

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

FILED B-5
JUN -7 PM 4:24
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL

CHRISTOPHER S. CYNOWA,)
)
Plaintiff,)
)
v.)
CSSS, INC., et al.)
)
Defendants,)

No. 08 L 403

NOTICE OF MOTION

TO:

Rachlis Durham Duff & Adler, LLC
542 South Dearborn, Suite 900
Chicago, Illinois 60605
(312) 733-3950
(312) 733-3952 (fax)

Haytham Faraj
1800 Diagonal Road Suite 210
Alexandria, VA 22314
(760) 521-7934
(202) 280-1039 (fax)

PLEASE TAKE NOTICE that on June 9, 2011, at 1:00 p.m. or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Maras or any judge sitting in that judge's stead, in Courtroom 2006, usually occupied by her/him, located at Daley Center, 50 West Washington Street, Chicago, Illinois, and present instanter **MOTION FOR LEAVE TO FILE OUT-OF-TIME, PLAINTIFF'S MEMORANDUM IN REPLY TO DEFENDANTS' RESPONSE MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT**, a copy of which is attached hereto and served upon you.

Theresa V. Johnson
Theresa V. Johnson

PROOF OF SERVICE

I, Theresa V. Johnson, the attorney, certify under penalties as provided by law pursuant to 735 ILCS 5/1-109, that the statements set forth herein are true and correct; that I served this **NOTICE OF FILING** and to **MOTION FOR LEAVE TO FILE OUT-OF-TIME, PLAINTIFF'S MEMORANDUM IN REPLY TO DEFENDANTS' RESPONSE MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT** by causing a copy to be delivered to the above named parties by ___ U.S. Mail (first class postage paid) and/or ___ email and/or ___ fax and/or ___ hand-delivery and/or ___ open court on June 7, 2011

Respectfully Submitted:
Theresa V. Johnson
Theresa V. Johnson, One of Plaintiff's Attorney

Theresa V. Johnson, Esq.
Law Office of Theresa V. Johnson
200 E. Chicago Ave., Suite 200
Westmont, Illinois 60559
Tel.: 630-321-1330
Fax: 630-321-1185
Cook County Atty No.: 37363

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

CHRISTOPHER S. CYNOWA,)
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Plaintiff,)
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v.) No. 08 L 403
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CSSS, INC., et al.,)
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2011 JUN - 7 PM 4: 24
DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
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**MOTION FOR LEAVE TO FILE OUT-OF-TIME, PLAINTIFF'S MEMORANDUM IN
REPLY TO DEFENDANTS' RESPONSE MEMORANDUM IN OPPOSITION TO
PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT**

Plaintiff, Christopher S. Cynowa, by his attorney Theresa V. Johnson ("Attorney"), moves this Honorable Court for leave to file Out-of-Time, PLAINTIFF'S MEMORANDUM IN REPLY TO DEFENDANTS' RESPONSE MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT ("Reply Brief") and, if necessary, to re-set the hearing schedule. In support thereof states:

1. Illinois Supreme Court Rule 183 allows for late filing of pleadings, before or after expiration of the time to respond, for good cause.
2. On March 24, 2011, this Court entered a briefing schedule as follows: Plaintiff's Leave to Amend due by April 7, 2011, Response due May 5, 2011; Reply due May 19, 2011; and hearing on June 9, 2011, before Judge Maras. A copy of the Order is attached as **Exhibit 1**.
3. The undersigned counsel is a sole practitioner and was unable to complete the Reply on behalf of Mr. Cynowa for good and reasonable cause due to major schedule conflicts between April 25, 2011 and May 19, 2011. A few examples of good reasons for Plaintiff's delay in filing Reply Brief are discussed below.

