

Village of Schaumburg

Legal Division Monthly Report

May 2018

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CURRENT CASES

Mancini Law Group P.C. v Schaumburg Police Department Case: 2017 CH 13881

The Mancini Law Group submitted a series of FOIA requests for police accident reports. The reports were provided but personal information (i.e., the addresses, date of birth, driver's license numbers) were redacted. The law firm was unhappy as they could not solicit the persons involved. A state lawsuit was filed to require the Village to provide the information in the past and also in the future stating that the denial of the information was a violation of the Freedom of Information Act. The case has been assigned to Klein, Thorpe and Jenkins. KTJ helped the police department in responding to the FOIA request and has a significant background in the FOIA field. An answer and appearance will be filed.

Currently there are several Federal cases dealing with the release of this type of information and the potential of it being a violation of the Federal Driver's License Privacy Protection Act. The Village filed a motion to dismiss. Oral argument was done on March 19. Judge did not indicate what the ruling would be, but set a date of April 24 for it. The judge denied our motion to dismiss and gave the Village until May 15 to file an answer and a status date for June 20.

Steven Covello v Village of Schaumburg Firefighters Pension Fund Case: 2016 CH 6945

Mr. Covello was an employee of the Schaumburg Fire Department until he filed for a pension in 2013 requesting a line of duty disability pension. The pension board conducted numerous hearings and denied the line of duty pension but granted regular pension. The Village of Schaumburg had requested to intervene in the proceedings and was permitted to do so. Mr. Covello is appealing the decision. He also claims allowing the Village to intervene was an abuse. Clark, Baird, Smith, LLP and the plaintiff's attorney agreed to a briefing schedule on the appeal and a court order was entered on September 16, 2016. The judge did not entertain oral arguments and entered a decision in favor of the Village of Schaumburg, upholding the decision of the pension board. Mr. Covello had 30 days to determine if he wished to appeal the case or request a rehearing from the trial judge. An appeal was filed by December 1 by Mr. Covello. The appropriate briefs have been filed in a timely fashion by each party. The court has the option of simply ruling on the briefs or setting the matter for oral argument. No date has been set.

Jennifer Pope v Village of Schaumburg Case: 14 L 009234

Ms. Pope tripped and fell on the parkway as she was walking to her vehicle on Walnut Lane. The area was under construction and Plote was the General Contractor. Our contract requires the contractor to defend the Village from any claims of this type. It appears that our tender has been successful to Plote. Plote has now tendered the case to a subcontractor whose insurance company is disputing Plote's insurance company. So, a second lawsuit was filed to determine who defends whom. Secura Insurance has agreed to fully defend and indemnify the Village.

The Village is working with David Schroeder of Charysh & Schroeder, LTD to coordinate the depositions of the police officers as well as our engineering staff. The police depositions have been completed and went well. The engineering staff depositions were conducted in February. Once discovery is completed, appropriate motions will be filed or the matter will be set for a settlement conference. A hold has been placed on the case as one of the subcontractors has filed for bankruptcy and the parties are trying to determine what to do next. At some time the plaintiff will be pushing to have the case move forward. It has been several months, but still no action by the plaintiff in the bankruptcy court.

Joan Michels v Village of Schaumburg Case: 2017 L 535

Ms. Michels used the commuter parking lot in Schaumburg to take the train to work on a daily basis. In January 2016, she parked her car and went to work. When she returned to her vehicle that night she tripped and fell into a hole that was by the driver's door. She sustained injuries and has sued. The case has been assigned to Pat Cuisinier. Mr. Cuisinier has represented the Village on prior slip and fall cases. He has relocated to another law firm of Ruberry, et al. but is prepared to honor the reduced fees we had previously discussed.

The Village issued discovery in March and received limited information from the plaintiff. We hope to carefully review the information as to determine our next course of action. Plaintiff's deposition has been conducted, but more medical information is needed. Additional depositions of doctors and dentists have been set. Our employees gave their depositions in February and April. The case was continued for a management status on June 19 as not all of the medical reports have been received.

Thomas Drabant v Village of Schaumburg Commonwealth Edison, Case: 2017 L 6344

In April 2016, Mr. Drabant was riding his bike on a designated bike path near 1701 E. Woodfield Road when he hit a portion of the sidewalk that did not exist anymore. It had been replaced with sand. As a result he fell off the bike and injured himself. It appears that ComEd may have been working in the area and never notified us of the work or pulled the necessary permits before removing the slab of sidewalk. ComEd has also been sued.

