

# *ued In*

A Monthly Legal Newsletter from  
**Querrey & Harrow**

**October 2010**

*Editors: Terrence Guolee  
and Jillian Taylor*



**Medical Malpractice Update: Current Status of the Healing Art Malpractice Act / The Disclosure of a Plaintiff's Section 5/2-622 Healthcare Professional**

By: Jamie Goldstein Waynee - Chicago, Illinois



**Police Law Update: Unanswered 911 Call Presents Exigent Circumstances for a Warrantless Entry**

By: Ghazal Sharifi - Chicago, Illinois



**Defamatory Comments on the Internet Warrant Revealing Anonymous Speakers' Identities**

By: Alicia A. Garcia - Chicago, Illinois



**Municipal Liability Update: Jail's Health Contractors Not Liable For Inmates' Suicide**

By: Jason Calliccoat - Chicago, Illinois

## Recent Case Successes

- Q&H Obtains Dismissal of Landlords' Suit Against Village

## Community Involvement / News

- Brom and Sethna Named Co-Chairs of Bankruptcy Practice Group
- Querrey & Harrow Welcomes 3 New Attorneys

## Seminars

- Querrey & Harrow Offers 5 seminars in October-December

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## Medical Malpractice Update: Current Status of the Healing Art Malpractice Act / The Disclosure of a Plaintiff's Section 5/2-622 Healthcare Professional

By: Jamie Goldstein Waynee - Chicago office

Section 5/2-622 of the Illinois Code of Civil Procedure, also referred to as the Healing Art Malpractice Act, was constructed by the legislature as a safeguard against the filing of frivolous medical malpractice lawsuits in the State of Illinois. The statute requires a plaintiff to retain a physician as a consultant prior to the filing of a lawsuit in order to evaluate whether the plaintiff has a reasonable and meritorious cause of action.

In order to demonstrate compliance with the statute, a plaintiff is required to file a written report with the complaint that was prepared by a licensed physician who has taught or practiced in the same area of medicine at issue, and who is qualified by experience or has a demonstrated competence in the subject of the case.

The original version of the statute did not require a plaintiff to disclose the name of the reviewing physician. In addition, for circumstances where the statute of limitations necessitated the filing of a complaint before a review could be obtained, the plaintiff was provided with a 90-day extension of time to

comply with the statute. The statute was interpreted to allow for an additional extension of time if good cause was demonstrated to the trial court.

On March 9, 1995, the legislature passed the Civil Justice Reform Amendments in Public Act 89-7, which included an amendment to Section 5/2-622. The amendment specifically required all plaintiffs to disclose the name and address of their reviewing healthcare professionals. The amendment further provided that the 90-day extension of time did not apply for re-filed actions that had previously been voluntarily dismissed by the plaintiff. However, in 1997, the Illinois Supreme Court issued its opinion in *Best v. Taylor Machine Works*, 179 Ill.2d 367 (1997), and held that certain "core provisions" of Public Act 89-7 were unconstitutional and inseparable from the remainder of the Act. As such, the entire Act was declared invalid and void in its entirety. The Illinois Supreme Court noted that the legislature was free to reenact any of the provisions set forth in Public Act 89-7 that were not found to be unconstitutional if deemed appropriate.

### **Brom and Sethna Named Co-Chairs of Bankruptcy Practice Group**

Congratulations to **John Brom** and **Eileen Sethna** who were recently named as Co-Chairs of Querrey & Harrow's Bankruptcy Practice Group.

John has more than 15 years of experience in bankruptcy practice, including preference and claims litigation, creditor's actions and Chapter 11 workouts. John also represents business entities in corporate, partnership and LLC formation, licensing and regulatory compliance and has broad experience in commercial litigation, and contract and real estate negotiation and litigation.

