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Ruebner tracks the changes

John Marshall professor co-writes book on Illinois rules of evidence in criminal cases

BY JENN BALLARD
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The state's rules of evidence in criminal cases continue to evolve.

And Ralph Ruebner has spent three decades working in this field.

Ruebner, a professor at The John Marshall Law School since 1981, wrote his first book on Illinois criminal trial evidence in 1986.

"For me, there's no beginning," said Ruebner, John Marshall's associate dean for academic affairs.

"I've been doing this work on Illinois evidence since that first publication. I've written many editions of that book over the years."

Ruebner co-wrote a book, published in November, with Katarina Durcova that examines the new Illinois Rules of Evidence that went into effect in 2011.

"Illinois Evidence: Illinois Rules of Evidence, Statutes, and Constitution" helps criminal trial attorneys, appellate practitioners and judges navigate the changes, Ruebner said.

"Illinois basically didn't have a set of rules and they relied on common-law judicial rules," he said.

The Illinois Supreme Court created the Special Supreme Court Committee on Illinois Evidence in 2008; Ruebner was

appointed as the faculty reporter for the group.

"The committee engaged in a two-year process to review what the Illinois rules were and were given a mandate by the court to update and modernize them as well," he said.

Second District Appellate Justice Donald C. Hudson, chairman of the committee, said as a reporter, Ruebner took notes at meetings, conducted legal research and made recommendations to the group.

"Ralph's background and experience as a professor and practicing attorney provides him with a well-rounded perspective and skill-set that was extremely valuable to the work of the committee," Hudson said.

"He brought a scholarly, yet practical, perspective to the table."

The new rules primarily reaffirm earlier laws dispersed throughout cases, statutes and rules. The committee updated evidence guidelines using the Federal Rules of Evidence, Ruebner said.

"They were the guiding principles but preserved the uniqueness of some of the Illinois rules that exist," Ruebner said.

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Ruebner said the committee addressed hearsay to allow more evidence to be used.

"Illinois had very old notions of common-law hearsay and the new rules are intended to modernize this area," he said. "They basically eliminated many of the obstacles over hearsay evidence through different exceptions."

The committee also recognized the right of the state legislature to add rules as long as the rules do not conflict with the state Supreme Court, Ruebner said.

Gino L. DiVito, a member of the committee and a partner at Tabet, DiVito & Rothstein LLC, said Ruebner made impressive contributions to the group.

"He certainly has an insight on the rules," DiVito said. "He's been there from the beginning as we codified Illinois' common-law and statutory provisions. I find his work highly readable and very reliable."

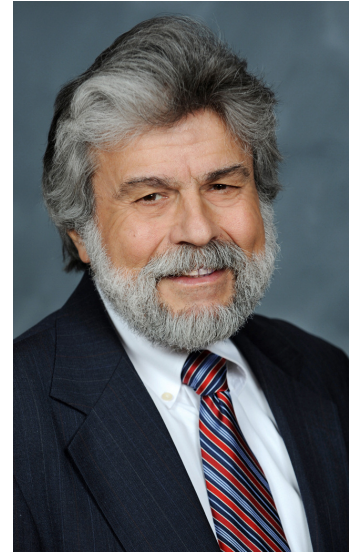
The book helps lawyers and judges understand the new rules through the authors' interpretations of the rules and historical background.

The book also includes topics not covered in the new rules, including privileges and a constitutional analysis of evidentiary rules in criminal cases, he said.

"What we have provided for practitioners and judges in a single volume is a comprehensive set and what has been retained by common law as well as by the Constitution, both federal and state," he said.

Ruebner and Durcova worked on the book for about two years, he said.

"Between the two of us, we went through a lot of Illinois decisions as well as the history of



Ralph Ruebner

evidence in Illinois, looking at the statutory changes as well as the Illinois code on evidence," he said. "We integrated all aspects of Illinois law into this volume."

Durcova, a staff attorney for the Cook County Circuit Court Criminal Division, co-wrote the book when she worked as a research fellow at John Marshall.

"It was a collaborative effort from the beginning to the end," Durcova said. "It wasn't a, 'I'll take Chapter 1; you take Chapter 2.' We would work on a chapter, then edit it together."

Retired Illinois Appellate Justice Margaret O'Mara Frossard, director of professionalism and engagement and adjunct professor at the law school, said she uses the book when teaching classes on Illinois evidence.

"I've used other evidence books, but this is the first book I've used that just focuses on Illinois' rules," she said.

"What makes this book unusual are the summaries of the cases and the historical summary, so you can see how the rule developed."