As the case was filed in Rolling Meadows and may be tried in the suburbs, we picked an attorney that practices in that area. We are in the process of gathering the necessary information and will try to get out of the lawsuit if we can confirm this work area was ComEd's project. We have provided over 36 documents to our attorney to review. He has met with our staff to see if we had notice of the defect. We had no notice of the defect. We are exploring a Tort Immunity Defense as well as contribution from the other contractors. We have issued requests for Discovery to the plaintiff, but have not received any from him. The case was set to October 20 for status. We filed affirmative defenses against the Plaintiff, a counterclaim against ComEd and a third-party complaint against INTREN, the subcontractor used by ComEd. A status date of March 20, 2018 was done. The Village has complied with discovery, but none of the other parties have responded to our requests for discovery. At the April status date the court allowed ComEd

to file a Counterclaim for Contribution. The Plaintiff has now chosen to file an Amended Complaint against Intren as a direct defendant. We have filed an answer to that complaint as well.

Case No.	Title	Handled By:	Status	Subject Matter
14L009234	Pope v VOS	C&S	Village served. Answer filed. Contractor's insurance to undertake defense and has filed suit against subcontractor's insurance company. Insurance companies represent the Village. Depositions completed. Due to bankruptcy of a defendant, case is on hold until the plaintiff goes to bankruptcy court.	Slip and fall on street under construction
2016CH6945	Covello (FF) v VOS	CBS	Decision in favor of Village of Schaumburg. Plaintiff filed an appeal. New case number based on the appeals court system. Briefs filed and the court to consider them.	Appeal of Denial of Pension
2017L535	Joan Michel v VOS	CFB	Suit was served on Village January 26, 2017. Appearance and answer filed, discovery started. Plaintiff has failed to provide discovery information. Some discovery provided June 19 for status.	Slip and fall at Metra Train Station
2017L6344	Thomas Drabant v VOS, ComEd	JN	Case filed. Attorney assigned. Information gathered to file an answer or motion. Tort immunity defense being raised as well as contribution from ComEd. Amended complaint filed as well as our answer.	Slip and fall on bike path
17CV2153	ADS v. VOS	KTJ	Case filed. Village filed appearance, answer and a Motion to Dismiss after the temporary injunction was denied. Preliminary injunction also denied. Plaintiff amended Complaint. A Motion to Reconsider filed. Worked with other defendants to file briefs. No ruling yet.	Lawsuit over Village Fire alarm ordinance
2017CH13881	Mancini Law Group v Schaumburg Police Dept.	KTJ	Violation of FOIA complaint filed against the Schaumburg Police Department. Motion to Dismiss filed. Oral arguments concluded. Motion denied. Village to file answer and status date of June 20.	FOIA

CLOSED CASES

Ronald Dean Jr. v Chicago, Schaumburg Police Department Case: 15 CV3193

The complainant is representing himself and alleges that he was arrested for offenses he did not commit. Someone had stolen his identity. It was difficult to follow and the lawsuit was filed against the Schaumburg Police Department, a legal entity that does not exist. The plaintiff has since then filed three amended complaints without securing the Judge's permission. The last complaint failed to make any allegations against the Village of Schaumburg.

The judge on his motion continued the status date a number of times. He further directed the parties not to file any new pleadings. The judge took Senior Status March 1 and then passed away in mid-March. The case was reassigned to Judge Kendall and the matter was set to May 10 for status. The case was dismissed but the plaintiff has refiled a motion to amend, which the judge is treating as a motion to reconsider the order of dismissal. Judge Kendall entered an order on February 12 denying all of the plaintiff's motions. The plaintiff has also filed an appeal, but it appears that it was late and he did not pay for it. The Court of Appeals denied the request to proceed on the appeal based on his being a pauper. Now we will have to see if he pays for the fees and proceeds. On April 16 the court issued an order dismissing the case for plaintiff's failure to pay the docketing fee. The plaintiff had 30 days to attempt to reinstate the case by paying the fee. Since no action was taken, the case should be officially closed.

