Dear Members and Friends of the NSBA,

On behalf of the NSBA, I hope you and your loved ones enjoying a nice start to this bright new year. This year the NSBA has proudly continued to prosper as a key bedrock of our vital suburban legal community.

Thank you to the NSBA for the opportunity to lead such an inspirational organization and to continue to build upon the wonderful work of my predecessors, including former NSBA presidents Judge Megan Goldish, Judge Patrick Heneghan, John Stimson, and Rick Pullano.

Additionally, thank you to everyone who attended and sponsored our September 2022 Installation of our illustrious Board. It was a record-breaking, sold-out event on a beautiful fall afternoon. I was especially honored to present the L. Sanford Blustin Award to Judge Wayne Andersen, in recognition of his exceptional contributions to the entire Chicagoland legal community.

Notably, with First Vice President M.K. Gamble’s leadership, our CLE programming has been innovative and well-attended. In November, we hosted the “Mediation Tips & The Mandatory Arbitration Program in the Circuit Court” CLE. A special thank you to the faculty who provided such a comprehensive CLE: Judge Thomas R. Mulroy of Resolute Systems LLC, John C. Sciacotta of Aronberg Goldgehn, Ashley Rafael, General Counsel of Midway Moving & Storage, Kimberly Atz O’Brien, Arbitration Administrator for the Cook County Arbitration Center, and Daniel Cotter of Howard & Howard.

In January, NSBA Past President Rick Pullano, who is the Founding Partner of Pullano & Siporin, and his son and colleague NSBA Member Michael Pullano, presented on “Effective Use of Medical Evidence in a Personal Injury Case.” We are grateful for their passion and expertise which gave our members practical tips on how medical evidence can be used at trial.

On February 5, we proudly co-sponsored the Green Book CLE at the Illinois Holocaust Museum and Education Center. This program took an immersive look at the reality African Americans faced in mid-century America and the role the “Green Book” played in our nation’s rising African American middle class. Due to the hard work and leadership of Secretary Joel Bruckman and past President Judge Megan Goldish, the event was a huge success. Thank you to NSBA members for their steadfast support of noteworthy CLEs and fellowship in the north suburban community.

This year we are proud to offer our 2023 NSBA CLE Fest on Friday, May 19 from 12-5 P.M. at the Skokie Courthouse. NSBA will provide programming to bring those often ‘hard to get’ CLEs to members’ doorsteps, offering five hours of professional responsibility credit hours. Topics will include diversity, mental health, and value-based lawyering. Following the CLE there will be an opportunity to network.
Under our Third Vice President Judge Jeanne Wrenn, NSBA’s membership continues to flourish. New members are the lifeblood of our bar association and lend a new energy to our networking events and provide opportunities to partner with other bar associations.

We are happy to announce that our annual Gary Wild Dinner will be on April 20 at 6pm at L. Wood Tap in Lincolnshire. The event will be chaired by Board Members Corinne Cantwell Heggie, Joel Bruckman, Kim Pressling, and Marvin Mendez. This dinner was founded by one of our esteemed members, retired Judge Allen Goldberg. Gary Wild was a past NSBA president and a titan in his pro-bono advocacy. The dinner acknowledges organizations that exemplify Gary’s spirit of giving.

The NSBA is truly special because its Board represents all that is good in the legal community with a commitment to our legacy. I want to personally thank long serving Board Members Paul Plotnick, John Stimson, and our icon Robert Romanoff for their years of service and constant presence. They embody service and make us a better Board.

I am thrilled to acknowledge our dynamic new Board Members Michael Cabonargi and Caidi Vanderporten. The Board is lucky to have them the NSBA ranks.

Additionally, I want to thank our hard-working and dedicated Board Members who are always first to raise their hand and contribute – no matter the task, including our Treasurer Jeff Moskowicz, Fourth Vice President Kim Pressling, Corinne Cantwell Heggie, Marvin Mendez, Dimitrie Umbrarescu, Dan Pikarski, and Khalid Hasan. Thank you all for your continued service.

