  
attendees MUST be checked in  
by 4:45 pm.*

This program is appropriate for  
ALL LEVELS

### **A View From the Bench: Successful Litigation Practices and Mistakes to Avoid**

*Hon. Martin S. Agran, Circuit Court Judge, Third Municipal District*

### **Recent Statutory Changes and Case Law Update Affecting Debt Collection Cases**

*Scott C. Kuntz, Kuntz & Kuntz*

### **Vesting Rights in Chapter 13 Cases: Can a Debtor Force Mortgage Holders to Take Title to “Zombie Properties”?**

*Paul Bach, Sulaiman Law Group, Ltd.*

### **Collection of Consumer Debt after Suesz: Practical Tips and Practices Including Recent FDCPA Decisions**

*Kenneth Drost, Drost, Gilbert, Andrew & Apicella, LLC*

### **Judgment Exemptions: What Illinois Statute and the US Bankruptcy Code Allow You to Keep**

*Daniel A. Wolf, Schwartz, Wolf & Bernstein, LLP*

*NWSBA is going “Green”. All registered/paid attendees will receive the seminar booklet in PDF format prior to the seminar via Email. Attendees can choose to print the booklet or reference the document from their smart phone or electronic device. A very limited supply of hardcopy booklets will be available that evening for \$10 each.*

**NORTHWEST SUBURBAN  
BAR ASSOCIATION**

Northwest Suburban Bar Association  
800 E. Northwest Highway  
Suite 502  
Palatine, IL 60074

Phone: 847-221-2601  
Fax: 847-221-2844

Email: [pkrueger@nwsba.org](mailto:pkrueger@nwsba.org)

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## On This Day....

By: Robert Stoller

On March 23, 1775, at the Second Virginia Convention held at St. John's Church in Richmond, Virginia, Delegate Patrick Henry rose to present a resolution to raise a militia. In his speech known to generations of Americans, he gave a stirring call to arms; "Give me liberty or give me death." Patrick Henry is all but forgotten as the first of the Founding Fathers to call for independence, for revolution against Britain, for a bill of rights, and for as much freedom as possible from government, American as well as British. If Washington was the "Sword of the Revolution" and Jefferson "the Pen," Patrick Henry more than earned his epithet as "the Trumpet" of the Revolution for rousing Americans to arms in the Revolutionary War.

Patrick Henry was born at Studley in Hanover County, Virginia on May 29, 1736. His father John Henry was a Scottish-born planter. His mother Sarah Winston Syme was a young widow from a prominent gentry family. Henry attended a local school for a few years and received the rest of his formal education from his father, who had attended King's College in Aberdeen, Scotland. At fifteen, Henry began working as a clerk for a local merchant. A year later, in 1752 he and his older brother William opened their own store, which promptly failed. At age eighteen, not yet having found his profession, Henry married sixteen-year-old Sarah Shelton, whose dowry was a 600 acre farm, a house and six slaves. Henry's attempts as a planter and storekeeping proved to be unsuccessful. Next, Henry helped his father in law at Hanover Tavern. The tavern was across from the county courthouse and he began reading law. By 1760, nearing his twenty fourth birthday, Henry decided to become a lawyer. Self taught and barely prepared, Henry persuaded the panel of distinguished Virginia attorneys Wythe and Randolph that he had the intelligence to warrant admission to the bar. Henry was a gifted orator and his law practice flourished.

After a victory in a case against a clergyman of the Anglican Church, Henry launched a political career that saw him win a seat in the lower house of the Virginia's colonial legislature in 1765. Henry began his career shortly after the news had reached the colony of Parliament's passage of the Stamp Act. Henry in his Stamp Act Resolves attacked Parliament's claim of authority to tax the colonies and seemed to advocate resistance if the British government persisted in its course. Henry's Stamp Act Resolves were published throughout the colonies and Great Britain and established Henry's place among the leaders of the American Revolution. As the crisis with the mother country gained momentum after the Boston Massacre in 1770, Henry in 1773 joined with other Virginians

in the establishment of intercolonial committees of correspondence. Both the Boston Tea Party in December and Parliament's subsequent enactment of the Coercive Acts and its closing of the port of Boston, drew the colonies closer together in their resistance. Henry attended the first session of the Continental Congress in Philadelphia in September of 1774 as one of Virginia's seven delegates.

