

Making a Statement (of Economic Interests): Questions and Answers about New Disclosure Requirements

April 7, 2022

Kenneth M. Florey
kflorey@robbins-schwartz.com

Matthew J. Gardner
mgardner@robbins-schwartz.com

M. Neal Smith
nsmith@robbins-schwartz.com

Matthew M. Swift
mswift@robbins-schwartz.com

Chicago
55 West Monroe Street, Suite 800
Chicago, IL 60603
p 312.332.7760
f 312.332.7768

Champaign-Urbana
301 North Neil Street, Suite 400
Champaign, IL 61820
p 217.363.3040
f 217.356.3548

Collinsville
510 Regency Centre
Collinsville, IL 62234
p 618.343.3540
f 618.343.3546

Lisle
550 Warrenville Road
Suite 460
Lisle, IL 60532-4311
ph: 630.929.3639
fax: 630.783.3231

Rockford
2990 North Perryville Road, Suite 4144B
Rockford, IL 61107
p 815.390.7090

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Making a Statement (of Economic Interests): Questions and Answers About New Disclosure Requirements

Webinar Presented By: Kenneth M. Florey, M. Neal Smith, Matthew J. Gardner,
and Matthew M. Swift

April 7, 2022

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Introduction



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Contact the Presenters!

- Kenneth M. Florey, Partner
 - Email: kflorey@robbins-schwartz.com
- Matthew J. Gardner, Partner
 - Email: mgardner@robbins-schwartz.com
- M. Neal Smith, Partner
 - Email: nsmith@robbins-schwartz.com
- Matthew M. Swift, Associate
 - Email: mswift@robbins-schwartz.com

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Introduction

- Public Act 102-0664 amended the *Illinois Governmental Ethics Act*, 5 ILCS 420/1, et seq. and creating new questions on Statement of Economic Interest ("SOEI") forms and additional definitions under the Act.
- Rationale for Amendment: Part of Springfield's Ethics Reform Package. The General Assembly criticized the prior SOEI forms which were often referred to as "none sheets," in reference to what disclosures some law makers would make.
- Amended Act creates new SOEI form with additional questions and includes more definitions.
- May 1 – Deadline to file new SOEI forms.
- Reporting period: Preceding calendar year (January 1, 2021 – December 31, 2021).

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Introduction

- Filing Requirements and Penalties
- Economic Interests that Must be Disclosed
- Assets, Income, and Debts

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Filing Requirements and Penalties



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Filing Requirements and Penalties



- Who must file SOEI forms?

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Filing Requirements and Penalties

- What is the process for filing my SOEI form?
- What is the deadline for filing?
 - What if a person takes office, is hired, appointed, or otherwise required to file a SOEI form in April?
- What are the penalties for filing late?

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Filing Requirements and Penalties

- What are the penalties for filing incorrect information or failing to disclose information?
- Does a “good faith” effort protect filers from the statutory penalties?
- Should I consult with local government’s ethics officer?
 - What if we do not have an ethics officer?

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Required Disclosures

REQUIRED

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Required Disclosures

- Do I need to disclose the amounts of my assets, income, or debts?

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Required Disclosures

- What are the disclosure requirements under the new SOEI form?

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Question No. 1:
Assets
Exceeding
\$10,000



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Assets
Exceeding
\$10,000

Assets Include:

- Stocks
- Bonds
- Sector Mutual Funds
- Sector Exchange Traded Funds
- Commodity Futures
- Investment Real Estate
- Beneficial Interests in Trusts
- Business Interests
- Partnership Interests

Assets Do Not Include:

- Personal Residences
- Personal Vehicles
- Savings or Checking Accounts
- Government Bonds, Notes, or Securities
- Medicare Benefits
- Inheritances or Bequests (other than Beneficial Interests in Trusts)
- Diversified Funds
- Annuities and Pensions (including Government Pensions)
- Retirement Accounts
- Certain College Tuition Savings Plans or Programs to Save for Disability-Related Expenses
- Tangible Personal Property

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Assets
Exceeding
\$10,000 – Real
Estate

- Do I list my personal residences?
 - What about vacation homes, lake houses, cottages, etc.?
- Do I list my investment real estate?
 - Do I need to list the address of the investment property?

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Assets
Exceeding
\$10,000 –
Retirement
Accounts,
Annuities, and
Pensions

- Do I have to report stock held in an IRA, 403(b), or other retirement account?
- Do I need to report pensions or annuities?