On June 14, I hope you will join us at our always-popular Judges’ Night at North Shore Country Club. We are grateful that NSBA Board Member Kristin Barnette McCarthy is chairing this important annual event.

One of the most special aspects of the NSBA leadership is that we are fortunate to have so many members of the bench who devote their time and resources to make NSBA a success. This includes our incredible Board Members Judge Mike Hood, Judge Maryam Ahmad, Judge Frank Andreou, Judge Steve Bernstein, Judge Pat Heneghan, Judge Mitch Goldberg, Judge Barbara Dawkins, Judge Matt Jannusch, and Justice Jesse Reyes. Thank you for dedicating your time and talent to this NSBA this year!

Finally, I want to thank our Second Vice President Judge Pam Stratigakis who spearheads the editorial duties for our NSBA Newsletter and ensures the content is top notch.

Congratulations NSBA! Thank you all for your continued support and participation in NSBA events. I am certainly looking forward to our future events and CLEs this spring.

Wishing you continued health and prosperity,

Kilby Cantwell Macfadden
2022-2023 NSBA President
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MK Gamble | 1st Vice President
Hon. Pamela J. Stratigakis | 2nd Vice President
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Raymond Ricordati, III
Molly E. Caesar
Richard L. Pullano
John F. Stimson
Hon. Patrick J. Heneghan
Honorable Megan E. Goldish
Robert K. Blinick
As we look forward to Spring we wanted to take a moment to spotlight the NSBA Foundation this past year. 2022 was an exciting year for the NSBA Foundation (the “Foundation”). We are proud to report that the Foundation raised more than $12,000 toward its mission of supporting students in the north-suburban Chicagoland community who have demonstrated a commitment toward attending law school or joining the legal profession and financial need. The funds raised by the Foundation in 2022 include generous donations from the NSBA, the Diversity Scholarship Foundation, the Savage Goldish Families, and attendees of the NSBA’s Gary Wild Dinner. Thank you to all who have supported the Foundation’s mission!

Looking forward, the Foundation is creating an application process for applicants to apply for the initial round of Scholarships to be awarded in 2023, beginning with the Hon. Jesse G. Reyes Scholarship, and other scholarship awards. As many of you may recall, Honorable Jesse G. Reyes received the L. Sanford Blustin Award from the NSBA, in recognition of his exceptional contributions to the legal community. The Hon. Jesse G. Reyes Scholarship, and other scholarship awards will be awarded at the Foundation’s inaugural scholarship awards event this upcoming summer. The Foundation’s summer event will celebrate both scholarship recipients and the Foundation, and meanwhile, perpetuate the Foundation’s fundraising efforts.

Elections for the Foundation Board of Directors and Officers will occur in April 2023. If you are a “doer” and are interested in joining our fantastic Board of high energy Directors committed to the Foundation’s mission, or becoming an Officer of the Foundation, please reach out to Foundation Chair, Joel Bruckman at joel.bruckman@gmail.com. Stay tuned for more updates on scholarships and the Foundation’s inaugural event as we hit the ground running in 2023.
Runaway BIPA Settlements and Judgments’ Impact on Company Liability and Cyber Insurance Coverage

Joel Bruckman, Partner, Freeborn & Peters, LLP; and Sarah Abrams, Head of Prof. Liability Claims Bowhead Specialty Underwriters

In October, a jury awarded a staggering $228 million in damages related to a finding of 45,000 intentional or reckless violations of the Illinois’ Biometric Information Privacy Act (BIPA) in underlying litigation brought against the class plaintiffs’ employer, BNSF Railway. The underlying lawsuit, filed in the U.S. District Court for the Northern District of Illinois and styled as Richard Rogers v. BNSF Railway Company was the first fully litigated case against an employer for violating BIPA, in the wake of massive settlements involving tech companies including Facebook ($650 million), Google ($100 million), TikTok ($92 million), and Snapchat ($35 million).

