

Justinian Society of Lawyers



THE JUSTINIAN SOCIETY OF LAWYERS

2022-2023 Newsletter

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PRESIDENT'S MESSAGE

Bruno R. Marasso

While my express theme for the year at our May dinner was a (hopefully) understated request for us all to relax a bit and enjoy each other's company in our Justinian Society of Lawyers' 2022-2023 year, at our September dinner I spoke about the important role gratitude plays in our lives, our practices, and our society. As we continue with our 2022-2023 year, I invite you all to reflect on what we have done together as a Society so far, share in my gratitude looking back, and keep an optimistic and growth-oriented outlook moving forward.

Perhaps the Society's biggest initiative this year – and my favorite – was the opening of an online Justinian apparel store from which our members and friends can purchase clothes, hats, jackets, bags, and other useful items with our classic Justinian logo. A result of the hard work and implementation of Third Vice President Catherine Locallo, this store and the items we can purchase give us all the opportunity to both express our pride in the organization and remind people of the Society when we wear a t-shirt on the weekend at our kids' sporting events or the work shirts over a Zoom deposition (or when recording a video message for our membership)

Speaking of which, our Society continues to embrace the benefits of social media as we enhance and highlight our online presence by sharing photographs of our events on our website, Facebook, and LinkedIn. While it is agonizing to watch myself on video, the video messages have been a great way to spread the word about Society updates, upcoming events, and obtain feedback from our members.

PRESIDENTS MESSAGE

continued...

Our use of social media grows in other areas, too. We have implemented our bi-monthly member spotlight. As a member you have already received a link to a form to complete to have the chance to be randomly chosen for the twice monthly highlight on our website and social media pages. We all believe this membership highlight will be an excellent way to share a recent accomplishment of yours or your firm, new venture, or simply remind your friends and colleagues how it is you can help them and their clients with their legal needs.

Our events have been well attended and just plain fun. In June, a rained-out golf outing did not create an obstacle to having a good time. In September, we honored Judge Gloria Coco with the Award of Excellence at the Palmer House with an attendance of over 300 people. I am grateful I did not have to follow Judge Coco's remarks and also grateful for all of our members, friends, and sponsors who made the evening successful. In October, we hosted an intimate dinner for past presidents at Café La Cave.

In November, the Justinians took over the upstairs of Rosebud and Taylor, packed it with over a hundred people, and awarded over \$50,000 in scholarships to more than 20 deserving students. Everyone drank the red wine I brought that was cold because it was in my car all day. Nobody has let that go. On February 2, 2023, we hosted the return of our bocce ball tournament at Mazzini Verdi in Franklin Park. Attendance was great, as was the food, and it was interesting to watch everyone be competitive in something outside the courtroom.

On March 3, 2023 our CLE series continued with a tri-panel presentation regarding workers compensation, third-party personal injury practice, and employment law. It was well attended by both familiar faces and new faces.

And we still have great things ahead.

On March 16, 2023, the annual Children's Endowment Fund Dinner will take place at LuxBar.

On April 20, 2023, at Tufano's Vernon Park Tap, we will hold the nominations of officers dinner.

On April 27, 2023, we will present another CLE on the Illinois Probate Act.

Finally, **on May 18, 2023** at Gibson's, I look forward to passing the presidential torch to my good friend Michael Pisano, who has already discussed with me great and grand plans for the 2023-2024 year, and watching my fellow officers – and one new one – move one step closer towards their leadership year. Each of them will do great and I look forward to attending their events, supporting their initiatives, and continued collaboration outside of our Society.

I would like to thank all of my fellow officers and Executive Committee members for all of their hard work and support in making this year a success in my eyes.

I also want to once again thank our Executive Administrator, Chicago Association Management, and especially Angela McLaughlin, for all they and she have done to help with all of these events, as well as with all of the other items they handle, from the membership dues to the dinner RSVPs for each event. And thank YOU for being a member, reading this, and contributing to our Society. As I have said several times, while it is my presidential year, this is *our* Society. I encourage each of you to reach out to your friends who should be members to *become* members. I encourage you to make sure your friends who may have not renewed their membership, *renew* their membership.

Why? If you were at the scholarship dinner, you met 20 bright young students who appreciate the guidance and support this Society provides them, and who in time will soon pay that forward.

This Society has given so much to so many of us. This year, I have truly learned that giving back to it feels just as comforting and rewarding as all I have received from it.

Let us keep it up. As always, please reach out to me if there is anything I can do to help you.

Grazie.
Bruno

2022-2023 Officers



PRESIDENT

Bruno R. Marasso

Bruno R. Marasso is a Partner at Romanucci & Blandin, LLC, where he focuses his practice in the areas of automobile collisions, wrongful death, premises liability, and institutional misconduct. Bruno has served on the Assembly of the Illinois State Bar Association and is an active member of the Illinois Trial Lawyers Association. He has been named as an Emerging Lawyer by Law Bulletin Publishing Company every year since 2017, a Rising Star by Super Lawyer every year since 2018, and One to Watch by Best Lawyers. In 2018 he received the Trial Lawyer Excellence Award by the Law Bulletin Publishing Company for obtaining a verdict in the amount of \$44.7 million. He lives in the Bridgeport neighborhood of Chicago with his wife Maria and sons Eddie Bruno and Ronan Joseph.



1ST VICE PRESIDENT

Michael D. Pisano

Michael D. Pisano is an associate in Ice Miller's Litigation Group where he prosecutes and defends civil litigation matters with an emphasis in representing owners and construction professionals in claims for breach of contract, defective construction, construction delay, personal injury and property damage. He received his Juris Doctor, magna cum laude, from The John Marshall Law School, where he was a member of the Law Review. Among his many scholarships and awards were the Lupel & Amari Scholarship and the Justinian Society of Lawyers Scholarship. He has been an active Justinian since law school, serving on the Executive, Newsletter, Membership, Website and other committees. He has been recognized by Super Lawyers as a "Rising Star" from 2014 to 2023.



2ND VICE PRESIDENT

Brian T. Monico

Brian T. Monico is a principal with the law firm of Hale & Monico, which focuses on wrongful death, professional malpractice, personal injury and civil rights cases. He previously served in the Cook County State's Attorney's Office. A graduate of Fairfield University and the Loyola University Chicago School of Law, he earned a Philip H. Corboy Fellowship and Thomas F. and Patricia A. Bridgman Scholarship and was a member of the Corboy Trail Team while in law school. A member of the Executive Board of the Chicago Bar Association's Lawyer's Lend a Hand to Youth, he chaired the Young Lawyers section of the Center For Disability and Elder Law. Brian has been recognized as an Emerging Lawyer, Super Lawyer, Leading Lawyer and one of 40 under 40 Attorneys to Watch.