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Assets
Exceeding
\$10,000 –
Funds

- Which type of funds must be disclosed?
 - Sector Mutual Funds?
 - Sector Exchange Traded Funds
 - Diversified Funds?
- Do I need to report individual stocks held in a mutual fund/ETF or just the name of the mutual fund/ETF?

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Assets
Exceeding
\$10,000 –
Beneficiaries
of Trusts

- How do I determine the value of my beneficial interest in a trust?
- I am a beneficiary of a trust that holds assets that total more than \$10,000, but I don't control the trust. Do I have to report my interest in the trust?

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Assets
Exceeding
\$10,000 –
Beneficiaries
of Trusts

- I am a joint beneficiary of a trust with my spouse. Do I have to report that?
- Do I have to report each of the assets in the trust that are more than \$10,000?



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Assets
Exceeding
\$10,000 –
Revocable
Trusts

- I am the trustee for a revocable trust, but not a beneficiary. Do I have to disclose that trust?

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Assets Exceeding \$10,000 – Business and Partnership Interests

- How do I handle business equipment or other property that has significant value?
- What about farming equipment? Livestock?

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Assets Exceeding \$10,000 – Inheritances

Do I need to report inheritances or bequests?

- What if I inherited something that would otherwise fall within the category of an "asset"?
- A house? Investment property? Stock in a company?
- Beneficial interests in a trust?



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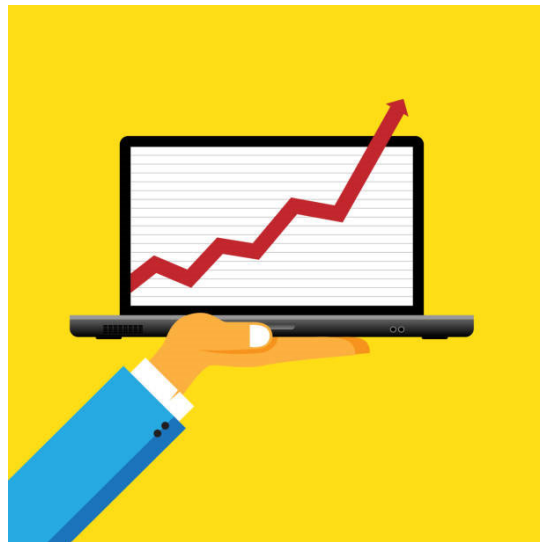
Assets
Exceeding
\$10,000 –
Family
Member
Assets

Do assets of my spouse for which I do not have any ownership, *i.e.* a business, have to be reported?

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Question No.
2: Income
Exceeding
\$7,500



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Income
Exceeding
\$7,500

- What “income” must be reported? How do I make this determination?

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Incomes
Exceeding
\$7,500

Income Includes:

- Compensation for Services Rendered or to be Rendered as Required to be Reported to the IRS
- Pension Income
- Earnings or Capital Gains from the Sale of Assets
- Profit
- Interest or Dividend Income from all Assets
- Revenue from Leases and Rentals
- Royalties, Prizes, Awards, or Barter
- Forgiveness of Debt
- Earnings from Annuities or Trusts (other than Testamentary Trusts)

Income Does Not Include:

- Income from the Sale of a Personal Residence or Personal Vehicle
- Investments or Interest Returns on Items Excluded from the Definition of “Assets”
- Income Earned for Service in the Position that Necessitates the Filing of the SOEI

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Income
Exceeding
\$7,500 –
Capital Gains

- What about every sale in a diversified fund?
- What about a sale of an individualized stock?



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Income
Exceeding
\$7,500 –
Tuition
Waivers

- Do tuition waivers / tuition reimbursements for administrators have to be included under Question 2?

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Question No. 3:
Debts
Exceeding
\$10,000



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Debts
Exceeding
\$10,000

Debts Include:

- Any Money or Monetary Obligation Owed to an Individual, Company, or Other Organization (and Not Otherwise Exempt)
- Personal Loans from Friends or Business Associates
- Business Loans Made Outside the Lender's Regular Course of Business
- Loans Made At or Below Market Rates

Debts Do Not Include:

- Loans from Financial Institutions, Government Agencies, or Business Entities that are Granted on Terms Available to the General Public
- Mortgages
- Student Loans
- Credit Card Debt
- Loans Secured by Automobiles, Household Furniture, or Appliances
- Debts to a Political Action Committee Registered with the State Board of Elections, Political Committees, Principal Campaign Committees, or Other Authorized Committees Registered with the Federal Election Commission
- Loans from a Family Member if the Family Member is Not a Registered Lobbyist or Filer is Unaware of Such Registration

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Debts
Exceeding
\$10,000 –
Family Debts

- Does my spouse's business line of credit have to be reported?