Eileen's experience includes business reorganizations, creditor's rights, and individual insolvencies, including Chapter 7, 11, and 13 proceedings. She has represented debtors, trustees, secured and unsecured creditors, and other parties in the transactional and litigation aspects of bankruptcy and reorganization including: fraud, false pretenses, preference, fraudulent and other avoidable transfers. Eileen also offers experience in complex commercial litigation relating to business disputes, including breach of contract, security agreements, mechanics liens and mortgage foreclosures.

<http://www.querrey.com/practices-6.html>

On May 1, 1998, shortly after the Supreme Court issued its opinion in *Best*, the legislature enacted Public Act 90-579, which included an amendment to Section 5/2-622 to add “narapaths” to the list of health professionals covered by the statute. The new language regarding narapaths was drafted in italics, consistent with the formatting used by the legislature to insert amendments into an existing statute. However, rather than inserting this italicized language into the pre-1995 version of the statute, the legislature added the italicized language to the Public Act 89-7 version of the statute that was struck down in *Best*.

Accordingly, Public Act 90-579 included the same language as Public Act 89-7 that required the name and address of the health professional and prohibited a 90-day extension of time for re-filed actions that were previously voluntarily dismissed. These previous amendments were not drafted with italics, which fueled serious debate among attorneys over whether the legislature intended for the passage of Public Act 90-579 to resurrect the Public Act 89-7 amendments that were invalidated in *Best*. For several years there were no published opinions directly addressing this issue. However, in 2004, the Fourth District Appellate Court entertained an interlocutory appeal in *Cargill v. Czeltadko*, 353 Ill.App.3d 654 (4th Dist. 2004) and held that the legislature

did intend to resurrect the amendments as included in Public Act 89-7.

Approximately seven months after the *Cargill* opinion, the legislature passed Public Act 94-677, referred to as the Illinois Tort Reform Act, which made various changes to Illinois law to address the pressing health care crisis. One of the changes included in Public Act 94-677 was an amendment to Section 5/2-622. However, the legislature reverted to the pre-1995 version of the statute in drafting the amendments included in Public Act 94-677, rather than using the 1995 version of the statute that was used in Public Act 90-579.

In drafting the new version of the statute, the legislature incorporated the prior amendment pertaining to narapaths that was added in Public Act 90-579. In addition, the legislature drafted a new section to the pre-1995 version of the statute to require the disclosure of the reviewing physician’s identity and to only allow for one 90-day extension for the filing of a report. Accordingly, the language in Public Act 94-677 was similar to the amendments that were invalidated in *Best*, but the legislature redrafted the amendments rather than reverting to the same language that was used in Public Act 89-7 and reiterated in Public Act 90-579.

### Q&H Obtains Dismissal of Landlords' Suit Against Village



In September 2010, Chicago shareholders **Brandon Lemley** and **Mike Stillman** obtained the dismissal of a lawsuit brought by a pair of landlords against a south suburban village and several village officials.

The landlords filed the lawsuit in February after a long public feud with the village over their apartment complex's condition. In the suit, which sought more than \$700,000 in damages, the landlords alleged that village officials made derogatory comments about their apartment complex, fabricated code violations and conspired to damage their reputations. Also named as a defendant was the village's building code officer. Village officials countered that they were simply concerned about infractions such as faulty fire alarms found at the complex.

Tensions boiled over at two village board meetings last fall, and the landlords quoted the village officials' comments at those meetings in the complaint to support their claim that they were defamed. Nevertheless, the Federal District Court for the Northern District of Illinois granted the motion to dismiss prepared by Brandon and Michael and dismissed the entire suit based on various defenses raised supporting that the officials' comments were privileged statements and subject to various immunities afforded to village officials' comments in public meetings. Recently, the time limit for any appeal of the dismissal expired.

Although the new version of Section 5/2-622 clarified the requirements of the statute, the changes made to Section 5/2-622 were only applicable to any cases that were filed after the passage of Public Act 94-677 in August of 2005. Any prior lawsuits that were pending in court had to rely upon the old version of the statute, the interpretation of which was still being contested among attorneys and judges alike.

