

# Law Related Education

The newsletter of the Illinois State Bar Association's Committee on Law Related Education

## 2023 ISBA High School Mock Trial Invitational

BY SARAH TAYLOR

The 2023 ISBA High School Mock Trial Invitational was held on March 18 and 19, 2023, at the University of Illinois-Springfield campus in Springfield, Illinois and was hosted by UIS's College of Public Affairs and Education. Teams representing 45 high schools from across Illinois participated in the event. The winning team was Maine South High School, which will represent Illinois at the National High School Mock

Trial Competition in Little Rock, Arkansas.

The 2023 Invitational was a success due to the hard work and enthusiasm of these 45 teams and their coaches, families, and other supporters, and the dedication of the ISBA's Standing Committee on Law-Related Education for the Public, the Mock Trial Coordinator, Katy Flannagan, and members of the UIS Mock Trial Club. The Invitational

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## My Experience as a Juror for the ISBA LRE Committee's 2023 Mock Trial Invitational

BY SHARON EISEMAN

A three-word summary: **WHAT A THRILL!**

Of course, I read the entire set of documents for the mock trial case to be 'tried' by the many high school student 'prosecution' and 'defense' teams during the two days in March we all gathered at the University of Illinois's Public Affairs Center in Springfield. That reading included 'Information for Jurors/Evaluators' which was pertinent to my volunteer role as a Juror for the student-led trials. Yet, I simply was not prepared for the intensity,

professionalism, and level of talent of the students I witnessed during my jury service.

Partway through my first trial, however, I was taken back to my early legal career as a prosecutor with the Cook County state's attorney. I fully claimed my role as a Juror, paying attention to examination and 'cross' of very credible witnesses by opposing sides—all in roles imagined, prepared, and played by TEENAGERS! Adding to the quality of the mock trials was the demeanor of every judge I saw

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would not have been possible without UIS's willingness to provide a venue for the event, the many judges, attorneys, paralegals, and others who generously volunteered their time, and the sponsorship of the ISBA and Illinois LEARN. The Law Related Education Committee appreciates the support and hard work of these entities and individuals. We look forward to seeing these teams and volunteers again in 2024, as well as new

## My Experience as a Juror for the ISBA LRE Committee's 2023 Mock Trial Invitational

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'in action,' treating the students as if they were lawyers on trial in a real courtroom. Having real life judges participate and act as presiding judges really added an element of sincerity and authenticity to the tournament. Accordingly, I became fully immersed in my role due to the degree of preparation and credibility of the student teams, down to seemingly minor details on which a verdict of guilty or not guilty might hang. Their superb work made it difficult for me to even render a verdict.

One of the best moments was the opportunity I took at each trial's conclusion to address the entire group of students

teams and new volunteers!

A full list of participating schools, sponsors, and volunteers, information about volunteering, and general information about the Mock Trial Invitational program can be found on the ISBA Mock Trial website at: <http://www.isba.org/teachers/mocktrial>. ■

in the room—and the family members who were there to support their student lawyers—to praise them, congratulate them, and encourage them to have faith in themselves and pursue their dreams—whatever they may be. It was truly, maybe selfishly, a thrill to be able to offer them immediate feedback, and a joy to know, by their attention and questions thereafter when they stayed to talk with me, that such input reinforced their hard work and, hopefully, will inspire them to have faith in themselves as they progress on whatever pathways they choose. ■

# Becoming an Environmental Attorney

BY CHRISTINE ZEMAN

I recently helped evaluate the always-awesome high school mock trial teams in the ISBA-sponsored program held at the University of Illinois Springfield. After each trial, evaluators and judges have a brief period to introduce themselves and their practice areas, mine being semi-retired in

Environmental and Energy law, whereupon students often approach us to discuss our comments. This year I was approached by students from three different teams for any comments or advice on becoming an environmental lawyer. Since we have limited time between trials, I only had

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time to suggest studying the sciences, since environmental law is grounded in science. This is written to expand upon my advice and more, whatever my personal experience may be worth, for those considering a career in environmental law.

