ILLINOIS STATE BAR ASSOCIATION

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Bench & Bar

The newsletter of the Illinois State Bar Association's Bench & Bar Section

Blown out of proportion

BY MICHAEL G. CORTINA

"Proportionality" is the principle that if attorneys' fees are awarded to a party under a fee-shifting clause in a contract, then the fees should be proportional to the amount of the judgment. This principle is on full display in small claims courts around the state where successful plaintiffs are often limited in the amount of fees that they can recover because the amount of the judgment—less than $10,000.00 by rule—cannot justify an award of fees of more than $400.00.[1] Creditors' rights attorneys have generally accepted this limitation and focus on increasing the volume of their work in order to accommodate the relatively low fee that they can recover. The question comes to mind, however, as to whether "proportionality" is the proper principle to consider.

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An inappropriate mediator

BY HON. MICHAEL S. JORDAN (RET.)

Recently I accompanied a close relative to the mediation of a dispute she had as a plaintiff, for which I could obviously not serve as mediator due to my own interest, bias, and prejudice in her favor. After all of the many names of skilled and effective professional mediators we put forward were rejected by the other side, the defense and their insurance carrier proposed the names of just two who were acceptable to them. Only one of the two, who were each retired judges, was available. The available retired judge had a fair reputation as a pretrial judge and I believed she would overcome her prior experience as an insurance defense lawyer. We selected her as our mediator.

My greatest interest was justice and fair compensation for my close relative, knowing all the pain and suffering she had endured. I also admit to having a curiosity about the practices and techniques another mediator would employ.

In all of my own mediations, I run a conflict check and report any or none to the lawyers once they disclose to me the names of the parties and the issues and those persons who will be attending. In each case, I withdraw from the case, disclose the conflicts but declare the disclosed conflicts will not affect my fairness, or disclose no conflicts.

I send out an engagement agreement setting forth the parties' agreement with me. It covers items such as my rate for study and session time and my travel fees, and cancellation rates. I articulate expectations for all persons involved as well as the limitations of my role in the mediation such as no guarantees for a settlement nor any obligation for me to give any legal advice. Their attorneys are responsible to render all legal advice. I also convey a confidentiality agreement and a set of rules so everyone has the same understanding for the process. Signatures are obtained before we begin the process.

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Blown out of proportion

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Recently, the Appellate Court of Illinois for the Second District decided the case of *Crystal Lake Limited Partnership v. Baird & Warner Residential Sales, Inc.* While *Crystal Lake* primarily dealt the underlying breach of contract issue, the end of the opinion provides an interesting reminder regarding fee-shifting clauses and how courts should enforce them.

In *Crystal Lake*, the trial court focused on "proportionality." In the appellate opinion, the trial court is quoted as stating that it was a "firm believer" that the amount of fees be proportionate to the amount recovered. That was the court's justification for awarding only $70,000.00 in attorneys' fees instead of the $500,000.00 that was requested on what was—prior to appeal—a judgment of approximately $150,000.00. In finding that the trial court abused its discretion in the award of fees, the appellate court vacated the award and remanded the case back to the trial court for a new hearing that was to include all of the factors that should have been considered.

Crystal Lake is instructive because it provides a primer of what courts should consider when they must rule regarding fee-shifting provisions in contracts. Citing *Powers v. Rockford Stop-N-Go, Inc.*, 326 Ill. App. 3d 511, 515 (2nd Dist. 2001), *Crystal Lake* notes that in order to properly determine the amount of fees to award a prevailing party, trial courts must consider the following: 1) the skill and standing of the attorney employed, 2) the nature of the cause, 3) the novelty and difficulty of the issues, 4) the amount and importance of the subject matter of the suit, 5) the degree of responsibility of the management of the case, 6) the time and labor required, 7) the usual and customary charges for similar work in the community, and 8) the benefits resulting to the client. In addition to these eight factors, *Crystal Lake* indicated that a trial court can consider whether there is a reasonable connection between the fees and the amount involved in the litigation (i.e. proportionality).

Crystal Lake held that it was "… clear that the trial court did not consider the eight factors in making its fee award but used proportionality as its sole yardstick," and vacated the award and remanded the case for a new hearing on fees, among other issues.