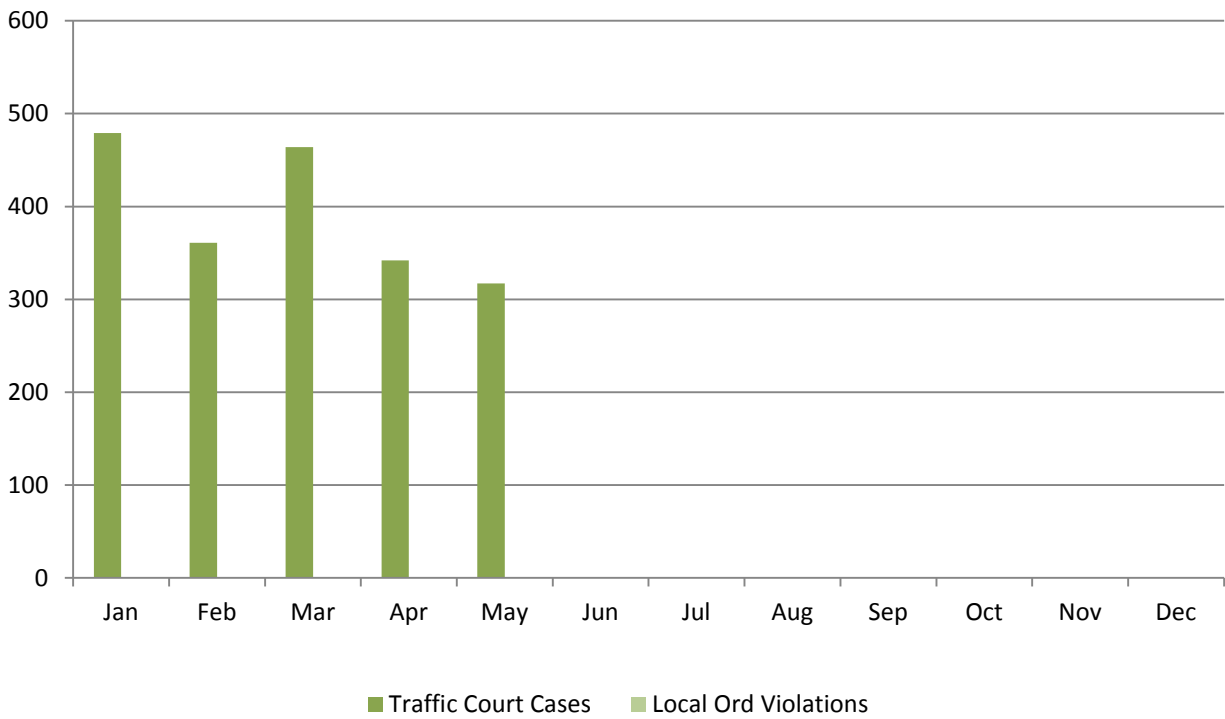
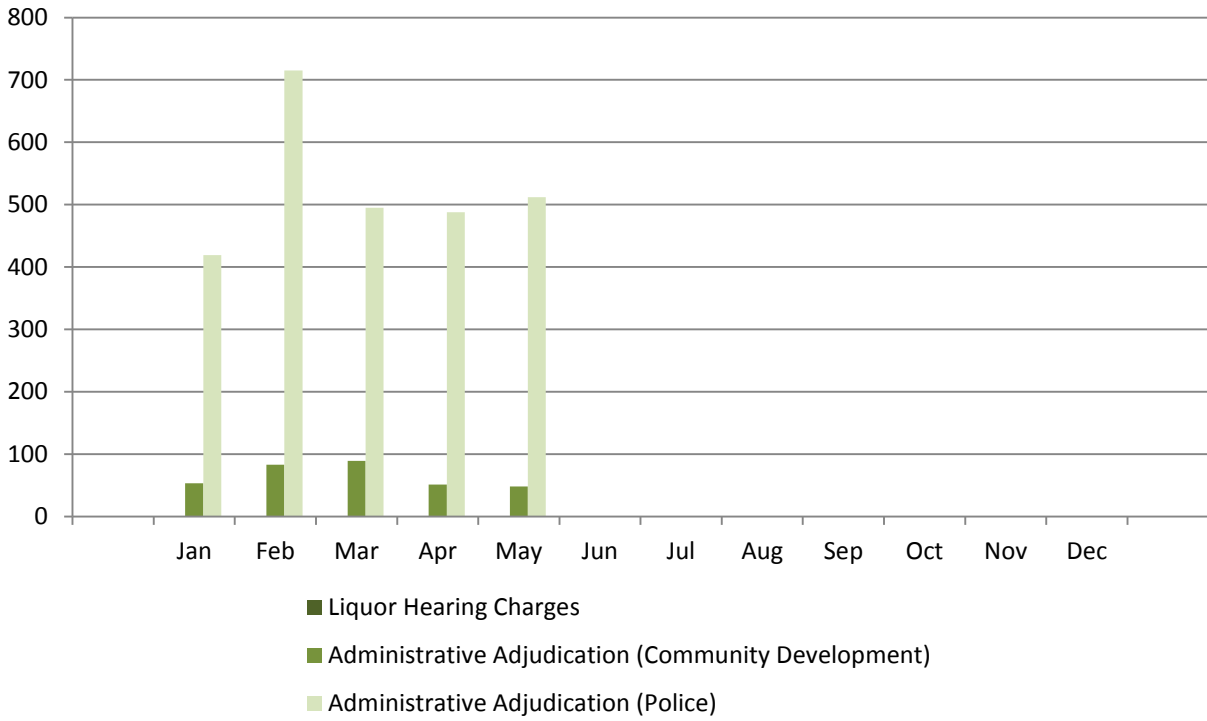
Brit UW Limited v Matthew Hudak Case: 14 CV 8503

The Village of Schaumburg purchased insurance to cover it and its employees in regards to civil rights violations. The Village and three former police officers who were criminally charged with offenses were sued in a series of civil rights violations. The insurance company sued to have a court order that it did not have to provide insurance, (i.e. defend or pay for any settlement, finding or court determination for the three criminally charged police officers).

