

2022 SPRING NEWSLETTER



EDUCATION • LEGISLATION • VISION

the latest news and updates regarding credit and collection and the financial services industries



LETTER FROM THE PRESIDENT JULIE BEYERS

I want to start this letter by recognizing Ari Madoff for his hard work in putting together the newsletter. The ILCBA newsletter committee, led by Ari, is made up of dedicated volunteers who work diligently to create valuable content for our membership. If anyone is interested in joining the committee and being a part of planning and putting together the newsletter, please reach out to myself or Ari. We are always looking for ways to engage our members further and would welcome additional volunteers for this committee.

I say it every year, but I really cannot believe it is already April. With the Annual Dinner just around the corner, I wanted to provide a brief update on the important work we have been doing on behalf of the membership.

Every year, the ILCBA contributes towards the retention of lobbyist David Manning who monitors and tracks proposed legislation impacting the collection industry as well as assisting with proposed legislation. He has recently been successful in working to defeat various proposed legislation that would have had made the revival amendment retroactive to 2010, as well as increases in exemptions.

Through Mannings's efforts, and the efforts of the ILCBA Board to create a larger, deeper sphere of influence, the Office of the Senate



LETTER FROM THE PRESIDENT

JULIE BEYERS

continued ...

IN THIS ISSUE

PRESIDENT'S MESSAGE

UPCOMING EVENTS

MEMBERS IN THE NEWS

LEGISLATIVE UPDATES
AND CASE NOTES

WHY IS MEMBERSHIP IN
ILCBA BENEFICIAL

JOIN A COMMITTEE

BOARD

President recently reached out to our organization to solicit feedback on changes a proposed Senate Bill would make to the collection agency act. While the bill did not directly impact our members, this outreach is evidence that we have created a foundation for greater communication and influence in Springfield. This is something we can and must build upon. So that everyone has a chance to hear from Manning, he will be attending our Board Meeting scheduled for Friday, April 22nd, starting at noon. If anyone would like to join, please contact Angela McLaughlin at Chicago Association Management (angela@corpevent.com) for call-in information.

We must also use the strength of our membership to gain a seat at the table in the current discussions surrounding the evolution of court proceedings in our state. After the creation of the Remote Proceedings Task Force, we reached out to the chair, Justice Rochford, for a place on the committee, and although we do not have a specific representative on the task force, our input was requested. To make sure our members' voices are heard, we have developed a survey seeking feedback on remote versus in-person court proceedings and concerns with any proposed transition from remote back to in-person proceedings, or a hybrid model. The survey will be distributed shortly through the ListServe and we ask that all members capitalize on the opportunity to provide feedback that can be included in our organization's response to the task force. The more we weigh in and participate, the greater the visibility of our organization and the more likely we are to be called upon in the future concerning issues that affect our practices.

These are just a few examples of how we are working to widen our influence in Springfield and with the courts. We will continue to find every opportunity to represent our members' interests so that our practices can thrive in this ever-changing environment. Please do not hesitate to reach out to me directly with any ideas or suggestions. I am always open to hearing how the organization can provide the best value to its members.

Happy Spring!
Julie

The Illinois Creditors Bar Association cordially invites you

Alexander P. White Award Dinner & ILCBA Annual Meeting



Please join the ILCBA at the 2022 Alexander P. White Award Dinner and Annual Meeting at Erie Café at 5:30pm on Thursday, April 28th honoring the 2022 Alexander P. White Award recipient, the Honorable Todd B. Tarter of the Circuit Court of Kane County. Since 2015, the ILCBA has honored a member of the judiciary who exemplifies fairness to all parties and who possesses a breadth of legal knowledge, which is now known as the Alexander P. White Award, in honor of our first award winner and a respected jurist in the realm of post-judgment remedies.

Tickets are \$60 for ILCBA members and their spouses and \$75 for non-members. Registration includes hors d'oeuvres, a 3-course meal, dessert and wine. Limited tickets are available, so register now! Purchase your ticket here: <https://ilcba.org/event-4723267>. Erie Café and ILCBA will be following the City of Chicago guidelines regarding Covid-19.

[REGISTER](#)

ILCBA UPDATES LISTSERV CODE OF CONDUCT

ILCBA members get access to the ILCBA Listserv. The Listserv provides a valuable forum for the exchange of ideas and feedback about legal issues, and specifically, those issues relating to the practice of collection law.

The ILCBA recently updated their listserv guidelines and Code of Conduct. To view the updated Code of Conduct, please go to <https://ilcba.org/ListServ-Code-of-Conduct>

Members
in the
NEWS
Congratulations!

