



THE CATALYST

The newsletter of the Illinois State Bar Association's Standing Committee on Women and the Law

Chair's column

By Sandy Blake

Although law school cured me for a year or two, I have always loved this time of year. There is something almost magical about going back to school—new school clothes and shoes, new teachers and classmates, and the clean slate presented by the crisp, pristine white pages of a new spiral notebook.

All the newness inspires a sense of excitement and adventure, together with an eager anticipation of the opportunity to build on the knowledge and experience gained in years past.

That same inspiration accompanies the beginning of a new ISBA year, as we return from our summer hiatus, with new leadership and new committee members. I am honored to serve as the chair of the ISBA Standing Committee on Women and the Law this year, following in the footsteps of a long line of amazing leaders.

One of the proudest traditions of our committee is recognizing our members and others for their service and contribution to the legal profession and public. This is especially important because historically, women do not receive recognition for their contributions in the same way that men do. For example, men often are credited with being superior in crises. According to one communication expert, this is because men are indeed good problem solvers. Women, on the other hand, anticipate the problem, take steps to ensure that the crisis is averted, and therefore, receive little credit for their contributions.

Let's continue to look for opportunities to promote our members and their work.

We can accomplish this by nominating deserving women and men for ISBA and other awards, and honoring them in this newsletter. ■

Spotlight on Angela Baker Evans, our very own 2012 Young Lawyer of the Year

By Mary F. Petruchius

Mary: Angela, it's such a great pleasure to interview you! You've had a big year, haven't you? You were voted the 2012 ISBA Young Lawyer of the Year for outside Cook County. How does one become the young lawyer of the year? What is the process?

Angela: The Young Lawyers Division of the ISBA puts out an announcement that they are seeking nominations for the award. I was nominated by the Women and the Law Committee. Emily Masalski headed up the effort to compile letters from attorneys who work with me, arti-

cles, and other application materials. She turned it in and not too long afterwards, I was told that I won.

Mary: You're definitely not a native Illinoisan, with that beautiful southern belle accent, are you? Please tell us where your roots are and how you ended up in Peoria?

Angela: I am from Eufaula, Alabama which is a quintessential "Old South" small town. I say "yes ma'am, yes sir, and bless her heart," on a regular

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Spotlight on Angela Baker Evans, our very own 2012 Young Lawyer of the Year

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basis and try to never forget my southern charm. I had never heard of Peoria except for the saying "Will it play in Peoria?" before I met my husband. I moved here to be with him and his children. It really has grown on me.

Mary: You're very active in the ISBA. How did you first become involved in our bar association? What are your areas of interest in the ISBA?

Angela: I attended a CLE hosted by the Women and the Law Committee in Chicago and chatted with Emily Masalski and Sandra Blake a bit afterwards. I quickly submitted my request to be appointed to join these lovely ladies on the Women and the Law Committee. The rest is really a result of the welcoming nature of the ISBA. It seemed so intimidating at first but now it really does feel like family.

My areas of interest in the ISBA are, of course, the areas of law in which I practice, such as construction law. I am also very interested in simply remaining a part of the organization as a whole and contributing as much as I can to keep the ISBA as active, friendly, welcoming, and beneficial to Illinois lawyers' professional development in the years to come. I am not sure that those contributions will be in one particular area so much as I will just try to contribute what I can when the opportunity arises.

Mary: What schools did you attend, up to and including law school and what were your areas of study?

Angela: I graduated from Auburn University with a double major in English and Political Science. War Eagle! My Juris Doctor is from Samford University Cumberland School of Law.

Mary: Who would you say were and are the biggest influences on your life and why?

Angela: My husband, my father and my professional mentors are my biggest influences.

My husband is my rock. He is the kindest person that I have ever known. We respect each other's intellect and have really interesting conversations. He is quick-witted so we laugh a lot and he has great ideas that I

love to steal, so I constantly peg him for his thoughts.