After the passage of Public Act 94-677, the Fourth District Appellate court issued a new opinion, *O'Casek v. Children's Home & Aid Society of Illinois*, 374 Ill.App.3d 507 (4th Dist. 2007), overruling its decision in *Cargill* and holding that the legislature did not intend to reenact the previous amendments to Section 5/2-622 through the passage of Public Act 90-549. To further confuse the issue, in October of 2007, another panel of the Fourth District Appellate Court overturned the decision in *O'Casek* and reaffirmed the Court's opinion in *Cargill* that the legislature enacted Public Act 90-549 with the intention of resurrecting the amendments set forth in Public Act 89-7 that were invalidated in *Best*.

On June 19, 2008, the Illinois Supreme Court accepted the appeal of the *O'Casek* decision and issued an opinion to clarify the interpretation of Section 5/2-622 for any cases pending prior to the passage of the new Illinois Tort Reform Act. The Illinois Supreme Court held that Public Act 90-579 did not reenact the version of Section 5/2-622 that was held invalid under *Best* and overruled any cases, including *Cargill* and *Crull*, that found otherwise. *O'Casek v. Children's Home & Aid Society of Illinois*, 339 Ill.2d 421 (2008). However, the Court's opinion was only applicable to any medical malpractice cases that were pending prior to August of 2005. Any subsequent lawsuits were covered by the new version of Section 5/2-622 as set forth in Public Act 94-677.

In February of 2010, the Illinois Supreme Court addressed the constitutionality of Public Act 94-677 in *Lebron v. Gottlieb Memorial Hospital*, 237 Ill.2d 217 (2010). The Court ruled that a provision in the Illinois Tort Reform Act that limited the recovery of noneconomic damages in

a medical malpractice action was unconstitutional and held that Public Act 94-677 was invalid and void in its entirety. Similar to what occurred with the *Best* decision, the new version of Section 5/2-622 was also invalidated because it could not be severed from the Illinois Tort Reform Act.

In a recent opinion issued by the Second District Appellate Court, *Knight v. Matre*, No. 2-09-1127 (2nd Dist., Sept. 29, 2010), the Court addressed the effect of *Lebron* on the current status of Section 5/2-622. The Court held that the parts of Section 5/2-622 that Public Act 94-677 amended reverted to what they were prior to August of 2005. In accordance with the Illinois Supreme Court's ruling in *O'Casek*, the pre-1995 version of Section 5/2-622 is the current version of the statute, with the incorporation of "narapaths" as added to the statute in 1998. [Editor's Note: As of the printing of this newsletter, the *Knight* case remains unpublished and subject to recall by the court.]

In the *Knight* case, a defendant moved for the dismissal of the plaintiff's complaint with prejudice for the failure to file Section 5/2-622 report within 90 days. The trial court granted the defendant's motion to dismiss prior to the *Lebron* decision on the basis that the 2005 version of the statute only allowed for one extension. The plaintiff appealed the dismissal after *Lebron* was decided. The Second District Appellate Court found that a dismissal was not mandated under the pre-1995 version of the statute for the failure to file a report within 90 days. The trial court had discretion to allow for an additional extension of time if good cause was shown. As such, the plaintiff's cause of action was remanded to the trial court to determine if good cause was established for the delay.

Until the legislature enacts another amendment to Section 5/2-622, it is important to continue to challenge the sufficiency of a plaintiff's Section 5/2-622 report and to demand specificity and timely compliance with the statute. Although a plaintiff is not presently required to identify the name of a consulting physician, the statute still requires a demonstration of competence and

qualifications in the area of healthcare at issue. In addition, it is vital to make a record of any delay caused by the plaintiff in the filing of a Section 5/2-622 report. In the event that a plaintiff is unable to show good cause for the failure to timely comply with the statute, the trial court will have a basis to dismiss the complaint with prejudice.