4. The Reply Brief took much longer than anticipated because Defendants Response Brief cited nine distinguishable cases and contained many factual allegations that were not germane to the Motion for Leave to Amend, and in fact were misleading and/or false and/or taken out of context. Thus, Plaintiff's attorney had to put an extraordinary amount of time and effort to locate the documents to refute and/or place Defendants' allegations into proper context. Additionally, Defendants were given 28 days to draft their extensive 15 page Motion opposing Plaintiff's Leave to File a Second Amended Complaint. Plaintiff was given 14 days to Reply, which ultimately proved to be insufficient given the complexity of Defendants' Response Brief and Attorney's conflicted schedule.

5. Attorney worked an average of 16 hours per day 6 days per week during the month of May to the present, but for the foregoing and following reasons, i.e., the convergence for deadlines for multiple legal cases and for legal professional responsibilities, and the lengthy out-of-context factual allegationd made by Defendants, she was unable to complete Reply Brief on time. Specific examples of circumstances and events preventing Attorney's timely completion of Reply Brief include:

6. Plaintiff had to earn \$250.00 to pay for the court hearing transcript of March 24, 2011 which was obtained June 2, 2011.

7. On Monday, April 25, 2011, Attorney noticed that Dorothy, her legal assistant and mother (age 80) was not functioning at work in her normal capacity. On April 26, 2011, Attorney's birthday, Dorothy was taken to the hospital by ambulance, where she remained hospitalized until discharged April 30, 2011 (**Exhibit 2** – hospital discharge papers). During this week, Attorney traveled back and forth to the hospital to help her mother and managed the day to day administrative operations (phone duty, bill paying etc.) of attorney's law office normally performed by Dorothy.

Attorney canceled/rescheduled client work and clients appointments planned for the week of the April 25, 2011, and rescheduled them into the week of May 2, 2011 through May 16, 2011. For the next several weeks Attorney also took Dorothy to follow up visits with doctors.

8. During the week of May 2, 2011, attorney's intern, who was knowledgeable and previously worked on this case, had to quit his internship on virtually no notice due to end of year final papers, exams, graduation and transportation difficulties. Thus attorney had no paralegal assistance with the Reply Brief and had to do her own typing, proof reading, correcting, and cross-referencing all the exhibits and citations. .

9. Attorney is involved in teaching Illinois State Bar Association (ISBA) Continuing Legal Education Courses (ISBA CLEs) for other attorneys. On Sunday, May 8, 2011 and Monday, May 9, 2011, attorney prepared course materials for the Intellectual Property Council Seminar panel discussion scheduled for Tuesday, May 10, 2011, on which Attorney was to serve as one of three panelist (a commitment made weeks prior). On May 10, 2011, Attorney served as a seminar panelist and moderator. On May 11 and 13, 2011, Attorney performed preliminary research on issues to determine course content for a June 22, 2011 Cyberlaw symposium and consulted with co-speakers on her topic for finalizing the CLE seminar content that had to be finalized and submitted no later than May 13, 2011 to ISBA in Springfield, IL for printing of brochures 2011.

10. On May 12, 2011, Attorney began drafting Reply Brief in this case, and while also working on an emergency contract that arose in a contract for a multi-million dollar business transaction. (**Exhibit 3** – Certification of Attorney Wasserstrum).

11. Attorney also worked on immigration files, one which had a statutory deadline that required assembly of materials to be received at U.S. Citizenship and Immigration Services in Washington D.C. no later than May 19, 2011, the date Plaintiff's Reply Brief was due.

