

LEGAL DIVISION MONTHLY REPORT

MAY 2020



VILLAGE OF SCHAUMBURG

PROGRESS THROUGH THOUGHTFUL PLANNING



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CURRENT CASES

Adam Connors & Eric Connors v National Marine Manufacturers, Village of Schaumburg, et al., Case: 2019 L 9955 (Snake Bite)

The Village received a new lawsuit regarding a child that was bitten by a snake during a show at the convention center on January 25, 2018. The Village was served with the Amended Complaint on January 17, 2020. The Village was named as a defendant in this action as the owner of the Schaumburg Convention Center where the Chicago Herpetological Society held its exhibit and where the snake bite occurred. There is insurance coverage from the show organizer that names Renaissance, Marriott, and the Village as additional insureds. The defense of the claim has been tendered to that insurance carrier. Klein, Thorpe and Jenkins (hereinafter KTJ) filed an appearance on behalf of the Village and filed a Motion to Dismiss. This matter is set for status on July 20, 2020.

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. The parties are currently engaged in discovery. This matter is currently set for status on July 28, 2020.

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 presented. 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 KTJ. Answer to the Petition was filed on October 22. Discovery is ongoing. This matter is set for status on July 8, 2020.



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 firm of the Honorable Russell Hartigan. The Village filed for discovery and received some information about the incident 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 judgment was denied, and the case was set for mandatory arbitration on July 31, 2019. At the arbitration, the arbitrator entered a finding of not liable for the Village. That award was rejected by the Plaintiff, and the matter is set on the trial call for June 17, 2020.

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 KTJ. 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, 2019, 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. Oral argument before the First District Appellate Court was scheduled for April 15, 2020, but has been postponed to a later date given the Covid-19 court closures.



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 worked with David Schroeder of Charysh & Schroeder, LTD to coordinate the depositions of the police officers as well as our engineering staff in early 2019. A hold was placed on the case as one of the subcontractors filed for bankruptcy. In January 2020, the case was removed from the bankruptcy call and filed as a new case (2020 L 000254). This matter is set for status on July 20, 2020.

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

The case involves the Village of Schaumburg's ordinance 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. Plaintiff is to file an Amended Complaint by January 31, 2020. The Village filed a motion to dismiss the Amended Complaint. No briefing schedule has been set yet due to the Covid-19 court closures.

PROSECUTION DATA

**PLEASE NOTE: ADMINISTRATIVE ADJUDICATION CDD,
ADMINISTRATIVE ADJUDICATION POLICE AND
TRAFFIC COURT CASES WERE DEFERRED DURING MAY**