Meanwhile, the Illinois Supreme Court in West Bend Mutual Insurance Co. v. Krishna Schaumburg Tan Inc. previously held that BIPA claims by tanning salon customers should be covered under the salon’s Commercial General Liability coverage. Specifically, the Supreme Court held that the personal and advertising coverage language of the insured’s policy was triggered as the “publication” of customer biometric data (fingerprints) occurred when fingerprint data was collected by a third-party vendor. In addition, the general liability exclusion for statute violations was found to be inapplicable because that exclusion only applied to statutes that regulate certain methods of sending material or information, which BIPA does not.

Notably, the Rogers court rejected the argument that BNSF was not the proper party and could not be liable for the alleged BIPA violations because the collection of biometric information was conducted by a third-party vendor.

Furthermore, the Rogers court found that the statutory language of BIPA supported such a finding, noting that the “otherwise obtain” language suggested that a violator need not be the entity which collected the biometric information. See 740 ILCS 14(b). Thus, risk and potential liability exist for the target defendant, along with its insurer, as the party utilizing the biometric tracking equipment, and is not necessarily limited to the third-party vendor supplying it.

Whether coverage for BIPA violations will expand to Company Liability Policies, like Employment Practices Liability or Director and Officer Liability or to Cyber insurance, some form of insurance coverage appears to be imminent. Examination of the statute itself may provide additional insight into prospective insurer implications.

BIPA states that, “[no] private entity may collect, capture, purchase, receive through trade, or otherwise obtain a person’s or a customer’s biometric identifier or biometric information, unless it first: (1) informs the subject or the subject’s legally authorized representative in writing that a biometric identifier or biometric information is being collected or stored; (2) informs the subject or the subject’s legally authorized representative in writing of the specific purpose and length of term for which a biometric identifier or biometric information is being collected, stored, and used; and (3) receives a written release executed by the subject of the biometric identifier or biometric information or the subject’s legally authorized representative.”

BIPA further places restrictions on a collector’s ability to sell, transfer or disclose collected biometric information without the prior express consent or authorization by the subject or their legal representative. Moreover, even with consent to collect biometric information from a “subject”, the collector or other entity obtaining such biometric information is mandated to use reasonable safeguards to protect such information equal to or greater than those methods used to protect the collector’s other confidential and protected information.
Runaway BIPA Settlements and Judgments’ Impact on Company Liability and Cyber Insurance Coverage

Continued..

Thus, a claim may also be brought against a company for violating BIPA as the result of a cyber event. If a company has failed to implement appropriate safeguards through physical, administrative, and technical security measures to protect employee or third-party biometric information, there could certainly be an argument that third-party cyber coverage is implicated.

In addition, it is impossible to ignore the implication of company liability coverage in the wake of the Rogers case. Collection of employee biometric information has numerous benefits, especially in sectors that have hourly workers. Being able to accurately track employee time keeping can significantly reduce company wage and hour exposure. However, not adhering to the strict statutory requirements of BIPA can also clearly be catastrophic.

Employment practice insurance carriers that have not outright excluded claims for BIPA or similar statutes, must at least address statutory compliance on underwriting applications or by way of broker conversations. Similarly, Director and Officer or Company Liability coverage may be implicated if there are allegations of a failure to follow BIPA requirements and safeguard employee or third-party data. Even with the current law finding Commercial General Liability insurance coverage available, given the expense of class action litigation and size of recent settlement and verdicts, insureds will likely seek all available coverage.

Notably, the Illinois legislature enumerated statutory civil penalties for violations of BIPA in the amount of $1,000 for each negligent violation, and $5,000 for each intentional or reckless violation, plus recoupment of reasonable attorney’s fees. Such stringent requirements, enumerated civil penalties and the accompanying “fee-shifter” provision, have made Illinois a haven for privacy suits alleging violations of BIPA. Although the Rogers jury found only a single violation for each of the individuals which made up the class of plaintiffs, the issue of whether BIPA allows for more than a single violation in regard to each plaintiff remains before the Illinois Supreme Court.

Whether BIPA statutory violations constitute “damages” will be determined by policy definition language. Settlements, however, may not expressly state whether the payment of settlement proceeds is a result of negligent or intentional or reckless violations of BIPA. Thus, the available insurers may end up in negotiations without strong coverage arguments depending on the nature of the class plaintiffs (third-party or employer) and the actual BIPA violations.

