

**United States Bankruptcy Court  
Northern District of Illinois  
Eastern Division**

**Transmittal Sheet for Opinions for Posting**

**Will this opinion be published? Yes**

**Bankruptcy Caption: In re Frank Villasenor**

Bankruptcy No. 17 B 15830

**Adversary Caption:**

Adversary No.

**Date of Issuance: January 18, 2018**

**Judge: Jack B. Schmetterer**

**Appearance of Counsel:**

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**United States Bankruptcy Court  
Northern District of Illinois  
Eastern Division**

In re:

FRANK VILLASENOR,

Debtor.

Case No. 17 BK 15830

Chapter 13

Judge: Hon. Jack B. Schmetterer

**OPINION AND ORDER DENYING DEBTOR'S MOTION TO CERTIFY DIRECT  
APPEAL [DKT. NO. 60]**

Debtor's Motion to Certify Direct Appeal of Opinion (Docket No. 53) and the Order (Docket No. 55) will be *denied*.

The only issue decided was the Illinois rate of interest due on real estate tax purchases calculated under Illinois statute, such interest being calculated under 55 ILCS 200/21-25 and 200/21-355(b) and (c) as required by 11 U.S.C. §511.

The Motion lies under Rule 8006(f) Fed.R.Bankr.P. Pursuant to 28 U.S.C. §158(d)(2)(A), the court of appeals is empowered with jurisdiction if either a bankruptcy court or district court certifies the existence of any of the following circumstances:

1. The judgment, order, or decree involves a question of law as to which there is no controlling decision of the court of appeals for the circuit or of the Supreme Court of the United States, or involves a matter of public importance;
2. The judgment, order, or decree involves a question of law requiring resolution of conflicting decisions; or
3. An immediate appeal from the judgment, order, or decree may materially advance the progress of the case or proceeding in which the appeal is taken; and if the court of appeals authorizes the direct appeal of the judgment, order, or decree.

No federal statute was or is at issue. No prior Illinois authority provided guidance, leaving this Court with the task of reading and applying Illinois statutory provisions. There are no “conflicting” opinions. The effect of any ruling by this Court on Illinois law only depends on whether this Court’s reading of the Illinois statute was sensible. A Seventh Circuit panel

will not be able finally to decide the issue under state law, and certainly cannot enter a decision that would be "controlling" upon Illinois courts. The ruling here by a higher court would only decide this case.

Applicable doctrine does not take away the judicial power from federal courts to rule on state law issues; it merely directs them to apply the law of the state, either declared by the legislature or by the state's highest court. When there is no explicit declaration by the state's highest court, the federal court must predict what the state's highest court would declare the law to be. *Salve Regina Coll. v. Russell*, 499 U.S. 225, 241 (1991). In making that prediction, a federal court attempting to forecast state law must consider, "relevant state precedents, analogous decisions, considered dicta, scholarly works, and any other reliable data" tending convincingly to show how the highest court in the state would decide the issue at hand. *BMD Contractors, Inc. v. Fid. & Deposit Co. of Maryland*, 679 F.3d 643, 648 (7th Cir. 2012), as amended (July 13, 2012) (quoting *McKenna v. Ortho Pharm. Corp.*, 622 F.2d 657, 663 (3rd Cir. 1980)). A higher federal court cannot decide Illinois law.

An immediate appeal to the Seventh Circuit will not "naturally advance" this case on the state court law issue any more than would a District Court ruling on the appeal.

Parties seeking a determinative ruling on the issues involved should seek a declaration from an Illinois court that can be appealed to the Illinois Supreme Court.

Therefore, the request for certification will be denied.

ENTER:

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Jack B. Schmetterer  
United States Bankruptcy Judge

Dated this 18th day of January 2018.

**CERTIFICATE OF SERVICE**

I, Dorothy Clay certify that on JAN 18 2018, I caused to be served copies of the foregoing document to the following by electronic service through the Court's CM/ECF system or regular U.S. mail:

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Judicial Assistant/Deputy Clerk

**Electronic Service through CM/ECF System**

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