



Volume 71 Number 9 October 2011

THE IOWA LAWYER

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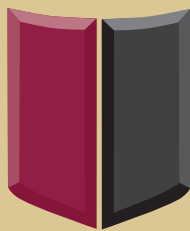
ALSO IN THIS ISSUE

- Ethics opinion on storing files in the cloud
- Disciplinary action
- Drake Law School sets up bench-bar venture
- Court of Appeals history

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THE IOWA LAWYER

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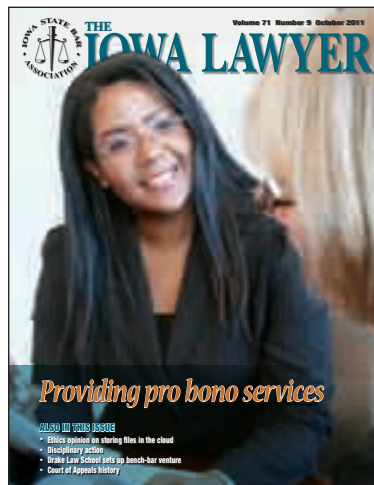
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ABOUT THE COVER

Victoria Nwasike (pronounced Wah-see-káy) smiles at a client she is representing pro bono while showing her some of the paperwork involved in the client's case. A 2008 graduate of Drake University Law School where she received a three-year public service scholarship, Victoria is required to provide 900 hours of pro bono service to her community within four years of graduation as part of the scholarship. However, she would do the pro bono work even if not required, she says, because of the personal satisfaction and the professional skill development that it provides. Read her story on page 31.

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On pro bono, new ISBA committees, merit selection summit and BOG meeting

"All the praise that belongs to virtue lies in action."

– Marcus Tullius Cicero, renowned Roman statesman, lawyer and eloquent courtroom orator

October is pro bono month. Traditionally, the ISBA recognizes October as Pro Bono month, which this year coincides with the ABA's "Celebrate Pro Bono 2011" during the week of Oct. 23 - 29. Past presidents have focused their October letters on the ethical aspiration

of pro bono service for all Iowa lawyers pursuant to Rule 32:6.1 of the Iowa Rules of Professional Conduct, why pro bono service should be part of who we are as lawyers, the vital need for pro bono service in Iowa, and how to participate in volunteer lawyer projects.

I will provide some brief background and then suggest a way to get involved that not only helps those in need and satisfies our ethical obligation, but also serves to collaborate with current or prospective clients.

The need for pro bono service. There are an estimated 400,000 Iowans with no, or low, incomes and limited resources who are eligible for assistance from Iowa Legal Aid. For many of these Iowans, civil legal representation is often their only means to maintain such basic necessities of life as quality healthcare and living in a home free of violence, landlord abuse and consumer fraud. Although Iowa Legal Aid staff and volunteer lawyers across our state provided legal service to more than 26,500 Iowa households in 2010, there remains a large need that is not being met.

Existing opportunities to help.

Existing opportunities to participate in volunteer lawyers projects around the state have included:

- Accepting referrals of cases screened for merit with legal problem in areas you select
- Assisting with intake at Iowa Legal Aid offices
- Taking part in continuing legal education seminars on poverty law issues
- Contributing materials to probono.net/iowa/.
- Assisting pro bono clients at advice clinics and pro bono mediations
- Handling contested domestic abuse cases filed under Chapter 236

For information on pro bono projects of Iowa Legal Aid, the Polk County Bar Association, and the Scott County Bar Association, see www.probono.net/iowa/volunteer. Additionally, to satisfy the requirements of Rule 36:6:1, Iowa lawyers are not limited to providing pro bono service to the volunteer lawyers projects. Rather, in fulfilling this requirement lawyers may provide such services to any persons of



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C11-0318-012 (3/11)

limited means or to charitable, religious, civic, community, government, and educational organizations in matters that are designed primarily to address the needs of persons of limited means.

Who can participate. All Iowa attorneys, recent admittees as well as experienced practitioners, are encouraged to participate in the volunteer lawyers projects. Established members of the bar will appreciate the opportunity to explore new areas of practice and develop new insights into the problems of the poor. Younger attorneys will gain valuable litigation experience through their contributions.