What is challenging for defendants and carriers alike is that the Illinois Supreme Court has already held that for plaintiffs to assert BIPA claims, a plaintiff need not establish an actual injury. Moreover, the Illinois Supreme Court has also rejected the argument that an employee’s sole remedy for causes of action arising in tort against their employer are limited to the Illinois Workers’ Compensation Act. However, it is necessary for plaintiffs to demonstrate that the conduct which forms the basis of alleged violations of BIPA “primarily and substantially” occurred in Illinois. Failure to do so will require dismissal of BIPA actions, as was recently the case in U.S. District Court for the Western District of Washington, in a suit against Microsoft and Amazon.

1 740 ILCS 14 et seq.
2 19-C-3083, N.D. Ill.
3 https://www.facebookbipaclassaction.com/
4 https://www.googlebipasettlement.com/
5 https://www.tiktokdataprivacysettlement.com/
6 https://www.snapillinoisbipasettlement.com/
7 Case No. 2021 IL 125978.
8 Id.
9 Id.
10 740 ILCS 15(b)(1)-(3).
11 740 ILCS 15(a)(1)-(4).
12 740 ILCS 15(a)(1)-(4).
13 740 ILCS 20(1)-(2).
16 See McDonald v. Symphony Bronzeville Park, LLC, 2022 IL 12651.
The Power of a Plan to Give Peace of Mind
by Corinne Heggie

Movie and song remixes are en vogue and have me hopeful that a director might take a crack at the iconic film "When Harry Met Sally." If a remix of this classic had hit the box office before 2017, I would have urged my in-laws to find central casting.

They met in the early 1950s as middle school classmates in St. Louis. The alphabet had Joe Heggie sitting in front of Mary Etta Johnson and the rest, friends, is history.

Knowing these two, there would have been countless ways they would have clicked early in their courtship, but I bet Mary Etta’s one thousand watt smile captured Joe’s heart from jump. Mary Etta’s smile was contagious. It lit up a room, especially a room full of family and friends, and never ever disappointed when caught on camera. Central casting would have had no choice but to feature The Heggie’s and watch Mary Etta’s smile steal the show. Mary Etta’s smile remained her hallmark even as time and illness unraveled her mind.

Dementia and its beginnings often echo undetected through a medical history. Sometimes it may even be covered by loving family and friends. Regardless of how dementia is diagnosed, it can result in a two-cornered affair: a patient and fear.

In Mary Etta’s case, fear was taken completely out of the game. Mary Etta had signed an estate plan that named a team and relief hitters to help her make decisions about health care and property, even the property she and Joe had owned jointly. After Joe died, the relief team played a critical role. The relief team’s mere presence gave Mary Etta the gift of time and healing. In the days and months following Joe’s death, Mary Etta was not stumbling at the starting line. Her line up was set so her team was able to resolve legal questions and make decisions.

Mary Etta set her team in four documents: 1. health care power of attorney; 2. property power of attorney; 3. will and 4. revocable trust. These documents are accessible to everyone 18 years and older. People who are healthy should consider the documents now while their medical profile is uncomplicated. Once a medical alarm sounds, it is often impossible to unring. For an aging parent or family member who lives out of town, consider naming a trusted adult as a signor to a bank account. Then, if the unexpected should happen, at the very least there is a person who can pay bills.

Now Mary Etta’s team has transformed into more than family members’ names on her roster. It is a living thing with a personality and a pulse, one heartbeat working for Mary Etta’s legacy now that she has been reunited for eternity with her beloved Joe.

Corinne Cantwell Heggie is a principal at Heggie Wochner Law Firm LLC where she protects individuals, families, and business owners with trust, wills, and powers of attorney. Corinne appears in probate and guardianship court and advises business owners on legal issues impacting their work and employees. She is a member of the North Suburban Bar Association’s Board of Directors and served as President of the Women’s Bar Association of Illinois from 2019-2020.
Please join us on April 20th as we gather to celebrate the power of community and honor NSBA Past President Gary Wild. As a lawyer, Gary was zealous in protecting the rights of his clients and was known for his pro-bono advocacy. Gary was a social security disability lawyer, represented parents and children in juvenile court and was an active member of the ACLU.