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Debts
Exceeding
\$10,000 –
Loans

- Is the loan I received made on terms available to the general public?
- What if I received a loan that exceeds the purchase price of the items securing the loan?

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Questions?



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Contact the
Presenters and
Follow Us on
Social Media!

Twitter: @RSchwartzLaw

Linked In: Robbins Schwartz

- Kenneth M. Florey, Partner
 - Email: kflorey@robbins-schwartz.com
 - Twitter: @Kflorey_RS
- Matthew J. Gardner, Partner
 - Email: mgardner@robbins-schwartz.com
 - Twitter: @Mgardner_RS
- M. Neal Smith, Partner
 - Email: nsmith@robbins-schwartz.com
 - Twitter: @Nsmith_RS
- Matthew M. Swift, Associate
 - Email: mswift@robbins-schwartz.com
 - Twitter: @Mswift_RS

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KENNETH M. FLOREY

PARTNER, CHICAGO & LISLE

312.332.7760

kflorey@robbins-schwartz.com

Ken Florey concentrates his practice representing public and private clients, including municipalities, school districts, community colleges, townships, libraries, private owners, contractors and design professionals regarding land use, municipal law, construction, tax, finance and litigation. Ken has also started offering his services as a mediator with an emphasis on construction disputes.

Ken was the Chair of the DuPage County Bar Association's Local Government Committee. He was appointed Special Assistant Attorney General to prosecute and defend construction litigation claims on behalf of the Illinois Capital Development Board. Ken is also a member of the Illinois ASBO Service Associate Advisory Committee. He served as a Trustee for the Village of Lombard for eight years and is a member of the Lombard Fire and Police Commission.

MEDIATOR CERTIFICATE: Northwestern University 2017

AWARDS

Illinois Leading Lawyer, Construction Law; Governmental, Municipal, Lobbying & Administrative Law; Land Use, Zoning & Condemnation Law; and School Law

Illinois Association of School Business Officials, Above and Beyond Award

Illinois Institute for Local Government Law, Litigation Award

RECENT PUBLICATIONS

Contributing author, "Joint Purchasing Everything You Want to Know but Are Afraid to Ask!" *UPDATE Magazine*, Illinois ASBO (2019)

Contributing author, "How Far Does the Law Allow Schools to Go?" *UPDATE Magazine*, Illinois ASBO (2018)

Contributing author, "Top 11 Public Bidding Questions & Solutions" *UPDATE Magazine*, Illinois ASBO (2018)

Co-author, "School Construction from Start to Finish: A Project Checklist," *School Business Affairs Magazine*, ASBO (2018)

Contributing author, "Top 11 Public Bidding Questions," *UPDATE Magazine*, Illinois ASBO (2018)

Contributing author, "Meditation a Win-Win for Clients and their Attorneys in Construction Litigation," *Chicago Daily Law Bulletin* (2018)



PRACTICE AREAS

Commercial Law
Construction Law
Education Law
Energy Law
Litigation
Mediation
Municipal Law
Public Finance & Taxation
Real Estate Development
Zoning, Planning & Land Use

EDUCATION

J.D., DePaul University
College of Law; Managing
Editor, *DePaul Journal of
Art and Entertainment
Law*

B.A., University of Illinois
at Urbana-Champaign

ADMITTED TO PRACTICE

U.S. District Court for the
Northern District of
Illinois

Supreme Court of Illinois

Contributing author, "Organization, Finance, and Property," Illinois School Law, IICLE (2017)

"Construction Project and Contract Pitfalls" *Update Magazine*, Illinois ASBO (2017)

"The Good, the Bad and the Ugly of School Bidding Requirements," *UPDATE Magazine*, Illinois ASBO (2016)

"Settlement Crumbles; Appeals Court Declines to Put Pieces Back Together," *Chicago Daily Law Bulletin* (2015)

"On Public Display: Advertising in Schools," *UPDATE Magazine*, Illinois ASBO (2015)

RECENT PRESENTATIONS

School Construction and Purchasing Scenarios: Common Problems with Practical Solutions, ASBO International and AC&E (October 2021)

Using ESSR Funds for Facilities Improvements: School Construction from Start to Finish, Illinois ASBO and IASPA (October 2021)

Prevailing Wages and Bidding, Northeastern Illinois Facility Professionals (November 2021)

No Weak Links: Fostering Positive Intra-Board Relationships, IASB/ISA/IASBO (November 2021)

