THE STATE OF THE COURT

ILLINOIS SUPREME COURT SCORECARD 2004-2014

JUSTICE UP FOR RETENTION IN 2014:

JUSTICE KARMEIER
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Dear Voters:

As long as Judges are selected and retained by a process that includes elections, it is necessary that the voters have accurate and sufficient information about candidates to make reasoned choices. This year one Justice of the Illinois Supreme Court is up for retention review by the electorate – Justice Karmeier.

Numerous Bar Associations have regularly evaluated candidates for the bench on the basis of legal experience and competence. These evaluations have been valuable and deserve more attention and greater weight than they have received. The Chamber of Commerce reports on how the Justices have voted in the many cases in which the Chamber has appeared. A limited number of other, often ad hoc groups have expressed opinions on judicial candidates. To date there has been no systematic evaluation of judicial candidates from a broader consumer and public interest perspective.

Citizen Action has developed an evaluation of Illinois Supreme Court candidates from a consumer and public interest perspective. As with most legal disputes that reach the Illinois Supreme Court, there is often more than one reasonable and legally valid understanding of the law and/or the facts. In such cases the Justices have to exercise judgment, prudence in choosing which value or rule ought to receive priority. In other words, judicial discretion is required. And exercise of discretion inevitably requires relying on one's sense of justice and fairness, on one's sense of the common good. This is not “result oriented” as critics of the Courts use the term. It is the essence of judging. This report is based on that common sense understanding of the importance of the role of judges in our system of government.

Citizen Action/Illinois enlisted Professor Walter J. Kendall III of the John Marshall Law School and a long time Board Member, as well as Patrick Keenan-Devlin, esq., Chair of Citizen Action Illinois’ Policy Council, to develop the case summaries and evaluations. The summaries and evaluations were written with the assistance of Erin Meegan, Deborah Seriki, & Emily Tramont also of John Marshall Law School. The rating of the Illinois Supreme Court Justice Karmeier, which follows is based upon their research. It is our hope that the rating and report will provide you with a good gauge on Justice Karmeier’s dedication to consumer justice.

Sincerely,

Lynda DeLaforgue  
Co-Director

William McNary  
Co-Director
Fair (Less than 20 Favorable Votes): Justice Karmeier

Excellent (Greater than or equal to 30 Favorable Votes)

Good (Greater than or equal to 20 Favorable Votes)

Poor (Less than 10 Favorable Votes)
Dear Ms. DeLaforgue and Mr. McNary,

At your request we read and summarized the opinions of the Illinois Supreme Court over the last 10 years and reviewed the votes cast by Justice Lloyd A. Karmeier who is up for a retention vote this November. We focused on cases where the Court was not unanimous in its holding, and the decisions directly affected consumers and working families according to the following long-standing positions of Citizen Action/Illinois.

WORKER AND EMPLOYEE RIGHTS
Citizen Action/Illinois is committed to developing and supporting an economic system characterized by sustainable economic growth and opportunity for all Americans; a system designed to create jobs while meeting the needs of our society. Citizen Action/Illinois supports the right of all workers to organize democratically and bargain collectively concerning wages, benefits, and conditions of employment. Citizen Action/Illinois opposes all measures that restrict the right or reduce the benefits under workers compensation and other economic safety net laws and rules.

CONSUMER RIGHTS AND PROTECTIONS
Citizen Action/Illinois believes that a strong civil justice system is necessary to protect individuals from corporate recklessness, professional negligence, and unsafe products. Citizen Action/Illinois opposes limitations on these essential rights of plaintiffs.

CIVIL AND SOCIAL RIGHTS
Including access to the Courts, Citizen Action/Illinois believes that all people, regardless of race, ethnicity, gender identification, sexual orientation, disability, source of income, or immigration status deserve full and equal protection of the law, and opportunity to fulfill their potentials as active and productive members of society.
FAMILY AND CHILDREN’S RIGHTS
Including education, Citizen Action/Illinois believes that our hope for the future lies in insuring better lives for our children. Citizen Action/Illinois believes that affordable high quality health care is a fundamental right. Citizen Action/Illinois strongly supports the right of everyone to the best possible integrated education, and fully supports a system of public education from preschool through university levels, in safe, accessible, and healthy schools. Citizen Action/Illinois believes that seniors have a right to equal opportunity to participate in society and to retirement with dignity.

POLITICAL AND CAMPAIGN REFORM
Citizen Action/Illinois believes that the democratic nature of the political electoral processes has been undermined by the undue influence of money. Citizen Action/Illinois supports reforms aimed at increasing the truly democratic and representative nature of local, state, and national government. Citizen Action/Illinois supports efforts to remove barriers to voter registration, and to facilitate voting. Citizen Action/Illinois supports public funding of elections.

There were a total of 54 opinions included in the evaluation. For each opinion in which the outcome of the case was consistent with the view of Citizen Action/Illinois and the Justice voted in a manner consistent with that view they received a plus. And for those where they disagreed a minus. If in a particular case the dissent expressed the Citizen Action/Illinois view, and the Justice dissented they received a plus.

We hope that this report is helpful in your efforts to improve the quality of justice in Illinois.

Respectfully,

[Signature]

Professor Walter J. Kendall III    Patrick Keenan-Devlin, esq.
Erin Meegan, Deborah Seriki, & Emily Tramont of the John Marshall Law School
## JUSTICE’S VOTES

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CASE SUMMARIES

* Please note the cases appear in reverse chronological order

1. Civil and Social Rights

People v. Tousignant

Summary:
Defendant was sentenced to 12 years' imprisonment after pleading guilty to unlawful drug possession with intent to distribute. Appellate Court granted defendant's motion for reconsideration of the sentence. The Supreme Court affirmed the appellate court, holding that the certificate which defendant's counsel created did not strictly comply with Supreme Court Rule 604 (d), which requires that counsel must certify that he or she has consulted with the defendant "to ascertain defendant's contentions of errors in the sentence and the entry of the plea of guilty." Because the certificate stated that defendant's counsel had only consulted with defendant as to his contentions of error in the sentence, the Supreme Court held it was in violation of rule 604 (d).