As President of the NSBA, Gary was known for his kindness and support to all members and his commitment to advocacy and helping others served to inspire so many. Every year, the NSBA gives an award to organizations that exemplify Gary’s character and interests.

We want to congratulate this year’s honorees: the Quilts of Valor Foundation and the Polish American Association. We appreciate all of the good works these two organizations provide to our communities and hope you will join us at this momentous event honoring them and paying tribute to Gary Wild!

If you are unable to attend the event, you can still make a donation to our honorees!
Is your MCLE deadline quickly approaching? Still need those hard-to-get Professional Responsibility CLE hours? No problem!
Join us on Friday, May 19th for the NSBA CLE-FEST and complete your MCLE hours ahead of the June 30th deadline. Illinois lawyers must complete 30 hours of MCLE hours every two years including at least six Professional Responsibility CLE hours, one hour of Diversity and Inclusion, and one hour of Mental Health and Substance Abuse Professional Responsibility CLE hours.

We have an incredible lineup of professionals for our upcoming CLE FEST including Dr. Diana Uchiyama, JD, PsyD, CAADC, Executive Director at the Lawyer’s Assistance Program; Laura Farr, J.D., Founder and Principal of Forward Together Strategies; Shermah Derrick LCPC, CADC and so many more in this diverse panel of extraordinary professionals. This CLE event is eligible for 5 Professional Responsibility CLE credits including 1.5 hours of Diversity and Inclusion credits, 1.0 Professionalism, and 2.5 hours of Mental Health and Substance Abuse Professional Responsibility CLE hours.

REGISTER HERE!
We want to hear from you!

Have a great story or news item to share? Please send it our way. The NSBA is always looking for news, updates, interests and topics our members would like to see covered in our newsletter. As the editor of our bar newsletter and proud member of the NSBA, I want to thank everyone who contributed their time and expertise in this Spring Issue, and I look forward to future submissions from our members. Thank you for helping to make the North Suburban Bar Association one of the best and fastest growing bar associations in the area.

Hon. Pamela J. Stratigakis, Editor | NorthSuburbanBar@Gmail.com
THE VALUE OF JOINING A BAR ASSOCIATION IN THE POST-PANDEMIC ERA

By Pamela Stratigakis

I remember the day a friend of mine, who happened to be a lawyer I really respected and admired, brought up the North Suburban Bar Association in conversation saying “you really should think about joining.” As she went on to talk about all the great things about this local bar association, I will admit, I thought to myself... Do I really need to join yet another bar association? Do I even have the time? I was already a member of several other bar associations and legal organizations and wondered how the NSBA would be any different. I did what we all do as lawyers, I analyzed the prospect of joining.

Looking back, I can say without a doubt, joining the NSBA was one of the best decisions I made as a legal practitioner. As we all are reevaluating the value of many aspects of the legal profession in the post-pandemic era, including our memberships in various bar associations, I thought I would share with you why.

I had heard many great things about the NSBA before joining. However, the one thing I heard over and over was the incredible people who made up this local bar association and their unwavering support and commitment to its members. While there is no question that many of the larger, almost institution like Bar Associations such as the ISBA, ABA, WBA here in Illinois provide a myriad of practice benefits including continuing legal education (CLE), legal updates and information on practice trends, navigating through large organizations such as these can be daunting and somewhat overwhelming for a newer lawyer, solo or small firm practitioner. This is where a local bar association like the North Suburban Bar Association really shines.

There is something very special about the makeup and dynamic of the NSBA that you just can’t find in larger institutions like organizations. The NSBA may be small but it is mighty. The personal support and sense of community I found in the NSBA is like no other legal organization. The programs and events that the NSBA provides to its members are so much more than information outlets on practice trends and law updates or affordable CLEs. They are personal, quality programs and events where members of this organization are investing their time, effort and expertise in you as a member of their legal community. This is where the true value of membership in bar associations lies and what you find in the NSBA.
You see this reflected in its members and leadership. Past presidents from two decades ago still attend NSBA board meetings and networking events. Members with thriving practices and those that have ascended to the bench still volunteer for events such as the NSBA mock trial, CLE and networking events. This is reflective of a community organization that is committed to not just the growth and success of the NSBA organization but of its individual members. As our President, Kilby Macfadden eloquently stated in this month’s newsletter “One of the most special aspects of the NSBA leadership is that we are fortunate to have so many members who devote their time and resources to make NSBA a success.”

