An Interview with the Illinois Solicitor General

This column takes a slightly different perspective than my previous articles and a departure from the analysis of various cases and appellate practice rules. In this issue we feature an interview with the State of Illinois’s top appellate practitioner, Illinois Solicitor General, Michael A. Scodro. The Solicitor General oversees the Attorney General’s civil and criminal appellate divisions in litigation before state and federal courts. General Scodro was appointed Solicitor General of Illinois on July 19, 2007, by Illinois Attorney General Lisa Madigan. Prior to joining the Attorney General’s Office, Scodro was an Assistant Professor of Law at Chicago-Kent College of Law, where he had taught contracts and securities regulation since 2004. Since 2010, Scodro has also served as a lecturer in law at the University of Chicago law school, where he teaches a seminar on the United States Supreme Court.

Scodro is a former clerk for the Honorable Sandra Day O’Connor of the United States Supreme Court and the Honorable Jose A. Cabranes of the United States Court of Appeals for the Second Circuit. He is a graduate of Dartmouth College and Yale Law School, where he served as an Executive Editor of the *Yale Law Journal* and an Articles Editor of the *Yale Journal of International Law*. Following his clerking positions he worked for several years in the appellate group at Mayer Brown Rowe & Maw.

Can you tell us a little about the job of Illinois Solicitor General?

As Solicitor General, I am appointed by, and report to, the Illinois Attorney General. The Solicitor General advises the Attorney General and members of her staff on significant legal questions and oversees the more than 40 lawyers who work in the Civil and Criminal Appeals Divisions of the Attorney General’s Office. Those lawyers are currently handling many hundreds of open cases, and they appear on behalf of the State, its agencies, and its personnel in the Illinois Appellate and Supreme Courts, Seventh Circuit Court of Appeals, and United States Supreme Court.

Scodro says he and his staff juggle many hundreds of open appeals at any given time. Through November of this year, the office has 66 published Illinois state and federal court opinions.

Even with this busy schedule, Scodro says it is critical for him to stay on top of developing legal issues and trends. “I try to carve out time to review newly released decisions of the state and federal appellate and supreme courts. Beyond that, the briefs I edit and the moot courts in which I participate expose me to an array of diverse legal issues every week.”

Even so, Scodro says the demands of his job prevent him from participating in every appeal. Instead, he concentrates his efforts on “discussing strategy with the attorneys handling particularly
significant or difficult appeals.” Scodro says he also plays “a role in preparing every U.S. Supreme Court brief.” In addition, Scodro said, “I perform a final edit on every Illinois Supreme Court and Seventh Circuit brief. I also participate as a ‘judge’ in moot courts for attorneys preparing to argue in either of those courts. During these exercises, I join other attorneys in the Office in firing questions at the lawyer preparing for argument, in the hopes that we’ll anticipate the most difficult questions the lawyer will face in court. I also try to attend as many arguments as possible that our office handles in either the Illinois Supreme Court or the Seventh Circuit.”

**What is the office approach for preparing for oral argument and what role do you play in that process?**

*Our attorneys nearly always submit to at least one moot court before an oral argument. And it is expected that both the Solicitor General and the Deputy Solicitor General will participate as “judges” in a moot court for every Illinois Supreme Court and Seventh Circuit argument.*

Scodro considers his attendance at oral argument a teaching tool and as a means to convey to the Courts the importance of each appeal. “I think it’s important for me to attend as many arguments as possible. With this practice, our Office hopes to convey to the court how seriously we take each appeal. At the same time, attending an argument in person allows me to provide prompt feedback to an attorney immediately following his or her argument.”

Scodro also has his own case docket. “I argue a handful of cases each year myself, and I’ve been fortunate to have the opportunity to argue on behalf of the State in the United States Supreme Court, the Seventh Circuit, the Illinois Supreme Court, and each district of the Illinois Appellate Court.”

**What have been some of the most memorable moments of your career?**

*I can say without question that the highlight of my career as Solicitor General has been the opportunity to argue on behalf of the State in the U.S. Supreme Court. In 2009, I argued a case involving a challenge to the jury-selection process in a criminal trial. Standing at the podium in that courtroom, after months of brief-writing and argument preparation, is an unparalleled experience.*

According to Scodro, preparing for an argument in front of the United States Supreme Court is a demanding experience, necessitating weeks of dedicated pre-argument preparation. This may include several moot arguments and reading scores of cases. Scodro often addresses the topic of preparing for U.S. Supreme Court arguments in his seminar talks. According to Scodro, simply understanding the issues in the case and knowing the case law cited in your brief is not enough. “Practitioners before the Court must understand not only the body of law squarely presented by their cases, but they also need a firm grasp of the broader legal context from which the issues in their cases emerge.”

**What advice can you offer for young appellate attorneys?**

*Above all, new attorneys handling their first cases on appeal should bear in mind that there is no substitute for thorough preparation. Carefully review the record, exhaustively research every potential argument in preparing your briefs, and leave plenty of time to prepare for oral argument. As part of this process, allow yourself to think independently and creatively about your case on appeal – while an appeal may not be the time to raise new arguments for the first time, it is an opportunity to reconsider which arguments to emphasize, deemphasize, or even drop entirely, and how best to frame your strongest points for presentation to a new court.*
Mike Scodro is the current Treasurer of the Illinois Appellate Lawyers Association. He frequently speaks on oral argument practice and will be presenting a discussion of oral argument techniques this coming February 19 in Bloomington as part of the ALA’s Downstate Brownbag program.

From the Author
This is my final appellate practice column. I have enjoyed preparing these articles over the past decade or so and I hope you have found them interesting and useful in your appellate practice. I appreciate your support via letters and e-mails and I join the IDC Quarterly staff in welcoming Scott Howie of Pretzel & Stouffer, Chartered, who is taking over the Appellate Practice Corner column.

About the Author
Brad A. Elward is a partner in the Peoria office of Heyl, Royster, Voelker & Allen, P.C. He practices in the area of appellate law, with a sub-concentration in workers’ compensation appeals and asbestos-related appeals. He received his undergraduate degree from the University of Illinois, Champaign-Urbana, in 1986 and his law degree from Southern Illinois University School of Law in 1989. Mr. Elward is a member of the Illinois Appellate Lawyers Association, the Illinois State, Peoria County, and American Bar Associations, and a member of the ISBA Workers’ Compensation Section Counsel.

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