

LEGAL DIVISION MONTHLY REPORT

September 2019



VILLAGE OF SCHAUMBURG

PROGRESS THROUGH THOUGHTFUL PLANNING



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NEW CASES

Sandra Maniscalco v Village of Schaumburg Case: 2019 L007579 (Slip and Fall at Town Square)

The Village received a new lawsuit alleging a slip and fall at Town Square. The Village first confirmed with the management company that the area of the complaint was the Village's responsibility. The Police Department has a report with photographs that document the location of the incident and condition of the pavement. The case has been assigned to KTJ. The Village filed an Answer and Affirmative Defenses to the Complaint on September 5, 2019. This matter is set for status on September 10, 2019.

CURRENT CASES

Chicago Title Land Trust Company, et al., v Village of Schaumburg Case: 2018 COAN000003 (Petition for Annexation)

The owners of the property commonly referred to as Loeber Farm have filed a lawsuit to disconnect from the Village of Schaumburg. A number of years ago a Petition for Annexation was filed and zoning permissions granted for the property. Since that time, a number of variations of the development have been present. It appears that the owner wishes to consider other options such as developing in unincorporated Cook County or annexing into another community.

This is the first step to allow that process. The case has been referred to Klein, Thorpe and Jenkins (hereinafter KTJ). Answer to the Petition was filed on October 22. Discovery is ongoing, and the next status date is September 25, 2019.

Kala Patel v Village of Schaumburg Case: 2018 L005938 (Slip and Fall at Town Square)

This lawsuit alleges a slip and fall at Town Square. The Village first confirmed with the management company that the area of the complaint was the Village's responsibility. The Village has no records of any complaint by the Plaintiff as to the incident. So, the case has been assigned without any backup or information to the Honorable Russell Hartigan. Judge Hartigan was on the Village's legal list until he became a judge in Cook County. He retired from that position and returned to private practice. His firm will honor the same cap other attorneys have with the Village as to the cost of defense. We have filed for discovery so that we can get specific information about the incident. We have received some information but not enough to make a determination of the scope of injury. We have also begun depositions of the Plaintiff and Village staff. Plaintiff moved to transfer the case to the Law Division, but the request was denied. The discovery deadline was extended to the end of March 2019. Summary judgment was filed and fully briefed. The Village's motion for summary judgement was denied, and the case is set for mandatory arbitration on July 31, 2019.



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

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 & Jenkins. KTJ helped the police department respond to the FOIA request and has a significant background in the FOIA field. An answer and appearance was 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. The judge denied our Motion to Dismiss and gave the Village time to file an answer. Any non-expert discovery is to be completed by August 22. Plaintiff had until September 20 to file a motion for summary judgment. Cross-Motions for Summary Judgment have been filed and are now fully briefed. A hearing on the Cross-Motions for Summary Judgment took place on February 4, 2019. The Court took the matter under advisement and originally set the matter for ruling on March 27, 2019. On its own motion, the Court continued the ruling date to April 29, 2019. On that date, the Court issued an opinion and order granting the Village's motion for summary judgment, and entering judgment in favor of the Village. A notice of appeal was filed and the case is currently on appeal.

Jennifer Pope v Village of Schaumburg Case: 14 L 009234 (Slip and Fall on Street Under Construction)

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 point, the Plaintiff will be pushing to have the case move forward. It has been some time, but still no action by the Plaintiff in the bankruptcy court, and this case remains stayed on the bankruptcy call in Circuit Court.



Joan Michels v Village of Schaumburg Case: 2017 L 535 (Slip and Fall at Metra Train Station)

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 had been received. The Plaintiff recently underwent ankle surgery, and the trial date was therefore continued to June 25, 2019. The deposition of the surgeon will take place in the near future with the trial date in mind.

A settlement conference was held in late May and the case ultimately settled.

Thomas Drabant v Village of Schaumburg Commonwealth Edison Case: 2017 L 63044 (Slip and Fall on Bike Path)

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. The total medical bills for the Plaintiff are in excess of \$75,000. We have finally received all discovery information from ComEd, Intren and the Plaintiff. Neither Intren nor ComEd secured a permit from the Village of Schaumburg. Depositions are ongoing. The matter is set for a status in Mid Sept. Intren is seeking a demand from the Plaintiff and hoping to do a global settlement. If a demand is made to the Village we will inform the Board. On September 12, 2018, the court was advised that co-defendants and the Plaintiff were discussing possible settlement. All parties are prepared to move forward with party depositions. ComEd filed an amended counterclaim against Intren, but still left open the counterclaim against the Village. Discovery is ongoing. ComEd has filed a motion for summary judgment in this matter, which the Village will oppose, and which the Judge stayed pending completion of discovery. The matter is set for status on September 3, 2019

ADS v Village of Schaumburg: 17 CV2153 (Lawsuit over Village Fire Alarm Ordinance)

The case involves the Village of Schaumburg due to the ordinance we passed requiring all commercial fire alarms to connect to Northwest Central Dispatch. The Village succeeded in denying the Plaintiff request for a preliminary injunction. The case has been on hold due to a similar case in another court. Judge Durkin ruled in favor of other units of government. Judge Pallmeyer has ruled to dismiss the matter. Plaintiffs filed a notice of appeal and the case is currently docketed with the Seventh Circuit. Plaintiffs' filed their opening brief on January 11, 2019, and the Village filed its response brief on February 28, 2019. Reply briefs were filed on March 22, 2019, and the Seventh Circuit heard oral argument on April 8, 2019. The Seventh Circuit recently issued its opinion affirming the dismissal of all claims against the Village, except for the Commerce Clause Claim. Although the Court noted that Plaintiff has not demonstrated any likelihood of success on that claim, it found that the complaint itself plead sufficient facts to overcome a motion to dismiss. That claim will return to the District Court, where we will continue to aggressively defend the Village through discovery and move for summary judgment.

PROSECUTION DATA