In early 1775, Henry returned to Virginia and organized a volunteer militia company for Hanover County. Henry resumed an active leadership role in the Revolution, particularly at the second Virginia Convention. Henry led the call for preparedness with his speech that begins this article. Henry carried the day by no more than half dozen votes. Henry commanded a company of militia for a period of time but at the time George Washington commented "I think my countrymen made a capital mistake when they took Henry out of the senate to place him in the field." Over the next few years he helped write the "Virginia Declaration of rights, a precursor to the Bill of Rights. Virginia's constitution was passed on June 29, 1776. Henry was promptly elected as governor. Henry served three terms from July 6, 1776 to June 1, 1779. Despite the weakness of his office, Governor Henry worked closely with George Washington to raise and equip the soldiers who won American independence.

By 1787, a movement to strengthen the central government of the new nation was gaining force which culminated in the Philadelphia convention. Henry remained committed to augmenting the resources of the Confederation government but suspicious of those who sought to replace it with a stronger central government. Henry did not attend the convention stating he "smelled a rat." The new Constitution was passed by the majority of delegates on September 17, 1787. By the end of the year James Madison regarded Patrick Henry as the greatest threat to ratification by Virginia. The Federalists outmaneuvered Henry with a strategy which had been successful in other states, of accepting ratification along with a slate of proposed amendments. Virginia ratified the Constitution by a vote of 89 to 79. The Bill of Rights would be ratified in 1791. Henry's passion for liberty as well as his eighteen children suggest to some that he, not Washington, was the real father of his country.

*Bob practices law in Arlington Heights and specializes in Personal Injury, Criminal and Traffic.*  
*Rstollaw@aol.com*

# Traffic Law Update

By: Thomas Moran

## Jurisdiction

In *People v. Lee*, 2016 IL App (2d) 150359, \_\_\_ N.E.2d \_\_\_, \_\_\_ Ill.Dec. \_\_\_, Defendant was stopped for speeding and subsequently arrested for the offense of DUI pursuant to 625 ILCS 5/11-501(a)(2). At his hearing for a rescission of his statutory summary suspension, Defendant contends that the officer's arrest occurred outside of his jurisdiction of South Elgin. The trial court denied the defendant's petition and ruled erroneously, in the defendant's Motion to Reconsider, that the arresting officer conducted the arrest within his jurisdiction. Defendant appeals.

The Appellate Court held that the arrest did in fact take place outside of the officer's jurisdiction which was a material finding and against the manifest weight of the evidence. Nonetheless, the Appellate Court affirmed the trial court holding that they may affirm on any basis supported by the record. (A court's mistake of material fact does not inevitably lead to its legal decision being reversed)

In the case at bar, the Appellate Court found that the arresting officer had probable cause to believe that the defendant committed an offense within his jurisdiction, thus making the stop and arrest (outside of the jurisdiction) valid.

## Refusal

In *People v. Pedersen*, 2016 IL App (2d) 150691, \_\_\_ N.E.2d \_\_\_, \_\_\_ Ill.Dec. \_\_\_, Defendant was arrested for the offense of DUI pursuant to 625 ILCS 5/11-501 and transported back to the police station. Defendant was read his Warnings to Motorist and asked if he would submit to a breath test. Defendant did not agree to take the test but instead asked the officer numerous questions about DUI's and the potential effects of a refusal. Defendant indicated that he needed to speak to an attorney but was in no way refusing. Defendant engaged the arresting officer in conversation covering such irrelevant subjects ranging from vacations to retirement plans. The defendant never expressly refused to take the breath test and seeks a rescission on that basis.

The trial court denied the defendant's petition maintaining, that while the defendant did not say "no" when asked to take the breath test, he never said "yes" either, thus constituting a refusal.

The Appellate Court agreed holding that no court has found that a refusal occurs only when there is an express verbal refusal. The court ruled that Defendant's conduct demonstrated a delay tactic and amounted

to a "Refusal to Refuse," which in turn amounts to a simple refusal.

## In-Station Video

In *People v. Tsiamas*, 2015 IL App (2d) 140859 \_\_\_ N.E.2d \_\_\_, \_\_\_ Ill.Dec. \_\_\_, Defendant was stopped for improper lane usage and was subsequently arrested for possession of cannabis. Once at the station, Defendant exhibited indicia of impairment. As such, he was asked to submit to field sobriety testing, at the conclusion of which, he was charged with DUI pursuant to 625 ILCS 5(a)(2). Defendant filed a Motion for Pretrial Discovery pursuant Illinois Supreme Court Rule 214 as well as a Notice to Produce under Illinois Supreme Court Rule 237. It was later determined that the in-station video, which captured Defendant's performance of the field sobriety tests, was destroyed.