Vote: Justice Karmier's dissented, with opinion (+)

2. Consumer Rights and Protections

Spanish Court Two Condominium Association v. Carlson

Summary:
Defendant owned a residential unit in the plaintiff condominium association. Plaintiff filed an action under the Forcible Entry and Detainer Act, claiming that defendant had failed to pay her monthly assessments, and seeking payment of those assessments as well as possession of the premises. Defendant admitted to not paying monthly assessments but raised affirmative defenses, claiming that plaintiff association had breached its covenant to maintain and repair the common areas by failing to maintain the roof and brickwork above her unit, causing water leakage and damage to her apartment. Appellate court affirmed trial court's severance of the damage claim, but reinstated the affirmative defenses which were based on failure to maintain and repair the common elements. The Supreme Court reversed on the basis that the duty to pay assessments was absolute and independent of the duty to repair and maintain.

Vote: Justice Karmier concurred with the holding of the court (-)

3. Worker and Employee Rights

Kanerva v. Weems

Summary:
Four putative class actions filed under the pension protection clause of the Illinois Constitution of 1970. Plaintiffs challenged the validity of a newly enacted statute which eliminated the statutory standards under which the State of Illinois was obligated to contribute toward the cost of
group health insurance benefits for retired state employees. The circuit court dismissed but the Supreme Court reversed the dismissal, holding that the plain language of the constitution supports the petitioners' claims that their rights are governed by the prior version of the statute, which protects pension recipients from the General Assembly's diminishment or impairment of their benefits.

Vote: Justice Karmier concurred with the holding of the court (+)

4. Worker and Employee Rights

*People ex rel. Madigan v. Burge*

**Summary:**
A former Chicago police officer was convicted of a felony but continued to receive his pension benefits. The Retirement Board of the Policemen's Annuity and Benefit Fund decided not to file a motion to terminate his benefits because the Board was tied as to whether the convictions arose out of his employment as a police officer. Attorney General filed a civil action under a 1982 statute, seeking to enjoin any act that violates the pension code, thereby terminating new payments and repayment of earlier disbursements. IL Supreme Court reversed the appellate court, reinstating the circuit court's dismissal of AG's action, holding that the Board had specific statutory authority to deliberate over matters "relating to or affecting the pension fund" and therefore, had the exclusive, original jurisdiction to govern the issue affecting the pension of a former Chicago police officer.

Vote: Justice Karmier concurred with the holding of the court (+)

5. Consumer Rights and Protection

*People v. Evans*

**Summary:**
The defendant was convicted of a crime and sentenced to a twelve-year term. Years later, he represented himself and filed in court a petition under the Post-Conviction Hearing Act. He asserted that he was never notified during sentencing that he had to be subjected to an additional three-year term of mandatory supervised release. The Post-Conviction Hearing Act requires a petitioner to show “cause” for failure to raise a claim earlier. However, the court held as a matter of law, the defendant is charged with knowledge of the mandatory supervised release. Further, the Court stated that the legislature needs to address how one seeking leave to file a successive post-conviction petition meets the statutory requirements of showing cause.

Vote: Justice Karmieer concurred with the opinion of the court (-)
6. Consumer Rights and Protection
Wilkins v. Williams

Summary:
The plaintiff’s vehicle collided with the defendant, an ambulance driver. The defendant was making a nonemergency transfer of a patient from a hospital to a nursing home. The plaintiff sued the ambulance driver and his employer for negligence. Under the Emergency Medical Services Systems Act, an individual licensed to provide emergency or non-emergency medical services in the normal course of their duties shall not be civilly liable in providing such services unless such acts or omissions constitute willful and wanton misconduct. The defendant claimed immunity under the Act. The Court held that the defense was entitled to immunity under the Act. The legislature gave broad immunity to emergency workers so that they can perform their duties without fear of liability.

Vote: Justice Karmeier concurred with the opinion of the court (+)

7. Consumer Rights and Protection
Gruszeczka v. Illinois Workers’ Compensation Comm’n

Summary:
The plaintiff was injured while working on the job for his employer. He filed for Workers’ Compensation but was denied benefits by the arbitrator for the Workers’ Compensation Commission. Plaintiff then filed an appeal with the appellate court from the circuit court that under 19(f)(1) of the Workers’ Compensation Act, he had presented his action within the required 20-day time period. The appellate court found that the circuit court did not have subject matter jurisdiction. He computed the 20-day period from the date the required documents were mailed to the clerk of the circuit court rather than the date the documents were received and file-stamped by the clerk. The court held that the plaintiff’s computation is most consistent with Illinois law for an appeal from the Commission to the circuit court.

Vote: Justice Karmeier joined the concurring opinion of the court (+)

8. Consumer Rights and Protection
Skokie Castings, Inc. v. Illinois Insurance Guaranty Fund

Summary:
The Insurance Guaranty Fund’s statutory obligation to pay claims against insolvent member insurers which are liquidated is properly construed to extend to workers' compensation claims over $300,000—whether the insurer is in excess or primary and whether or not payments are made directly to the employee.

Vote: Justice Karmeier delivered the judgment of the court, with opinion (-)
9. Worker and Employee Rights  
*Hooker v. Retirement Board of the Firemen’s Annuity & Benefit Fund*

**Summary:**  
Supreme Court held that although firefighters' widows were statutorily entitled to pension increases based on current firefighters' salary increases, they are not statutorily entitled to pension increases based on "duty availability pay" which came into existence after their husbands' career-ending accidents.