My father is my constant reminder to work hard. There are a few of his sayings that pop into my head daily. I hear "Pee Wee, don't do it at all if you aren't gonna do it right," pretty regularly. "Make your plan and work your plan" pops up every so often. Another good one is "When you get nervous, just walk into the room and act like you own the place."

I have had several wonderful mentors over the years and each of them has helped shape my professional decisions as well as my personal life in positive ways. Since moving to Illinois, Tom O'Neal of Westervelt, Johnson, Nicoll & Keller, LLC took me under his wing as soon as I stepped foot into Peoria, and I am eternally grateful to him for giving me a shot. From him I learned professionalism, substantive law, legal strategy, and how to be a zealous advocate, while still employing compassion. Chris Nichols is an attorney from Washington, Illinois, where I live. He has gone above and beyond the call of duty to serve as my mentor through the Illinois Supreme Court Commission on Professionalism's Mentoring Program. Mike Kraft is my mentor at my law firm, so he has a great deal of influence on my day-to-day decisions and has quickly become a central and positive influence in my professional life.

Last but certainly not least, the Women and the Law Committee has been a hugely positive influence on my professional development. The members are the root of the support network I have found in my ISBA family.

Mary: Whom do you consider the most influential woman in your life and why?

Angela: I am fascinated with Madeleine Albright and Hillary Clinton. I love learning about them and find myself trying to copy cat some of their nuances. For instance, I have a little brooch collection and I am determined to use Angela Baker Evans now that I am married.

Sandra Crawford is the most influential woman in my life that I really know. Though I am not extremely personally acquainted with her, I know her through the ISBA Women and the Law Committee and was instantly invigorated by her excitement and vision.

This is a great example of how the ISBA Committees and, ISBA in general, provide an exceptional avenue through which ideas and professionalism can rapidly expand from more accomplished and experienced attorneys to its newer members. Sandra and I have met in person probably five times and had one phone conversation, however, I find her to be extremely inspirational and influential in my life.

Mary: When did you decide to become an attorney? Was there a specific event or individual who made an impact on you to reach that decision?

Angela: I was that kid that stuck up for the kids that got picked on and, frankly, got picked on myself a good bit. I tried very hard to dish back as much as I could. I also had someone close to me have horrible experiences with abuse and I wanted to help change this by being a prosecutor. It is simply instinctive to me to try to find balance. I really don't look at my job as work so much as I find it a privilege that people allow me to assist them with their life's or business's biggest problems.

Mary: Tell me about your first job out of law school and how you got hired. Any tips for our new law school graduates?

Angela: I clerked for free at a U.S. Attorneys Office and a District Attorney's Office for a large portion of my summers during law school and, while it didn't pay at all, it continues to pay dividends to this day. I did research and other normal clerking duties but I was in a really unique position to learn, simply because I was there because I wanted to learn and not to get paid. These clerkships turned into my first full-time legal job as a Deputy District Attorney. So, my advice would be to look at the big picture rather than the immediate return.

Mary: If you had to say you have a passion for some area of the law, what would it be?

Angela: Business law and family law.

Mary: Tell us about your own family life. What do you and your husband enjoy doing

in your leisure time? Any community activities that interest you?

Angela: My husband and I stay pretty busy. He helps me with Peoria Promise, which is a scholarship program, and he is always a sounding board for my community interests. We have two gorgeous daughters that I don't think I could have made better even if I had given birth to them myself. When we do have time to ourselves, we like to sit on the back porch, listen to music, reflect, and dream.

Mary: Angela, our "very own" young law-

yer of 2012, what does the future hold for you? Your dreams and goals?

Angela: I have no idea what the future holds but I think I am going to like it! ■

Mary F. Petručius is a solo general practitioner in Sycamore, IL. She is the 2012-2013 Vice Chair for the Standing Committee on Women & the Law and is also a member of the Child Law Section Council and Diversity Leadership Council. Mary is an incumbent on the ISBA Assembly for the 16th Judicial Circuit. She can be reached at marypet@petručiuslaw.com and her Web site is www.petručiuslaw.com.

