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Agricultural Law

The newsletter of the Illinois State Bar Association's Section on Agricultural Law

Report From the Chair

BY GARRETT THALGOTT

GREETINGS AGRICULTURAL LAW Section members. This will be the last newsletter with me as chair of the Section Council. It has been a great professional honor to serve as chair this year, and I look forward to continuing to work with all of you on the Section as you seek to provide your clients with superior legal services. For my last communication, I am giving a brief overview of a class settlement between John Deere and farmer plaintiffs related to the provision of diagnostic and repair tools.

The Right to Repair issue has been in the news for years as government regulations and society in general demand that the things that we use every day, from phones to pickup trucks, become more technologically advanced. Part of this technological march forward has led to situations where repair of devices by end users is, at best, difficult and, at worst, impossible.

Agricultural equipment is no exception. Emissions controls and other technologies have made diagnosis and repair of this equipment orders of magnitude more complex than in the past, often requiring special digital tools and manuals. This is the backdrop for the Right to Repair lawsuit filed against John Deere by farmers in the Northern District of Illinois, in which plaintiffs allege that John Deere violated antitrust laws in an effort to withhold repair information and software diagnostic tools from farmers and independent repair shops. The parties to

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Ag Law in the News

BY SAM ELLIS & CARI BRETT RINCKER

Federal legislation & regulatory developments

- In Spring 2026, Congress advanced the most significant agricultural policy legislation in years when the U.S. House of Representatives passed the Farm, Food, and National Security Act of 2026. The bill reauthorizes commodity programs, conservation initiatives, and nutrition assistance through 2031, and reflects a continued emphasis on maintaining long-term producer stability while implementing modest fiscal constraints. The legislation now heads to the Senate, where further negotiations and revisions are expected before final passage.[1]
- Policymakers and industry stakeholders continue to monitor federal efforts to

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that case announced a class settlement in April of 2026 and the class size is expected to be at least 200,000 farmers. The settlement was preliminarily approved by the court on May 18, 2026.

The settlement establishes a fund of $99 million to be paid to class members who paid John Deere dealers for repairs to their equipment from January 10, 2018, to the preliminary approval date of the settlement. However, costs, expenses, and attorneys' fees will be deducted from that amount. Fees are capped at $45 million and reimbursable expenses are capped at $6 million. The net settlement fund, therefore, will presumably be somewhere around $48 million. If the settlement is approved by the court, eligible claimants will need to submit claim forms to a settlement administrator (Angeion Group, LLC is the proposed administrator). The fund will be distributed *pro rata* to eligible claimants that purchased repair services from dealers and will be based on the documented total labor hours spent on those repairs.

It also provides for injunctive relief that requires, among other things, that John Deere provide repair resources to equipment owners and independent repair shops on a license or subscription basis on "fair and reasonable terms," which are to be determined by a number of factors, including the next cost to a JD dealer for similar resources and the cost for producing and distributing those resources. Future repair resources must be provided to equipment owners and independent shops as soon as access to those resources are granted to at least 50% of dealer locations. The injunction is 10 years in duration, and the district court will oversee and monitor it in that timeframe.

While the settlement may not result in a financial windfall to farmers, some may view the injunctive relief provided by the settlement with cautious optimism that farmers and independent shops will finally be able to access the same software diagnostic and repair tools as dealers. But of course, time will tell. ■

Agricultural Law

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reshape pesticide regulation and liability standards. Current proposals tied to Farm Bill negotiations and related executive actions would establish more uniform federal pesticide labeling requirements, potentially preempting state-level warning standards and limiting manufacturer liability exposure. These developments may significantly impact both agricultural chemical manufacturers and producers relying on widely used herbicides such as glyphosate.[2]

- In June 2026, the U.S. Department of Agriculture announced a new $1.625 billion Assistance for Specialty Crop Farmers (ASCF) program to address ongoing market disruptions, foreign competition, and rising input costs. The program reflects continued reliance on Commodity Credit Corporation authority to provide short-term producer relief during periods of economic volatility.[3]

Environmental law & land use

- Federal environmental regulation continues to evolve as the Environmental Protection Agency (EPA) works to integrate pesticide oversight with Endangered Species Act (ESA) compliance requirements. In May 2026, the agency released a draft fungicide strategy designed to protect endangered species while maintaining agricultural productivity, signaling a continued shift toward more comprehensive environmental review of pesticide registrations.[4]
- Judicial oversight of environmental regulation remains active. In May 2026, a federal court vacated portions of a biological opinion governing the pesticide malathion, finding that the agency's analysis of species impacts under the ESA and the Administrative Procedure Act was insufficient. The ruling requires additional agency review and underscores the increasing litigation risk surrounding pesticide approvals and federal environmental decision-making.[5]