**Vote:** Justice Karmeier's Vote: Concurred in the judgment and opinion (-)

10. Consumer Rights and Protection  
*American Access Casualty Co. v. Reyes*

**Summary:**  
Supreme Court held that despite the fact that automobile liability insurance, as a general matter, may exclude named drivers, it was a violation of public policy for an insurance contract to exclude a vehicle owner who was the only named insured. Held that it was erroneous to find no coverage. Remanded.

**Vote:** Justice Karmeier concurred in the judgment and opinion (+)

11. Worker and Employee Rights  
*The Venture v. Illinois Workers’ Compensation Comm’n*

**Summary:**  
Plaintiff suffered a serious injury while going to work as a pipefitter. As part of his employment, he accepted a temporary job 20 miles from his home and was involved in an automobile accident commuting from a motel 30 miles from the worksite. Supreme Court held that plaintiff was precluded from worker's compensation because the traveling employee exception was not applicable.

**Vote:** Justice Karmeier concurred in the judgment and opinion (-)

12. Worker and Employee Rights  
*Chicago Teachers Union, Local No. 1 v. Bd. of Educ. of City of Chicago*

**Summary:**  
Teachers union brought action against city board of education, claiming due process violations due to layoff of tenured teachers without considering them or rehiring them for vacant positions and without giving them preference over new hires, on grounds that teachers allegedly had permanent appointments under Illinois law and could be laid off only with recall rights. Northern District of Illinois granted permanent
injunction ordering board to rescind discharges of tenured teachers, promulgate recall rules, and abstain from further unlawful discharges. Board appealed. Seventh Circuit certified question to state Supreme Court, which held that: section of School Code governing tenure did not provide tenured teachers substantive right to be rehired after economic layoff; section governing recall and layoff procedures did not provide right to rehire; tenure section did not provide procedural rights during rehire process; and recall and layoff procedures section did not provide procedural rights during rehire process. Question answered.

**Vote:** Justice Karmeier concurred with the judgment and opinion of the court (-)

### 13. Worker and Employee Rights

**Gaffney v. Bd. of Trustees of Orland Fire Prot. Dist., 2012 IL 110012**

**Summary:**
Firefighter brought action against fire protection district and its board of trustees, seeking a declaratory judgment compelling the payment of health insurance premiums under the Public Safety Employee Benefits Act, and, in the alternative, seeking review of the board's decision denying his application for health insurance benefits. Circuit Court granted defendants' motion to dismiss the declaratory judgment count, ruling that the board's order denying benefits was a final administrative decision subject only to administrative review, ruled that the Administrative Review Law did not apply, treated the request for administrative review as a petition for a common law writ of certiorari, and affirmed district's denial of application for benefits. Firefighter appealed. Appellate Court affirmed. Firefighter filed petition for leave to appeal. In a separate case, a different firefighter brought action against district and its board of trustees, seeking a declaratory judgment compelling the payment of health insurance premiums under the Act. Circuit Court granted firefighter's motion for summary judgment. District appealed. Appellate Court affirmed. District filed petition for leave to appeal, and appeals were consolidated. Supreme Court held that: firefighter in first case did not acquiesce to trial court's review by writ of certiorari, and thus he was not prohibited from contending on appeal that his claim should have been decided under the declaratory judgment count of his complaint; Fire Protection District Act did not give district authority to make administrative decisions on firefighters' eligibility for health insurance benefits under the Act; Act did not give district authority to make administrative decisions on firefighters' eligibility for health insurance benefits under the Act; district's order denying firefighter's application for health insurance benefits under the Act was not a final administrative decision subject only to administrative review; declaratory judgment claim was the proper means for firefighter in first case to seek a determination of his rights under the health insurance benefits provision of the Act; an emergency, within meaning of health insurance benefits section of the Act is an unforeseen circumstance involving imminent danger to a person or property requiring an urgent response; firefighter in first case was injured as a result of a response to what was reasonably believed to be an emergency, and thus firefighter was eligible for health insurance benefits under the Act; but firefighter in second case was not injured as a result of a response to what was reasonably believed to be an emergency and, thus, was ineligible for health insurance benefits under the Act. In first case, judgments of Circuit Court and Appellate Court reversed and remanded; in second case, judgment of Appellate Court reversed.

**Vote:** Justice Karmeier concurred in part and dissented in part with the judgment and opinion of the court (-)
14. Consumer Rights and Protection

**Harris v. Thompson**

**Summary:**
Southbound motorist, who collided in an intersection with eastbound ambulance, brought a personal injury action against ambulance driver and county hospital district, alleging both negligent and willful and wanton conduct. Circuit Court entered a directed verdict in favor of defendants on the willful and wanton count, and subsequently entered judgment on jury verdict in favor of southbound motorist on the negligence count. Defendants appealed. Appellate Court affirmed. Supreme Court held that: ambulance driver and county hospital district were immune from liability pursuant to the Local Governmental and Governmental Employees Tort Immunity Act for injuries caused by driver's negligent operation of ambulance while responding to an emergency call; decision did not establish a new principle of law and, thus, was not limited to prospective application only; and ambulance driver's conduct was not willful and wanton.

**Vote:** Justice Karmeier concurred with the judgment and opinion of the court (-)

15. Family and Children’s Rights

**Jane Doe-3 v. McLean Cnty. Unit Dist. No. 5 Bd. of Directors**

**Summary:**
Elementary school students who were sexually abused by teacher brought action against officials from school district in which teacher had previously taught, alleging willful and wanton conduct in allegedly providing false information to district where teacher was employed at time of sexual abuse in question. Circuit Court granted officials' motion to dismiss. Students brought interlocutory appeal. Appellate Court reversed and remanded. Supreme Court held that: officials from first district owed duty of care to the sexually abused students to provide accurate information to second district if, as alleged, officials provided second district an employment verification form falsely stating that teacher had worked entire school year, when he had been removed from classroom twice after reports of sexual abuse or harassment, and his employment had ended before end of school year; and a public employee's statutory immunity from liability for negligent misrepresentation does not extend to willful and wanton conduct.