2022-2023 Officers



3RD VICE PRESIDENT

Catherine R. Locallo

Catherine R. (Caifano) Locallo is a partner of Robbins Schwartz law firm. Her primary area of practice is labor and employment law. Catie received her Juris Doctor, cum laude, from The John Marshall Law School in 2009, Order of John Marshall. She has received recognitions as Illinois Super Lawyers Rising Star 2015-2018. Catie has been a mentor to law students over the years and serves as co-chair of the Justinian Society of Lawyers Endowment Fund Scholarship Committee. She also serves as a member of Oakton Community College Paralegal Advisory Committee, the Triton College School of Business Advisory Legal Committee, and the Board of Directors for the Glenview Stars Hockey Association. Catie resides in Glenview with her husband Joe and is a proud Mom to sons, Jack and Tommy.



TREASURER

Michael R. Bertucci

Michael R. Bertucci is an Associate at Phillips Law Offices where focuses on personal injury, wrongful death, and medical malpractice cases. He previously served as a judicial law clerk to the Honorable Jesse G. Reyes of the Illinois Appellate Court. Michael earned his Juris Doctor in 2017 from Chicago-Kent College of Law where he received the CALI Excellence for the Future Award in multiple classes. He was an active member of the Justinian Society throughout law school, serving as the Chicago-Kent Justinian Vice-President. He also received the Morici-LoBello Family Memorial Scholarship from the Justinian Society in 2014 and 2015. Michael went on to serve on the Executive Committee of the Justinian Society and on the Scholarship Committee of the Diversity Scholarship Foundation. He and his wife live in Lakeview and they are expecting their first child.



SECRETARY

Hon. Jill Cerone-Marisie

Hon. Jill Cerone-Marisie is the Presiding Judge of the Third Municipal District. She was elected to the bench in 2006. She supervises 19 judges in Civil, Parentage, Traffic, Misdemeanor and Felony cases. She presides over Felony Mental Health and Veteran's Courts. Judge Cerone Marisie was an associate at Erbacci and Cerone, where her focus was on criminal defense, civil litigation and labor relations law. After graduating from The John Marshall Law School cum laude in 1990, she worked as a prosecutor for the Cook County State's Attorney's Office. She has received the John Marshall Law School Distinguished Service Award, the NWSBA Presidential Bench-Bar Award, Excellence in Public Service Award from the Clerk of the Circuit Court, Northwest Suburban Bar Association Most Civil Jurist Award, Dedication to the Pursuit of Justice from the Italian American Human Relations Foundation of Chicago Award, The Joint Civil Committee of the Italian American Impresa Award, and was awarded by Past President Hon. Celia Gamrath the 2007 Sbarboro Memorial Mentoring Award. Judge Cerone-Marisie serves on the Illinois Supreme Court Justice and Mental Health Planning Committee. She acts as a coach for One Million Degrees, an organization supporting under privileged community college students and has taught for the Administrative Office of Illinois Courts continuing education for judges.



Swearing-In of Officers

Thursday, May 19, 2022



TORT NOTES

First District Appellate Court Rules That Divvy Station In Close Proximity To Accident Is Sufficient To Establish Bicyclists As Intended Users Of The Roadway

By: James J. Morici, Jr.

In *Alave v. City of Chicago*, 2022 IL App (1st) 210812, the Appellate Court for the First District of Illinois reversed and remanded the lower court's decision to dismiss a complaint filed by a bicyclist who struck a pothole that was in a crosswalk while riding westbound on West Leland Avenue. The lower court had ruled that (1) bicyclists were not pedestrians, (2) a bicyclist crossing a crosswalk perpendicular to its path is not an intended use of the crosswalk, and (3) is defied common sense to suggest that the City planned for bicyclists to become intended users of the roadway when they approved rental stations at a distance from bicycle lanes. The Appellate Court took a different view. While the court agreed that bicyclists are not pedestrians, and that bicyclists are not intended users of the crosswalk, the Appellate Court reversed on the basis that this plaintiff was an intended and permitted user of the roadway.

Under the Tort Immunity Act, 745 ILCS 10/3-102(a), a municipality owes a duty of ordinary care only to those who are both intended and permitted users of municipal property. Both parties agreed, in this case, that the plaintiff bicyclist was a permitted user of the road. The issue at bar was whether the plaintiff was also an intended user. Under the statute, intent is determined from the City's perspective, not the user's. Intent can be inferred, and generally, courts "need look no further than the property itself." *Wojdyla v. City of Park Ridge*, 148 Ill. 2d 417, 425-426.

The plaintiff argued on appeal that a combination of factors sufficiently suggest that the plaintiff was the intended user of the roadway. First, that Chicago Municipal Code section 9-52-020(b) prohibited adults from riding bicycles on the sidewalk. Essentially, if bicyclists are prohibited from using the sidewalk, the city must have intended for them to use the roadway. However, the Appellate court found this argument unconvincing by itself. Prohibition, alone, does not render a bicyclist an intended user of the roadway.

Second, the plaintiff argued that the City answered a special interrogatory submitted by plaintiff: "it is not the City's expectation that persons using bicycles will walk their bicycles at all points when not in a designated bicycle lane." The plaintiff asserted that this conveyed an intent by the City that bicycles be ridden in the street, since riding on the sidewalk is illegal and bicyclists are not expected to push their bicycles. Again, however, the Appellate court found this argument unconvincing by itself. Foresight, alone, is insufficient to establish intent by the City.

The third factor the plaintiff argued was that a Divvy bicycle rental station, from which the City derives revenue, was close to the site of the accident. The relevance of bike rental stations to the question of intended users was a question of first impression for the Appellate Court. However, courts have consistently looked to the nature of the property itself when deciding a municipality's intent. Thus, a Divvy rental station near the site of the accident represented an indication of the intended use of bicycles rented there, and the location implies that bicycles will use the streets and sidewalks adjacent to the Divvy station.