Trade & market regulation

- Federal antitrust scrutiny of the agricultural sector has intensified in 2026, particularly in the meatpacking industry. In May 2026, the Department of Justice confirmed an ongoing investigation into whether market concentration among major beef processors has contributed to increased consumer prices and reduced producer returns. The investigation reportedly involves millions of documents and focuses on pricing practices and market coordination.[6]

- In addition to active investigations, federal regulators are pursuing enforcement actions aimed at data-sharing practices within agricultural markets. In late May 2026, the Department of Justice proposed a settlement addressing alleged anticompetitive information exchanges among meat processors, further signaling heightened scrutiny of pricing transparency and coordination practices throughout the food supply chain.[7]

Energy & rural development

- Policymakers continue to link agricultural production to broader energy and national security initiatives. Recent federal proposals emphasize strengthening domestic supply chains for key agricultural inputs and supporting rural economic development through crop-specific initiatives. In late May 2026, USDA announced new programs aimed at revitalizing sectors such as cotton production and expanding domestic processing capacity, reflecting a growing intersection between agricultural policy and industrial policy goals.[8]

Illinois

- In May 2026, the Illinois Department of Agriculture announced the availability of more than $796,000 in Specialty Crop Block Grant funding to support projects focused on sustainability, food access, and competitiveness within Illinois' specialty crop sector. The program prioritizes initiatives benefiting beginning farmers and historically underserved producers, as well as projects advancing food safety, conservation, and local food systems development.[9]
- Illinois continues to expand conservation-focused programming, including ongoing implementation of the I-COVER Program, which promotes cover crop adoption and soil health practices through state-administered incentives. These initiatives reflect Illinois' broader policy objective of encouraging sustainable agricultural practices while maintaining productivity and long-term land value.[10] ■

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CLE Chair Report

BY ANDREW G. WHITE

AT OUR ANNUAL AG LAW SEMINAR last February in between sessions, there was an off-camera conversation about a new IRS Code Section (IRC 1062) which can allow for a deferral of capital gains on certain farmland sales. I thought it may be beneficial to include a brief synopsis of that code and a way it may be useful in practice.

IRC Section 1062

Enacted in 2025, IRC Section 1062 allows sellers or farmland to defer capital gains over four (4) equal amount installments rather than pay in the year of the sale.

In order to qualify, the farmland must be located in the United States and farmed by the taxpayer or leased to a qualified farmer for farming purposes for a 10-year period ending on the sale date.

The farmland buyer must be a qualified farmer. The term "qualified farmer" means any individual who is actively engaged in farming (within the meaning of subsections (b) and (c) of Section 1001 of the Food Security Act of 1986 (7 U.S.C. 1308–1(b) and (c))).

The sale property must contain a legally enforceable restrictive covenant prohibiting the use of the property for anything other than farming for 10 years after the sale date.

An Election must be made on the due date of the return for the year of the sale. Note also that if the sale occurs by a partnership or S Corp, then the election must be made at the shareholder or partner level.

In my practice, most farmland sales occur in one of two situations: After an owner's passing and the federal estate tax basis has been stepped up or as part of a planned 1031 exchange. Section 1062 has little use in those transactions. However, maybe this code section will be useful if the farm economy struggles and farmers may look to sell appreciated land to pay down debt. The capital gain problem caused from those sales are often an afterthought until it's too late. Taking this scenario a step further, in many of those situations the selling farmer will be hoping to find a way to leaseback on the farm post-sale. I see no prohibition in Section 1062 with the seller continuing to lease the land after closing and qualifying for this election assuming the buyer is considered a "qualified farmer," *i.e.*, actively engaged in farming. Interesting parallels here to Section 2032(a) as well.

Remember, this Section still requires the tax to be paid by the seller, albeit just spread out over four (4) years. See IRC Section 1062 and be sure to attend next year's seminar in person and be a part of these discussions firsthand. ■

Andrew G. White is an attorney with Bellatti, Barton, Cochran & White LLC.

Turn On Your Video!

BY JUDGE JAMES A. SHAPIRO & THOMAS DEMOUY

FEW THINGS ARE MORE ANNOYING to a judge than when we can't see the litigant or lawyer we are addressing (or who is addressing us). I once heard a judge describe it on Zoom as the equivalent of "hiding under the benches in court."

During the height of the pandemic, there were judges who were not turning on their video as well. Without naming names, my former presiding judge once had to remind everyone in the division to turn on their videos. To a self-represented litigant–much less a lawyer–it must be like addressing the Great Oz in "The Wizard of Oz": "Pay no attention to that man behind the curtain!" Pay no attention to that judge on the blank screen. It was inexcusable and unacceptable.