You will hear this same sentiment echoed time and time again from NSBA members of the past and present. Hon. Mitchell Goldberg sat down to speak with me recently about his experience as a member of the NSBA. He said by far the greatest value of being part of the NSBA was the meaningful friendships he made as a member and the kindness and support he always received from the NSBA community. He talked about the personal relationships he developed with other members of the legal community as an NSBA member and how when he was in private practice those led to referrals and helped grow his practice.

He discussed how much he valued those relationships to this day and how they helped him throughout his professional career. The Hon. Mariano Reyna, who was just recently sworn in as a member of the judiciary, echoed these sentiments when I spoke to him about being a member of NSBA. He discussed how the NSBA didn’t just provide CLE opportunities and networking events for its members but fostered a sense of camaraderie and support within the NSBA community. And although he was a relatively newer member of the NSBA, he valued all the personal connections he was able to make so quickly with other members that shared similar experiences and objectives.

While the landscape in the legal profession has certainly changed the last couple years in this post-pandemic era, with zoom depositions, remote proceedings and remote court appearances here to stay, one thing that remains true in every lawyer’s practice is the vital importance of the opportunity to meet and connect with other members of the legal community. What better way to do that than to join a bar association.
CONGRATULATIONS TO THE AMAZING CAST AND CREW OF THE LYIN’ QUEEN, A MUSICAL PARODY FOR THEIR OUTSTANDING PERFORMANCE!

The all-star ensemble included many of our very own NSBA members including the Hon. Megan Goldish, Hon. Mitchell Goldberg, Hon. Barry Goldberg and Hon. Shelley-Sutker Dermer! This extraordinary musical parody was written and produced by none other than the talented Ken Dermer, husband of NSBA member Honorable Shelley Sutker-Dermer. What an absolutely wonderful and entertaining show! It had the audience laughing, joining in singing and thoroughly entertained throughout.

Bravo to all the talented NSBA members on their outstanding performance on stage.
MEMBER NEWS

THE LYIN’ QUEEN, A MUSICAL PARODY

A MUSICAL PURIM PARODY

March 4 & 5,
March 11 & 12
2023/5783
Become a Member Today

The NSBA is working harder than ever to provide unprecedented value for your membership dollars. If you are not already a member, sign up today and receive $10 OFF by using Code ILNSBA10

MEMBERSHIP BENEFITS

Build Relationships

Whether you are a new attorney, a seasoned expert, a corporate attorney, a litigator, a specialist, or someone interested in gaining a new understanding or perspective of our legal system, the NSBA is where lawyers and professionals come together to build important relationships. It is a place where advocates and adversaries come together in the spirit of collegiality and common purpose. It provides an opportunity for members to hear from community leaders, industry experts, judges, regulators, and policymakers who speak candidly to the Bar about hot practice topics, cutting-edge technology, what’s new in the law, and where the profession can better itself.

Gain Exposure

The NSBA provides its members with exposure to the wider legal community and helps them grow into positions of leadership. The NSBA takes pride in helping its members build extraordinary professional lives and careers. Throughout the year, the NSBA sponsors monthly meetings and events for professional career and legal development, continuing legal education, fundraising, and community outreach endeavors. These include the annual Installation Dinner, Holiday Party, Gary Wild Dinner, Law Day, Judges Night, and many others.

MEMBERSHIP CATEGORIES

Regular | $105
Member admitted to any bar 3 or more years

Government Employee | $55
Judge, State’s Attorney, Public Defender, etc.

Public Interest Attorney | $55
Nonprofit, Public Interest

New Lawyer | $55
Member admitted to any bar for less than 3 years

Retired Member | $55

Law Student | $0