

# The Appellate Strategist

INSIGHTS ON APPELLATE ISSUES, TRIAL CONSULTATIONS, AND EVALUATING APPEALS

## [Illinois Supreme Court Sets Busy Civil Argument Schedule for November](#)

October 27, 2010 by [Kirk Jenkins](#)

This afternoon, the Illinois Supreme Court published its [Call of the Docket for the November term](#), and the Court will hear oral argument in fifteen civil cases. The cases, with the issue or issues presented in each, are:

November 10:

***General Motors Corp. v. Pappas***, No. 108893 – (1) Does the 2005 amendment to the Property Tax Code, 35 ILCS 200/23-20, providing for the payment of interest on property tax refunds at the lower of 5% or the percentage increase in the urban CPI for the previous year, apply prospectively only? (2) Did trial court retain jurisdiction to grant judgment interest after the notice of appeal was filed? See [Taxation](#)

***Illinois Department of Healthcare and Family Servs. v. Wiszowaty***, No. 109151 – Did the 1987 amendments to Section 12-109 of the Code of Civil Procedure and Section 505 of the Illinois Marriage and Dissolution of Marriage Act make simple interest mandatory on past-due child support payments? See [Civil Procedure](#).

***Cookson v. Price***, No. 109321 – Where plaintiff in a health care malpractice action failed to file a complying certificate, signed by a qualifying health care professional within the statutory period, attesting to the merit of the action, may the trial court give leave to file a replacement certification by another professional outside the statutory period? See [Civil Procedure](#).

November 16 –

***Carr v. Gateway, Inc.***, No. 109485 – Where a commercial arbitration provision specifies a particular forum, which is no longer available when the dispute arises, is the entire arbitration provision rendered unenforceable? See [Arbitration](#).

***Ries v. City of Chicago***, No. 109541 – (1) Are the defendants entitled to immunity from liability pursuant to Section 106(b) of the Tort Immunity Act for their alleged conduct in failing to terminate pursuit of an escaped prisoner? (2) If so, does the statutory exception allowing liability for willful and wanton behavior, found in Section 202 of the Act, apply to Section 4-106(b) immunity? See [Government Law](#).

***Johnston v. Weil***, No. 109693 – Whether evaluations, communications, reports and information relating to a mental health professional's independent evaluation in connection with custody dispute are confidential pursuant to the Mental Health and Developmental Disabilities Confidentiality Act (the "Confidentiality Act"), 740 ILCS 11/1 *et seq.*? See [Domestic Relations](#).

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*In re Application of the County Collector of DuPage County for Judgment for Taxes for the Year 1999*, No. 109711 – Does the Pension Code require a Forest Preserve District to pass an appropriation ordinance setting the amount of its mandatory contribution to the Illinois Municipal Retirement Fund before the District may validly enact a tax to pay for that contribution? See [Taxation](#).

*Kaufmann v. Jersey Community Hospital*, No. 109738 – Where the defendant doctor allegedly committed a "deviant act of sex" upon the plaintiff during an allegedly unnecessary examination, did the patient's injury "aris[e] out of patient care," meaning that the two-year statute of limitations found in 745 ILCS 10/8-101(b) applied, or did the one-year statute found in Section 101(a) of the statute apply? See [Government Law](#).

Follow me below the jump for the last two days of the Court's docket.

November 17 –

*LaSalle Bank National Association v. Cypress Creek 1, LP*, No. 109954 – (1) Was mortgagee entitled to be subrogated to the position of a mechanic's lien claimant in allocation of proceeds where mortgagee had paid certain parties during construction, but those parties' mechanics' liens had never been perfected? (2) Was mortgagee entitled to an award of attorneys' fees out of the proceeds in priority over the mechanics' liens, where the mortgage expressly provided for such an award? See [Construction Law](#).