**Vote:** Justice Karmeier dissented, with opinion (-)

16. Consumer Rights and Protection

**Moore v. Chicago Park Dist.**

**Summary:**
Estate of pedestrian who died after suffering a fall in city park district's parking lot brought action against district, alleging that district negligently created an unsafe unnatural accumulation of ice and snow on its property. District moved for summary judgment on grounds of statutory immunity. Circuit Court certified a question to the Appellate Court. Supreme Court held that: whether snow and ice accumulated naturally or unnaturally is irrelevant to the issue of immunity for a condition of public property used for recreational purposes; accumulated
snow and ice in parking lot was a “condition” of the property for purposes of immunity; and immunity is not limited to only those conditions that are affixed to the public property.

Vote: Justice Karmeier wrote the judgment and opinion of the court (-)

17. Consumer Rights and Protection

*Country Preferred Ins. Co. v. Whitehead*

**Summary:**
Uninsured motorist insurer filed a complaint for declaratory judgment against its insured, alleging that she was barred from pursuing an uninsured motorist claim because she did not file a request for arbitration within the two-year policy limitation. Insured filed a motion to compel arbitration. Circuit Court denied insured's motion. Insured appealed. Appellate Court reversed and remanded. Supreme Court held that two-year contractual limitation on claim arbitration for uninsured-motorist claim did not violate public policy.

Vote: Justice Karmeier concurred in the judgment and opinion of the court (-)

18. Worker and Employee Rights

*Fennell v. Illinois Cent. R. Co.*

**Summary:**
Railroad worker filed personal injury action against railroad, asserting claims under Federal Employers' Liability Act (FELA) and Locomotive Boiler Inspection Act (LBIA) arising from alleged asbestos exposure. Circuit Court denied railroad's motion to dismiss based on forum non conveniens. Railroad appealed. Appellate Court affirmed. Supreme Court held that dismissal based on forum non conveniens was warranted.

Vote: Justice Karmeier concurred in the judgment and opinion of the court (-)

19. Worker and Employee Rights

*Speed Dist. 802 v. Warning*

**Summary:**
School district appealed from an opinion and order of the IL Educational Labor Relations Board which found that district had committed an unfair labor practice when it failed to renew teacher's teaching contract. Appellate Court affirmed. Supreme Court held that teacher had no right to union representation at remediation meetings with principal.

Vote: Justice Karmeier concurred with the judgment and opinion of the court (-)
20. Consumer Rights and Protection

*Kaufmann v. Schroeder*

**Summary:**

Patient filed suit against physician and public hospital, asserting claims against physician for battery, intentional infliction of emotional distress, and negligence, and against hospital for negligent hiring, negligent retention, negligent supervision, negligence, intentional and negligent infliction of emotional distress, and vicarious liability for physician's conduct, arising out of incident in which patient, while regaining consciousness after being sedated during procedure performed at the hospital, became aware that physician was licking her breasts. Circuit Court dismissed claims against hospital as time-barred. Appellate Court affirmed. Supreme Court held that patient's injuries did not “arise out of patient care” within meaning of provision of Local Governmental and Governmental Employees Tort Immunity Act so the one-year limitations period applicable to civil actions against a public entity applied to patient's claims against hospital.

**Vote:** Justice Karmeier specially concurred (-)

21. Civil and Social Rights

*People v. Bartelt*

**Summary:**

Defendant charged with unlawful possession of methamphetamine moved to suppress evidence obtained during traffic stop. Circuit Court granted motion. State filed interlocutory appeal. Appellate Court reversed. Supreme Court held that, as a matter of apparent first impression nationwide, police officers' actions during lawful traffic stop in ordering defendant to roll up her windows and turn her ventilation system's blowers on high, as set-up procedure for a dog sniff of truck's exterior, did not constitute an unreasonable search under the 4th Amendment.

**Vote:** Justice Karmeier delivered the opinion of the court (-)

22. Civil and Social Rights

*People v. Phillips*

**Summary:**

Defendant was convicted following jury trial of armed violence and aggravated battery. Defendant appealed. Appellate Court affirmed convictions but vacated sentence and remanded for resentencing. Defendant's request for leave to appeal was granted. Supreme Court affirmed convictions and remanded cause to Appellate Court for sole purpose of reexamining sentence that was imposed in absentia. On remand, Appellate Court again vacated sentence, and remanded for new sentencing hearing. Supreme Court held that: trial court was required to admonish defendant in open court that failure to appear for any hearing would result in waiver of his right to confront witnesses and that he could be tried and sentenced in absentia; and bond slip that defendant signed, which contained warning on back of slip that defendant could be tried and sentenced in absentia if he failed to appear, did not substantially comply with statutory requirement that trial court admonish defendant in open court that failure to appear could result in trial and sentencing in absentia.
Vote: Justice Karmeier joined in the dissent (-)

23. Consumer Rights and Protection
*Barber v. Am. Airlines, Inc.*

**Summary:**
Passenger brought class action against airline for charging her a baggage fee for a flight that had been cancelled. Circuit Court dismissed the action after airline paid a refund. Passenger appealed. Appellate Court reversed and remanded. Airline petitioned for leave to appeal, which was granted. Supreme Court held that class action was rendered moot by defendant's tender of relief requested prior to motion for class certification.

Vote: Justice Karmeier concurred with the judgment and opinion of the court (-)

24. Civil and Social Rights
*Sierra Club v. Illinois Pollution Control Bd.*

**Summary:**
Citizen groups sought judicial review of administrative determination delisting residue resulting from treatment of electric arc furnace dust (EAFD) as a hazardous substance for disposal purposes. Appellate Court affirmed and citizen groups appealed. Supreme Court held that: citizen groups lacked standing to seek judicial review of order complained of, and order complained of was not “rule or regulation promulgated by the Board,” within scope of review provisions of state Environmental Protection Act. Appeal dismissed.

