

Chicago Daily Law Bulletin

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Volume 161, No. 202

Serving Chicago's legal community for 160 years

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Naming new plaintiffs in mistaken-identity cases

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TRIAL NOTEBOOK



STEVEN P. GARMISA
Hocy & Furina

Collection of personal info OK this time

Pavone v. Meyerkord & Meyerkord

Trying to recruit personal-injury clients through a targeted marketing program, Meyerkord & Meyerkord LLC — a law firm based in St. Louis whose website says it has “a legacy of legal innovation” — allegedly sent parcels to Antonio Pavone, Karen Pavone and their minor child, M.P., a day after the Pavones were involved in an auto accident in Schaumburg.

Prominently labeled “advertising material” (as required by the Illinois Rules of Professional Con-

\$27.5M verdict against subcontractor

Cook County judge finds steel company did faulty work on O'Hare rehab project

BY PATRICIA MANSON
Law Bulletin staff writer

A Chicago construction company was awarded \$27.5 million Wednesday in a lawsuit accusing a subcontractor of doing faulty work on a rehab project at O'Hare International Airport.

With credits and offsets, Walsh Construction Co. will net about \$20 million from Harvey-based LB Steel LLC.

Cook County Circuit Judge John C. Griffin entered the verdict following a six-week bench trial.

An attorney for Walsh, James R. Figliulo of Figliulo & Silverman PC, said he is pleased with the verdict.

“It was a very good result and we're all very happy about it,” he said.

Figliulo praised the work done by Griffin and attorneys for LB Steel.

“It was a really well-tryed case,” he said.

Two other attorneys for Walsh — Patrick J. Enright and Joseph O. Enright, both of O'Rourke, Hogan, Fowler & Dwyer LLC — also said they're pleased with the verdict.

“This was a long, long piece of litigation, and it was also a very long and very trying project for Walsh,” Patrick Enright said.

He said Walsh “stepped up to the plate and did it right” when problems were discovered with the work done on Terminals 2 and 3 at the sprawling airport.

“It was important to Walsh to finish the job and, more importantly, to finish it safely,” he said.



Joseph O. Enright



Patrick J. Enright

Joseph Enright said he is pleased Walsh will receive compensation after working with the city of Chicago to remedy flaws in the work done by LB Steel.

Also representing Walsh at trial was Thomas D. Warman of Figliulo & Silverman.

LB Steel is represented by Timothy R. Conway and Edward B. Keidan, both of Conway & Mrowiec.

They could not be reached for comment.

In 2003, the city launched a multimillion-dollar project at O'Hare that included building canopies over the upper roadway

VERDICT, Page 6

IN THE NEWS

BY CHRISTINE M. PUSATERI



Court adds rules on marijuana, evidence

Ill. Supreme Court rule changes go into effect in January

BY ANDREW MALONEY
Law Bulletin staff writer

SPRINGFIELD — Illinois' top

in Illinois meet the highest of professional and ethical standards,” she said.

One such change confronts a dilemma that lawyers in multiple states now face — the legality of medical marijuana.

Nearly half of states, including Illinois, have legalized it for medicinal purposes, and some have legalized it for recreational use even

City settled with contractor for \$10M in 2013 over faulty steelwork

VERDICT, FROM PAGE 1

and expanding the interiors of Terminals 2 and 3.

Design and construction defects caused the project to run over budget and took years to remedy.

In 2013, Walsh and six other firms agreed to pay the city nearly

\$21 million to settle lawsuits filed by the city.

Walsh paid about \$10 million of the settlement to cover the city's costs in investigating the problems and enforcing its contract with the company.

Walsh also spent an additional \$26 million on remedial work.

Walsh sued LB Steel and sought \$33 million in damages.

Walsh accused the subcontractor of using defective steel and performing faulty work on the welding.

Griffin found in favor of Walsh on counts that included breach of contract.

The judge rejected a fraud claim Walsh brought against LB Steel and found in favor of LB Steel on counterclaims for lien and breach of contract.