12. During the week of May 16, 2011, Attorney 1) continued working on Reply Brief, 2) continued to do work not completed the week of Dorothy's hospitalization at the end of April, 2011, 2) managed new clients, 3) continued to work on ongoing projects, e.g., worked on settlement proposals issues for administrative law case 11-M5 -166, renegotiated an Answer due on May 20, 2011 in a contract case, and 4) drafted communications for settlement in another contract case, 5) emailed ISBA colleagues regarding information they needed to complete a proposal for legislative changes to the Illinois Eavesdropping statute that was due immediately to meet the Legislature deadline for submitted legislative proposals, 6) preparing for a pre-paid trip to the Washington DC for swearing into the U.S. Supreme Court bar, scheduled for May 23, 2011 (**Exhibit 4** – letter from Chicago-Kent of Supreme Court event) – trip preparations included making arrangements to care for attorney's family, rescheduling due dates on other cases, etc. (note: commitment to the Supreme Court event had been made months earlier, and 7) after the Supreme Court event, attorney conducted on business in New Jersey May 24-25, 2011 regarding a complex business transaction and co-hosting a radio/TV simulcast legal talk show on WSNJ. (See **Exhibit 3** – Declaration of Attorney Wasserstrum)

13. On May 18, 2011, Attorney worked six (6) hours on Reply brief, and on May 19, 2011 worked the entire day, but realized that she could not meet the deadline. Attorney continued to work on the Reply Brief through the evening of May 19, 2011, hoping to file it on Friday, May 20, 2011. From early morning May 20, 2011 to 3:00 a.m. May 21, 2011, Attorney worked on Reply Brief. Ultimately, Attorney was not able she was unable to complete the brief before leaving for Washington, D.C. at 6:00 a.m., May 21, 2011.

14. During the six (6) days in Washington and New Jersey, attorney continued to work on Reply Brief, while fitting in being sworn into the Supreme Court and conducting other business.

Attorney worked diligently on the Reply Brief upon return to her office, with some time spent trying to catch up on other clients' work and taking Dorothy for follow-up doctor's care.

15. Attorney was diligent in working on the Reply Brief and her other commitments.

16. This pleading is not brought for the purposes of delay, unfair advantage or prejudice to any party.

17. Defendants are not prejudiced by this delayed filing, since Defendants have no pleading due after Plaintiff's Reply and no new trial date had been set.

18. Plaintiff has no objection to Defendants taking a reasonable amount of time to review Plaintiff's Reply in preparation for hearing and to the re-setting of any hearing date for that purpose if the court deems that to be fair.

WHEREFORE, plaintiff prays that this Honorable Court allow Plaintiff to file Out-of-Time PLAINTIFF'S MEMORANDUM IN REPLY TO DEFENDANTS' RESPONSE MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT and re-set the hearing date, if appropriate.

CHRISTOPHER S. CYNOWA

By: Theresa V. Johnson
Theresa V. Johnson

Under penalties as provided by law, the undersigned certifies that the statements contained in the above and foregoing motion for leave to file Out-Of-Time, are true and correct.

Theresa V. Johnson
Theresa V. Johnson

Theresa V. Johnson
Attorney at Law
Law Office of Theresa V. Johnson
200 East Chicago Avenue Suite 200
Westmont, Illinois 60559
Tel.: (630) 321-1330 Fax: (630) 321-1185
Attorney No. 37363

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Cynowa

v.

CSSS, et al.

No.

08 L 403

ORDER

This matter coming to be heard on Defendants' motion for summary judgment, counsel for the parties having appeared, and the Court being advised in the premises: IT IS HEREBY ORDERED:

- (1) Defendants' motion for summary judgment is entered and continued to June 9, 2011, at 1:00 p.m. in Room 2006;
- (2) Plaintiff shall file a motion for leave to amend his complaint limited to the allegation about co-workers in Paragraph 40 on page 10 of 23 of his complaint by April 7, 2011;
- (3) Defendants shall respond to Plaintiff's motion for leave to amend by May 5, 2011;
- (4) Plaintiff shall file a reply on Plaintiff's motion for leave to amend by May 19, 2011;
- (5) Plaintiff's motion for leave to amend is set for hearing on June 9, 2011 at 1:00 p.m. in Room 2006;
- (6) The trial date of April 11, 2011 is stricken.