Steve Markoff Sworn in as President of NCBA

The ILCBA extends its Congratulations to Steve Markoff on his recent swearing in as President of the National Creditors Bar Association ("NCBA"). Steve was elected President-Elect at the 2021 Fall Conference in San Antonio and follows in his father, Robert Markoff's footsteps as President of NCBA. Robert Markoff served as President of NCBA (then known as NARCA) from 2007-2009 and is currently NCBA's Chair Emeritus.

Steve is Managing Partner of Markoff Law LLC, a regional creditors' rights and debt collection law firm with offices in Illinois, Kentucky, Ohio, Michigan, and Wisconsin. He is an author of multiple chapters in the Illinois Institute for Continuing Legal Education (IICLE) publication, Creditors Rights' in Illinois. Steve was a co-recipient of the NCBA's 2015 President's Award in recognition of his outstanding service to the Association.

Congratulations to David Lipschutz

Congratulations to ILCBA member David Lipschutz, Managing Attorney with Trunckett & Trunckett, P.C. Outside of the courtroom, David Lipschutz is a playwright. His play, hYdration, has been selected for inclusion in The Best Ten-Minute Plays 2022 (Smith & Kraus, publisher), with an expected release date of December 2022.

Congratulations to Bridget Maul

Congratulations to Bridget Maul, Attorney at Schiller, DuCanto & Fleck LLP. Bridget was recently named a 2022 Super Lawyers Rising Star, 2022 Best Lawyers Ones to Watch. Additionally, Bridget was recently appointed to the Board of Directors of the Depression & Bipolar Support Alliance, a national organization that provides hope, help, support and education to improve the lives of people who have mood disorders.



LEGISLATIVE AND CASE LAW UPDATES

Laches as a Defense to 2-1401 Petitions

PNC Bank, National Assn v. Kusmierz, 2021 IL 126606 - The Illinois Supreme Court issued a favorable opinion. The opinion concerns whether a petition for relief from a void judgment filed under 735 ILCS 5/2-1401(f) is subject to dismissal based on laches. The Circuit Court of Du Page County dismissed the petition at issue, applying both laches and the bona fide purchaser protections set forth in section 2-1401(e) of the Code. The Appellate Court affirmed. 2020 IL App (2d) 190521. The Supreme Court affirmed the Appellate Court's ruling, holding that the equitable defense of laches may be applied to counter a 2-1401 petition. The opinion should prove helpful to creditors seeking enforcement of older judgments being subjected to 2-1401 petitions where the facts suggest that Defendants rested on their laurels prior to seeking relief from judgment.

Discovery Rulings and Rulings as to Form of Documents are not "Substantive" Rulings that would Deprive Litigants of the Ability to Move for Substitution of Judge as a Matter of Right under 735 ILCS 5/2-1001

Gohari v. McDonald's Corp. 2022 IL App (1st) 201086 -The 1st District Appellate Court better clarified the boundaries of what constitutes a "substantive ruling" for the purposes of determining whether a 2-1001 "Motion for Substitution as a Matter of Right" was timely or not. The Court found that rulings addressing the form of documents filed with the court do not constitute rulings on substantial issues for purposes of section 2-1001, and further, that a hearing on a discovery motion does not defeat the right to substitution of judge under section 2-1001. Accordingly, the Appellate Court vacated all orders entered subsequent to the trial Court's denial of the 2-1001 Motion and remanded the matter for further proceedings.