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*Jamie Goldstein Waynee is an associate in our Chicago office. She concentrates her practice in the areas of medical malpractice, healthcare liability, guardianship law and premises liability. She represents hospitals, physicians, nurses and other healthcare providers involving various medical specialties in all aspects of the litigation process. Jamie also specializes in petitioning for the appointment of a guardian for patients with diminished mental capacity who do not have an advanced directive or family member available to assist with their healthcare decisions.*

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## **Police Law Update: Unanswered 911 Call Presents Exigent Circumstances for a Warrantless Entry**

By: Ghazal Sharifi – Chicago office

A 911 call provides probable cause for a warrantless entry if a call back goes unanswered. This was the holding of the Seventh Circuit in *Hanson v. Dane County*, 608 F.3d 335 (7th Cir. 2010).

In the case, a dispatcher in Dane County, Wisconsin received a 911 call. However, once the dispatcher responded, there was no one on the other end of the phone. The dispatcher called the number that it received the silent 911 call from. There was no answer. Police were dispatched to the location. Police responded to David Hanson's home where he resided with his wife Karen and two children, aged fifteen and thirteen. The officers entered without permission and started questioning the family. Karen Hanson indicated that she called 911, but did not remember why. She indicated that she and David had argued, but claimed she did not remember the subject matter. Karen claimed that she was unharmed and requested that the officers leave. They did not comply.

The officers also questioned David separately, as well as their children. David admitted to

bumping Karen during the argument. The children, who were questioned outside the presence of their parents, did not know why their parents argued and did not believe a physical altercation occurred. David was arrested for domestic battery as a result of his admission. Karen did not wish to pursue the prosecution and the case was dismissed. David then sued the county and deputy sheriffs under 42 U.S.C. § 1983 alleging Fourth, Fifth, and Fourteenth Amendment violations of his constitutional rights. The district court granted summary judgment to the defendants. The Seventh Circuit affirmed.

The Fourth Amendment requires officers to have probable cause or exigent circumstances to make a warrantless entry into a home. The Seventh Circuit noted that the unanswered 911 call gave the officers sufficient probable cause and exigent circumstances to make the warrantless entry of David's home. It noted that the purpose of the 911 line is for emergencies. The lack of an answer on a returned incomplete 911 call implies that the caller is unable to answer the phone, therefore, an emergency. These

circumstances dispense of a need for a warrant, regardless of whether there actually is an emergency.

The court further indicated that the Fourth Amendment does not bind officers to a least-restrictive alternative rule. The officers were not required to leave upon Karen's request. The court found that the officers' actions were especially reasonable given Karen's demeanor, elusive answering of questions, and clearly false statements.

David also contended that the deputies' questioning of his daughters violated his substantive due process rights under the Fourteenth Amendment. The court rejected this argument. It found that the officers did not need probable cause to ask the daughters any questions, because they were at liberty to refuse. Further, the court identified that although David had a fundamental right to "familial relations," there is no right to prevent the police from questioning family members. There was nothing in the deputies' temporary questioning of the daughters that interrupted or separated David and his family. Thus, David's "familial relation" rights were not implicated.

Finally, David contended the deputies violated his Fifth Amendment privilege against self-incrimination by their questioning him without issuing him his Miranda rights. The privilege against self-incrimination is meant to protect a defendant from having self-incriminating statements used against him in a criminal prosecution. The court noted that police cannot automatically "violate Miranda." Indeed, David never plead that the alleged incriminatory statements were introduced into evidence against him in a criminal prosecution. Finally, the court noted that David's arrest itself did not entail the use of evidence in a criminal prosecution because the arrest preceded the prosecution. Statements elicited from an interrogation without Miranda warnings are admissible in civil cases. Therefore, the court found that the deputies did not violate David's Fifth Amendment privilege against self-incrimination and that the non-Mirandized statements did not

entitle David to an award of damages.