While the Court notes that none of these factors alone would be sufficient to establish that plaintiff was an intended user of the roadway, the combination of the three is sufficient to establish intent and thereby establishes a duty on the part of the City. Now, the city ordinance and the expectation that bikers will not walk their bikes in any area that isn't a bike lane applies throughout the City of Chicago. What makes this location special, in the sense that cyclists are intended users of the roadway, is the Divvy bike station that has become all the rage in recent years. Chicago has approved and generates revenue from a series of these rental stations throughout the city, including one about 100 feet from where plaintiff's accident took place. Thus, in this case, unlike prior precedents, the City "certainly intended that bicycles be ridden on the roadway in close proximity to the area of the Divvy Stations."

James J. Morici, Jr. is a partner in the firm of MORICI, LONGO & ASSOCIATES, and represents Plaintiffs in personal injury, workers' compensation, and construction site related injury suits. Research & writing assistance provided by Kimberly Bernhard of the Chicago-Kent College of Law. Read all prior issues of "Tort Notes" at www.MoriciLongo.com.



An Intellectual Property Primer for Your Business

By: Anthony Fuga

What is Intellectual Property?

Intellectual Property is often considered the "crown jewels" or "secret sauce" that will fuel success and distinguish you from your competitors. Because it is such a valuable asset, intellectual property can and should be protected through any one of the following: 1) patents, 2) trademarks, 3) copyrights or 4) trade secrets. It is important to understand how intellectual property is protected before you can develop a plan.

Develop a Plan Early

Identify your existing and potential future intellectual property, and make a plan to protect it. The process may include obtaining a patent on your product or process or registering your business name for trademark protection. Intellectual property is a valuable asset, and it should be treated as such.

Patenting Your Invention

A patent is a property right – a right to exclude others from making, using, selling or importing your invention. The invention needs to be a new and useful process, machine, manufacture or composition of matter, or any "new and useful improvement thereof." While this is broad, there are three significant exceptions: you cannot patent laws of nature, physical phenomena or abstract ideas.

Once you decide to apply for patent protection, it is imperative that you act quickly. The Leahy-Smith America Invents Act (AIA) changed the United States from a "first to invent" to a "first to file" country in determining priority between inventors. This means that the first inventor to file his or her patent has priority (with certain exceptions).

Obtaining Trademark Protection

A trademark is used to identify the source of a product or service and distinguish that product or service from those of others. The trademark serves a "quality" function and represents the "good will" of your business. When choosing the name of your business or product, it is important to know whether someone else already owns the mark. If not, it is in your best interest to obtain a federal trademark registration, which will give you an exclusive right to use the trademark throughout the United States against later users of confusingly similar marks for similar goods or services. It also is important to police and enforce your trademark rights. Failure to do so may lead to abandonment of your trademark.

Copyright Protection

Your original, creative expressions are copyrightable. This includes writings, paintings, audio-visual works, architectural plans, etc. Your works are copyrighted as soon as they are fixed in tangible form, without registering or even putting a copyright notice on them. But if you want to enforce your copyright, it is important to register your works. Registration is needed before suing an alleged infringer. If registration is sought early enough, you may be entitled to statutory damages for any infringement of your copyrights of \$30,000 or \$150,000 per work, depending upon if the infringement was willful.



Protecting Your Trade Secrets

A trade secret is information vital to the operation of your business and known only to a limited number of people within your company. This information allows your business to maintain an economic edge over its competitors. Protecting your trade secrets requires you to identify your trade secrets and actually maintain their secrecy. Therefore, you should consider requiring key (or all) employees to sign nondisclosure agreements, imposing secrecy practices, and establishing disclosure policies for your company.

Anthony Fuga is a Chicago litigator and trial lawyer in Holland & Knight's Intellectual Property Group. He is experienced in all forms of IP litigation and counseling, including patent, trade secret, trademark, copyright, and Computer Fraud and Abuse Act (CFAA) matters.

Disclaimer: this information is for the general education and knowledge of our readers. It is not designed to be, and should not be used as, the sole source of information when analyzing and resolving a legal problem. Moreover, the laws of each jurisdiction are different and are constantly changing. If you have specific questions regarding a particular fact situation, we highly recommend you seek out an attorney who has experience to help you make these initial assessments.



Installation Dinner & Awards

Thursday, September 22, 2022



THE STATUS OF THE REAL ESTATE MARKET

By: Erica Minchella

There's a lawyer joke I heard as a young attorney which is even more true now...

A lawyer who had been practicing in real estate law for 40 years died and went to heaven. As he stood at the gate in front of St. Peter he saw a long table with people in business attire on either side exchanging papers. The lawyer asked St. Peter "what are they doing?" "They're doing real estate closings" replied St. Peter. "Oh no! I've just spent the last 40 years doing real estate closings. I cannot do them for the rest of eternity. If this is what you are doing here, send me to the other place!" "Are you sure?" asked St. Peter. "Absolutely!" and poof, the lawyer was standing in front of the Devil. Behind the Devil was a long table with people in business attire on either side exchanging papers. "Wha...what are they doing?" asked the lawyer. "They're doing real estate closings," replied the Devil. "But that's what they were doing in heaven! What's the difference?" the lawyer asked. "There they close."

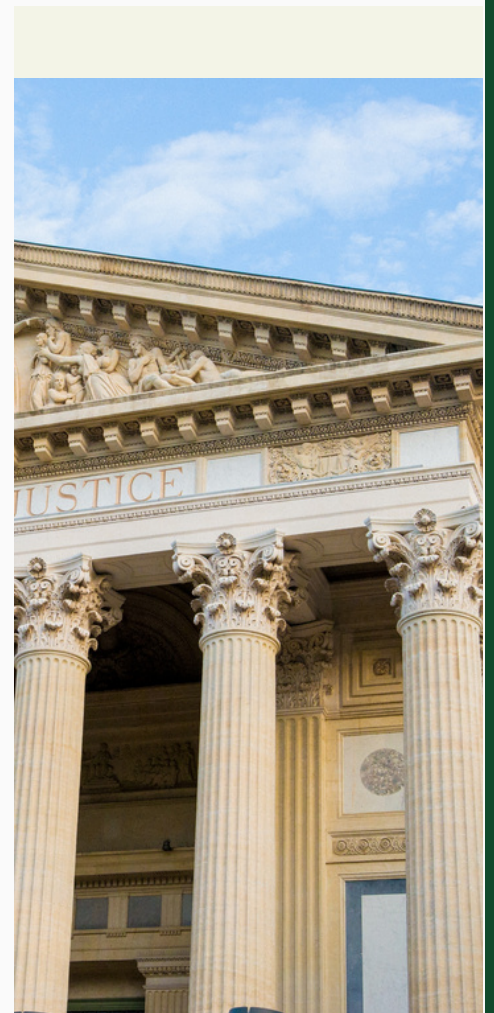
Honestly, that's about how it feels lately. 2021 was one of the most ferocious years in real estate transactions. People would line up 20 – 30 deep to see a property that had gone on the market. Sellers had numerous offers to choose from. Buyers and their brokers became more and more creative and tenacious in the way they presented their offers. It didn't matter whether the properties were sold "as is" or as full-price offers – the buyers essentially had to accept a take-it-or-leave-it attitude to buy a home.