Atty. No.: 40151

Name: K. Duff

Atty. for: Δ

Address: 542 S. Dearborn St. Ste. 900

City/State/Zip: Chicago, IL 60605

Telephone: 312-733-3950

ENTERED:

Dated:

Judge

ENTERED
 JUDGE MARCIA MARAS-1781
 MAR 24 2011
 DOROTHY BROWN
 CLERK OF THE CIRCUIT COURT
 OF COOK COUNTY, IL
 DEPUTY CLERK

PLAINTIFF'S EXHIBIT 1

Adventist Hinsdale Hospital

120 N. Oak St., Hinsdale, IL 60521

(630)856-9000

Your Discharge Instructions

Name: JOHNSON, DOROTHY C

DOB: 2/04/1931 12:00 AM

MRN#: 1129620

Visit Date: 4/26/2011 8:19 AM

Primary Care Provider:

Name:

Phone:

Inpatient Care Providers:

Attending Physician: DESAI DO, MANISH I.

Adventist Hinsdale Hospital would like to thank you for allowing us to assist you with your healthcare needs.

Your physician has discharged you with the following plan:

Discharge Instruction(s)

Discharge to: Home

Weight Bearing Assessment: Total

Activity Instructions Discharge: Resume normal activity, Resume activities as tolerated

Literature Provided: Medications, Disease/Procedure specific

Diet: Regular

Weight Monitoring Instructions Yes

Symptoms to Report to Your Physician: Shortness of breath, Fever > 100

Home Health Referral: No

Therapy: None

Pain Management: Pain free

PT Discharge Orders: No physical therapy needed

OT Discharge Orders: No occupational therapy needed

Speech Therapy Discharge Orders: No speech therapy needed

Your Follow-up Instructions

JOHNSON, DOROTHY C has been given these follow-up instructions:

With:

Address:

When:

PLAINTIFF'S
EXHIBIT 2

THOMAS WILL

5201 S. Willow Springs Rd, #380
La Grange, IL 60525
(708) 354-2550 Business (1)

In 4 weeks
05/28/2011

3 weeks

Comments:

To have Lasix Renal Scan prior to office visit

With:

SHEEJA JAIN

Address:

235 Remington Blvd, # E, #E
Bolingbrook, IL 60440
(630) 771-1201 Business (1)

When:

Within 1 week

Comments:

Or Primary Care ^{Provider} ~~Primary~~ in 1 week

With:

MOTILAL RAICHAND

Address:

3825 Highland Ave, Tower1,#4J
Downers Grove, IL 60515
(630) 971-8330 Business (1)

When:

In 2 weeks
05/14/2011

Comments:

Follow-up in 2-3 weeks

With:

Lasix Renal Scan

Address:

When:

In 4 weeks
05/28/2011

Comments:

Medication Instruction(s)

This is your new medication list. Take only the medications listed below as directed. If one of your current home medications is not listed below you should stop taking the medication.

New Prescriptions/Changes to Existing Home Meds

- acetaminophen (Tylenol 325 mg oral tablet) 650 mg = 2 Tablet By mouth Every 6 hours as needed for Pain or Fever
- aspirin (Ecotrin Baby) 81 mg By mouth DAILY
- ciprofloxacin (Cipro 250 mg oral tablet) 250 mg = 1 Tablet By mouth 2 TIMES A DAY (for 5 days)

****** If there are any other medications you are taking not listed above, please discuss with your physician. ******

****** Bring this list to all appointments and hospital visits. ******

Total page(s) of Medications 1 page(s).