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Covenants not to compete: Recent changes in the law

By Sherry Mundorff

Many of you may be familiar with covenants not to compete, either as an employer who has placed such language in a contract, or as a physician who has been presented with an employment contract containing such language. Basically, a covenant not to compete is a clause that is put in an employment contract which restricts the employee from practicing in a defined geographical area, for a defined period of time, or from accepting patients from the employer's practice after the employee leaves the practice situation.

Previously, Illinois law was fairly well settled on what would and would not be acceptable in such employment contracts. However, the Illinois Supreme Court recently issued an opinion (*Reliable Fire Equipment Company v. Arredondo*) regarding the enforceability of covenants not to compete. This could affect any contract you or your practice may currently have in place. Prior to placing such a clause in your practice's employment contracts or signing such a clause

yourself, you should determine whether such a clause would be valid.

In determining whether a covenant not to compete clause is valid the courts will look to a three prong test. First, the limitation on the employee must be necessary to protect the legitimate interest of the practice. Second, the limitation would not impose a hardship on the practitioner signing the contract. Third, the scope of the limitation is reasonable.

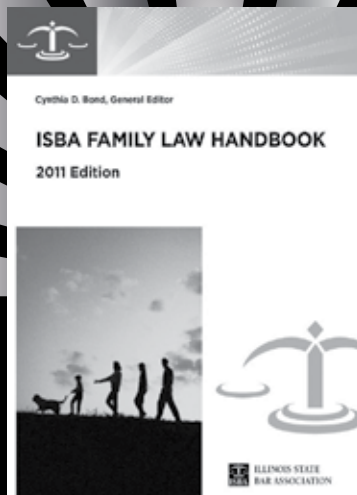
Significantly, the recent changes address the "legitimate business interest" test. The court will now determine whether a legitimate business interest exists which would support the employer's right to such a clause based on all of the circumstances in each individual case. Instead of using a strict test, the court will consider various factors which include whether the employee has acquired confidential information that he/she may be taking to new employment; the nature of the customer relationship, for example whether the patient relationship is permanent or tran-

sitory; and any time and place of practice restrictions.

While the Illinois courts have upheld covenants not to compete in the past, in making this change, the Illinois Supreme Court has made it easier for employers to enforce the covenant not to compete. A court now has more ability to review the entirety of the situation in order to determine whether such a clause is valid and enforceable. The Court has not yet discussed the ramifications on the issue of patients moving practices due to changes in insurance and how this may affect such covenants. ■

Sherry A. Mundorff has practiced medical malpractice defense at Kominiarek Bresler Harvick & Gudmundson for twelve years. Within the ISBA, she is a member of the Standing Committee on Women and the Law, as well as the Standing Committee on Public Relations. As a member of the Chicago Healthcare Risk Management Society she participates on the membership committee. She can be reached at smundorff@kbhglaw.com

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Court strictly construes Medical Studies Act in memo written to Surgery Center Board

By Mary Cunningham

In a recent DuPage County case (*Kopolovich v. Shah*, 2012 ILL App (2d) 110383), an anesthesiologist wrote a memorandum to several board members of a day surgery center stating that a surgery in which he participated differed from what was consented to by the patient and what was listed on the OR schedule. He alleged that the surgeon was “deceptive” and “unethical” in performing a full abdominoplasty (“tummy tuck”) instead of a hernia repair, excision and revision to correct an abdominal wall deformity. An investigation ensued and was not resolved. The surgeon sued the anesthesiologist and surgery center for Defamation and False Light Invasion of Privacy.

The anesthesiologist/defendant argued that the Medical Studies Act applied to the memorandum because he circulated it to the board only and because it dealt with matters of Quality Control.