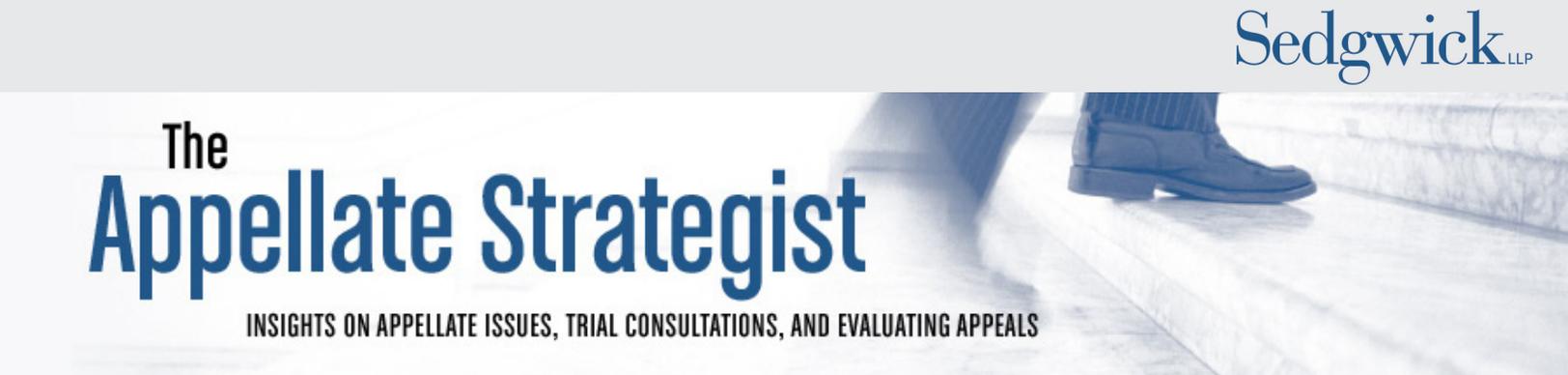
*Gaffney v. The Board of Trustees of the Orland Fire Protection District*, No. 110012/110198 – Under what circumstances does a firefighter participating in a training exercise "reasonably believe[ ]" he or she is responding to "an emergency" for purposes of Section 10 of the Public Safety Employee Benefits Act, which provides that firefighters injured under such circumstances are entitled to continued payment of health insurance premiums on behalf of the injured firefighter, his or her spouse, and each dependent child? See [Government Law](#).

*Thompson v. Gordon*, No. 110066 – Did expert witness testimony create genuine issues regarding duty, breach and causation in a negligence action arising from a contract to design a replacement for a bridge deck? See [Tort Law](#).

*Barber v. American Airlines*, No. 110092 – Did airline's unilateral refund of passenger's baggage fee, after passenger filed putative class action complaint, constitute an attempted "pick off" which did not moot passenger's complaint? See [Civil Procedure](#).

November 18 –

*Jablonski v. Ford Motor Co.*, No. 110096 – (1) Was plaintiffs' theory that defendant had a post-sale duty to warn in connection with alleged hazard arising from trunk and fuel tank placement properly submitted to the jury? (2) Was evidence of allegedly similar prior accidents properly admitted? (3) Did the Circuit Court



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properly allow plaintiffs to pursue their claims for punitive damages with respect to all four theories of negligence argued? See [Tort Law](#).

*Uldrych v. VHS of Illinois, Inc.*, No. 110170 – Does a counterclaim for indemnification filed by a hospital in a medical malpractice action “aris[e] out of patient care” so as to be subject to the four-year statute of repose set forth in 735 ILCS 5/13-212(a)? See [Civil Procedure](#).

*Howell v. Southern Illinois Hospital Servs.*, No. 110199/110200 -- Is a hospital’s statutory lien for services, filed pursuant to the Health Care Services Lien Act, 770 ILCS 23/1, subject to a reduction under the common fund doctrine for attorney fees incurred by the injured plaintiff? See [Tort Law](#).