SEYMOUR WASSERSTRUM

ATTORNEY AT LAW
205 LANDIS AVENUE
VINELAND, NEW JERSEY 08360
(856) 696-8300

TOLL FREE: 1-888-845-4533
FACSIMILE: 856-696-6962

VISIT OUR WEBSITE AT WWW.WIPEOUTYOURBILLS.COM

June 2, 2011

CERTIFICATION OF SEYMOUR WASSERSTRUM

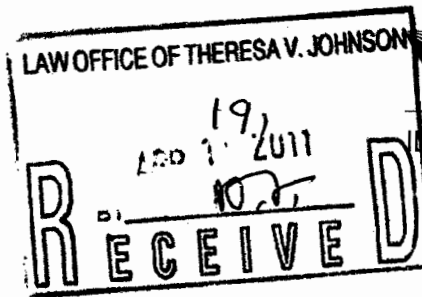
I, Seymour Wasserstrum, attorney at law, certify that all statements made herein by me are true and correct.

1. I am a practicing attorney in New Jersey, having been a member of the New Jersey Bar since 1973. My main office is located at 205 West Landis Avenue, Vineland, New Jersey 08360.
2. Recently, Theresa Johnson, Esq. has been assisting me in a major legal project which involves, inter alia, the drafting and review of multi million dollar contracts. During the week on May 16, 2011, she was assisting me in the drafting of certain major contracts that required immediate attention so that certain important deals would move forward swiftly towards consummation.
3. Theresa Johnson came to my office and worked in my office on Tuesday and Wednesday May 24-25, 2011. Theresa's trip to my office had been planned and arranged about five weeks earlier.
4. She also came to my office so that she could participate in a previously planned meeting of about 15 people who were planning to start a new major multi level marketing company.
5. She further assisted me during this time by substituting for me on my radio/TV simulcast law program that is broadcast live every Wednesday on WSNJ radio and TV in Cumberland County, New Jersey,

I, Seymour Wasserstrum, certify that these statements are true and correct.


Seymour Wasserstrum 6-2-11

PLAINTIFF'S
EXHIBIT 3



CHICAGO-KENT COLLEGE OF LAW
ALUMNI ASSOCIATION

ILLINOIS INSTITUTE OF TECHNOLOGY

April 14, 2011

Theresa Johnson '94
200 East Chicago Ave. Suite 200
Westmont, IL 60559

COPY

Dear Theresa,

We look forward to seeing you on Monday, May 23 in Washington DC for the IIT Chicago-Kent College of Law group swearing-in of the Bar of the U.S. Supreme Court! Harold J. Krent, Dean of Chicago-Kent, will be in attendance and alumnus George Zelcs '79 will serve as the movant for the swearing-in ceremony.

Enclosed is a detailed itinerary of the day(s), as well as a list of other alumni participating in the event. On the attached list, you will see the number of guests you requested for each activity. If this number has changed, please contact me as soon as possible (however, please note that you are allowed only one guest into the Courtroom during the ceremony). There are also additional activities we've planned for those days, so if you're interested in the US Capitol Tour and/or the meeting at Rep. Roskam's office, please send me an email no later than Friday, May 13.

I've also enclosed a map of the Capitol Hill area. Please note that you should use the Maryland Ave entrance when entering the Supreme Court, indicated by the circle and triangle. All information in this packet is also available online at www.kentlaw.edu/supremecourt.

To register for the Washington DC Alumni Dinner on Sunday, May 22, please go to www.kentlaw.edu/supremecourt or call 312.906.5240 by Monday, May 16.

In the mean time, do not hesitate to contact me with any questions or concerns. For those traveling to DC, safe travels, and we will see everyone in May!

Sincerely,

Tara Anderson
Director of Alumni Relations
312.906.5245
tanderson@kentlaw.edu
www.kentlaw.edu/supremecourt

PLAINTIFF'S
EXHIBIT 4

P.S. If for any reason you need to contact me on May 22 or 23, my cell phone number is 708.404.0820 or you can email me at tanderson@kentlaw.edu.