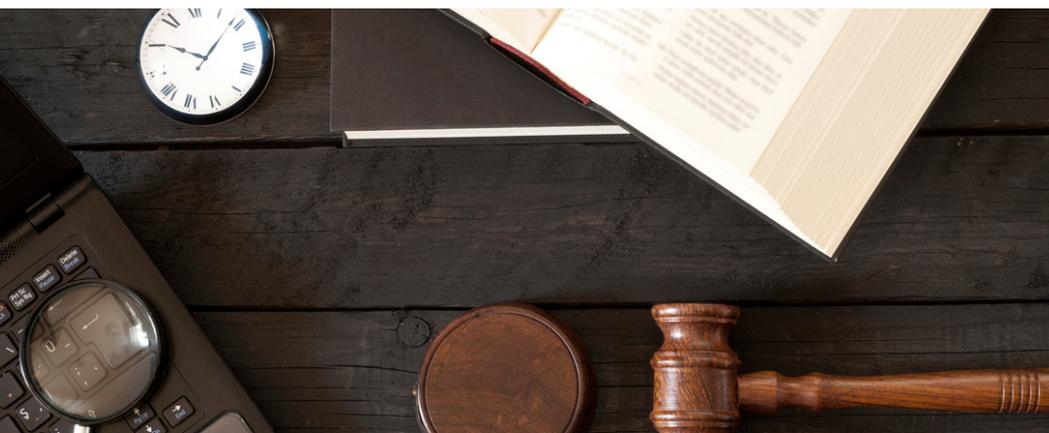
Seventh Circuit Rules No Violation of FCRA or FDCPA in Identity Theft Case
Woods v LVNV Funding, LLC et. al 21-1981 (7th Cir. 2022) - Debtor alleged that a credit card debt for the purchase of an airline ticket was identity theft/fraud. Creditor timely noted, investigated and validated debt (while also further requesting that debtor provide supplemental information). The airline company ultimately conducted their own investigation and determined that the debtor was not responsible for the charges. Accordingly, the Creditor requested that the reporting agencies remove the item from reporting. Debtor brought suit under the FDCPA and FCRA alleging that creditor improperly reported the allegedly false charge and further failed to reasonably investigate debtor's claims of fraud/identity theft. The trial court granted summary judgment in favor of creditor and the Seventh Circuit affirmed. The Seventh Circuit held that while the debt could reasonably be construed (for the purposes of overcoming a summary judgment motion) as a consumer debt under the FDCPA, the mere fact that the allegation of debt may have proven to be untrue (following the airlines



investigation and determination) would not be sufficient to impose liability on the creditor under the FDCPA. The Seventh Circuit reiterated prior holdings that FDCPA only imposes strict liability in the sense that "a collector need not be deliberate, reckless, or even negligent to trigger liability" but that "the state of mind of the reasonable debtor is always relevant. The Court determined that even an unsophisticated consumer, upon receiving the collection demand, would have been able to determine that the debt was not theirs and the statements in the demand would not influence even an unsophisticated consumer to decide to pay a debt that they alleged was not theirs. As to the FCRA claim, the Court held that Creditor was not unreasonable in their efforts to investigate the claims of fraud/identity theft and under the circumstances (which included Creditor furnishing debtor with additional fraud/theft affidavits that were not completed and returned by debtor) were not unreasonable or otherwise violative of the FCRA.

Proposed Amendment to the Illinois Collection Agency Act

Illinois Senate Bill 3934 - Proposed Amendment to the Collection Agency Act to provide that a collection agency may not communicate with a debtor in connection with the collection of any debt in specified circumstances. Further provides that these circumstances include debt that arises from domestic and economic abuse, elder abuse, human trafficking, and identity theft.



GET INVOLVED, GROW YOUR PROFESSIONAL NETWORK



- **Join a Committee** - We want to encourage you to get involved and meet colleagues outside your own firm. Choose a topic that inspires you and engage with fellow members.
- **Contribute Information** - Send information that we can add to the resource library, names of vendors that can be added to the vendor list and offer topics to present at a Brown Bag Lunch.
- **Attend Events** - Join us for seminars, social events and the Brown Bag Lunch series.

JOIN A COMMITTEE

The ILCBA is an active organization with various committees available to support the work and camaraderie of its members.

Join a committee to share your experiences and expertise, connect with fellow members and collaborate with your peers on programs and initiatives to advance our profession - all while developing skills that will benefit you both personally and professionally.

We invite you to join one of our many committees by filling out the form below indicating your desire to join a committee. **The involvement of our members is what keeps this association strong!** *Thank you for participating!*

You must be a ILCBA member to join a committee.

 [Committee Interest Sign Up Form](#)



Become a MEMBER

JOIN NOW!

READY TO RENEW YOUR MEMBERSHIP?

WHY IS MEMBERSHIP IN ILCBA BENEFICIAL?

ACCESS to the ILCBA ListServ - an Internet discussion group

ILCBA members are entitled to participate in the ILCBA ListServ, giving each member access to over 200 attorneys located around the state. The ListServ is an excellent way for creditors' rights attorneys to ask questions and to communicate with each other on a daily basis. Recent topics include changes in the law, questions pertaining to specific cases, and information about useful Web sites and services. As stated by a new member, *"I recently joined up and am mightily impressed by the amount of information exchanged on this list..."*.

eNEWS PUBLICATION

The ILCBA eNEWS features information about recent changes in the law, case reviews, and announcements about seminars and luncheon meetings. The Association always welcomes and encourages article submissions.

SEMINARS on Relevant, Practical Topics

The ILCBA is an accredited Minimum Continuing Legal Education provider. The ILCBA offers several seminars each year to which ILCBA members receive discounted registration. Topics vary; speakers are selected based on their expertise in specific aspects of creditors law and member interest. In addition, the ILCBA supports outside events and conferences that pertain to creditors law. Members receive discounted registration rates for all ILCBA seminars.