The Seventh Circuit identified the root purpose of a 911 call and the emergency nature of the call. An incomplete 911 call that goes unanswered clearly connotes the height of danger or an emergency. Without knowledge of the details of a situation, emergency responders, in this case sheriff's deputies, respond with the belief that an emergency is in progress, despite the actual circumstances present. A warrant in those circumstances is inconceivable. The exigency of the situation justifies the officers' warrantless entry.

The Seventh Circuit also extended latitude to officers to conduct a proper investigation of an emergency situation. They found the latitude especially necessary given the prospect of inconsistent stories and a domestic battery situation presented from the caller herself. The court noted, "[m]any victims of domestic violence fear that the danger they face will increase if they assist police or prosecutors." The deputies, recognizing this fact, refused to comply with Karen's requests to leave. The court found this flexibility to investigate necessary and within the realm of the Fourth Amendment.

In *Hanson*, the Seventh Circuit recognized that exigent circumstances and unique details of a situation warrant the requisite flexibility for officers to enforce the law and adjust to emergencies before them. Therefore, it extended the Fourth Amendment boundaries officers require to execute their duties.

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*Chicago office associate **Ghazal Sharifi** concentrates her practice in general litigation. During law school, Ghazal served as a legal intern for The Honorable Judge Daniel M. Locallo in the Circuit Court of Cook County, Law Division, and, she served as the Administrative Editor of The John Marshall Law Review.*

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## Defamatory Comments on the Internet Warrant Revealing Anonymous Speakers' Identities

By: Alicia Garcia – Chicago office

Anonymous Internet posting is now a regular occurrence. Whether an Internet poster's anonymity is constitutionally protected is the precise question decided in *Maxon v. Ottawa Publishing Co.*, 929 N.E.2d 666 (Ill.App.3d 2010).

Plaintiffs, Donald and Janet Maxon claimed they were defamed by comments posted anonymously on the web version of *The Times*, a newspaper published by the Ottawa Publishing Company. The comments allegedly accused the Maxons of bribing members of the local city council in return for a favorable vote on a city ordinance. However, the comments that were posted never specifically named the Plaintiffs. Plaintiffs ultimately filed an Illinois Supreme Court Rule 224 petition seeking disclosure of the name, phone number, email address, or other identifying information of the anonymous posters. Ottawa Publishing claimed that the only identifying information it had were email addresses.

Ottawa Publishing argued that the anonymity of the posters was constitutionally protected free speech under the First Amendment. Ottawa Publishing further argued that the additional procedural requirements of the *Dendrite-Cahill* test should be used in this case. *See Dendrite Int'l, Inc. v. Doe No. 3*, 342 N.J. Super. 134, 141-142 (App. 2001); *see also Doe v. Cahill*, 884 A.2d 451, 460-61 (Del. 2005). In particular, the *Dendrite-Cahill* test required that plaintiffs demonstrate that they could meet a hypothetical motion for summary judgment as if brought by one of the potential defendants concerning the elements within the plaintiffs' knowledge. The trial court noted that the purpose of the *Dendrite-Cahill* test was to balance the right of a person not to be defamed with the First Amendment, free speech rights of anonymous posters. The trial court ruled in favor of Ottawa Publishing both in using the *Dendrite-Cahill* test, and holding that the social and literary

context of the comments rendered them nonactionable opinions as a matter of law.

Although appellate courts typically review a trial court's ruling on a Rule 224 petition under an abuse of discretion standard, the *Maxon* court used a *de novo* standard of review in this case. The court surmised that the trial court relied upon a conclusion of law in making its determination, and therefore, a *de novo* review was warranted. Specifically, in ruling that the comments were nonactionable opinions as a matter of law and in subjecting the petition to the *Dendrite-Cahill* test, both were conclusions of law requiring a *de novo* standard of review.

In first addressing the issue of the Rule 224 petition, the *Maxon* court noted that the petition was inapplicable to any case where the identity of the potential defendant is already known. Moreover, the use of the Rule 224 petition is limited to discovery of the identity of a potential defendant. It is well settled that trial courts possess sufficient discretion to protect an anonymous individual from an improper inquiry into his or her identity.