The Village's insurance company has filed a lawsuit seeking a judgment from the Court that it has no duty to defend Matthew Hudak or Terrance O'Brien in any of the civil rights cases. There are a number of different legal issues that result from this lawsuit. The case has been assigned to Village Attorney, Lance C. Malina. The matter had been put on hold until all of the cases were resolved. We wanted to determine what the costs were that the Village paid, and the funds we believed should have been paid by the insurance company. Final figures have been provided to the insurance company but no agreement has been reached as to repayment to the Village of Schaumburg. A settlement conference was held on December 7, 2017. An agreement was reached with the insurance company and approved in May, 2018. This case is now officially closed.

08C774 Hasan v VOS
118939 Swanson v Mallo
11CV388 Karen Fitzgerald v VOS, et al
11L6693 Meryl Weintraub v VOS
11LO14631 VOS v Concetta M. LaBella
11LO65025 Eric Palmore-Lett v VOS, Officers of VOS and Harper College
12CV4112 Scott Kody v VOS
12L011793 Yin Yi v VOS
12L63027 Arousak Aghaian v VOS
133003 Dolores Mazurkiewisz v VOS
13CV1281 Diangelo Beasley Cichy et al.
13CV1601 Jordan Miller v VOS
13CV3227 Christopher Nelson v VOS, O'Brien, Cichy
13CV5696 Justin Holmstrom v VOS and Hudak
13CV07973 Danielle Williams v VOS (Federal case dismissed. State case open.)
13CV076 Kelley Altom v VOS
13CV2687 Jovan Gilbert v VOS et. al.
13CV 2003 Christine Abel v VOS
13L1239 Omar Edwards v VOS
13L1767 Mario Raddi v VOS
13L7458 Joseph Warren v VOS, Obrien & Cichy
13L11765 Turner v VOS
14CV03390 Kastner v VOS
14CV8387 Jessica Elsayed v Hudak, O'Brien, et.al.
14CV282 Camaran Quiambao-Holland v O'Brien
14SC1075 Al Shah v Geico
15L4827 Rosalind Espedido v Schaumburg Township District Library
12CV8846 Anthony Williams v VOS, Brian Howerton
2015L007073 Frank Ferrero, Jr. v VOS
2015L004344 Danielle Williams v Terrance O'Brien & VOS
13CV05684 Robert Thomas v Cichy, Hudak, O'Brien and VOS
14CV2494 Xavier Neodina v VOS, O'Brien et al.
14CV09641 Victor Alvarado v Hudak, O'Brien, Takei, Mir, Ciccola, and VOS
14L11599 John Halas v VOS
15CV3568 Robert Thomas v VOS, Village of Hoffman Est, Alvarado, WI, McHenry
15CV6281 Sean Cerami v VOS, O'Brien, Hudak
15CH15540 Thomas M. Stygar v VOS, et al.
15CV1393 Sergio Garcia v Hudak, O'Brien, Mir and VOS
14CV803 Brit UW Ltd v Hudak, O'Brien, VOS
15CV3193 Ronald P. Dean v VOS, et al.

PROSECUTIONS



LEGAL DIVISION KEY

	ATTORNEYS	COURT DESIGNATIONS	
RE	Rita Elsner	M = Third Municipal District	PI = Personal Injury
WK	William Kurnik (Knight, Hoppe, Kurnik & Knight)	M1 = First Municipal District	CR = Civil Rights
JN	Law Office of John Norton	CH = Chancery	
JD	James DeAno (DeAno and Scarry, LLC)	L = Law Division	
RS&G	Francis P. Cuisinier (Ruberry, Stalmack & Garvey)		
CBS	Clark, Baird, Smith		
FLG	Paul Farahvar (Farahvar Law Group)		
MB	Mike Bersani (Hervas, Condon & Bersani)		
BC	Barker & Castro		
LJS	James Sotos (The Sotos Law Firm)		
H&O	Hartigan & O'Connor		
KTJ	Klein Thorpe Jenkins		
C&S	David H. Schroeder (Charysh & Schroeder, Ltd.)		