While the trial court in *Crystal Lake* was found to have abused its discretion in its fee award, what does this ruling mean for the creditors' rights attorneys noted at the beginning of this article? If a court abused its discretion because it only considered proportionality in its award of fees, doesn't that same analysis apply to small claims collections cases? Even though the amount at issue is, well, small, why is a court not considered to be abusing its discretion when it awards a flat $400.00 to plaintiff's counsel without a hearing to consider the eight *Powers* factors? Make no mistake – just because these attorneys have their fees limited by trial courts, creditors' rights counsel are also generally absolved from having to prove their fees in an evidentiary hearing where the court would consider the eight factors from *Powers*, so they get something out of this process as well. These attorneys have adapted their practices to allow them to endure quite well despite the low fee awards.

Regardless of whether there is an accepted system regarding fees in certain types of cases, the amount at stake should not be the "sole yardstick." This is true regardless of the amount at issue, which means that is as applicable to a small claims case as it is to a multi-million dollar one.■

1. This amount is what is generally awarded to plaintiffs in small claims matters, but the amount varies in different courts in the state and not all courts engage in this practice.
2. There was no argument that the amount of fees requested was excessive likely because the case was tried to a jury, and a substantial amount of post-trial work was also noted in the opinion.

Bench & Bar

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An inappropriate mediator

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Unfortunately, none of these events occurred here and no similar instruments were sent by our mediator to be forwarded to the parties for review or signature. Now that the matter is complete, I may freely discuss our experience since I was never asked to sign a confidentiality agreement at the session even after I volunteered to do so at the session.

When I mediate, I tell those assembled at the opening joint session that although some or even all of those attending may have been to a mediation before, every mediation is different due to the issues, the personalities, the facts, and the mediator. I explain the process addressing my remarks to the least familiar but for all present to hear.

I use the facilitative method until trust is built and until all of the parties invite me to become evaluative. I explain that I will expose everything that is clearly and demonstrably not true. If someone says the day in question was bright and sunny, I may show the record of the weather service for the day showing a major storm. If they are referring to the day of the mediation, I may take them to the window and show them the rain or snow and darkness. Fact checking is always appropriate just like certain questions generally not related to the issues may be presented to attack credibility of witnesses showing their interest, bias, or prejudice. This explanation and understanding was not attempted or accomplished here.

I assemble the attendees and go through the confidentiality agreement and rules to clarify any matter that may leave questions in anyone's mind such as my admonition against using words of blame or fault even though most all causes of action encompass the element of fault. I explain that when you point the finger of blame at someone, they shut down and fail or refuse to hear anything else that may be stated. I suggest words of collaboration and cooperation seeing all present as partners in a joint venture working together to create a plan of resolution. The mediator did none of these things but put herself in the role of a biased adversary spewing blame and fault, making improper claims, and blaming us for using the wrong treaters. She proclaimed her belief that our treaters could not testify about matters she felt were beyond their capacity. She claimed the plaintiff was exaggerating the value of the pain suffered.

In all of my cases, upon notice of being selected, I submit those aforementioned three important documents: an engagement agreement, a confidentiality agreement, and a set of rules with signature lines on each listing the attorneys and parties and other persons who will be present for all to sign. The engagement agreement is to be signed by the lawyers and parties who will be responsible for my compensation. In this mediation, we were never presented with any engagement agreement for the parties to sign, and no set of documents dealing with confidentiality or expectations for conduct. If there is any deviation from expected and agreed upon behavior, I always remind the offender of the commitment they made in the rules they formally agreed upon before starting. Attendees typically abide by their own commitments. She had no such protocol to thwart improper conduct or to set a framework for the mediation process.

I always begin every mediation by greeting the parties and counsel and showing them the facilities and explaining the purpose of a breakout room for side meetings – caucuses – and invite them to be seated in a common room in which we will begin and have joint sessions. I usually guide them to the seats I believe will work best while we are all together. Typically one party remains in that room when we separate for a caucus. I try to normalize the circumstances and facilitate comfort and optimism with the process and invite collaboration with transparency. She did the opposite keeping everyone behind closed doors separate and apart without any chance for meaningful interaction and genuine self-determination.

The experience in this case was such that we arrived at the other side's law offices and a receptionist took us to a conference room where we sat. We did not see the other side or the mediator until approximately a half hour past when the mediator came into the room and introductions occurred. She then proceeded to tell us that the opening settlement amount we put forth before the session was inadequate for her as well as for them and that she would not get us an amount from the insurance company until we lowered our figure.