However, where the potential complaint at issue in a Rule 224 petition is one for defamation, subjecting the petition to Illinois Code of Civil Procedure Section 2-615 analysis is particularly compelling because courts routinely address Section 2-615 motions in defamation litigation where the plaintiff must first overcome First Amendment attacks as part of the prima facie case. The *Maxon* court held that subjecting the plaintiffs' Rule 224 petition to the same scrutiny afforded a complaint pursuant to Section 2-615, would address any constitutional concerns arising from disclosing the identity of any potential defendant.

The anonymity of Internet posters implicates important constitutional concerns requiring a balancing of the rights of the anonymous

speaker against the rights of the would-be plaintiff. Although certain types of anonymous speech are constitutionally protected, the *Maxon* court articulated that anonymous speech, in and of itself, does not warrant constitutional protection. The court surmised that anonymous Internet speakers are not afforded a higher degree of protection from claims of defamation than a private individual who has a cause of action against the anonymous speaker for defamation. The *Maxon* court, citing *Gertz v. Welch, Inc.*, 418 U.S. 323, opined that private individuals deserve greater protection against defamation than public officials or public figures and that there is no constitutional right to defame. Therefore, potential defamation defendants will not be able to cloak themselves using the First Amendment, specifically the Free Speech clause, when posting “anonymous” comments on the Internet.

The *Maxon* court found that the allegations that the plaintiffs bribed public officials could be reasonably interpreted as stating actual fact. The mere fact that the comments were couched in terms of being an opinion did not render the

comments nonactionable. Rather, the test is whether the statement could be reasonably interpreted as stating actual fact. Therefore, the court held that the plaintiffs stated a cause of action for defamation sufficient to warrant the anonymous individuals to answer plaintiffs’ complaint.

In *Maxon*, the court recognized that, in cases of defamation, an anonymous speaker’s identity would be revealed when the comments made can reasonably be interpreted as fact. No longer will an anonymous speaker be shielded by the protections of the First Amendment, free speech clause. Internet speakers are now warned that if their comments are capable of being interpreted as fact, their identities will not be protected.

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## **Municipal Liability Update: Jail’s Health Contractors Not Liable For Inmate’s Suicide**

By: Jason Callicoat – Chicago office

The Seventh Circuit Appellate Court recently upheld a judgment in favor of a jail’s medical contractors who had been accused of violating an inmate’s civil rights by deliberate indifference to the inmate’s suicide risk. The inmate’s mother filed the lawsuit after the inmate killed himself while in jail. The Seventh Circuit decision is published at *Minix v. Canarecci*, 597 F.3d 824 (7th Cir. 2010).

The inmate, Gregory Zick, had been a mental health patient at a state hospital, and in March 2003, he was released on leave from the hospital at the request of his mother to attend a family funeral. Zick became separated from his mother

and shortly thereafter was arrested on charges of theft and battery. During booking, jail personnel noted that Zick had laceration scars on his wrist and neck, and Zick admitted to attempting suicide in the previous month. The jail personnel also learned that Zick was taking prescription medications to inhibit suicidal thoughts, and they arranged for him to continue receiving those medications.

Shortly after Zick was incarcerated, the jail’s private medical contractor placed Zick on suicide watch in medical segregation. The separate company the jail used for mental health services sent an employee to perform an

evaluation of Zick. The employee had mental health experience, but no formal licensure. She spoke with Zick, but did not speak with anyone at the jail regarding his condition, and did not review his medical records or list of medications. She wrote a brief report indicating he denied suicidal thoughts, and the jail's private medical contractor referenced this report in taking Zick off suicide watch.