I was deeply concerned that buyers were taking on responsibilities they might not have otherwise. And I believe that to some extent I was right. I have analyzed numerous transactions for suit under "Failure to Properly Disclose" and fraud litigation. Sellers fudged, covered up, lied, and defrauded buyers because people were so desperate to buy that they thought that they could sell with impunity regarding any of the deficiencies of their property. There were new walls put up over cracked foundations to hide the cracks; there were attorney review letters assuring that all building permits necessary were obtained, when a new bedroom and bathroom had been put into an attic and no permits were pulled; buyers who relied on a developer who insisted that the survey he had pulled was correct despite evidence to the contrary given by the neighbor whose property was trespassed upon.

Since interest rates have increased to around 6% from the 3% rates we saw last year the market has cooled. Ironically, 6% is a normal interest rate. There are many of us who can remember our first mortgage interest rates at 13, 17, 19% – a credit card is cheaper than what we were paying for our mortgages! With values cooling, there are owners who are no longer interested in selling and downsizing, chilling the normal movement to larger properties as family sizes increase. There are no properties available, but now for a different reason.

The next issue we will see is that people who sought forbearance plans from their lenders during Covid will be looking for modifications of their mortgages to avoid having to pay all of the arrears that occurred during the forbearance period. Some will be modified; others will wind up in foreclosure. One option to stay out of foreclosure is a short sale. Other options are a Deed in Lieu of Foreclosure or a Consent Foreclosure. All of those options put properties on the market that are "distressed" and sold "as is" and at a lower value than other properties in the neighborhood. Although it is not supposed to be considered when appraising property, it may do so depending on how many properties in distress are selling in the neighborhood.

Earlier this year, I handled two breach of contract matters for the same property. Once the matters were resolved, a new buyer was found and the attorney who referred the matters to me was finally able to close on a transaction that took three buyers to get to closing. I wonder if he ever heard my joke. I am sure he felt he was living in the middle of it.





JSEF Scholarship Dinner

Thursday, November 17, 2022



CONGRATULATIONS TO OUR 2022 SCHOLARSHIP RECIPIENTS!

Civil Justice Preservation Scholarship

. Isabella Mazzanti

Louis & Gloria Cairo Scholarship

. Adriana Bosco

John G. Phillips Memorial Scholarship

. Christina Valentini

Justinian Society / Rosinia Memorial Scholarship

. Olivia Raimondi

Morici-Lobello Family Scholarship

. Kimberly Bernhard
. Dorthea Keys Kohon

Thomas Battista Scholarship

. Krista Solano

Italian American Judges Scholarship

. Frank DiLeo

Caifano-Locallo Family Scholarship

. Giana Galle

JSOL Endowment Fund Scholarship

- Arabella Gigliotti
- Sabrina Scardamaglia
- Marissa Scavelli
- Marla Fontana
- Joseph Ranieri
- Kaitlin Stanfield
- Monika Nasiadka
- Nicholas Zito
- Carol Frugoli
- Brandon Grant
- Evan Deichstetter
- Nicole Alfano

2021 ANNUAL AR/DC REPORT / A BRIEF REVIEW

By: Leonard F. Amari

As it does every year, the Illinois Attorney Registration and Disciplinary Commission (AR/DC) published its 2021 annual report in the spring summarizing its work for the previous year. This AR/DC article will be a quick review of this excellently prepared and interesting annual report. It is my understanding that 2021 was the first year hard copies were not mailed to the registered Illinois attorneys.

The full report consists of 73 pages including the 9 page "highlights" section of enlightening facts and figures - (www.iardc.org/about/annualreports).

The report begins with a clear mission statement: "As an administrative agency of the Supreme Court of Illinois, the ARDC assists the Court in regulating the legal profession through attorney registration, education, investigation, prosecution and remedial action."

Besides extensive facts and figures, the AR/DC report explains in detail its 2021 altruistic and impacting initiatives, e.g., education, diversity, lawyer well-being, and its pandemic response.

Other topics covered in detail, and worth reading, or at least scanning, include:

- Illinois Lawyer Population (pp. 12-14)
- Practice Demographics (pp. 14-20)
- 2021 Investigations, Prosecutions, and Sanctions (pp. 20-24)
- Disciplinary/Regulatory Program (p. 29)
- Probation, Deferrals, and Diversion Program (pp. 30-32)
- 2021 Developments (p. 32)
- And Current Financials (p. 35)

This report also discusses in detail, like an accounting, its twenty-two-million-dollar annual budget, down one million dollars from the previous year.

The report also identifies in some detail the personnel and procedures of the commission. Incidentally I was pleased to see that two highly respected past presidents of the Illinois State Bar Association are heavily involved in the AR/DC leadership, my pals, Tim Bertschy (Chairperson) and Tim Eaton (Vice Chair of the Review Panel), and of course Jerry Larkin still does, after many years, a great job as a chief administrator.

Among the facts and figures mentioned is that attorneys of the age of 50 and older outnumber lawyers aged 49 and younger. Ten years ago the younger members of the bar amounted to 51% of all Illinois lawyers.

As to the number of licensed women in Illinois, the 2021 figures indicate 40% - a growing trend. For example, in 2001 there were only 30% of female lawyers.

Also, the report points out that 2021 AR/DC complaints against lawyers continued a steep decline. Interestingly, the report clearly shows fewer and fewer complaints being investigated by the AR/DC year after year (one has to wonder why?).

The report also discusses the impact of mandatory continuing legal education (MCLE) in the Illinois legal profession - an increase of lawyers being suspended for non-compliance. For example, the report pointed out that in 2021, 75 lawyers were removed from the rolls of practicing lawyers for non-MCLE compliance in Illinois while there were 197 stricken for non-MCLE compliance in 2020.