**IIT Chicago-Kent College of Law
2011 Group Swearing-In
Bar of the U.S. Supreme Court**



**Itinerary & Activities: May 22-24
Sunday, May 22**

6:00 PM: Washington DC Area Alumni Dinner (optional)

University Club of Washington, D.C.
1135 Sixteenth Street, NW
Washington, DC 20036-4885
www.universityclubdc.com

Cocktails: 6:00 pm ~ Dinner: 7:00 pm
Cost: \$50/guest

If you have not already purchased tickets to this event, please go to www.kentlaw.edu/supremecourt. Alternatively, you may mail a check made out to "Chicago-Kent College of Law" or call the Alumni Association at (312) 906-5240. **Please RSVP by Monday, May 16.**

The dinner will feature special guest speaker **Jerry Goldman**, director of the Oyez Project (www.oyez.org). The Oyez Project is a multimedia archive for all audio recorded in the Supreme Court since the installation of a recording system in October 1955 that is now headquartered at Chicago-Kent.

Monday, May 23

8:30 AM: Applicants and guests should arrive at the Supreme Court Building

Supreme Court of the United States
One First St, N.E.
Washington, DC 20543

Please enter through the Maryland Ave Entrance (Lower Great Hall), near the John Marshall statue. See the enclosed map.

Please note: We have been advised that security can take a considerable amount of time—please try to arrive as close to 8:30 as possible. Applicants will not be allowed to enter the courtroom after the swearing-in has begun.

After you go through security, we will line up in the hall, and Admissions Staff will escort us to our conference room.

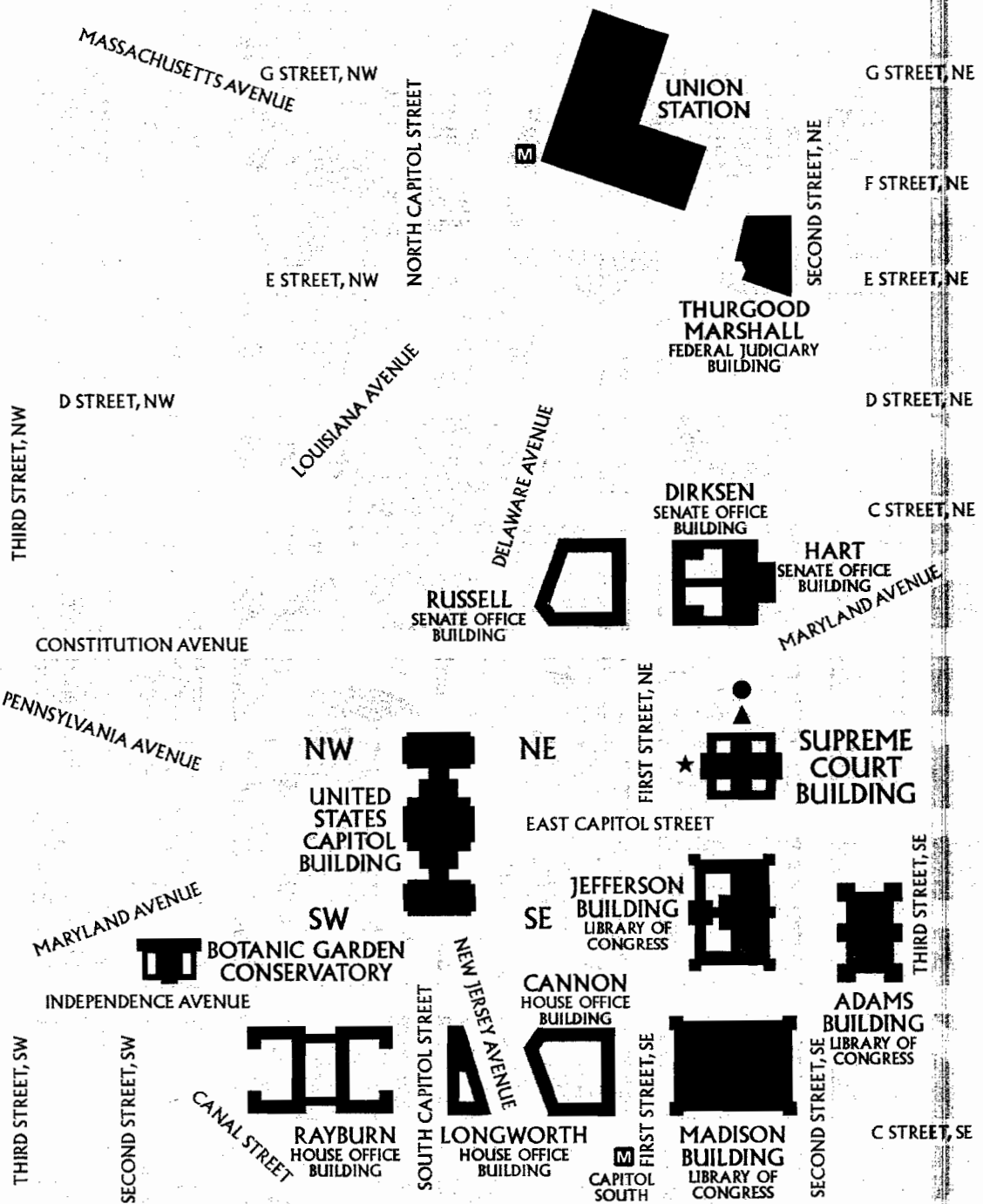
8:30-9:30 AM: Coffee and tea will be available for applicants and guests in our conference room

