

Winners announced in ISBA Board of Governors races



Davi



Nisivaco



Komie



Hurley

The results from the Illinois State Bar Association's election are in and incumbents Umberto Davi and John Nisivaco have been re-elected to the Board of Governors. Stephen M. Komie and Christopher T. Hurley picked up the other two Cook County seats. Jennifer Walsh Hammer of Springfield was the winner in the Under 37 Downstate race. Uncontested winners were Shari R. Rhode of Carbondale for Area 7 and Frank A. Sommario of Chicago for Under 37 - Cook.

This election marked the debut of the ISBA's electronic voting system. Members voted via the Internet al-

most 10-1 over written ballots (Electronic-3,565; Written-379).

Richard D. Felice of Wheaton was previously announced as the winner in the uncontested race for 3rd Vice President. He will become president of ISBA in 2014 after serving a year in each of the three vice presidential posts.

Full results from all contested races are available at IllinoisLawyer-Now.com.



Hammer

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Covington, ISBA Director of Legis-

; Currie, D-Chicago) creates the tain an automated case and sta- siness Plan will include e-filing, and probation data exchanges. It n all civil litigants and all defen- icipal ordinance cases. In House

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Quick take on the Illinois Supreme Court's Clark v. Children's Memorial Hospital

By Karen Kies DeGrand, Donohue Brown Mathewson & Smyth LLC

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ing claims for wrongful life. Were it to hold wrongful birth defendants liable to parents for a disabled child's post-majority expenses, the court reasoned that it would "obscure the distinction" made in *Siemieniec* between wrongful birth, brought by parents who allege that a defendant's negligence in advising of the risk of giving birth to a child with a genetic disorder, and wrongful life, a child's claim that a medical professional's error resulted in his birth.

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In *Clark*, the plaintiffs alleged that their physicians had incorrectly informed them that their first son's developmental delays were not caused by a genetic disorder. The plaintiffs then had a second son with the same permanently disabling condition. The parents filed suit against Children's Memorial Hospital, a geneticist and other defendants. The circuit court dismissed the third amended complaint in which the plaintiffs alleged negligent infliction of emotional distress and wrongful birth.

First, concerning the recovery of extraordinary expenses associated with the genetic disorder, the court relied on the general common law rule that parents have no obligation to support their adult children and found that the exceptions to the general rule are codified into narrow statutory exceptions not applicable here. The court reasoned that if the parents voluntarily accepted the burden of supporting their child after he reaches the age of majority, their willingness to do so in the absence of a legal obligation was not caused by the defendants.

The court concluded that the public policy of Illinois favors disallow-

ing claims for wrongful life. Were it to hold wrongful birth defendants liable to parents for a disabled child's post-majority expenses, the court reasoned that it would "obscure the distinction" made in *Siemieniec* between wrongful birth, brought by parents who allege that a defendant's negligence in advising of the risk of giving birth to a child with a genetic disorder, and wrongful life, a child's claim that a medical professional's error resulted in his birth.

Overruling *Siemieniec* on a different point, the court also ruled that plaintiffs could seek emotional distress damages as direct victims of the tort of wrongful birth. The court attributed an erroneous application of the zone-of-danger rule in *Siemieniec* to the questions that had been certified in that appeal, which appeared to treat the claim for emotional distress as a separate tort. Reasoning that damages for emotional distress are available to plaintiffs involving other personal torts, such as, for example, medical negligence or defamation, the court found the zone-of-danger rule applicable only where the plaintiff's theory of liability was limited to the negligent infliction of emotional distress. Where, as here, a separate tort is alleged, emotional distress damages potentially are available.

Dissenting on the issue of post-majority extraordinary medical and educational costs attributable to birth defects, Justice Charles Freeman framed negligence law as, traditionally, a matter for the judiciary; accordingly, he found the majority's emphasis on a legislative analysis misplaced. In Justice Freeman's view, the only way to compensate the plaintiffs for the injury they sustained was to allow them to recover extraordinary costs for as long as their child lives.