The annual report announces that there are 95,480 registered Illinois lawyers, in 2021. Approximately two-thirds of whom are located in Chicago and Cook County. Additional informative figures include:

- 60% of Illinois lawyers are male, 40% female and .07 are non-binary;
- 66% are in private practice (down from 67% in 2020);
- 25% are between 40 and 49 years old (about the same as in 2020);
- 52.6% of licensed Illinois lawyers are solo practitioners or members of small firms of 10 lawyers or less, 9% in firms of 11-25 lawyers, 12% in firms of 26-100 lawyers, 26% in firms of 100+ lawyers.

As to the discipline of Illinois lawyers, the report provides these interesting statistics:

- Complaints fell from 4,900 in 2019 to 3,936 in 2020, to 3,881 in 2021;
- 26% of all complaints were based on the attorney's negligence (down from 30% in 2020);
- 12% for lawyers' failure to communicate with his/her client (down from 14% in 2020);
- 8% involved fee disputes with the lawyer (down from 10% in 2020);
- 8% failure to provide adequate representation (down from 9% in 2020).

In terms of which practice areas receive the most grievances, the report makes these observations:

- 33% criminal law, (up from 23% in 2020);
- 21% divorce and related areas (up from 17% in 2020);
- 10% tort (personal injury mostly) (down from 12% in 2020);
- 9% real estate and related areas (down from 10% in 2020);
- 9% probate (up from 8% in 2020).

It is interesting to have viewed these annual AR/DC reports every year. For example, in 1968, when I was sworn in, there were about 21,000 licensed attorneys in Illinois. I think it is fair to say that once the new February and July 2022 bar passers are sworn in, we will be at or on the threshold of having 100,000 licensed Illinois attorneys.

My personal observation as a practicing attorney in Illinois for more than 53 years is that the Illinois Attorneys Registration and Disciplinary Commission has always done, and continues to do an outstanding job for the licensed Illinois practitioners.





Bocce Ball Tournament

**Congratulations to Team 5 as the tournament winners!
Mike Favia, Nicholas Loizzo, Jason Quaglia and Mauro Glorioso**



Thursday, February 02, 2023



You Have A Right For Discovery and a Hearing:

When Defending 2-619 Motions To Dismiss You Can Seek Discovery and Have An Evidentiary Hearing

By: Alon Stein

You have been served with a 2-619 Motion to Dismiss. In defending against the 2-619 Motion to Dismiss, do not forget that you can ask for an evidentiary hearing and seek discovery.

What is a 2-619 Motion to Dismiss?

The various requirements for a 2-619 Motion to Dismiss were discussed and analyzed in the Appellate Court case of *Barber-Colman v. A&K*, 236 Ill.App.3d 1065 (5th Dist. 1992):

"...A section 2-619 motion provides a means of disposing not only of issues of law but also of easily proven issues of fact.... Motions to dismiss under section 2-619 involve essentially a summary judgment procedure...but they differ from summary judgment motions in five important respects:

'(1) they are defensive in nature and may be interposed only by a party who is opposing a cause of action; (2) they must be filed prior to that defendant's answer; (3) they may not be used to contest the essential allegations of the complaint, but may be used only to assert affirmative matter; (4) they allow a determination of the motion on the merits even if there is a genuine issue of material fact raised by the affirmative matter as long as the party opposing the motion has not filed a jury demand; and (5) they need not be accompanied by supporting material if the affirmative matter appears on the face of the complaint.' 4 Illinois Practice § 38.3, at 224.)

[A] section 2-619 motion admits both the truth of the facts alleged in support of the claim and the legal sufficiency of the claim..."

236 Ill.App.3d at 1071-1075 (emphasis added, citations omitted in part).

On a section 2-619 Motion to Dismiss, a Respondent is entitled to discovery, especially when the Movant has relied on materials extrinsic to the pleadings. See *Missner v. Clifford*, 393 Ill. App. 3d 751, 759 (1st Dist. 2009) ("section 2-619 and Supreme Court Rule 191 permit a court to consider depositions and affidavits offered in support of or in opposition to a section 2-619 motion to dismiss"); *Stafford-Smith, Inc. v. Intercontinental*, 378 Ill. App. 3d 236, 239-40, 881 N.E.2d 534 (2007), citing *Raintree Homes, Inc. v. Long Grove*, 209 Ill. 2d 248, 262, 807 N.E.2d 439 (2004).

Alon Stein is the founder of Stein Law Offices in Northbrook, Illinois, and is a commercial litigator. Stein Law Offices is a full service law firm representing businesses in the Chicagoland area and in Wisconsin. Alon Stein is also Of Counsel to Miller Berger, LLC in downtown Chicago.



On pending dispositive motions, Illinois courts have routinely allowed the Respondent a continuance of time to defend against the motion to dismiss where documents and information are not in their hands. *Cole v. Corrigan*, 230 Ill.App.3d 122, 127 (2d Dist.1992); *Sensee v. Climatemp, Inc.*, 222 Ill.App.3d 302,320 (1st Dist. 1991) (finding reversible error where trial court denied respondent discovery of documents and information that would have helped him prepare his case against judgment); See also *Jiotis v. Burr Ridge Park District*, 2014 IL App. (2d) 121293 (reiterating that a party should be allowed to conduct discovery to defend against a dispositive motion and in many instances the responding party need not supply the court with an affidavit identifying the additional discovery needed).

Finally, and most importantly, a party defending against a 2-619 Motion to Dismiss should be aware that it can request an evidentiary hearing prior to a ruling on the Motion to Dismiss. As the Appellate Court stated in *In re Buck*, 318 Ill. App. 3d 489, 497-498 (1st Dist. 2000):

"...In determining [a section 2-619] motion on the merits *** the trial court may not simply resolve the motion on the bases of the affidavits and similar material submitted in the initial stage of the hearing on the motion. **Rather[,] an evidentiary hearing must be held, and the unresolved issue or issues of fact must be determined on the basis of a preponderance of the evidence.**"

318 Ill. App. 3d at 497-498 (emphasis added); See also, *Nosbaum by Harding v. Martini*, 312 Ill. App. 3d 108, 123 (1st Dist. 2000).

In sum, when one is served with a 2-619 Motion to Dismiss, early in litigation, prior to the taking of discovery, the Respondent needs to know that there are tools at its disposal to prevent a potential rush to judgment, such as discovery and an evidentiary hearing.