About a month later, Zick refused his medications and jail officers noted that a blade was missing from Zick's razor. Officers moved Zick to medical segregation for a suicide watch and charged him with "attempted suicide." Over the next two days of observation in medical segregation, nurses reported that Zick was alert and polite and denied suicidal thoughts. The private medical contractor then arranged for Zick's transfer out of medical segregation. Once Zick was out of medical segregation, he killed himself by hanging himself with a bed sheet during a seven-hour period when he was unmonitored.

Zick's mother sued jail officials and the medical contractors, alleging they were deliberately indifferent to his risk of suicide, in violation of his constitutional rights to due process and to be free from cruel and unusual punishment. The trial court entered judgment in favor of the jail officials and medical contractors, finding that plaintiff failed to prove they were deliberately indifferent to Zick's risk of suicide.

On appeal, the Seventh Circuit noted the Eighth Amendment's ban on "cruel and unusual punishments" requires prison officials to take reasonable measures to guarantee the safety of convicted inmates, including the provision of adequate medical care. The Fourteenth Amendment right to due process requires the same for pre-trial detainees, such as Zick. To prove such a violation by deliberate indifference, plaintiff had to show "that the defendant: (1) subjectively knew the prisoner was at substantial risk of committing suicide and (2) intentionally disregarded the risk."

The Seventh Circuit first considered whether the individual employee of the mental health

company was deliberately indifferent through her evaluation of Zick, which resulted in him being taken off the first suicide watch. The court found she was not, because she lacked knowledge of "the significant likelihood that [Zick] may imminently seek to take his own life." Plaintiff had argued that this employee only lacked that knowledge because she performed an incompetent evaluation, by failing to obtain information from anyone besides Zick, and by failing to review Zick's medical records or medications list. The court found it was insufficient to show this employee should have been aware of Zick's risk of suicide. Instead, to show deliberate indifference, the plaintiff had to show actual knowledge of a serious risk of harm.

The court then considered whether the mental health company was deliberately indifferent by sending an unqualified employee to evaluate prisoners for suicide risk. It concluded the company was not deliberately indifferent. The court ruled that to prove deliberate indifference, the plaintiff would have to prove the company was aware either that its employees were routinely providing inadequate care or that this employee in particular was unqualified. Without this proof, the court would not attribute actual knowledge of a serious risk of harm to the company.

The Seventh Circuit next analyzed the actions of the employee of the jail's medical contractor in taking Zick off of the first and second suicide watches. The court concluded these decisions did not amount to deliberate indifference to a serious risk of harm. The court acknowledged the employee may have shown poor judgment in releasing Zick from suicide watch based on his own statements that he did not feel suicidal. However, the court concluded that given Zick's denials of suicide, the employee had no actual knowledge that Zick would imminently seek to take his own life.

The court also evaluated whether the medical contractor was deliberately indifferent by sending an unqualified employee to determine whether to release Zick from the first and second suicide watches. The court concluded this did not amount to deliberate indifference. Similar to

its analysis of the mental health contractor's liability, the court looked at whether the medical contractor was aware that its employees were routinely providing inadequate care or that this employee in particular was unqualified. The court held there was insufficient evidence to prove this awareness, and did not attribute actual knowledge of a serious risk of harm to the company.

In the end, the court concluded that the inmate's death was tragic, but that the plaintiff failed to overcome the very high hurdle of proving "actual knowledge" on the part of any defendant. Without that proof, a plaintiff will not be able to show the deliberate indifference necessary to impose civil rights liability on the jail's private medical contractors.

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**Jason Callicoat**, an associate in our Chicago office, concentrates his practice in municipal liability and construction law, defending municipalities in civil rights litigation and defending construction companies in injury cases and breach of contract litigation. He also handles mechanics liens and contract suits on behalf of construction companies that have not been paid for work they performed.