No specific degree is required for admission into law school. The ISBA publishes a brochure on careers in the law, which confirms that law schools do not require any particular undergraduate degree for admission. And while it is axiomatic that lawyers often must educate themselves on the particulars of a client's case, understanding the elements of a client's environmental case is likely easier if your education includes the sciences.

### Science in Natural Resource Law

Rachel Carson's *Silent Spring*, published in 1962, is often acknowledged as a forerunner to the environmental movement. Carson generally warned of the dangers of pesticides to the environment, especially of "dichloro-diphenyl-trichloroethane" better known as DDT. She theorized that the then-recent widespread public use of pesticides like DDT impacted the health of wildlife, especially birds. Scientists investigated her theories and confirmed that DDT caused the thinning of eggshells, leading to a perilous decline in eagles, peregrine falcons, and other wildlife. From her initial writings and scientific research, along with public outcry, in 1972, when some species were near extinction, the federal government through the United States Environmental Protection Agency (USEPA) banned DDT for most uses.

Fifty years ago, in 1973, Congress passed the Endangered Species Act (ESA) 16 U.S.C. §1531, for the protection of plants, fish and wildlife under the jurisdiction of the U.S. Fish and Wildlife Service (USFWS). According to SenateRPC, a group seeking to strengthen the law, since the ESA was first passed in 1973, only 3% of species protected by the act have recovered sufficiently to the point where they are no longer listed as endangered or threatened. The Illinois Endangered Species Protection Act, 520 ILCS 10/ et. seq., is the state companion to the federal ESA with its own lists of threatened and endangered Illinois species.

The sad history of the impact of DDT on the environment, its banning,

and the passage of the ESA, along with its enforcement today, exemplifies the importance of chemistry, botany, and biology in natural resource law. It also exemplifies how much there is yet to do in this area. These same sciences may likely be needed to enact laws that address the issues of today and tomorrow, such as the overabundance of microplastics in our oceans, the impact of the decimation of bees on our food supply and the disastrous results to native aquatic life of the release of invasive species such as Asian Carp on Illinois' rivers and streams.

### Science in Environmental Law

Chemistry, Biology, Geology, Hydrogeology and Engineering have all contributed to a law that requires the removal, remediation, and cleanup of toxic hazardous substances, even paints, that were dumped, discarded or left in place (and leaked) by industry or other responsible parties, even if the activity that led to the contamination was legal when it occurred. Love Canal in Niagara Falls, New York, exemplifies how industrial practices and landfill disposal, which was legal in the 1940's and 50's, led to human health and environmental disasters, including cancers, miscarriages, and birth defects in the 1970s and 80s.

A landfill for chemical wastes operated until its closing in 1952 with a clay cap (less protective than today's cap requirements). Over time the clay cap was breached, and the waste chemicals leached into soils, waters and groundwaters, with some toxic materials leaching into building basements, exposing residents to toxic fumes. The toxic invasion of Love Canal led to the passage of the law commonly known as Superfund (The Comprehensive Environmental Response, Compensation and Liability Act or CERCLA, 42 U.S.C. §9601, et. seq.) CERCLA, enacted in 1980, creates retroactive liability for the cost of cleanup (often in the millions) on those who participated in the activity through contract, transportation, disposal, and those in the chain to title to the contaminated land when the release or leaching occurred.

Hazardous materials in use by industry today are also regulated in the U.S. "from cradle to grave" through the Resource Conservation and Recovery Act (RCRA)

42 U.S.C. §9001, et.seq. The Illinois Environmental Protection Act, 415 ILCS 5/ enables the state through the Illinois Environmental Protection Agency (IEPA) to enforce these laws and others, such as the Clean Air Act (42 U.S.C., Chapter 85) and the Clean Water Act (33 U.S.C. §1251, et.seq.).