The trial court denied Defendant's motion for sanctions contending that the video was not discoverable. The Appellate Court reversed and remanded the case holding that the tape was relevant and discoverable. The court further held that the State was put on proper notice that the defendant was seeking the tape by the filing of his Motion for Discovery and Notice to Produce and could have objected if it felt that the defendant's requests were overly broad. Consequently, the matter was remanded for the trial court to determine appropriate sanctions.

## Proper Stop

In *People v. Maberry*, 2015 IL App (2d) 150341 \_\_\_ N.E.2d \_\_\_, \_\_\_ Ill.Dec. \_\_\_, Defendant was arrested for the offense of DUI pursuant to 625 ILCS 5/11-501(a)(2) after being stopped for following too closely in violation of 625 ILCS 5/11-710(a). Defendant subsequently filed a Motion to Quash Arrest contending that the distance between his car and the vehicle in front of him, which was traveling below the speed limit, was reasonable.

The trial court agreed, and in granting the Motion to Quash, concluded that the vehicles were traveling approximately 30 to 35 mph and Defendant's distance of about a car length from the vehicle in front of his (the officer's vehicle) was reasonable.

The Appellate Court reversed and remanded the matter holding that given all of the facts and circumstance, it was reasonable to conclude that Defendant could not have stopped safely if the car ahead had to stop suddenly, thus, the arresting officer had reasonable articulable suspicion to stop the vehicle and conduct an investigatory traffic stop.

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## Video Tapes

In *People v. Moravec*, 2015 IL App (1st) 133869, \_\_\_ N.E.3d \_\_\_, \_\_\_ Ill.Dec. \_\_\_, Defendant was arrested and charged with the offense of aggravated DUI. After his arrest, the defendant filed a Subpoena Duces Tecum and a Notice to Produce all audio and video tape recordings, including but not limited to in-car and in-station videos relating to the arrest of the defendant by the Chicago Police Department on June 6, 2015. The Subpoena Duces Tecum was received by the Chicago Police Department and filed with the Clerk of the Circuit Court 13 days after Defendant's arrest. Defendant was subsequently advised that the squad video and the in-station video were unable to be copied due to technical issues. The defendant was further advised that Police Observation Device (POD) videos were also not available because the pertinent cameras were past retention and had been taped over.

Given the fact that the defendant issued his Subpoena Duces Tecum in a timely manner (before 15 days,

which is the retention period of POD's), the trial court granted Defendant's Motion in Limine and issued sanctions barring the testimony of the arresting officers.

The State appeals arguing that the trial court's reliance on *People v. Kladis*, 2011 IL 110920, 960 N.E.2d 1104, 355 Ill.Dec. 933 was misplaced given the fact that the defendant never expressly requested POD camera footage and did not list the specific location of the POD cameras.

The Appellate Court affirmed the trial court holding, among other things, that the State did not object or claim that the POD videos were not discoverable under Illinois Supreme Court Rule 415 (g)(i). To the contrary, the State conceded that POD videos existed and were in fact written over. Given that the Defendant made a timely request and the State failed to produce the videos, his reliance on *People v. Kladis*, 2011 IL 110920, 960 N.E.2d 1104, 355 Ill.Dec. 933 was proper. The Appellate Court further held that the trial court's sanctions were proper and not an abuse of discretion.

# SAVE THE DATE!

## Derby Day - Saturday, May 7th

Joint Event with DCBA

## Annual Golf Outing - Monday, August 8

Schaumburg Golf Club, Schaumburg, IL

## Board Meeting Highlights

By: Miriam E. Cooper, NWSBA Secretary

**New Member Contact Activity:** Mentors for new members should contact the new member, and then meet at Networking Nite.

**New Member Orientation** on March 22, 2016 at 7:30 AM.

**IICLE Update:** Matrimonial Law Seminar had 63 people that registered. IICLE will market the seminar and our members will receive a reduced price.

**Member Activity Report & Committee Meeting Attendance Report:** Reach out to people, members or not.

**Networking Night - April 14, 2016** at Ditka's: Guest speaker, Umberto Davi, President of the Illinois State Bar Association.

**Mock Trial:** February 24, 2016, at 2:00 PM at Rolling Meadows courthouse.

**Treasurer Rothmann** reported balance sheets and P&L statements will be reconciled for the next meeting.

**Judge's Night:** Awards Committee has selected the Judge to be honored at Judge's Night, the Honorable Judge Neil Cohen.