*Jason edits the environmental construction newsletter "Green Space Today," and is a regular contributor to the newsletter "Construction Law Quarterly." He has previous litigation experience in the areas of construction injury, insurance coverage, and workers' compensation.*

*If you have any questions regarding this article, please contact Jason via [jcallicoat@querrey.com](mailto:jcallicoat@querrey.com), or via 312-540-7646.*

### **Querrey & Harrow Welcomes 3 New Attorneys**

Kevin M. Coffey and Kevin L. Sterk, both recent law school graduates, along with Alicia A. Garcia, a practicing attorney in Pennsylvania, have all recently passed the Illinois Bar and will be sworn in on November 4<sup>th</sup>.

Mr. Coffey, a graduate of the University of Illinois College of Law, concentrates his practice in health care litigation and general litigation and will be working with the Health Care team.

Mr. Sterk, a graduate of the University of Kansas School of Law, concentrates his practice in general litigation, public utilities and transactional work and will be working with the Insurance Defense team.

Ms. Garcia, a 2007 graduate of the Thomas M. Cooley Law School, concentrates her practice in general litigation, commercial litigation and civil rights and has been working with the Municipal Liability team.

## SEMINARS

### **E. Leonard Rubin to Speak at CADMUS Executive Management Retreat**

October 27, 2010

**E. Leonard Rubin**, Chair of Querrey & Harrow's Intellectual Property Practice, will serve as one of the featured speakers at the 2010 Executive Management Retreat of the CADMUS Institute on October 27, 2010. Mr. Rubin will discuss copyright, permissions, protecting online content, and international piracy issues in his presentation entitled, "Understanding Copyright, Permissions, and International Piracy." If you are interested in this topic and would like to suggest another forum for this type of presentation, please contact Mr. Rubin at [lrubin@querrey.com](mailto:lrubin@querrey.com).

### **Rubin to Participate in Practising Law Institute Seminar - Understanding the Intellectual Property License**

November 4, 2010

On November 4, 2010, E. Leonard Rubin, Chair of Querrey & Harrow's Intellectual Property Practice will serve as one of the featured speakers of the Chicago session of PLI Understanding the Intellectual Property License 2010. Mr. Rubin will cover rights of publicity and entertainment, including special issues for user-generated content and the internet.

For more information regarding registration and other topics included in the conference, please visit the [Practising Law Institute's website](#).

### **Querrey & Harrow Sponsors CHRMS Law Day**

November 5, 2010

Querrey & Harrow is proud to sponsor and present at the Chicagoland Healthcare Risk Management Society (CHRMS) Annual Law Day. **Jim Bream**, **Shannon Holbrook** and **Jamie Waynee** will be presenting an update on healthcare law and reform at this conference. For more information, please contact Jim Bream at [jbream@querrey.com](mailto:jbream@querrey.com).

### **Mechanics Liens and Construction Claims ISBA Special Committee on Construction Law**

November 18, 2010

Shareholder **Bruce Schoumacher** will be one of the featured speakers at the ISBA Mechanics Liens and Construction Claims seminar on November 18 at Southern Illinois University in Carbondale, Illinois. Mr. Schoumacher will discuss the elements for perfection of a claim for mechanics liens, including notices and other requirements for an original and subcontractor to perfect a claim for mechanics lien.

The seminar is presented by the ISBA Special Committee on Construction Law and co-sponsored by the ISBA Commercial, Banking and Bankruptcy Section. For registration information and additional program details, please visit the CLE Section of the ISBA website at: [www.isba.org/cle](http://www.isba.org/cle)

### **Current Issues in Illinois Construction Lien Law**

December 1, 2010

Querrey & Harrow Shareholders **Bruce Schoumacher** and **Tim Rabel** will present a 90-minute teleconference regarding Illinois Construction Liens in conjunction with Lorman Education Services. The teleconference is designed for contractors, owners, developers, subcontractors, suppliers, architects, engineers, lenders, accountants, and allied construction professionals. Topics will include and overview, the importance of deadlines, priority of liens, and recent developments.

Registration for the webinar will open in October at [lorman.com](http://lorman.com). For additional information, please contact Bruce Schoumacher via [bschoumacher@querrey.com](mailto:bschoumacher@querrey.com).