We spoke about negotiating against ourselves cutting our own figure with no counter figure from them, but she stated the matter would end unless we provided a lower figure. If we planned to go lower later, we should do so now. She began to pick out certain facts from the medical records and say how she felt these facts showed deficiencies in our case even though we knew and could materially demonstrate that she was taking words, phrases, or sentences out of context. In her first few moments she lost our trust.

When she left our room for the first time to allow us to come up with another figure, each of us agreed that she had displayed a bias whether she consciously realized it or not and that all of her future recommendations would be subject to such bias. We decided to give a lower figure which we would have done in any event after they gave us a low ball amount better than silence which conveyed a complete unwillingness to negotiate with any responsive offer.

When she returned I asked why we weren't in a joint session and facing the man being sued in this malpractice action. After initially hemming and hawing, she acknowledged that he and the insurance company decided that he did not need to be present. We were ready to hear

his apology in exchange for a reduced settlement proposal but they failed to offer that important opportunity. She could have used the opportunity as a wedge but elected not to do so.

I challenged his absence on the grounds that he may have had a veto right under his policy regarding settlement. She said he had waived the right when he agreed to mediation but we were shown no supporting documentation. We asked the name of the insurance company and the name of the claims agent who was present and she conceded the fact that no claims agent was present. A claims agent was on the telephone in another city. We had anticipated that he might be available only by phone since they were not sure he could get a flight to Chicago. No one on the dentist's side signed any commitment to confidentiality.

Long delays occurred each time we were to receive any feedback from the adjuster. When we probed the reason for these delays, the mediator acknowledged that the adjuster was new to the case and he was on a short leash inhibited by another supervising adjustor who scrutinized each and every one of his decisions. The mediator was not forthright with these disruptive conditions at the outset, which were known to her and the insurance company. We lost further confidence in her capacity as a fair mediator. This process increased the time and the costs for us. She resisted disclosure of the name of the insurance company until we forced the issue Whenever pressed, it was clear to us she knew the information we were seeking but tried not to tell us.

When I mediate, I encourage the parties to share as much useful information as possible in a joint session speaking directly. I explain that all of the information I learn before and at the mediation session, I place into one of three categories: 1) offers, demands, proposals, etc. from one party that I must convey to the other side; 2) matters defined as confidential that I may not convey to the other side until the first party consents for me to do so; and 3) everything else I learn in the case by reading the materials and submissions or hearing from the party or lawyer, I may use in my discretion if it may facilitate the process.

I clearly identify when something I say is a claimed fact or an opinion of the other party that they asked me to convey as opposed to my personal observation or beliefs. Here, she conveyed all information, whether fact or opinion, as her own, and factual. She superciliously spoke like an infallible judge who knew all of the relevant law and all of the facts better than the lawyers on the case who had researched the applicable law. She knew of my experience and reputation but afforded no credence to my statements on the facts or the law. She did not recognize the capabilities of others and did not appear to respect any attempts toward self-determination.

She either knowingly repeated the insurance company's misrepresentations or fabricated them as her own. She falsely declared that one of the medical providers was unlicensed by the State of Illinois. The provider furnished his license number and suggested verifying his credentials by easily referencing his license on line at the site of the Division of Professional Regulation in the Department of Professional Regulation to see he was and had been licensed in Illinois. She accused my relative of failing to constructively research, review, and confirm a medical provider like *she* does. She also declared, without demonstrable merit, that another provider would not be able to provide an opinion on a certain illness aggravated by the injuries without any basis for her claim. She made continuous false statements apparently hoping misinformation advantageous to the defense would prevail not realizing she had lost our trust from the start.

I always try to give a picture of the process at the beginning of my mediations and remain as objective and transparent as possible. I do inject some probing questions to illuminate weaknesses, but I never act as a bully refusing to listen and I never refuse to acquire information to share with the other side. I witnessed her stop and interrupt others speaking and disregard responses midsentence and give her opinions and analysis before invited and certainly before trust was developed. She precluded any opinion contrary to her own.