No Weak Links: Fostering Positive Intra-Board Relationships, IASB (July 2021)

Robbins Schwartz

MATTHEW J. GARDNER

PARTNER, CHICAGO

312.332.7760

mgardner@robbins-schwartz.com

Matthew Gardner is a member of the firm's construction, real estate, and public finance practice groups. Matt represents private and public project owners over the course of construction and development projects, beginning with property acquisition, zoning, contract negotiation and bidding, project management, surety and warranty claims and any resulting litigation concerning payment, delays or design or construction defects. Matt also represents contractors, subcontractors and suppliers on a variety of construction-related matters, including payment claims, preserving and enforcing lien rights and defending defect claims.

Matt is the past Chair of the Chicago Bar Association Construction Law and Mechanics Lien Subcommittee (2018-19), has testified before the General Assembly on construction-related matters, and is a member of the Illinois State Bar Association and Chicago Bar Association Judicial Evaluation Committee. Matt has also performed pro bono services representing clients through Chicago Volunteer Legal Services and Franciscan Outreach.

AWARDS

Illinois "Rising Star", by Super Lawyers Magazine, in the area of Construction Litigation (2020-2021)

RECENT PUBLICATIONS

Co-author, "School Construction from Start to Finish: A Project Checklist," *School Business Affairs Magazine*, ASBO (2018)

Contributing author, "Top 11 Public Bidding Questions," *UPDATE Magazine*, Illinois ASBO (2018)

Contributing author, "Meditation a Win-Win for Clients and their Attorneys in Construction Litigation," *Chicago Daily Law Bulletin* (2018)

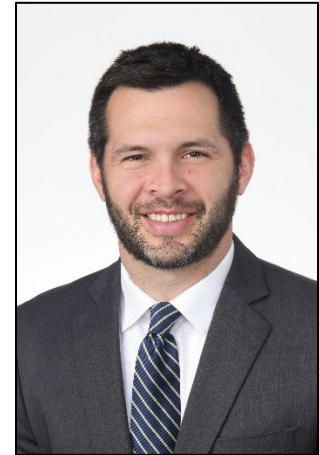
Contributing author, "Organization, Finance, and Property," *Illinois School Law*, IICLE (2017)

"The Good, The Bad and The Ugly of School Bidding Requirements," *UPDATE Magazine*, Illinois ASBO (2016)

"School District and Zoning Exemptions," *Chicago Daily Law Bulletin* (2015)

RECENT PRESENTATIONS

School Bidding, Procurement, and Prevailing Wages: From the Basics to the Advanced, IASA Spring Legal Seminar (March 2022)



PRACTICE AREAS

Commercial Law
Construction Law
Public Finance & Taxation
Real Estate Development

EDUCATION

J.D., University of
Wisconsin Law School

B.S., University of Utah

ADMITTED TO PRACTICE

U.S. District Court for the
Northern District of Illinois

Supreme Court of Illinois

Supreme Court of Utah

Supreme Court of
Wisconsin

ORGANIZATIONS

Chicago Bar Association

Illinois State Bar
Association

Construction Law 101, National Business Institute (December 2019)

Foolproof Contract that Abide by State Laws, 2019 Illinois ASBO Annual Conference (May 2019)

Robbins Schwartz

M. NEAL SMITH, JR.

PARTNER, LISLE

630.929.3639

nsmith@robbins-schwartz.com

Neal represents municipalities, school districts, community colleges and other local governmental clients as well as companies and individuals in a wide range of complex legal matters. In addition to representing clients in tort and commercial litigation, Neal represents clients in several unique areas of the law including land use and zoning litigation, construction litigation and election law and campaign finance matters. Neal has represented clients in state and Federal Court and before administrative agencies such as the Illinois State Board of Elections, the Illinois Commerce Commission, and the Illinois Labor Relations Board.

Neal advises clients in contract drafting and review. For local governmental clients, he prepares and reviews ordinances, resolutions and intergovernmental agreements, attends board and committee meetings and advises elected and appointed officials and employees on all types of legal issues that concern local governmental clients.

AWARDS

Illinois Leading Lawyer, Election, Political & Campaign Law; Governmental, Municipal, Lobbying & Administrative Law; Land Use, Zoning & Condemnation Law; and School Law

RECENT PUBLICATIONS

Author, "Court affirms candidate's ballot removal, resolves lower court split," *Chicago Daily Law Bulletin* (2021)

Co-Author, "Variations, Special Uses, and Appeals from Administrative Decisions" *Land Use Law: Practice and Procedure, IICLE* (2021)

Author, "Residency" *Election Law, IICLE* (2020)

Author, "Vacancies in Office and Vacancies in Nomination" *Election Law, IICLE* (2020)

Author, "Federal courts weigh in on state's Nov. 3 ballot access requirements," *Chicago Daily Law Bulletin* (2020).

