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Illinois Cases To Watch In 2025

By **Celeste Bott**

Law360 (January 1, 2025, 8:01 AM EST) -- Jurors will decide the fate of one of Illinois' most powerful politicians after a monthslong criminal racketeering trial and appellate courts could settle the debate over the retroactivity of damage limits to the state's much-litigated biometric privacy law, in just a few of the Illinois cases to watch in 2025.

Former Illinois House Speaker Michael Madigan went to trial in October on claims that he led a criminal enterprise for nearly a decade, using his leadership roles in state and Chicago government to steer financial benefits to his political associates and his law firm. In late December, prosecutors rested their case and the defense began to present its own just days before court adjourned for the holidays, with jurors expected to begin deliberations after closing arguments sometime in January.

Judges have split over the retroactivity of changes to Illinois' Biometric Privacy Act, rulings that could be appealed next year and allow Seventh Circuit the chance to weigh in or punt the issues to Illinois' highest state court.

The Seventh Circuit is also likely to consider next year the merits of a challenge to the constitutionality of Illinois' assault weapons ban, after staying a lower court's ruling that blocked its enforcement in December.

Here are some of the biggest Illinois cases to keep on your radar in 2025.

Is BIPA Amendment Retroactive? Two Judges in Conflict

Two Illinois federal judges reached opposite conclusions late last year on whether an amendment limiting damages under the state's Biometric Information Privacy Act applies to lawsuits filed before the change took effect.

First, U.S. District Judge Elaine Bucklo held that Illinois lawmakers' recent move to limit businesses' exposure under BIPA applies to disputes that were brought before the change was approved. But U.S. District Judge Georgia Alexakis went the other way.

Judge Alexakis concluded that the August amendment to the law, which provides that plaintiffs are only entitled to a single recovery of damages for the repeated collection or dissemination of the same biometric data, can't be applied retroactively to limit or cut down already-pending disputes.

The retroactivity question is one of the big outstanding debates over BIPA, which has flooded Illinois courtrooms in recent years and led to multiple hard-fought appellate cases over its scope, statute of limitations and other issues, according to Dan Cotter of Dickinson Wright PLLC.

The change came after the Illinois Supreme Court ruled in Cothron v. White Castle that BIPA claims accrue each time data is unlawfully collected and disclosed rather than simply the first time, acknowledging that its decision opened the door to "potentially excessive damages awards" for companies and employers sued under the law, often over requiring employees to scan their fingerprints to clock in and out of work every day. The justices urged the legislature to "review these policy concerns and make clear its intent regarding the assessment of damages."

But now, it's not clear whether the legislature's efforts to curb exposure under the law apply to the numerous cases already pending before the amendment.

"It's like the $5 million question," Cotter said. "The Seventh Circuit is going to get involved in that."

It's worth noting that most Illinois state courts that have considered the matter have found the amendment to be prospective only, with no retroactive effect on claims filed before it took effect August, Cotter said.

Judge Bucklo found that the general presumption that statutory amendments are "intended to change existing law" didn't apply in the BIPA case before her because it was clear that the Illinois General Assembly in enacting the changes was responding to the state Supreme Court's White Castle decision. Lawmakers were clarifying an ambiguity in the statute rather seeking to overhaul the law, and the high court endorsed the view that "the issue was unsettled and that the legislature could permissibly settle it," Judge Bucklo ruled, saying the clarified intent of the amendment must then be applied as if it "were clear from the date of the BIPA's enactment."

Judge Alexakis, however, said the amendment to BIPA is substantive, and the legislature did not expressly make it retroactive, therefore Illinois law requires that it be applied prospectively, not retroactively.

Judge Alexakis may have the better argument, Cotter told Law360, but whether the change to the law was procedural or substantive will be a question for the Seventh Circuit.

"If I were them ... I would certify the question to the Illinois Supreme Court," he added. That's what the Seventh Circuit did when it got the White Castle case in the first place, he said.

The cases are Edwards et al. v. Central Transport LLC, case number 1:24-cv-01925, and Schwartz v. Supply Network Inc. dba Viking SupplyNet, case number 1:23-cv-14319, in the U.S. District Court for the Northern District of Illinois.

Courts May Decide Reach of State's Genetic Privacy Law

Another Illinois privacy law that's prompted a wave of lawsuits could soon be ripe for further interpretation by appellate courts, said Foley & Lardner LLP partner Lauren Loew.

Illinois has seen a proliferation of privacy class actions under BIPA for years, but now companies doing business in Illinois have been hit with claims alleging the violation of a different privacy statute: the

Genetic Information Privacy Act, which bars employers from asking about genetic information and using it to make employment decisions.

Many of the suits have taken aim at businesses that required physical exams as a contingency for hiring workers, with candidates and employees claiming questions about their family medical histories during those doctor's appointments violated GIPA. The law prohibits employers from directly or indirectly requesting that kind of information and using it in hiring, firing, demoting or determining work assignments or classifications of applicants and employees.

"There's been a substantial uptick in GIPA litigation in the last several years," Loew said. "It's an old act, but there's not a lot of case law interpreting it."

Loew highlighted one case in particular, in which U.S. District Judge Sharon Johnson Coleman refused to dismiss a lawsuit claiming United Airlines violated applicants' genetic information privacy rights by requiring them to disclose their family medical history during the hiring process. It's one of the first such cases to reach the dismissal stage.

The judge rejected the airline's arguments that the cardiac, cancer, blood pressure and other conditions their employees disclosed during mandatory exams were not covered under GIPA and that they hadn't sufficiently pled their genetic information was misused. But Judge Coleman said the question of whether the claims were barred by the extraterritoriality doctrine — the plaintiff lives in Maryland and applied for a job in Virginia — is best left for summary judgment.