But we are continuing to learn from these sciences of new risks and harms that may require new specific laws. Only recently the USEPA has proposed to limit the class of chemicals known as perfluoroalkyls (PFAs) which are difficult to break down and used in a variety of products (commonly known as legacy or forever chemicals). The USEPA is proposing a value in the parts per trillion for two of these chemicals in potable or drinking water through the Safe Drinking Water Act (42 U.S.C. §300(f). Illinois is proposing similar restrictions on PFAs (IPCB R22-18), and with the recent focus on the impact of greenhouse gas and CO<sub>2</sub> in the environment, the Illinois General Assembly this session is considering legislation to regulate the capture and storage of CO<sub>2</sub>, including in underground pipelines across Illinois (SB 2421). Accordingly, there is no shortage of new environmental laws needed today and tomorrow.

### The Role of Social Studies and English Courses in Environmental Law

Political Science and English studies are also important in environmental law. Political science often addresses the balancing of interests required in passing environmental laws. For example, addressing climate change through encouraging solar and wind energy calls into play the "food vs. fuel" debate. Acre upon acre of prime Illinois farmland is being acquired for these alternative energy resources. Similarly, the Environmental Justice (EJ) movement considers the role of race, ethnicity, and poverty in the siting of polluting entities, intended in part to mitigate the cumulative impacts of pollution on such communities.

In drafting our complex environmental laws and regulations, in drafting violation notices, briefs to the court or to the Illinois Pollution Control Board (Illinois' environmental court) writing in clear, concise, and plain English is key. In drafting

a contract as to which party (buyer or seller) is responsible for assessing the level of contaminants in a commercial property at issue before its potential sale, and what happens when contamination is found, clear, concise, and plain English is key. The impact of the dangling participle

or improperly placed period or comma are legion in the law, environmental or any other. It is my hope that this article was informative and that you'll join me in what has been a rewarding career in environmental law. ■

# A New Look at the Rights of Students With Disabilities

BY MADONNA T. LECHNER

In 1975, Congress passed the Individuals with Disabilities Education Act (IDEA). The IDEA guarantees a free, appropriate public education to each student with a disability in every state and locality in the U.S. Since the passage of the IDEA, public schools in the U.S. have provided individualized special education and related services to students with disabilities. Moreover, the IDEA has given the parents of these students the opportunity to take part in programming decisions.

The plight of a student with a hearing impairment was recently brought to the public's attention after the Supreme Court of the United States (SCOTUS) rendered a decision in *Luna Perez v. Sturgis Public Schools*. The IDEA sets forth administrative procedures parents and school districts may follow to resolve disputes concerning the education of a student with special needs. The parents of Miguel Luna Perez exercised their rights under the IDEA and challenged the public school district in Sturgis, Michigan. They documented that the District had provided their son with unqualified interpreters and had inflated the progress that their son had made. As provided by the IDEA, the Michigan Department of Education scheduled an administrative hearing of the parents' concerns. Prior to convening the hearing, the school district reached a settlement with the parents. The school district agreed to provide the relief the parents sought under the IDEA, including

additional secondary schooling for Miguel.

However, Miguel's story does not end there. Miguel's representatives then sued in Federal district court under a second Federal statute, the Americans with Disabilities Act (ADA). In that suit, the parents sought compensatory damages. The Sturgis Public Schools moved to dismiss the suit. It claimed that Miguel was barred from bringing his ADA claim because he had not exhausted administrative procedures under the IDEA. The district court agreed and dismissed the suit, and the Sixth Circuit affirmed.

Upon review, on March 21, 2023, the Supreme Court concluded that Miguel's representatives were not barred from seeking compensatory damages under the ADA. Such compensation falls outside the purview of the IDEA. The Supreme Court concluded that Miguel's suit under the ADA may proceed even if it seeks relief for the same educational harm the IDEA exists to address. The high court reversed the judgment of the Court of Appeals, and remanded Miguel's case for further proceedings. In his opinion, Supreme Court Justice Neil Gorsuch recognized that Miguel's case holds consequences not just for Miguel but for a great many students with disabilities and their parents. ■