As the leaders of a hearing, judges have always had the obligation to set and exceed the standards of proper decorum in court. This maxim applies as much in the virtual courtrooms of Zoom as it does in traditional court. Judges wear robes–a more neutral garment than lawyers' suits–to set a standard of dignity in the courtroom.

Furthermore, every party in court should address judges as "Your Honor" to further establish that the judge is the highest authority in the room and to remind judges of the sacred obligation they hold. This title represents the sustained commitment to due process and fairness that citizens and voters expect of their esteemed judges.

The world, the United States, and Illinois are still in the first phase of a virtual transformation that has enveloped many aspects of life–not the least of which is our court system. Zoom court is now a reality that is here to stay. Judges are the standard bearers in establishing proper decorum in virtual court, just as they are in traditional court. Turning on one's Zoom camera is just as simple as slipping on a robe or saying, "Your Honor." Yet this straightforward component of virtual court is more integral to a fair trial or hearing than proper attire or properly addressing the judge. Without a video feed, the judge cannot demonstrate that they are paying attention to the adverse parties' arguments. A callous lawyer could assume that judges who fail to show themselves might as well be sleeping on the job. Considering everything that could happen behind a blank screen, a judge's resemblance to the Wizard of Oz may be wishful thinking.

It should be a given that judges use reliable microphones and a stable internet connection, yet some continue to have issues with this. Judges, in accordance with their role as leaders of court proceedings, should also have sufficient technological literacy to perform their duties and even help troubleshoot issues that less tech-savvy litigants are bound to encounter. Technological literacy by all parties is essential to a fair hearing, and judges should be committed to helping with this.

In addition to being a crucial component in the decorum of the virtual courtroom, video serves as one of the two components of communication that judges weigh–the other being oral communication. Body language, hand gestures, and facial expression are core visual communication elements that judges and juries have long relied on to assess the credibility of attorneys and witnesses (it is, of course, impossible to assess any of these from a blank screen). It is more difficult for the court to guarantee litigants a fair proceeding–especially in comparison with in-person hearings–if the visual element of communication is entirely absent. Thus, judges should expect parties and lawyers to use video at all times in virtual court.

Furthermore, video can often aid with Zoom's unreliable audio and help judges diagnose the parties' technical issues. A poor microphone or an unstable internet connection can create a communication barrier unknown in physical court proceedings. Although judges and court reporters can only marginally decipher oral communication through lip reading on the video feed, having this visual component can help them diagnose whether it is a microphone, internet, or technological literacy issue.

It is important not only for parties to complete the crucial step of turning on their video, but also to stay in an appropriate location during the proceedings and to minimize distractions. In my time as a judge, I have seen litigants call from moving cars, on a busy street, and even on the toilet. Such behavior is the equivalent of showing up to a physical court in underwear or loudly eating a large lunch at the counsel table. These examples show a blatant disregard for court decorum that insults the dignity of the court. Judges should refrain from hearing litigants who cannot find an appropriate background until the litigants in question rectify these problems. Likewise, judges should make note of significant distractions and admonish parties to correct them. In principle, judges should not tolerate behaviors on Zoom that they would not tolerate in a physical court. This follows the established position that courts should be free from behaviors that disrupt decorum.

In sum, turning on one's video conveys the crucial element of visual communication. Video preserves court decorum and furthers the interests of justice. If litigants have video capability on their devices, they should be both heard *and* seen. They should not do the Zoom equivalent of hiding under the benches in a physical courtroom. Because that is exactly what appearing without video is like. Additionally, lawyers and litigants should expect litigants to find a suitable background and minimize distractions as a matter of respect for the court. They should come out from under the benches by turning on their video and respect the Court on Zoom just as they would in person. ■

Hon. James A. Shapiro is a judge in the Domestic Relations Division of the Circuit Court of Cook County and a Past President of the Decalogue Society of Lawyers.

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FinCEN Update

BY NICKY SONNTAG

FinCEN'S ANTI-MONEY LAUNDERING REGULATIONS for Residential Real Estate Transfers Rule ("Reporting Rule") was effective on March 1, 2026 (89 Fed. Reg. 70258 (Aug. 29, 2024)). This was postponed from an original effective date of December 1, 2025. The Reporting Rule implemented nationwide title company reporting requirements for all cash residential real estate transactions. FinCEN has also published a real estate report form to be used for reporting under the Reporting Rule. However, in early 2026, district courts in Florida and Texas upheld FinCEN's reporting requirements, while a district court in Texas overturned it, resulting in a split in rulings. Therefore, reporting persons are not currently required to file real estate reports with FinCEN and are not subject to liability if they fail to do so while the Department of Treasury's alert remains in force.