When a case settles, I do have a sense of satisfaction but this sense of satisfaction disappears if a party feels unheard, bullied, and coerced into submission. The business end of my practice does not rely on any particular type of case so I am not unconsciously burdened with the desire to suppress amounts to satisfy an insurance carrier to secure potential future business. This "mediator" may have been a fair judge in her pretrials where she was expected to be evaluative and knew the system and the court calendar supplied her with more business; but now that she is a freelance mediator, she appears to be seeking a motivated source for the next case assignment. She knows that insurance carriers can generate many more cases than a plaintiff's personal injury lawyer can generate for her. She probably also assumed in her calculus that I would not be referring cases to her as a competitor. She unknowingly or knowingly has an institutional bias and perhaps worse has reverted to her attitudes and beliefs as a former defense insurance lawyer denying liability or in instances where that is not possible suppressing damages by never constructively challenging and probing the insurance side as well or as much as the plaintiff side.

I discuss the feelings and beliefs that many litigants have when I spend a lot of time with the other side, letting them know that I am not aligning myself with the other side, but I am pushing them for more movement. She gave none of those assurances to us. In fact, when the other side was waiting for word from the adjuster's boss, she spent all of her time with the defense lawyer, never once waiting with us. My own practice is to spend as much time with each party while the other is conferring without me or waiting for information if I am not actually reviewing notes and figuring my own stagey and next best move in order to build rapport with each party.

At the close of the allotted period reserved for this mediation, and not knowing if there could or would be a resolution that day, she did not tell us anything positive or productive about how the session could bring insights into

weaknesses or strengths or attitudes or understandings to the true range of a probable settlement. She did not invite the lawyer on the other side to say goodbye or extend positive wishes or show civility and she was not personally available to say goodbye to us. She never thanked us for including her in the process and never expressed any desire to help further. These are statements, acts of kindness, and matters of civility I take for granted as part of my responsibility, and had assumed all other mediators offer as well.

While the matter did settle, considerations other than those discussed by the mediator were paramount. Direct negotiations between their lawyer and us would have been faster and cheaper. Such negotiations would have been more comfortable and likely led to a similar result. The mediator made the mediation process an obstacle to resolution rather than an aid to resolution. Her lack of transparency, professionalism, fairness, objectivity, and failure to have a separate viewpoint from one party led to a greater likelihood of a suboptimal result. She tried to exert dominion over the parties and did not believe in the underlying principle for mediation of self-determination.

While every mediator has a slightly different approach and methodology for mediation, the standards taught in all well-regarded training programs, such as those I have taken and those I have given, provide benchmarks and standards of conduct that should not be disregarded. When a mediator does not follow the standards, the mediator fails even if the mediation ultimately results in settlement. An inappropriate mediator is a waste of both money and time. Not every retired judge can cast aside his or her judicial robes and attitudes when taking on the role of mediator. Judge and mediator are two separate occupations with distinct roles. Our mediator could not understand the differences in order to serve as a true unbiased neutral mediator.■

Help is on the way

BY E. KENNETH WRIGHT, JR.

On February 28, 2019, I spoke by phone with Judge John Pavich, an associate judge in the circuit court of Will County, Illinois. Although we never met or corresponded he was extremely gracious and agreed to meet in the near future to discuss his interesting and unique experience before becoming a judge. Interestingly, he was employed by the after law school and later by a small but impressive firm doing national and international law. To say I looked forward to the interview would be an understatement—would we meet on a park bench, would he wear a disguise? Just kidding, the conversation was memorable.

Shortly after our phone conversation we met in his chambers in Joliet. Judge Pavich was somewhat hard to locate since most people I approached for directions had never heard of him. He was on the bench only two weeks when we met in early March. As Paul Harvey would say, "Now for the rest of the story."

Judge Pavich was raised in Lynwood, Illinois—population 9,000 located about 28 miles south of Chicago on the Indiana border. He has two sisters and one brother. He attended St. Norbert College in DePere, Wisconsin where he met his wife future wife, Kelly. After graduation, she went to the Peace Corps in Lithuania, and, he took a job teaching English in the same town she was assigned in the Peace Corps. Married in 2000 they now have two sons. John had been prepared for Foreign Service in college where he majored in International Studies with minors in Russian and Economics. During his junior year in college he was in Kharkov, Ukraine studying Russian.

Following college John enrolled in Loyola University School of Law in Chicago. During his third year of law school and after graduation in 2002 he worked as a legal consultant assisting his father at the International Criminal Tribunal for the Former Yugoslavia in The Hague, Netherlands as a member of the defense team of the former President of the Balkan country, Republika Srpska.