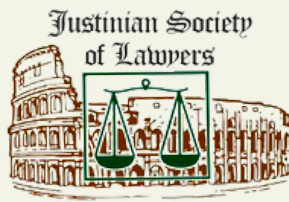
It is important to remember that he or she that knows the rules controls the game, and for Illinois civil cases, those rules are found in the Illinois Code of Civil Procedure, Illinois Rules of Evidence and the Illinois Supreme Court Rules.



2022 Columbus Day Parade

Monday, October 10, 2022





ESTATE PLANNING FOR CLIENTS WITH DIMINISHED CAPACITY & WHO REQUIRE MEDICAID FOR LONG-TERM NURSING HOME CARE

2022 Illinois Legislation Impacting Seniors and their Loved Ones

By: Anthony Ferraro, BS, MS Tax, CPA, JD | Shareholder, Robbins DiMonte, Ltd.

In estate planning for clients with diminished capacity, especially those who require Medicaid for long-term nursing home care, lawyers should keep in mind the following components to create a comprehensive, effective, and ethical engagement:

1. Be candid and recognize with the client the challenge that faces practitioners when given the privilege of serving persons with diminished capacity.
2. Review the relevant ethical rules that must be considered in dealing with clients with diminished capacity, particularly as set forth under IRPC 1.14.
3. Understand the difference in the ethical rules between treating the client in a normal attorney-client relationship versus seeking protective action on behalf of the client.
4. Create estate planning strategies that are necessary but also appropriate considering diminished capacity.
5. Know the distinctions in representing single individuals with diminished capacity versus married individuals where one or both spouses may have diminished capacity.

The Illinois General Assembly winter legislative session began on January 4, 2022, and ended on April 9, 2022. Here are some of the session's highlights that impact our seniors and loved ones:

- **Prepaid funeral/burial.** Effective immediately. This allows existing life insurance policies to be used to fund and purchase Medicaid compliant prepaid funeral/burial contracts.
- **Prepaid funeral/burial.** Effective immediately. The right to obtain a prepaid funeral/ burial contract exists even after you file the Medicaid application if you make the purchase before the notice of decision is issued regarding your Medicaid application.
- **Power of Attorney Statutory Short Form.** Effective January 1, 2023. This changes the statutory Short Form Power of Attorney for Healthcare statute to include the option to present the form electronically (as presented on electronic device) as proof that your agent has power of attorney for your health matters.
- **Guardian Appointment – Training.** Effective January 1, 2023. This provides that counties that have more than 3 million people.
- **Medical Patient Rights – Visitation.** As a result of the recent pandemic, many long-term care residents, sadly, were not able to see family members even during their final days. This new law provides that even during a gubernatorially declared pandemic, at least one person (not counting a clergy person) must be allowed to visit the resident of the facility. This will be effective upon becoming law by the signature of the governor.

- **Medicaid Omnibus Bill and Relief for Community Spouses.** Effective immediately. Finally, after many years Illinois has decided to attempt to keep up with the federal government in the amount of asset allowance and income allowance that a community spouse (the spouse they can continue to remain at home in the family residence) can keep while the institutionalized spouse is in a nursing home and in Medicaid. First, subject to federal approval, the monthly income allowance of the community spouse (CSMNA) is being raised monthly from the current \$2,739 to the federal level which is \$3,435, beginning in January 2023. Secondly, and subject to federal approval, on January 1, 2024, the community spouse resource allowance (CSRA) which is currently in the state of Illinois at a reduced level of \$109,560, will increase at a rate of 2.5% per year for the next 10 years until it reaches the federal level, which is approximately \$135,000.
- **The “Unwinding” of the COVID-19 National Pandemic.** According to CMS and Illinois Medicaid. CMS has instructed all states, including Illinois, that upon the conclusion of the Covid-19 pandemic, to resume eligibility asset/income audits and to resume annual redeterminations of cases that were approved over the last couple of years during the pandemic. According to CMS, the pandemic was continued to at least October 15, 2022, by Executive Order of the President. However, once the pandemic “unwinding” process begins, all Medicaid applications that were previously automatically approved (with no asset testing or examination) will be examined and at a very quick pace. There will be legal issues of due process and the need for advance notice, fair hearings, and appeals. States will have 60 days after the date that the pandemic is declared ended, by future Executive Order of the President, to begin the process of “unwinding” the pandemic with income/asset audits and annual redeterminations.



PROFESSIONAL DEVELOPMENTS

By: Katherine A. O'Dell

It was early in the year 1998 when the publisher of Fra Noi and his mentor, role model and dear friend, Anthony J. Fornelli, suggested that Leonard F. Amari, past Justinian president and founder and editor of the Justinian newsletter, write a monthly column highlighting the careers of Italian-American professionals, who had distinguished themselves in the Chicago area.

Amari had written the occasional profile for Fra Noi editor Paul Basile and always enjoyed working with him. And for all he had done for my dad in his life and career, there was nothing he wouldn't do for Mr. Fornelli when asked.

Amari wrote his first monthly column for Fra Noi in August of 1998 ("The History of the Italian-American Lawyers in Chicago") and continued to do so for the next 18 years or so. The subjects were profiles of prominent judges and lawyers, doctors and dentists, elected political officials, realtors, authors, educators, and a variety of other professionals. Basile was a stickler for limiting the scope to just professionals, but he did allow him the leeway to deviate from the prime directive in July 2007 when he profiled his barber, Frank Russo.

Amari would comb local newspapers, business journals, organizational newsletters and the like for subjects, and would never fail to find prominent Italian-Americans from our community to write about. Once identified, he, with the able assistance of his career administrative aide, Diane Bosnjak, would communicate their intention to highlight their career, request a biography and previous articles written about them, attempt to arrange a lunch interview when possible, write a draft that he would submit for their approval, and send a framed copy of the article once it was published in Fra Noi, to show his appreciation. More often than not, he would have a lunch to celebrate its publication. Many of the subjects were friends, colleagues and acquaintances of course, mostly Justinians. Among those who were strangers to start with, my dad made a lot of new friends, many of which he maintains relationships with today and continuing.

Until about August of 2011, Fra Noi was, for all intents and purposes, a monthly newspaper – with no internet distribution. So, all of the Professional Development profiles were (and presently) are only available as a print article. They are archived and available for viewing at the Italian cultural counter at Casa Italia in Stone Park, Illinois.

After August 2011, Paul Basile, the editor, and the Fra Noi board chair, Anthony Fornelli, began this wonderful Italian ethnic publication as an internet and print magazine.