**Installation Dinner** will be June 22, 2016.

**Women's Committee** lunch meeting on April 7, 2016.

**Matrimonial Law CLE** held on February 8, 2016 was excellent.

**Spring Dinner** to be held on March 31, 2016; topics include Ethical and Business Issues.

**New members include:** Brigitte Auer, Craig C. Cunningham, Kevin Fanning, Daniel P. Fitzgerald, Mary Hayashi, Philip Kroovand, Patrick Molinari, Martin Osinski, Jordan Silver, Kris Tsitsis.

**New government/retired member:** Rosario M. Spaccaferro.

**New law student members:** Anthony Borrelli, Christina Norman, Christine M. Pernice

## NOMINATING COMMITTEE RECOMMENDATIONS

**The Nominating Committee of the NWSBA is pleased to report their recommendation as to the following candidates to be slated for election as officers and members of the Board of Governors of the NWSBA and Board of Directors of the NWSBA Foundation:**

### OFFICERS:

<b>Second Vice President:</b>	<b>Michael Rothmann</b>
<b>Treasurer:</b>	<b>Miriam Cooper</b>
<b>Secretary</b>	<b>Gary A. Newland</b>

### NWSBA BOARD OF GOVERNORS:

**Allen S. Gabe**  
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### FOUNDATION BOARD OF DIRECTORS:

**Patricia L. Jochum**

# *Newsbriefs*

## **EXCITING NEW OFFER!**

*Beginning with the March, 2016 issue, Newsbriefs will be available:*

### **IN CURRENT DIGITAL FORMAT:**

The digital format is FREE to all members and allows you to review the publication on your Smart Phone or Electronic Device. For those who prefer to have a hard copy, this version also allows you to print the issue off on your home or office printer for just pennies per page.

### **NEW!!!! *Newsbriefs* SUBSCRIPTION OFFER:**

Beginning March 1, 2016, one year subscriptions will be offered for those members who wish to receive a full color, hard copy of the publication. Ready Press, a local printer, has partnered with the NWSBA to coordinate all efforts related to the fulfillment of subscription orders.

**The cost for the yearly subscription is \$86.00**

A Subscription Form will be available on the website the week of  
*February 8, 2016*

We will also include a link to the form in our regular email blasts.

Please note: All subscriptions are managed directly through Ready Press.

# NWSBA NETWORKING NITE

*formerly Pub Trawlers*

*where guests eat and drink for free as long as the sponsorship money holds out!*

**THURSDAY, APRIL 14, 2016**

**DITKA'S ARLINGTON HEIGHTS**

**2000 Euclid Ave, Arlington Heights**

**5:00 PM**

**FEATURING SPECIAL GUEST:**

**ISBA President, Umberto Davi**

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**REAL ESTATE TAX REDUCTION REFERRALS** - Amari & Locallo, whose practice is confined exclusively to the real estate tax assessment process, is accepting referrals of commercial, industrial and multi-unit residential properties (seven units or more) from fellow NWSBA attorneys. Co-counsel fees provided: Note all properties in the Northern suburbs are being reassessed in 2016. Amari & Locallo has offices in DuPage County to service the real estate tax needs of property owners in collar counties: Lake, Will, Kane, McHenry, DuPage, etc. Properties located anywhere in Illinois will be reviewed without cost or commitment. Call Katherine O'Dell at (312) 255-8550.

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**COVERAGE ATTORNEYS NEEDED** – We're looking for experienced criminal/traffic attorneys to help cover overflow court dates on a per court date fee basis. Former prosecutors, public defenders or other attorneys with criminal/traffic knowledge are welcome to contact our office for information. Must have attorney liability coverage. Attorney fees are agreed to ahead of time and are always paid immediately. Speak to Mitch at Mitchell S. Sexner & Associates LLC at 847-690-9990 x0.

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# CALENDAR

MARCH 15	TRAFFIC LAW CLE
MARCH 31	SPRING DINNER MEETING
APRIL 26	DEBTOR CREDITOR CLE
MAY 5, 2016	JUDGES' NIGHT
JUNE 22	INSTALLATION
AUGUST 8	GOLF OUTING & BAGS TOURNAMENT

PLEASE CHECK THE WEBSITE CALENDAR



Northwest Suburban Bar Association  
800 E. Northwest Highway, Suite 502  
Palatine, IL 60074

Phone: 847-221-2601 Fax: 847-221-2844  
**Attorney Referral: 847-221-2681**  
[www.nwsba.org](http://www.nwsba.org)