Always curious about how governments worked since the age of seven there is no surprise that his interests affected his studies in college and law school and directed him to a career interest in foreign affairs. This interest seemed to run in his genes since his father was in military intelligence and his uncle a Chicago police officer and a war crimes investigator for the United Nations.

After the terrorist attack in September, 2001 John resolved to join his country in public service. He applied for and was accepted in a position for the Central Intelligence Agency (CIA) as a Staff Operations Officer/Special Operations Officer—Directorate of Operations, aka Clandestine Case Officer. For the following two years and five months he describes his activities vaguely but interestingly. The nature of the work in the Directorate of Operations requires officers to develop plans to identify and recruit individuals with access to information critical to U.S. policy makers. This work is often quit difficult, as it is usually against the better interests of these potential assets to have any overt affiliation

with the United States government.

Judge Pavich describes the training he received as incredibly stressful and eighty five percent mental and fifteen percent physical. The training was divided between Washington, D.C. and another location that must remain unidentified.

As expected, no specifics were divulged as to time, place, persons and his description and duties as a CIA officer were not divulged or hinted. However, reading between the lines I have the feeling that Judge Pavich may have been uncomfortable with certain foreign policy and national security decisions made at the time which could be the basis of his decision to leave after a relatively short time.

So, what does a former CIA officer bring to the bench? Is it something unique for judges, cloak and dagger procedure, intrigue? Maybe some, maybe all of the above will be used. What he does bring is a proven intellect and work ethic. These attributes combined with his sense of right and wrong that I sensed from our discussion indicate a successful tenure as a judge. Pavich looks to his tenure as a judge as an opportunity to render public service and promises to maintain the hallmarks that he considers those of a true judge: knowledge of the law; skill to apply the law to facts; politeness; good listener; a student of the law. Help is surely on the way.■

Burned out? Overwhelmed? Meet Dr. Diana Uchiyama and the Illinois Lawyers' Assistance Program

BY MARY F. PETRUCHIUS

The Illinois Lawyers' Assistance Program, or LAP, was founded in 1980. It is a not-for-profit organization that offers free, confidential help to Illinois attorneys, law students, judges, and their families whose lives are affected by substance abuse, addiction, and/or mental health issues. In late 2018, LAP opened an office in Geneva. I recently interviewed Dr. Diana Uchiyama, LAP's executive director, about LAP and her role in the Geneva office.

Mary: Diana, before we discuss LAP and what you do, I'd like our readers to get to know you. Where did you grow up? What's your educational history?

Diana: I grew up on the north side of Chicago after my parents immigrated here from Germany with my two older siblings. I attended public grammar school until the eighth grade and graduated from St. Scholastica Academy, an all girls' college preparatory high school in Chicago. I received my undergraduate degree from the University of Illinois in Champaign and my Juris Doctorate from Pepperdine University School of Law. I attended Benedictine University for my MS in Clinical Psychology and Midwestern University for my PsyD in Clinical Psychology.

Mary: Who were your role models growing up? The influences in your personal and professional life?

Diana: I would say my parents and younger brother were the greatest role models in my life. My parents immigrated to the United States with two small children because my parents wanted to provide their children with a better quality of life than they had in Germany. My father was Assyrian from a Catholic family in Iraq, and they were a minority group that was persecuted because of their religion. He moved to England to attend college and met my mother, who was from Germany, and they eventually got married in Germany. They had two children but neither of my siblings were German citizens, due to my father being a foreigner. My parents decided to move to the United States so that their children would have a national identity and more opportunities than in Germany.

My younger brother and I were born in Chicago and he was born with Down Syndrome. My parents always pushed all of us to become educated, to work hard, to speak up against injustice, and to give back through acts of public service and charity, which has been my biggest motivation in life. And because I have a brother with a disability, I was motivated to provide him with all of the opportunities that I had and to push him to rise above his disabilities, to be an independent human being with a purpose in life.

I think that growing up with parents who were from other countries and who gave so much of their lives to better their own children's lives, made me want to pay it forward in my own career and my own sense of identity. I understand what it means to be poor, to work hard to get ahead, to have a sense of purpose, and to work for the greater good. My parents instilled in me a desire to be motivated not just by money and title, but to better the lives of as many people as you can, regardless of who they are and where they are born.

Mary: Why did you decide to become lawyer?