The Department of the Treasury has long recognized that the illicit use of residential real estate threatens U.S. economic and national security and can disadvantage those that seek to compete fairly in the U.S. real estate market. The Reporting Rule is designed to increase transparency in the U.S. residential real estate sector and to combat and deter money laundering.

For additional information on FinCEN and for more updates, see https://www.fincen.gov/rre. ■

Nicky Sonntag is an experienced real estate attorney with a background in negotiation, real estate transactions, leasing, and legal writing.

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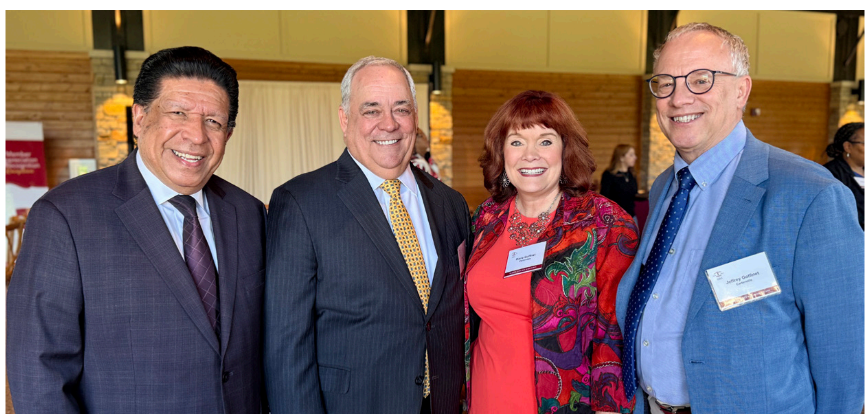

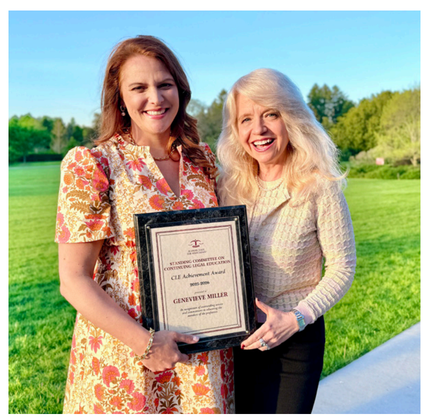

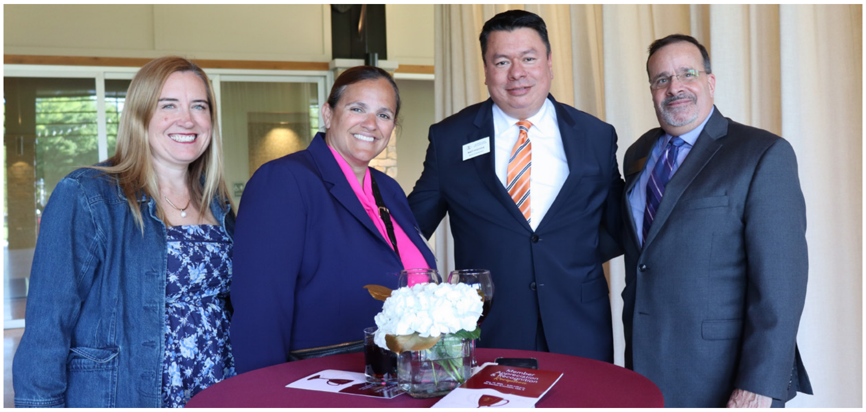

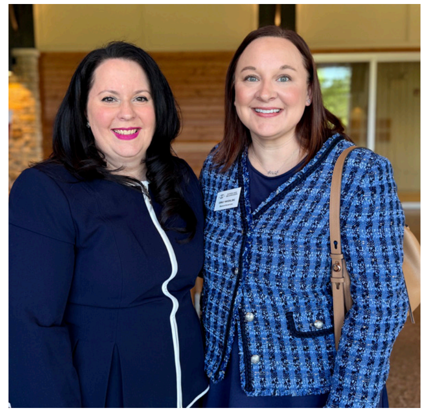

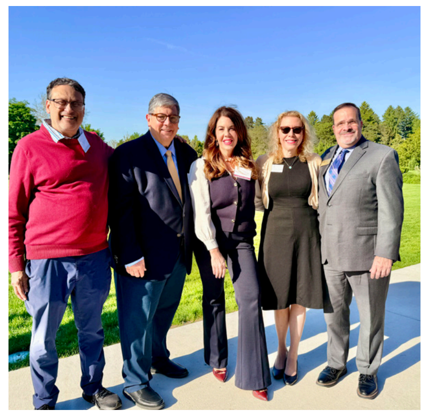


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