Co-author, "High Court Gives Detailed Account on Torts, Discretionary Immunity," *Chicago Daily Law Bulletin* (2020)

Author, "Campaign Finance and Disclosure Requirements in Illinois" *DCBA Brief* (2020).



PRACTICE AREAS

Commercial Law
Construction Law
Litigation
Municipal Law
Real Estate Development
Zoning, Planning & Land Use

EDUCATION

J.D., *cum laude*, Northern Illinois University College of Law

B.A., Hampden-Sydney College

ADMITTED TO PRACTICE

U.S. District Court for the Central District of Illinois

U.S. District Court for the Northern District of Illinois

Supreme Court of Illinois

ORGANIZATIONS

American Bar Association
Chicago Bar Association
DuPage County Bar Association
Illinois Bar Association
Will County Bar Association

Co-author, "Alarm Contractors' Argument Gets Green Light to Challenge Ordinance," *Chicago Daily Law Bulletin* (2019)

Author, "Police Officers' and Firefighters' Pension Boards" *Municipal Law: Financing, Tax and Municipal Property*, IICLE (2018)

Co-author, "1st District Refuses to Sanction 'Side Letter' Pension Spike," *Chicago Daily Law Bulletin* (2018)

"Settlement Crumbles; Appeals Court Declines to Put Pieces Back Together," *Chicago Daily Law Bulletin* (2015)

"On Public Display: Advertising in Schools," *UPDATE Magazine*, Illinois ASBO (2015)

"Could Your Township Benefit From the Work of a Committee?" *Township Perspective*, Township Officials of Illinois (2013)

Co-author, "Annual Town Meetings" and "Town Budget and Levy Process," *Township Clerks Handbook*, Township Clerks of Illinois (2013)

"What to do when Unsafe Properties Pose a Threat to the Welfare of the Citizens in your Township," *Township Perspective*, Township Officials of Illinois (2012)

RECENT PRESENTATIONS

Legal Issues Impacting Not-for-Profit Corporations in Illinois, Bolingbrook Area Chamber of Commerce Nonprofit Coalition (February 2020)

Statutory Requirements and Ethical Considerations for Public Officials, Illinois Government Finance Officers Association (September 2019)

Intervening in Pension Board Disability Hearings, 106th Annual Conference of the Illinois Municipal League (September 2019)

Robbins Schwartz

MATTHEW M. SWIFT

ASSOCIATE, CHICAGO

312.332.7760

mswift@robbins-schwartz.com

Matthew is a member of the labor and employment practice group. He counsels employers in various aspects of labor and employment law, such as employee discipline, labor relations, wage and hour, and employment discrimination matters under both federal and state laws such as the Americans with Disabilities Act, Family and Medical Leave Act, Age Discrimination in Employment Act, Title VII of the Civil Rights Act, and Illinois Human Rights Act. He also represents clients in state and federal courts and advises on Illinois Freedom of Information Act and Open Meetings Act matters.

Before he joined Robbins Schwartz, Matthew served as in-house counsel and FOIA Officer for the Illinois Office of the Governor. In that role, he counseled dozens of agencies on compliance with sensitive FOIA requests, advised on current and potential litigation issues, and served as a legal liaison to the Illinois Department of Human Rights and the Illinois Human Rights Commission.

RECENT PUBLICATIONS

“All Together Now – Employment Law Issues in the New Title IX Rules,”
Chicago Daily Law Bulletin (2020)

“Life After Leave: Bringing Employees Back in a COVID-19 Age” *Best Practices Magazine*, American Association of School Personnel Administrators (2020)

RECENT PRESENTATIONS

Red Light, Green Light? Responding to Recent Decisions about COVID-19 Mitigations, ED-RED's Virtual Member Meeting (February 2022)



PRACTICE AREAS

Education Law
Labor & Employment

EDUCATION

J.D., University of Chicago
Law School

M.P.P., University of
Chicago, Harris School of
Public Policy

B.B.A., *summa cum laude*,
Baylor University

ADMITTED TO PRACTICE

U.S. District Court for the
Northern District of Illinois

Supreme Court of Illinois

ORGANIZATIONS

Chicago Bar Association