CLIENT Mission and Goals

Our member-directed Association is focused on providing education for our members, positively influencing creditor/debtor legislation, and providing liaison with local courts and government agencies.

MEMBER TESTIMONIAL

"I joined a couple of months ago, and have already learned and benefitted substantially from your collective knowledge and advice. I hope I can help some of you, as well."

Daniel A. Wolf, Schwartz Wolf & Bernstein LLP



OFFICERS

President & Education Committee Member

JULIE BEYERS

Heavner, Beyers & Mihlar, LLC
Decatur, IL 62525
Tel: 217-422-1719
juliebeyers@hsbattys.com

Vice President, Social Committee Chair, & Education Committee Chair

DIANA PEREZ

Markoff Law LLC
Chicago, IL 60606
Tel: 312-698-7300
Diana@Markofflaw.com

Secretary & Legislation Committee Co-Chair

CONRAD NOLL IV

Resurgence Legal Group P.C.
Deerfield, IL 6015
Tel: 847-656-0550
cnoll@resurgencelegal.com

Treasurer, Finance Committee Chair, Scholarship Committee Chair, & Admin Committee Chair

MICHAEL S. MATEK

Matek & Mazar, PC
Chicago IL 60602
Tel: 312-372-5800
mmatek@matekmazarlaw.com

Ex Officio & Courts Committee Chair

MIKE STARZEC

Blitt and Gaines, P.C.
Vernon Hills, IL 60061
Tel: 847-403-4901
mikestarzec@blittandgaines.com

DIRECTORS

Appellate Committee Chair & Ethics Committee Chair

STACIE BARHORST

Kaplan, Papadakis & Gournis, P.C.
Chicago, IL 60601
Tel: 312-726-0531
sbarhorst@kpglaw.com

Courts & Legislative Committee Member

GREG CZAICKI

Resurgence Legal Group, PC
Bannockburn, IL 60015
Tel: (847) 656-0550 Ext. 2207
gczaicki@resurgencelegal.com

Legislation Committee Member

CHRIS DIPLACIDO

Heavner, Beyers & Mihlar, LLC
Decatur, IL 62525
Tel: 217-422-1719
chrisdiplacido@hsbattys.com

Membership & Publicity Committee Chair, Ethics Committee Member

STEVEN J. FINK

Steven J. Fink & Associates
Chicago IL 60602
Tel: 312-696-1000
sfink26340@aol.com

Technology Committee Chair

DOUGLAS GIESE

Markoff Law LLC
Chicago, IL 60606
Tel: 312-698-7300 ext. 7355
Doug@Markofflaw.com

Courts & Education Committee Member

MICHELLE GOLDEN

Mages & Price LLC
Buffalo Grove, IL 60089
Tel: (847)405-7600 Ext. 3
mgolden@pagesandprice.com



EDUCATION • LEGISLATION • VISION

DIRECTORS

Legislation & Education Committee Member

KEVIN M. KELLY

Markoff Law LLC
Tel: 312-698-7300 ext. 7341
kevin@markofflaw.com

Director

MARC LICHTMAN

Lichtman Eisen Partners Ltd.
Chicago, IL 60602
Tel: 312-332-0247
MLichtman@LichtmanPartners.com

Outreach Committee Chair

KYLE LINDSEY

Johnson Legal Group, LLC
Chicago, IL 60603
Tel: 312-345-1306 Ext. 111
Klindsey@JNLegal.net

Director

NATHAN LOLLIS

Law Offices of Nathan Lollis, LLC
Chicago, IL 60602
Tel: 312-788-9898
nathan@lollis-law.com

Newsletter Committee Chair

ARI MADOFF

Mauer & Madoff LLC
Chicago, IL 60602
Tel: 312-324-3134
ari@mauermadoff.com

Courts Committee Member

DAVID MAUER

Mauer & Madoff LLC
Chicago, IL 60602
Tel: 312-324-3134
David@mauermadoff.com

Social Committee Chair & Administration Member

BRIDGET A. MAUL

Schiller DuCanto & Fleck LLP
Chicago, IL 60654
Tel: (312) 609-4907
bmaul@sdfllaw.com

Ad Hoc Marketing Committee Chair

MONA NASER

Carlson Dash
Chicago, IL 60661
Tel: (312) 382-1600
mnaserlaw@gmail.com

Landlord & Tenant Committee Chair

STEVEN TITINER

Truemper, Titiner & Brouch, Ltd.
Aurora, IL 60505
Tel: 630-701-1200
steve@ttandblaw.com