Vote: Justice Karmeier concurred with the judgment and opinion of the court (-)

25. Civil and Social Rights
*People v. Villa*

**Summary:**
Defendant was convicted in Circuit Court of aggravated battery with a firearm and aggravated discharge of a firearm. After his motion to reconsider sentence was denied, defendant appealed. Appellate Court affirmed. Defendant petitioned for leave to appeal. Supreme Court held that: a juvenile adjudication is typically not admissible against a testifying defendant; defendant's testimony did not open the door to admission of defendant's juvenile adjudication; and erroneous admission of defendant's juvenile adjudication to impeach defendant was not harmless.

Vote: Justice Karmeier joined in the dissent (-)
26. Worker and Employee Rights
*Ready v. United/Goedecke Servs., Inc.*

**Summary:**
Special administrator of estate of worker killed when beam fell from scaffolding brought personal injury action against parent company of worker's employer, general contractor, and scaffolding subcontractor. Supreme Court held that trial court erred in failing to instruct jury to consider that sole proximate cause of the accident was the conduct of a party other than the subcontractor, and trial court's error in failing to issue sole proximate cause instruction was harmless.

**Vote:** Justice Karmeier specially concurred (-)

27. Consumer Rights and Protection
*Krywin v. Chicago Transit Authority*

**Summary:**
A 76-year old woman fell as she stepped off a CTA train at the Sheridan Station as a result of slippery conditions. The plaintiff required surgery and a one-month stay in the hospital. The court held that the CTA owed no duty to the plaintiff to remove natural accumulation from the platform. In answering the question of whether a mass transit authority possesses a heightened obligation to its customers, the court held that it would be impracticable to have such an expectation.

**Vote:** Justice Karmeier concurred in the judgment and opinion (-)

28. Civil and Social Rights
*Passalino v. The City of Zion*

**Summary:**
The case involved a change in zoning ordinance enacted by the City of Zion that rezoned 85 parcels of land as single-family dwellings. The plaintiffs, who owned several of the affected plots, filed suit when they were denied permits to develop land as multiple-family dwellings. The law only required notice of the zoning change be placed in a newspaper circulated in the affected area. The court concluded that while the city's conduct did satisfy the statutory requirements, it did not satisfy constitutional requirements, given that the plaintiff's current address was readily available. Therefore, the court held that the statute was unconstitutional; such notice would not necessarily be unconstitutional in every case, but where the addresses of affected persons were readily available, a city had a duty to send notice through the mail.

**Vote:** Justice Karmeier concurred in the judgment and opinion (+)
29. Civil and Social Rights
Simmons v. On Stage Productions, Inc.

Summary:
In 2006, a customer patronized a bring-your-own-booze strip club in DuPage County. The customer became intoxicated resulting in vomiting. The club’s employees forced the customer to leave the establishment. The drunk driver consequently caused a collision. The accident resulted in the death of a pregnant woman and the driver’s passenger. The husband of the deceased pregnant woman and father of the driver’s passenger brought suit against the strip club, On Stage Productions. The circuit court asked interlocutory questions regarding the club’s duty of care. The Illinois Supreme Court held that the Dramshop Act (Host Liability) did not preclude On Stage Productions from common law duties.

Vote: Justice Karmeier concurred in the judgment and opinion (+)

30. Civil and Social Rights
Lebron v. Gottlieb Memorial Hospital

Summary:
The plaintiff suffered severe neurological injuries allegedly stemming from negligently performed Caesarean Section. The court examined the constitutionality of a statute, which placed limits on noneconomic damages in medical malpractice cases. The court concluded that the law violated the Separation of Powers clause in the Illinois Constitution. The court noted that it was a judicial duty to decide whether a jury award was excessive or inadequate when weighed against the evidence presented.

Vote: Justice Karmeier concurred in part and dissented in part, with opinion (-)

31. Political and Campaign Reform
Ryan v. Board of Trustees of General Assembly Retirement System

Summary:
In December 2003, a federal grand jury indicted former Governor George H. Ryan on felony charges for racketeering, conspiracy, mail fraud, making false statements to the Federal Bureau of Investigation, and income tax violations. In April 2006, a jury found Ryan guilty on all counts. The Illinois Pension Code states that no benefits shall be paid to any person convicted of any felony relating to or arising out of or in connection with his or her service as a member. The General Assembly Retirement System’s Board of Trustees terminated Ryan’s retirement benefits. Ryan sought review of the Board’s decision. The court held that Governor Ryan forfeited all of his pension benefits by betraying Illinois taxpayers.

Vote: Justice Karmeier concurred in the judgment and opinion (+)
32. Civil and Social Rights

**Summary:**
Two sisters, who died in 1967 and 1971, left their income and farmland to the Edgar County Children’s Home. The will instructed Citizens National Bank of Paris to hold the land in trust and distribute the income as directed. In 2003, Edgar County Children’s Home merged with the Hudelson Baptist Children’s Home. In 2004, the charity changed its name to Kids Hope United. One sister’s will provided that her gift would lapse when the named charity “cease[d] to operate or exist,” while the other provided for lapse when the charity “cease[d] to function in its present capacity.” The court held that the original charity had not ceased to operate. The court ruled that Kids Hope United continued to satisfy the intent of the sisters’ gift.