All of the articles written by Amari from this August 2011 date until the column was discontinued in 2017, are available online at this Fra Noi website: <http://franoi.com/category/professional-portfolio>.

Click on and read the profiles of the distinguished careers of some of our Italian-American Chicagoland community professionals. Read about prominent lawyers, doctors, judges, politicians, business leaders, etc. during that six year period. Names like:

Garofalo	Licata	Davies
Glimco	Hynes	Ursitti
Castrogiovanni	Cipolla	Rossi
Salvino	Carani	Milano
Giganti	Bellino	Salvi (family)
Lamberti	Battista	Salvi, Patrick Jr.
Indomenico	Apicella	Lovero Mayor
Gagliardo	Spingola	Rosato
Romanucci	Cairo	Vinci
Inendino	DiMonte (father & son)	Gemma Allen
Felice	Montana	Oppedisano
Capra		

The wonderful professor Dominic Candeloro, archivist and curator at the Italian Cultural Center, with some assistance from Paul Basile, is in the process of making every profile, 99 in all, written from 1998 until 2017, available, chronologically online. An announcement is expected soon when that will be available.

Our community is fortunate to have these time capsule profiles as part of our ethnic archives. Thank you, Leonard Amari, Anthony Fornelli, Paul Basile and now Dominic Candeloro.

ACCOLADES & SETTLEMENTS

- Romanucci & Blandin Senior Attorney Michael R. Grieco and team won a \$1.3 million verdict in January for the estate of a woman who died following routine dental care after her dentist failed to administer potentially life-saving aid during a cardiac event.
- A mother and daughter-in-law stopped at a stop sign on a rural road in Michigan were fatally injured when their vehicle was struck by a company vehicle traveling in excess of 130 mph. The employee driving the vehicle was known to have issues that should have made him unfit to operate a corporate vehicle prior to the fatal accident. Romanucci & Blandin Founding Partner Antonio M. Romanucci and Partner Bruno R. Marasso secured a \$6.9 million settlement and justice for the estate of the plaintiffs to help hold accountable the company of the driver who caused the accident.
- Romanucci & Blandin Founding Partner Antonio M. Romanucci was named to *Crain's Chicago Business's* 2023 list of Who's Who in Chicago.
- In June, Romanucci & Blandin Senior Partner Frank A. Sommario began serving the second year of his term as Executive Vice President of the National Italian American Bar Association.
- Thirteen attorneys from Romanucci & Blandin were named to the 2023 Illinois *Super Lawyers* and *Illinois Rising Stars* list by *Super Lawyers Magazine*. Founding Partner Antonio M. Romanucci along with Senior Partner Frank A. Sommario were named to the prestigious *Super Lawyers* Top 100 Lawyers in Illinois list. Managing and Senior Partner Gina A. DeBoni was named a 2023 Illinois *Super Lawyer*. Partner Bruno R. Marasso and Senior Attorney Michael R. Grieco were named 2023 *Illinois Rising Stars*.
- In December, Romanucci & Blandin Founding Partner Antonio M. Romanucci was the Commencement Speaker at the University of Illinois Chicago's undergraduate ceremony. He is an alumni of UIC Law.
- John C. Sciacotta of Aronberg Goldgehn will be installed as CBA President in June of 2024.
- Judges Diann Marsalek (Justinian member), Judy Rice, Melissa Durkin and Geri Pinzur Rosenburg performed marriages on the Magnificent Mile on Saturday October 1, 2022. The Cook County Judges participated in the Second Annual Weddings at Wrigley with the theme as an Enchanted Evening. Couples had to apply to the Magnificent Mile Association to be eligible to participate in the special day. The Judges volunteered to participate in the event by making this a truly memorable day.
- In September, Cook County Judges, including Diann Marsalek (Justinian member), Diana Lopez, Tracie Porter, David Kelly and Jim Novy participated in a driver's license forum to help individuals clear their driving record to be eligible to get a driver's license. The event took place at Malcolm X College. Every year Judges volunteer their time to review requests for fee waivers so individuals can proceed with motions without having to pay a motion fee.
- Carlos Vera has been admitted to the firm of Johnson & Bell. Justinian member Joseph Marconi is the Chairman at Johnson & Bell.
- Matteo Rago of Matteo Rago and Associates won a seven figure settlement for a wrongful death action arising out of a fatal collision by a semi tractor trailer vs automobile. The client, a young hopeful college student, was stricken by a semi tractor trailer who failed to reduce his speed to avoid an accident. Matteo refuted defense arguments that the deceased was contributorily negligent. Due to a confidentiality clause entered into between the parties, Matteo is unable to divulge the names of the parties. Additionally, the firm is proud to announce that Ms. Melissa Dexter has joined the law firm as an Associate. Melissa is a cum laude graduate of the John Marshall Law School.
- Phillips Law Offices also obtained a \$5 Million settlement on behalf of the family of a devoted husband and father who suffered fatal injuries after falling from a scissor lift. The Plaintiff, a 53-year-old electrician, was installing electrical conduit from a scissor lift elevated twenty-five feet in the air. While having to maneuver around a hole created by the defendant concrete subcontractor, Plaintiff died when his scissor lift tipped over and crashed onto the ground. Plaintiff's Estate argued that both the general contractor and concrete subcontractor violated construction duties and standards, OSHA guidelines, as well as provisions of their own safety manuals, by failing to cover, barricade, mark or otherwise warn of the presence of the holes that they had ordered and created and of which they were undoubtedly aware. The general contractor's job site superintendent admitted that it would have cost only \$30 dollars and would have taken less than 30 minutes to cover and mark or otherwise barricade the holes. Plaintiff was survived by his wife of 19 years and two sons. This case was handled by Stephen D. Phillips, Terrence M. Quinn, and Stephen J. Phillips.



ACCOLADES & SETTLEMENTS

Continued...