Traditionally the Medical Studies Act has

been relied upon by hospitals to protect Peer Review documents from disclosure. The purpose of the Act is not to shield hospitals from liability, but to insure that physicians will engage in effective examination of their peers in order to advance quality of health-care. Illinois courts have consistently held that a Peer Review Committee document is privileged only if it is “initiated, created, prepared or generated by” a Peer Review Committee. Thus, a document generated before the Committee is engaged in reviewing an incident will not be deemed privileged.

The court rejected the anesthesiologist’s argument that the memo was protected. It found that as there was no Peer Review or Quality Control Committee investigating the incident before the memo was written, it did not qualify as privileged under the Act. Also, the anesthesiologist was not a member of any Peer Review or Quality Control Committee and, therefore, the memo could not have

been “initiated, created prepared or generated by” a Peer Review or Quality Control Committee. In its very strict interpretation of the statute, the Court found that “even when the content of the communication is in harmony with the promotion of internal quality control and improving patient care, the communication is not privileged under the Act when it is not generated by a Committee of the type described by the Statute.” The memo was not considered privileged and the plaintiff surgeon was able to proceed with his case for Defamation and False Light Invasion of Privacy. ■

Mary M. Cunningham has practiced medical malpractice defense with Kominiarek Bresler Harvick & Gudmundson, LLC for over 23 years. Mary is a member of the Illinois State Bar Association and the Society of Trial Lawyers. She has lectured frequently at local hospital Grand Round Seminars for physicians and residents on legal topics related to surgery, anesthesia and ophthalmology. She can be reached at atmcunningham@kbhglaw.com

Join the Woman2Woman Referral Network

By Danielle Kays

Kudos to Kathleen Balthrop Havener – an inspirational example of a woman helping women. Ms. Havener has established a woman to woman referral network for women lawyers, in honor of Madeleine Albright who said, “There’s a special place in hell for women who don’t help other women.”

The referral network Web site serves as a resource for women lawyers and clients of any color, size, shape, orientation, or gender to seek assistance with legal matters from particular women lawyers, with particular expertise, and/or in particular regions of our country and world. Women interested in joining the network can sign up for free and search for women lawyers in particular areas of concentration or particular cities.

All women are encouraged to visit the website at woman2womanlawref.com and utilize and join the network. If you are inter-

ested in being a part of the network, you may reach Ms. Havener by e-mail at kbhavener@havenerlaw.com. Additional directions for joining the network are available on the Woman2Woman Web site. ■



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November

Thursday, 11/1/12- Teleseminar—Business Succession and Estate Planning for Closely Held Business Owners, Part 1. Presented by the Illinois State Bar Association. 12-1.

Thursday, 11/1/12- Bloomington, Holiday Inn and Suites—Real Estate Law Update- 2012. Presented by the Illinois State Bar Association. 9-4:30.

Thursday, 11/1/12- Friday, 11/2/12- Champaign, U of I College of Law—Attorney Education in Child Custody and Visitation Matters in 2012 and Beyond. Presented by the ISBA Bench and Bar Section; co-sponsored by the ISBA Family Law Section and the ISBA Child Law Section. 12:30-5; 9-5.

Friday, 11/2/12- Teleseminar—Business Succession and Estate Planning for Closely Held Business Owners, Part 2. Presented by the Illinois State Bar Association. 12-1.

Friday, 11/2/12- Chicago, ISBA Chicago Regional Office—Third Annual Great Lakes Antitrust Institute (viewing of Live Webcast). Presented by the ISBA Antitrust Section; co-sponsored by the Ohio State Bar Association, Indiana Continuing Legal Education Forum, and Pennsylvania Bar Institute. 8:25-5:00.

Monday, 11/5/12- Webinar—Introduction to Legal Research on FastCase. Presented by the Illinois State Bar Association- Complimentary Training and CLE Credit for ISBA Members Only. 12-1.