**Vote:** Justice Karmeier dissented, with opinion (-)

33. Political and Campaign Reform
*Maddux v. Blagojevich*

**Summary:**
William Maddux, a Circuit Court Cook County Judge, reached the age of 75 before his term expired in 2010. Prior to this case, the courts held that judges, who attained the age of 75, could not run for retention; however, age did not preclude judges from running in a contested judicial race. Judge Maddux brought suit challenging the constitutionality of the rule. The court found the prior judicial interpretation unconstitutional. According to the court, the Illinois Constitution did not set a retirement age for judges. The court, however, reserved its right to set the retirement for judges or support a constitutional amendment.

**Vote:** Justice Karmeier dissented, with opinion (-)

34. Civil and Social Rights
*Ken Landis v. Marc Realty*

**Summary:**
Four years after vacating their apartment, tenants filed suit against their landlords under the Chicago Residential Landlord and Tenant Ordinance for failing to return tenants’ security deposit. The landlords motioned to dismiss the action, contending that a cause of action under the Code of Civil Procedure must be commenced within two years of the event that gave rise to the cause of action. The Illinois Supreme Court first held that the Code of Civil Procedure’s limitation applied to city ordinances. **The court then held that the tenants’ action was time barred, because the ordinance amounted to a statutory penalty since it imposed automatic liability for a violation and set forth a predetermined amount of damages.**
Vote: Justice Karmeier dissented, with opinion (+)

35. Civil and Social Rights

*Ready v. United/Goedecke Services, Inc.*

**Summary:**
Michael Ready died on a construction site following the collapse of scaffolding. Ready’s estate then settled with the employer and general contractor. Defendant appealed, arguing that the fault of the “settling defendants” must also be considered in apportioning fault. *Freeman,* writing for the majority, held that state statute excused settling tortfeasors from the apportionment of fault.

Vote: Justice Karmeier specially concurred (-)

36. Civil and Social Rights

*Morr-Fitz Inc. v. Blagojeich*

**Summary:**
Pharmacists brought action against state officials seeking a declaration that a departmental rule, requiring pharmacies to dispense “morning after” contraceptives, violated the Illinois Right of Conscience Act, Illinois Religious Freedom Restoration Act, and free exercise rights under the First Amendment. The rule provided that a pharmacy must dispense the contraceptive without delay upon receipt of a valid prescription, and if not in stock, the pharmacy must order it. The plaintiffs alleged that the rule contravened their moral and religious beliefs. The circuit court and appellate court dismissed this complaint believing it was not yet appropriate for judicial determination. The court held that by failing to adhere to the rules, the pharmacies and pharmacists were subject to penalties, which could include license revocation.

Vote: Justice Karmeier concurred in the judgment and opinion (+)

37. Employee Rights

*County of Du Page v. Illinois Labor Relations Board*

**Summary:**
The Metropolitan Alliance of Police (MAP) attempted to act as the exclusive bargaining representative for a unit of sheriffs in DuPage County. The Illinois Labor Relations board contended that the statute required evidence of authorization for the deduction of dues as well as other evidence. The court, however, held, from the plain language of state statute, as well as legislative history, that either of the two types of evidence were sufficient to support a finding of majority support. The court concluded that the state statute intended to ease the process of obtaining representation. The court further held that an employer was not entitled to view the evidence of majority support.

Vote: Justice Karmeier concurred in part and dissented in part (-)
38. Civil and Social Rights
O’Casek v. Children’s Home & Aid Society of Illinois

Summary:
Plaintiff suffered complications following a tonsillectomy performed by the defendant. The court, in Best v. Taylor Machine Works, held unconstitutional a public act aimed at tort reform in Illinois. The General Assembly, a few weeks after this court’s decision in Best, passed another public act that mirrored a portion of the law declared unconstitutional. The at-issue requirement dealt with whether a plaintiff in a medical malpractice action must file a certificate of merit, an opinion by a medical professional substantiating the likeliness of malpractice, on the date of filing or 90 days post-filing. Before Best, a plaintiff was permitted 90 days after the initial filing in which to produce a certificate of merit. The portion of the law struck down by Best required that a plaintiff would not be entitled to the 90-day extension if he or she had filed a claim based upon similar circumstances. The court held that the General Assembly’s intention in passing the post-Best bill was to add naprapaths to the list of medical professionals – not to reenact the legislation struck down by Best. As such, the court held that the claim was not time barred because the plaintiff was entitled to the 90-day extension, regardless of her voluntarily dismissal of the same claim in the previous year.

Vote: Justice Karmeier dissented, with opinion (-)

39. Consumer Rights and Protection
Loman v. Freeman

Summary:
In 2001, a veterinary equine surgeon at the Large Animal Clinic of the University of Illinois College of Veterinary Medicine allegedly performed an unauthorized surgery on a racehorse preventing the horse from racing. The court held that the veterinarian provided professional expertise independent of his employment with the State of Illinois, which is immune from liability.

Vote: Justice Karmeier concurred in the judgment and opinion (-)

40. Family and Child’s Rights
Illinois Department of Healthcare & Family Services v. Warner

Summary:
The natural father of two children sought relief for paying child support after being denied his parental rights in 2002. The father relied on section 17 of the Adoption Act, which states that “[a]fter *** entry of an order terminating parental rights *** the natural parents of a child sought to be adopted shall be relieved of all parental responsibility for such child.” The court denied the father’s petition, given that no adoption of the children had been sought out, and therefore the statute could not be applied.

Vote: Justice Karmeier dissented, with opinion (-)
41. Civil and Social Rights

Hudson v. City of Chicago

Summary:
The five-year-old George Hudson, Jr., died from acute asthma exacerbation. The boy’s mother called 911 and informed the operator that the child was having breathing problems. Instead of an ambulance, the city dispatched a fire engine. The fire engine was not equipped to help George. The plaintiff claimed that George Jr. died as a result of the delay in providing advanced life support. The father filed a negligence claim against the city, but then voluntarily dismissed the claims of negligence and willful and wanton misconduct. The father then refiled a wrongful death action against the city, alleging willful and wanton misconduct. The court found that pursuant to the Rules of Civil Procedure, when the father voluntarily dismissed the original claims, this effectively settled the merits for both claims. Ultimately, the court held that since the father possessed the opportunity to resolve his claims in the first legal action, he was barred from litigating under the Rules of Civil Procedure.