The case is *Walsh Construction Co. v. LB Steel LLC, et al.*, 07 L 3886.

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Garman: changes reflect growing use of tech in judicial process

RULES, FROM PAGE 1

creates a "reasonable likelihood" a defendant was wrongly-convicted should "promptly" disclose it to the court or ask the court for time to investigate the evidence.

When evidence is "clear and convincing" that a defendant in that prosecutor's jurisdiction was wrongly convicted, the prosecutor "shall seek to remedy the conviction." The rule is intended to reclaim the idea that state and federal prosecutors are not merely advocates for convictions but ministers of justice.

They'll still have some leeway, though. A subsequent addition also says there is no rule violation if the prosecutor knew of the evidence but didn't believe it would change things — even if that judgment turns out to be off-the-mark.

Another change would allow corporate lawyers who aren't licensed in the United States to get a limited law license in Illinois if they meet certain standards. An amended Rule 716 says in-house counsel who are only licensed or authorized to practice in another country must pass an Illinois ethics test administered by the high court's Com-

mittee on Professionalism.

He or she must also have a clean disciplinary record in that jurisdiction in order to get a limited law license in Illinois. And under an altered Rule 705, a requirement that lawyers from other states be licensed for at least five years before they can be admitted in Illinois on motion is reduced to three years.

Among other changes, the high court also updated language to its policy on respecting the rights of third parties, saying lawyers who receive "electronically stored information" on accident should no-

tify the sender of the mistake "promptly."

Committee comments on the subject cite misaddressed letters and e-mails as the impetus for the rule. But notifying the sender is the only action required under the rules.

Whether attorneys are required to send the information back "is a matter of law beyond the scope of these [r]ules, as is the question of whether the privileged status of a document or electronically stored information has been waived," the comments on the rule state.

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Plaintiffs argued order didn't ensure help for disabled detainees

RAMPS, FROM PAGE 1

past, in regards to the courthouse ramps and holding cells, which did not have bathroom facilities that met reasonable accommodation standards under the law. Testimony from detainees and video footage at the courthouses showed inconsistencies in detainees receiv-

county executed a contract on Sept. 1 with an engineering firm to perform this work. He also testified that renovations at the suburban courthouses were completed, in progress or slated for this winter.

Dart had also issued a general order effective on March 27: "when practicable, sheriff's officers shall provide assistance to wheelchair-

wheelchair-using detainee up a courthouse ramp when carrying something in his hands," Gettleman wrote.

According to testimony from Dart in court documents, the sheriff said he was not opposed to changing the language in the order.

In denying the transport van

Morrissey of Thomas G. Morrissey Ltd., said the sheriff and county tried to argue that no changes were necessary to the courthouses or their practices while at the same time implementing long-overdue changes.

"Judge Gettleman's decisive ruling makes clear that the defen-

CASE S

See the full text of each case

Civil procedure

Where a party to a suit refuses to comply with discovery orders as means to effectuate an appeal of the order, the court may not place the party in contempt for doing so.

The Illinois Appellate Court, 1st District, affirmed in part and vacated in part a decision by Cook County Circuit Judge Jeffrey Lawrence.

In January 2011, Robert Holman was a resident at a long-term care facility in Chicago called The Renaissance at Midway. On or near Jan. 22, Holman was assaulted by another resident, injuring his left eye and severely impairing his vision.

Johnnie Stuckey, Holman's sister as well as his attorney, filed complaint with the Illinois Department of Public Health. On April 13, 2012, the department report indicated that Holman had been assaulted by his roommate who had "become physically aggressive toward staff and pushed staff on [a] bed" in early January. The roommate, identified only as John Doe, was described in report as "severely demented."

Stuckey sent several discovery requests seeking information about John Doe. Midway refused to comply, arguing that the Health Insurance Portability and Accountability Act (HIPAA) prevented Renaissance from responding to the discovery requests, which in addition to his name included re-