Tuesday, 11/6/12- Teleseminar—Attorney Ethics in Digital Communications- Remote Networks, Smart Phones, the Cloud and More. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 11/7/12- Webinar—Introduction to Legal Research on FastCase. Presented by the Illinois State Bar Association- Complimentary Training and CLE Credit for ISBA Members Only. 12-1.

Wednesday, 11/7/12- Chicago, ISBA Regional Office—Do You Buy or Merge? Pre-

sented by the ISBA Business and Securities Law. 9-12:30.

Wednesday, 11/7/12- Chicago, ISBA Regional Office—Fiduciary Risk and Ethical Challenges for Fiduciaries and Their Advisors. Presented by the ISBA Trust and Estates Section. 12-1.

Wednesday, 11/7/12- LIVE Webcast—Fiduciary Risk and Ethical Challenges for Fiduciaries and Their Advisors. Presented by the ISBA Trust and Estates Section. 2-4.

Thursday, 11/8/12- Teleseminar—Real Estate Partnership/LLC Divorces. Presented by the Illinois State Bar Association. 12-1.

Thursday, 11/8/12- Chicago, ISBA Regional Office—National Healthcare Reform and Its Effect on Illinois Employers and Health Insurance. Presented by the ISBA Health Care Section. 1-4:30.

Thursday, 11/8/12- LIVE Webcast—National Healthcare Reform and Its Effect on Illinois Employers and Health Insurance. Presented by the ISBA Health Care Section. 1-4:30.

Friday, 11/9/12- Chicago, ISBA Regional Office—2012 Federal Tax Conference. Presented by the ISBA Federal Taxation Section. All day program.

Tuesday, 11/13/12-Teleseminar—UCC Article 9 Practice Toolkit: From Attachment to Remedies, Part 1. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 11/14/12-Teleseminar—UCC Article 9 Practice Toolkit: From Attachment to Remedies, Part 2. Presented by the Illinois State Bar Association. 12-1.

Thursday, 11/15/12- Chicago, ISBA Chicago Regional Office—The Student and Parent Side of School Law. Presented by the ISBA Education Law Section. All Day.

Thursday, 11/15/12- Webcast (originally presented May 31, 2012)—Neutralizing Obnoxious Conduct as Professionals and as a

Profession. Presented by the ISBA. 12-1.

Tuesday, 11/20/12- Teleseminar—2012 FMLA Update. Presented by the Illinois State Bar Association. 12-1.

Monday, 11/26/12- Webinar—Fastcase Boolean (Keyword) Search for Lawyers. Presented by the Illinois State Bar Association- Complimentary Training and CLE Credit for ISBA Members Only. 12-1

Tuesday, 11/27/12- Teleseminar—Discretionary Distributions. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 11/28/12- Teleseminar—Offers in Compromise. Presented by the Illinois State Bar Association. 12-1.

Wednesday, 11/28/12- Chicago, ISBA Chicago Regional Office—American Invents Act- Part 1: Protecting Innovation in a First to File System. Presented by the Illinois State Bar Association. AM Program.

Wednesday, 11/28/12- Live Webcast—American Invents Act- Part 1: Protecting Innovation in a First to File System. Presented by the Illinois State Bar Association. AM Program.

Friday, 11/30/12- Chicago, ISBA Chicago Regional Office—Trial Practice Series: How to Prove (or Defend) Your Case. Presented by the ISBA Labor and Employment Section; Co-sponsored by the ISBA Civil Practice and Procedure Section. 8:55-4:15.

Friday, 11/30/12- Lombard, Lindner Conference Center—Real Estate Law Update- 2012. Presented by the Illinois State Bar Association. All day.

Friday, 11/30/12- Teleseminar—Practical UCC- Understanding and Drafting Letters of Credit in Business Transactions. Presented by the Illinois State Bar Association. 12-1

December

Tuesday, 12/4/12- Teleseminar—Drafting Buy/Sell Agreements in Business, Part 1. Presented by the Illinois State Bar Association. 12-1. ■

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