Vote: Justice Karmeier concurred in the judgment and opinion (-)

42. Civil and Social Rights

Orlak v. Loyola University Health System

Summary:
A former patient filed suit against Loyola University Health System alleging that the hospital was negligent when it failed to notify her in a timely manner that she may have contracted hepatitis C from a blood transfusion that she received during a hospitalization for injuries received in a work-related accident. Loyola University Health System filed a motion to dismiss claiming that the complaint was barred by a four-year medical malpractice statute of limitations. The circuit court granted the motion to dismiss. The appellate court affirmed, rejecting the former patient's argument that because she was no longer a patient and only filed suit on the basis of providing timely notice for testing that her cause of action did not arise out of patient care. The question for review before the Illinois Supreme Court was whether the former patient's cause of action arose out of patient care so that it is time barred by the four-year medical malpractice statute of limitations. The court held that the former patient's claim arose out of patient care and was subject to the four-year medical malpractice statute of limitations because the phrase “arising out of patient care” covers any injuries that are incidental to the patient's medical care and treatment. Loyola University Health System’s duty to notify the former patient about the risk of infection with Hepatitis C flowed from the blood transfusion procedure.

Vote: Justice Karmeier concurred in the judgment and opinion (-)
43. Civil and Social Rights

*Brucker v. Mercola:*

**Summary:**
Anna Marie Brucker and John Brucker as parents of Robert Grant Brucker, filed a complaint against Dr. Joseph Mercola, his medical practice, and his employee Barbara Pierce. The complaint alleged that Anna Brucker, who was pregnant at the time, went to Dr. Mercola for an allergy consultation. The physician prescribed the supplement L-glutamine, but his employee, Barbara Pierce, mistakenly filled the bottle with selenium. The Bruckers alleged that Anna became ill when she ingested a toxic amount of selenium. One count of the complaint alleged that Robert, the Bruckers unborn son, had been injured by selenium poisoning. The issue in this case was whether the time to file a complaint for Robert was tolled. The court found that a cause of action for prenatal injuries could not be brought until birth. The court held that the repose period does not begin to run until the child is born. The court therefore ruled that the complaint filed on behalf of Robert was timely filed.

**Vote:** Justice Karmeier concurred in the judgment and opinion (+)

44. Worker and Employee Rights

*Ultsch v. Illinois Mun. Retirement Fund*

**Summary:**
Sharee Ultsch filed a claim for temporary disability benefits with the Illinois Municipal Retirement Fund. The claim was denied. Plaintiff appealed to the benefit review committee of the Fund’s Board of Trustees. The committee recommended denial and the Board adopted the recommendation. Plaintiff then sought to have this result judicially reviewed. Within the appropriate 35-day time period, a complaint for such review was filed, but it named as defendant, and was served on, the Fund, rather than the Board. Plaintiff then sought leave to amend her complaint to add the Board. However, the trial court held that the statute allowing the amendment of the complaint violated the single subject rule of the Illinois Constitution. Foremost, the Illinois Supreme Court held that the trial court reached a constitutional conclusion when it did not need to do so. However, the court upheld the result reached by the trial court, given that administrative law requires a complainant to timely name an agency as a defendant.

**Vote:** Justice Karmeier dissented, with opinion (+)

45. Worker and Employment Rights

*The Board of Trustees of the Univ. of Illinois v. Illinois Labor Relations Board*

**Summary:**
In separate cases, the Service Employees International Union and the Illinois Fraternal Order of Police Labor Council filed suit on behalf of university employees against the Board of Trustees of the University of Illinois at Urbana for refusing to negotiate on proposals for a parking fee schedule. The reviewing Labor Relations Boards found that the proposals were subject to mandatory collective bargaining under the Illinois Educational Labor Relations Act and the Illinois Public Labor Relations Act. The appellate court reversed, holding that parking fees were part of
the university’s inherent managerial authority. The question for review before the Illinois Supreme Court was whether the unions’ proposals for a parking fee schedule constituted a subject of mandatory collective bargaining. The court held that the unions’ proposals for parking fees were subject to mandatory collective bargaining, because the unions’ parking proposals involved terms and conditions of the workers’ employment.

Vote: Justice Karmeier joined in the dissent (-)

46. Consumer Rights and Protection

*Mohanty v. St. John Heart Clinic, S.C.*

**Summary:**
Two physicians who terminated their employment with St. John Heart Clinic in 2003 filed a declaratory judgment action seeking the court to nullify the restrictive covenant provisions within their contracts, which prohibited the doctors from practicing general medicine within a specified radius for three to five years following employment. The court held that restrictive covenants are enforceable, as long as they are not unreasonable.

Vote: Justice Karmeier specially concurred, with opinion (-)

47. Civil and Social Rights

*International Union of Operating Engineers v. Lowe Excavating Co.*

**Summary:**
The court examined the extent to which a jury may award lost punitive damages in a legal malpractice suit. The case marked the culmination of nearly two decades of litigation, in which the plaintiff alleged that a local union had engaged in defamatory conduct while picketing its worksite. Here, the plaintiffs alleged that their attorneys in the initial suit had negligently handled the case, causing the trial judge to dismiss the action with prejudice. Having found the defendant attorneys liable, the jury awarded $4,680 in compensatory damages and $500,000 in punitive damages; the former is designed to make the victim whole, while the latter is aimed at punishing the defendant and deterring the same conduct. The appellate court lowered the punitive award to $325,000. Here, applying the guideposts established by the U.S. Supreme Court, this court held that the $325,000 punitive damage award was excessive and reduced it to $50,000. The court reasoned that the punitive damages should be representative of the compensatory damages and that a 75:1 ratio was far too high. Although the court noted that it empathized with the plaintiff’s $500,000 legal bills, without statutory authority to do so, it could not award punitive damages in lieu of legal fees.