"It is going to be very interesting to see if there is a decision on the merits that applies GIPA to employees and applicants out of state," Loew said. "The implications of the reach of the statute could be significant."

It'll also be worth watching as other district courts have just begun to consider what constitutes genetic information, and what statute of limitations applies to BIPA claims, she said.

"There's this wave of case law under GIPA that's just starting to analyze the statute and figure out where this is going," Loew said.

The case is McKnight v. United Airlines Inc. et al., case number 1:23-cv-16118, in the U.S. District Court for the Northern District of Illinois.

Verdict Looms in Mike Madigan's Corruption Trial

Early this year, jurors will decide whether to convict or acquit the man who was once Illinois' most influential politician and the longest serving legislative leader in the country on racketeering, bribery and wire fraud charges.

Former Illinois House Speaker Michael Madigan and his longtime confidant Michael McClain are putting on a defense to charges that they engaged in an eight-year "campaign of bribery," leveraging his public office and leadership roles to steer business to Madigan's property tax law firm, enrich his allies with do-nothing jobs and maintain his considerable political power.

Following what is expected to be multiple days of closing arguments, jurors will get the case after more than 10 weeks of trial. Many are "waiting with bated breath" for their decision, said Saurish Appleby-

Bhattacharjee of Bryan Cave Leighton Paisner LLP, who has also worked as a federal prosecutor in Chicago.

"This is the biggest trial of the year in this district and region," he said.

Beyond Madigan's status as a major player in Illinois politics for decades, it's one of first major public corruption cases to go to trial after the U.S. Supreme Court this year narrowed the scope of a federal bribery law frequently used to prosecute local officials. Its decision in Snyder v. U.S. concluded the law applied to quid pro quo bribery but not "gratuities," or rewards given after an official act is taken.

If he's acquitted, it could narrow which kind of corruption is actionable, and may result in cases being brought only when there is a more blatant exchange — give me money, if you want this to happen — Appleby-Bhattacharjee said.

"It's going to change how the government investigates these cases, what evidence it looks for, the scope and the breadth of the charges," he said.

If the jury ultimately convicts Madigan, there's a good chance his case will end up at the Supreme Court, he said.

In denying Madigan's motion to dismiss ahead of trial, U.S. District Judge John Blakey noted that in this circuit, the government may prove bribery charges under a "stream of benefits" theory, and can satisfy the quid pro quo requirement if the evidence shows a course of favors given to a public official over time in exchange for a pattern of official actions that benefit the one giving those favors.

Madigan's case could be the vehicle to give the nation's top court a chance to say whether the "stream of benefits" theory holds up in the post-Snyder landscape, Appleby-Bhattacharjee said. For that theory to avoid a Supreme Court that has been increasingly skeptical of using federal statutes to set standards of good governance for state and local officials, Judge Blakey would likely have to give a quid pro quo jury instruction, he added.

"I know for sure that Madigan has very capable and sophisticated counsel that will lay the groundwork for future appellate review," he said. "'Who is the federal government to be telling the state government how to act?' That was the entire thesis of Snyder, and it was successful."

The case is U.S. v. Madigan et al., case number 1:22-cr-00115, in the U.S. District Court for the Northern District of Illinois.

Seventh Circuit Likely To Revisit Ill. Assault Weapons Ban With High Court Guidance

After denying a preliminary injunction to gun advocates arguing Illinois' assault weapons ban is unconstitutional in 2023, the Seventh Circuit will now likely get the case again to decide on the merits, according to Michael Scodro, a partner in Mayer Brown LLP's Chicago office and a member of its appellate practice.

Only this time, they'll have limited guidance from a June Supreme Court ruling clarifying how to apply the court's Second Amendment historical analogue test, he said.

Multiple federal lawsuits have been filed seeking to strike down the Protect Illinois Communities Act,

which bans high-powered guns and high-capacity ammunition magazines. In December, the Seventh Circuit stayed the district court's ruling in one such case declaring the law unconstitutional, which it deemed necessary to "preserve the status quo statewide" until "this court has issued its mandate."

A Seventh Circuit panel has already questioned the gun advocates' argument that semiautomatic rifles are in common, lawful use and thus cannot be banned when considering, and ultimately denying, their bid for a preliminary injunction.

In that analysis, it applied the historical analogue test from the 2022 landmark U.S. Supreme Court ruling in New York State Rifle & Pistol Association v. Bruen, which instructed courts to look for analogous statutes or practices in place when the Second Amendment was enacted in 1791 to determine a modern law's constitutionality.

In June, the high court clarified that there doesn't need to be an exact historical match to pass the Bruen test as it rejected defendant Zackey Rahimi's claim that a federal law prohibiting people subject to domestic violence restraining orders from possessing firearms violated the Second Amendment because, around the time the amendment was ratified, no law prohibited alleged domestic abusers from possessing guns.

"The law must comport with the principles underlying the Second Amendment, but it need not be a 'dead ringer' or a 'historical twin,'" Chief Justice Roberts wrote.

Now, a slightly reconstituted panel of the Seventh Circuit can apply that slightly more flexible standard as it considers whether there are historical restrictions comparable to Illinois' ban, Scodro told Law360.

"Lower courts don't need to find a law from the framing era that is exactly like the law now," he said, to uphold a gun regulation. "It's enough to find similar laws or laws with similar purposes."

And while there's a high bar for a preliminary injunction, the various concerns over gun advocates' position that the Seventh Circuit panel expressed at the preliminary injunction stage could play out further when the circuit court considers the law again, Scodro said.

The case is Barnett et al. v. Kwame Raoul, case number 24-3060, at the U.S. Court of Appeals for the Seventh Circuit.

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