Chicago-Kent College of Law Supreme Court Swearing-In: May 23, 2011

**All Totals Include Self*

First	Last	Class	City	State	Dinner (as of 4.14.11)*	Break- fast*	Lecture/ Tour*
Lynn	Benowitz	1979	Los Angeles	CA	2	2	2
Anne	Burman	1982	Anchorage	AK		2	2
Andrew	Cherkasky	2006	Alexandria	VA		2	2
Kiley	Davis	2007	Willow Springs	IL		1	1
Timothy	Fitzgibbon	1990	Park Ridge	IL		2	2
Michael	Gallagher	1978	Chicago	IL	2	1	1
Paul	Hanna	1998	Willow Springs	IL		1	1
David	Igasaki	1977	Chicago	IL		2	2
Laura	Jelinek	1995	St. Paul	MN		2	2
Leslie	Johnson	2002	Yorkville	IL		2	2
Theresa	Johnson	1994	Westmont	IL		2	2
Gerald	Kaluzny	1973	St. Paul	MN		4	4
Lisa	Kleinberg	1991	Sarasota	FL		2	2
Jacqueline	Kwilos		Chicago	IL		1	1
Linda	Mastandrea	1994	Chicago	IL		1	1
Frances	Meehan	1977	Chicago	IL		2	2
Francis Patrick	Murphy	1975	Chicago	IL		2	2
Daniel	O'Sullivan	1977	Chicago	IL		2	2
George	Pietrzyk	1977	Park Ridge	IL		4	4
Amanda	Pillsbury	2004	Chicago	IL		2	2
Jeffrey	Prendki	1999	Plainfield	IL		2	2
Jeana	Reinbold	2000	Cambridge	MA		2	2
Sue	Roberts-Kurpis	1992	Chicago	IL		1	1
James	Singer	1977	Palatine	IL		1	1
Larry	Stivers	1973	Chicago	IL		2	2
Robert	Szczecinski	1977	Lake Zurich	IL		1	1
Zaida	Thompson	1993	Leesburg	VA		5	5
Varinia	Van Ness		Sarasota	FL		1	1
Samuel	Warsawsky	1976	Evanston	IL	2	1	1
Christopher	Willis		Champaign	IL		1	1
Clare	Willis	2007	Champaign	IL		2	2

SUPREME COURT



- ★ Visitors' Entrance—Main Door
- ▲ Visitors' Entrance—Maryland Avenue
- Bar Members' Entrance
- Entrance for Handicapped
- M Metro

Note: Map not to scale