I think that the circumstances of my childhood, including growing up with parents who were from other countries and often being judged by the fact that my parents had accents, influenced me greatly

because I often felt different and like an outsider.

In my family what was really valued was education and hard work, instead of superficial things. Then, having a brother with a significant disability and watching my family fight to get him equal treatment in school and in life, made me passionate about being a voice for the voiceless or for those treated as "less than."

I felt passionate about making sure that people were treated fairly and with a sense of justice and equality, regardless of where they were born. I had a strong desire to pursue a degree in law, specifically in criminal law as an Assistant Public Defender. I wanted to make sure that everyone's rights were honored regardless of education, economic status, or nationality or race.

Mary: Diana, take us down through your career path and where it has led you.

Diana: After graduating from law school, I first practiced in international health care law, due to the fact that I speak fluent German, while I was waiting to find out if the Cook County Public Defender's Office was hiring. I then applied for a position there and happily was hired. I worked as an Assistant Public Defender for about 12 years assigned to various felony courtrooms, mostly at 26th and California.

I then decided to get my master's degree in clinical psychology and, after that, my doctorate. I have blended my work as an attorney and clinical and forensic psychologist. I previously worked at the Kane County Diagnostic Center doing forensic evaluations for the Court and as the Kane County Juvenile Drug Court Coordinator. I have also worked for the Cook County Juvenile Detention Center with adolescents who were charged criminally as adults. I was the Administrator of Psychological Services for DuPage County, working with a court-mandated population of clients who had substance use, mental health and/or domestic violence and anger management problems. I am now the Assistant Deputy Director of LAP.

Mary: What brought you to LAP?

Diana: There were a number of reasons that I came to LAP. I had several former legal friends and trial partners who were struggling with mental health and/or substance use issues and, when a few of them or their family members began reaching out to me regarding the problems they were facing, I thought initially that it was an isolated problem. After doing a presentation with a member of the ARDC, however, I found out that the substance use and mental health problems in the legal community were pretty common and very complicated.

Additionally, we had quite a few attorneys seeking mental health, domestic violence, and/or substance use assistance when I worked at DuPage County. Sometimes those attorneys had a difficult time in group settings with other group members. They often felt a great sense of shame at needing mental health or substance use services. That made me feel tremendous empathy for them.

And finally, I have personally known attorneys with whom I was acquainted or worked with, who committed suicide. I felt great distress and sadness that this was happening to my legal community. As a result, I felt that all my education and training was well suited to understanding the specific needs of the legal community and appreciating how hard it is to reach out and access services to get the help needed.

I owe a lot of gratitude to people in the legal community who shared their passion, knowledge, and patience with me as I was learning to become a lawyer. I felt this great desire to give back to the legal community in general because that community had been so good to me when I was a practicing attorney.

Mary: What does LAP do?

Diana: LAP is a not-for-profit organization that helps Illinois lawyers, judges, law students, and their families concerned about alcohol or substance use or dependency, mental health issues including depression, anxiety, and suicidal thinking, or stress-related issues such as compassion fatigue and burnout.

LAP's services include individual and group therapy, assessments, education, peer support, and interventions. Our mission is threefold: To help lawyers, judges, and law students obtain assistance with substance abuse, addiction, and mental health problems; To protect clients from impaired lawyers and judges; To educate the community about addiction and mental health issues.

Everything at LAP is free and confidential and many of the staff are attorneys/clinicians or specialize in substance abuse issues. We have offices in Chicago, Park Ridge, Geneva, and satellite offices throughout the State of Illinois. LAP has a board of directors, an advisory committee, and an associate board comprised of lawyers and judges from all over the state.

Mary: Have you seen the wellness issues faced by attorneys change since you became an attorney in 1989?

Diana: In some ways, yes.

Mary: In what ways have those issues changed?

Diana: Honestly, looking back I think that the problems in the legal profession with substance use and mental health problems were significant even when I practiced law. I believe, however, that I normalized it as a professional hazard. I felt that it was not unusual for members of my profession to drink heavily or to struggle with relationship issues, burnout, and compassion fatigue. I was surrounded by it on the bench, with my colleagues, and at legal functions I attended.

Until I stepped out of the field and entered into a different working arena, I never recognized that the work attorneys do---the tragedies and traumas we see on a daily basis, the win/lose attitude we all encounter, and the high case volumes we endure would cause a wear and tear and erosion of our physical and mental health. It was not until I began hearing stories about disastrous outcomes of people I worked with or knew, or was asked for treatment assistance or help, that I recognized that something was wrong and unhealthy with our profession.