- Morici, Longo & Associates was the corporate sponsor for the 2022 Have Dreams Annual Fundraising Golf Outing. The event took place on September 19, 2022 at Kemper Lakes Golf Club in Kildeer, IL. This organization is committed to helping children and young adults with autism.
- Past Justinian President James J. Morici, Jr., joined with Justice Marvin J. Leavitt (Ret.) and others, to co-chair the Cook County Retention Judges Lawyers Committee.
- For over 20 years, Morici, Longo & Associates' Managing Partner, Jim Morici, has been recognized by Super Lawyers and has been given that distinction again in 2022.
- Associate Tomas Cabrera of Morici, Longo & Associates has been selected to the 2022 Illinois Rising Stars list. This is his 2nd consecutive year receiving such a distinction.
- Morici, Longo & Associates' Partner, Lisa M. Longo, and Charles Wallace, of counsel to the firm, obtained a \$500,000 settlement on behalf of a since deceased injured ironworker in a case brought against the general contractor and the electrician company, Defendants. Plaintiff alleged multiple negligent acts and omission, committed by Defendants that led to Plaintiff suffering a severe electrical shock causing neurological deficits in Plaintiff that worsened over time and from which he never fully recovered. Plaintiff was unable to return to work doing the heavy duties required of an ironworker. Plaintiff made attempts at other professions, but due to his deficits, he was never as gainfully employed as he had been prior to this injury. Unfortunately, during the pendency of the case, the Plaintiff passed away due to an unrelated cause. The firm continued work on behalf of the Plaintiff's estate and his widow in pursuit of compensation on behalf of Plaintiff and the injury he suffered due to Defendants' negligence.
- Morici, Longo & Associates' attorney Andrew J. Mazzuca obtained an \$800,000 settlement on behalf of the estate of an 89 year old woman who was struck by a cart being pushed by a retail store employee in a shopping mall. The plaintiff was caused to fall and strike her head on the floor. She subsequently developed brain hemorrhages, leading to her wrongful death four days later. The settlement funds provided benefits to the deceased woman's probate estate, as well as to her surviving next-of-kin, all of whom reside in Europe.

- As in the past, in its 2022 edition, Super Lawyers magazine, Partners Leonard Amari and John Locallo were voted top real estate tax lawyers in the State of Illinois, and firm Associate Attorney Vincent Oppedisano was recognized as a Rising Star in the real estate tax field.

- Judge Gloria Coco was sworn in on January 28th as a member of the Board of Governors for the Italian American Bar Association of Los Angeles.

- On March 8th, Judge Gloria Coco was the moderator for the Italian American Lawyers Association's Harvey Weinstein New York trial event.



Miscellaneous

Father-Son Fly-In Fishing Trip

The Justinian Society resumed its annual Father-Son fly-in Canadian fishing trip in 2022. The group went to a new wonderful lodge, Shady Roost in Nestor Falls, Ontario where there was good food, fishing, great shore lunches, wonderful accommodations, and very welcoming hosts. The trip was coordinated by Justinian members Anthony Farace, Vince Oppedisano and past-President Leonard Amari. This year's trip is scheduled for June 28 - July 1st. There is still limited room for additional participants. If interested and for details, please contact Leonard Amari.



OFFICES FOR RENT:

- Full amenity law offices facility in River North area, office and secretarial stations, full time reception, conference room, kitchen, ample metered street and off-street parking in the immediate vicinity. Potential for referral opportunities. Available immediately. **For information please contact Leonard Amari at (312) 255-8550.**
- Office space is available for sub-lease in 30 N. LaSalle Street, Chicago. The suite has been entirely renovated. There are 2 offices and 2 secretarial/paralegal spaces available. Both offices are exterior spaces with windows. Partner size office is 11' x 17.9' and the other office is 9.3' x 11.6'. Suite includes a waiting room, conference room and kitchen fully available for use by sub-tenants. **For additional information, please contact Tracy at (312) 332-7788 or tracyrizzo@tracyrizzo.com.**

HONORING OUR FELLOW JUSTINIAN



Frank Castiglione

Frank Blase Castiglione, age 69, of Countryside and fellow Justinian member. Beloved husband and best friend of Barbara. Loving father of Marc-Antonio (MargaretMary), and Nick (Kendra). Cherished grandfather of Leo, Paige, and Emilia. Brother of Joseph and Paul. Son of Gilda and the late Anthony.

Frank spent his career as an attorney and judge. He loved going to see classic movies and was a committed fan of the White Sox. Frank also loved spending time with his dog, Jamie. The services were held on February 7th in Countryside. May he rest in peace.



Past Justinian President and past president of the John Marshall Law School Board of Trustees Leonard F. Amari, meets with the wonderful new Dean (UIC Law), Nicky Boothe-Perry.



2022 Installation Dinner and Awards, Award of Excellence Recipient Hon. Gloria G. Coco (Ret.)

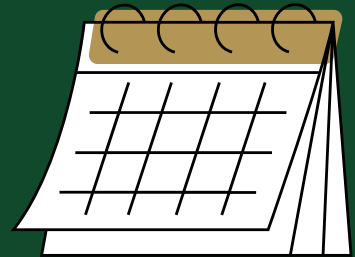


First Woman President



Mark Your Calendars

Upcoming Events



Children's Endowment Fund Dinner

Thursday, March 16, 2023

LUXBAR | 18 East Bellevue | Chicago

Nomination of Officers Dinner

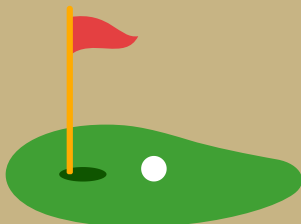
Thursday, April 20, 2023

Tufano's Vernon Park Tap | 1073 W. Vernon Park Place, Chicago

Swearing-In of Officers

Thursday, May 18, 2023

Gibsons Bar & Steakhouse, 1028 North Rush Street, Chicago



Justinian Society of Lawyers Golf Outing

Wednesday, June 7, 2023

Bloomington Golf Club

181 Glen Ellyn Rd., Bloomington

Become a Member!

Member Benefits:

- Networking and Business Opportunities at events, dinner meetings, social occasions;
- Reduced Prices for event attendance;
- Opportunities to Give Back to the Profession;
- Free CLE Programs;
- Opportunity to receive Individual Recognition in our monthly Member Spotlight;
- Listing in the Justinian Directory / Lawyer Finder on the website;
- Free Membership of the National Italian American Bar Association (NIABA);
- Free subscription to Fra Noi Magazine ("Chicagoland's Italian American Voice");
- Support in Other Bar Associations.
- Annual membership fee includes a Contribution to the Justinian Society Endowment Fund, a 501c3 organization

New Members

To join the Justinian Society of Lawyers you must be:

- A practicing or retired lawyer or judge
- A student currently enrolled in a law degree program
- A graduate awaiting bar exam results

[Complete the form here to join online.](#)



No charge for First-Year Lawyers or Students affiliated with Justinian student chapters.

Membership year is July 1 – June 30th.

If you have any questions during this process please contact Angela McLaughlin at justinians@corpevent.com or (312) 820-2063.