Vote: Justice Karmeier concurred in the judgment and opinion (-)
48. Employee Rights  
*Durand v. The Industrial Commission*

**Summary:**  
The plaintiff developed carpal tunnel syndrome over the course of three years, culminating in her being unable to perform her duties as a policy administrator. The issue raised by the complaint was the effective filing date for a workmen’s compensation claim involving repetitive-trauma injury. **The court held that the effective date for filing a workmen’s compensation claim was the date on which the employee was no longer able to perform his or her duties, and not the date upon which he or she first experienced symptoms.**

**Vote:** Justice Karmeier joined in the dissent (-)

49. Worker and Employee Rights  
*Melena v. Anheuser-Busch, Inc.*

**Summary:**  
An employee of Anheuser-Busch, Inc. filed suit, claiming retaliatory discharge as a result of his filing a worker’s compensation claim. The court held that the arbitration agreement within the employment contract was enforceable. The court failed to see how arbitration would undermine the employee’s rights under the Workers’ Compensation Act. The court also made clear that the employer-employee contract permitted the arbitrator to award any remedy recognized under the law. Further, the agreement stipulated that the employee would only pay a $125 fee for the arbitration proceedings.

**Vote:** Justice Karmeier concurred in the judgment and opinion (-)

50. Family and Children’s Rights  
*Collinsville Community Unit School Dist. No. 10 v. Regional Board of School Trustees of St. Clair County*

**Summary:**  
A group of Fairmont City residents filed a petition with the St. Clair County Regional Board of School Trustees to detach a section of Fairmont City from East St. Louis School District No. 189 and annex it to Collinsville Community Unit School District No. 10. The petition was signed by over 400 individuals, more than two-thirds of the registered voters in the area. The petitioners were called the “Committee of Ten.” Both school districts opposed the petition. However, the Board granted the petition. The Board’s order did not identify the individual committee members by name. Collinsville filed a complaint for review of the Board’s order in the circuit court of St. Clair County. Because Collinsville did not name all the committee members individually, they amended their complaint. The issue in this case was whether it was proper to allow Collinsville to amend their complaint. The court held that the Committee of Ten was required to be named as defendants in this complaint and in the Board’s order. Because they were not, Collinsville rightfully had 35 days, pursuant to statute, to file a motion to amend their complaint.

**Vote:** Justice Karmeier concurred in the judgment and opinion (+)
51. Consumer Rights and Protection

Price v. Philip Morris, Inc.

Summary:
Plaintiffs brought suit against Philip Morris, Inc. for fraudulent marketing—labeling cigarettes as “light” and/or “low tar.” The circuit court awarded plaintiffs $10.1 billion in compensatory and punitive damages. The Illinois Supreme Court reversed and ordered the lower court to dismiss the case on remand. Garman, in writing for the majority, concluded that since the U.S. Federal Trade Commission had authorized the cigarette products, the Illinois Consumer Fraud Act was therefore not applicable.

Vote: Justice Karmeier specially concurred in the judgment, with opinion (-)

52. Worker and Employee Rights

Andrews v. Kowa Printing

Summary:
The plaintiffs in this case were 35 former union employees of Kowa Printing Corporation. They brought an action under the Illinois Wage Payment and Collection against defendants. Plaintiffs alleged they were owed unpaid vacation time and severance pay, and that all three defendants were their employers, and responsible for the amounts owed. Thomas Kowa owned 100% of Kowa Printing Corporation, a commercial printing firm located in Danville, and 97% of Huston-Patterson Corporation, a commercial printing firm located in Decatur. Both of these firms operated under “The Kowa Group.” Thomas Kowa eventually lost control of the business, and Kowa Printing was seized along with all of its assets. The issue in this case was whether Thomas Kowa and Huston-Patterson qualify as plaintiffs’ “employer,” as that term is defined in the Wage Act. The court found that neither Thomas Kowa nor Huston-Patterson qualified as plaintiffs’ “employer.” There was also no evidence that Thomas Kowa knowingly permitted the unlawful withholding of plaintiffs’ severance and vacation pay. The alleged violation did not occur until after Thomas Kowa lost control of the business. The court held that the plaintiff’s Wage Act claim was denied.

Vote: Justice Karmeier concurred with the holding of the court (-)

53. Civil and Social Rights

Arthur v. Catour

Summary:
The plaintiff attended an auction in 1999 on a farm in Henry County. The plaintiff fell in a hole, resulting in a broken leg. The plaintiff filed suit against the property owners and auctioneers. The plaintiff’s medical expenses came to $19,355.25. The health insurance company reduced the medical costs to $5,777.28. The defendants filed for partial summary judgment arguing that the plaintiff should not be allowed to request the original costs as damages. The court held that the plaintiff could present the total amount of bills to the jury, if reasonable.

Vote: Justice Karmeier concurred with the holding of the court (+)
54. Consumer Protections and Consumer Rights


**Summary:**
The policyholder’s son was using her car to deliver pizzas when he struck and injured a pedestrian. Progressive Universal Insurance Company, policyholder’s insurer, then filed a declaratory judgment action arguing that it did not have a duty to indemnify the policyholder’s son because of a provision in the policy that excluded coverage when the incident that caused personal injury or damage arose out of the use of the vehicle for commercial purposes. The court held that Progressive Universal Insurance Company’s exclusion did not violate state law mandating liability coverage for permissive users of a vehicle, because Illinois law mandating that operators of motor vehicles have liability insurance coverage does not expressly prohibit insurers from excluding certain risks from liability coverage.

**Vote:** Justice Karmeier delivered the opinion of the court (–)