I also knew that I had the educational ability and expertise to go back and help people with whom I strongly identify, relating to the personal qualities I share with them. Those qualities include perfectionism, competitiveness, being a problem solver, and possessing an inability

to ask for help due to shame and fear. I feel very blessed to be able to do this work and help people realize that asking for help is a strength and not a weakness.

Mary: What issues do we as a profession face today that we may not have faced 20 years ago?

Diana: The level of stress and anxiety is dramatically increasing. We cannot turn off our brains. We are having higher levels of mental health issues in general, including depression. This is most likely due to poor sleep habits, the presence of social media, and the inability to separate work from home, due to the accessibility of people via email or text. The suicide rate for attorneys is very high and that means that people are suffering alone and in isolation. We need to do a better job of helping people, collectively and individually, in the legal profession, so that no one feels that suicide is the only option to escape the hopelessness and sadness they may be experiencing.

Mary: Do the younger lawyers take advantage of LAP?

Diana: Younger people in general access LAP services more readily and this may be due to the lower levels of stigma associated with seeking help for mental health and substance use issues in this age group. It is also related to LAP's incredible outreach in the law schools, including staffing every law school in Illinois with monthly office hours using staff or volunteers to identify individuals who may be struggling, and offering them help before they enter the legal field. Forty percent of our clients are now coming from the law student population and over fifty percent of LAP clients are under age 40.

Mary: What issues do younger lawyers have that differ from the issues of more seasoned lawyers?

Diana: Young lawyers have significant financial issues related to educational debt. They are also just starting their careers, transitioning from being students to being adults with full-time work responsibilities, forming permanent relationships, having children, purchasing houses, and trying to establish themselves in their legal community. They often feel as though they lack the knowledge or expertise, despite their educational training. They face significant stressors that may increase mental health and substance use issues.

Mary: How did the Geneva LAP office come to be?

Diana: The Geneva office came to be due to increased demands for services in the western suburbs, including DuPage and Kane Counties. LAP recognized that the legal community there and in the far west, including Rockford and DeKalb, would not be able to easily access services in the downtown Chicago or Park Ridge areas due to distance. We received increased requests for services and felt we needed to meet the demand for an area that was underserved and needing significant assistance.

Mary: What services does LAP offer?

Diana: We offer assessments, evaluations, and individual therapy in Geneva. I staff that office one or two days a week by appointment. We also provide peer support mentors and refer people to outside agencies as needed, including psychiatrists, therapists, and substance use providers.

Mary: What are your goals for the Geneva LAP office?

Diana: We hope to provide group therapy in the future as the demand increases and the desire for these types of services is requested. We also want to increase the involvement of the judiciary and the training of people in DuPage, Kane, and surrounding areas who want to volunteer with LAP. Individuals will be able to go to those volunteers and ask them questions about what LAP can do for them.

Mary: How do you envision your future?

Diana: I love my job and feel passionate about what I do, so I hope to be a part of LAP for a long time. I hope to increase LAP's ability to assist more people in the legal profession by expanding services statewide, creating more volunteer outreach, involving members of the judiciary and local legal communities with LAP, and increasing financial support for LAP through fundraising and donations.

I want to help people struggling with mental health and/or substance use issues to recognize LAP as a safe place to seek assistance and access services. We are in the business of aiding legal professionals in need, providing hope for people who are hopeless, and helping people become healthy and optimistic about their work and their futures. I am honored to be serving in this capacity.

Mary: Diana, it has been a pleasure and a privilege to interview you and learn about the great work you and LAP are doing for our legal community. How can our readers contact LAP?

Diana: They can call LAP's main telephone line at: 312.726.6607 or 1.800.LAP.1233. They may also email me directly at duchiyama@illinoislap.org. ■

Mary F. Petruchius serves on ISBA President James McCluskey's Special Committee on Health & Wellness. She is the PAI (Private Attorney Involvement) Plan Coordinator for Prairie State Legal Services' St. Charles Office. Mary came to Prairie State in July, 2018, after 26 years practicing criminal defense, juvenile, and real estate law.

Recent Appointments and Retirements

1. The following judge has retired:

- Hon. Nicholas R. Ford, Cook County Circuit, April 12, 2019