Earlier this year I received a frantic call from a person desperately in need of legal assistance to represent her in bankruptcy court in Cedar Rapids over the alleged failure to file tax returns for a number of years. After I made several phone calls to bankruptcy lawyers in Cedar Rapids, ISBA member Eric Lam kindly agreed to represent her on a pro bono basis. His office represented her at trial before the bankruptcy court, after which the IDOR and the client agreed to a settlement, and the bankruptcy court enrolled its approval order. Many thanks to Eric Lam and all Iowa lawyers who have given of their time to help those in need.

Making an annual commitment to pro bono service. When my partner Bob Van Vooren was ISBA President in 1982, he made a commitment that Lane & Waterman would provide a minimum of 250 pro bono hours of legal assistance yearly to H.E.L.P. Legal Services, which provides free legal services in Scott, Clinton and Muscatine Counties. Our actual annual commitment often exceeds 500 hours.

I recall handling numerous pro bono landlord-tenant disputes and divorces over the years, as did many in my office. For me, this was an opportunity to learn areas of the law I may not otherwise have experienced, which made me a better lawyer.

In 2004, Lane & Waterman celebrated its 150th anniversary with a \$150,000 gift to H.E.L.P. Legal Assistance and Prairie States Legal Services. The latter organization provides free legal assistance in Rock Island County, Ill. We are pleased to be among the many firms and lawyers around the state who likewise have contributed money and time to this important cause. However, most of us need to do more.



President Waterman welcomes governors and guests at the BOG dinner preceding the quarterly meeting. The dinner was held in the Club Davenport room on the 11th floor of the recently refurbished Hotel Blackhawk. The Mississippi River is visible through the windows.

Working with existing or prospective clients. In an effort to provide pro bono services and complement or further develop existing client relationships, several years ago we decided to collaborate with in-house lawyers in the legal department of one of our corporate clients, Deere & Company. Since then, we have worked as two-lawyer teams with the Deere & Company lawyers on pro bono assignments from H.E.L.P.

There are many benefits to this cooperative arrangement. The client in need of assistance gets the benefit of the knowledge and time of two lawyers, the firm has the opportunity to work with and get to know our corporate client better, and Deere attorneys are given the opportunity to use their skills to provide legal services in areas that are not usually available in a corporate law practice. The end result is that lawyers from both the law firm and the corporation are helping those who desperately need and cannot afford their services.

ADMISSION ON MOTION

The following individuals have applied for admission on motion to the Iowa Bar.

R. Ruiz-Carus, Wilkes & McHugh, P.A., Tampa, Fla.; **William J. Pfeffer**, self employed, Omaha, Neb.; **Raymond Mansolillo**, Cranston, R.I.; **Stephen Patrick Dowil**, Ochs & Klein, Clayton, Mo.

Anyone with questions or comments should contact: Dave Ewert at the Office of Professional Regulation, 1111 East Court Avenue, Des Moines, IA 50319; 515-725-8029.

So my suggestion is that you explore ways to collaborate on volunteer pro bono projects with existing or prospective clients that have staff lawyers. It is a great way to serve those in need while at the same time further developing client relationships and enriching the



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experiences of in-house lawyers. Let me know if you would like information on setting up such a collaboration.

Recall what Cicero, the renowned Roman statesman and eloquent courtroom orator, said: "All the praise that belongs to virtue lies in action." In other words, get active and help those in need by volunteering your time.

Committee members to study establishing a masters section of the ISBA. As reported previously, your bar association recently established an ad hoc committee chaired by Past President J.C. Salvo to study and make recommendations to the ISBA Board of Governors at its March 2012 quarterly meeting on whether to form a Master Lawyer Section for senior members who have reached a certain age or completed a certain number of years in practice (e.g., age 60 or 30 years in practice). I am pleased to report that those joining J.C. Salvo as chair are former Justice Linda Neuman (Davenport), Judge Marsha Beckelman (Cedar Rapids), Judge J.C. Irvin (Shenandoah), Past President Marv Berenstein (Sioux City), Past President Frank Carroll (Des Moines), Dave Chase (Atlantic), Dennis Groenenboom (Des Moines), Past President Jane Lorentzen (Des Moines), Patrick Murphy (Le Mars), Mark Otto (Newton), Past President Carroll Reasoner (Cedar Rapids), Ron Riley (Marshalltown), Past President Dick Smith (Des Moines), and Lynn Wiese (Iowa Falls). Ex officio members are President-elect Cindy Moser, Executive Director Dwight Dinkla and yours truly.

National Summit on Defending Merit Selection. On Aug. 29 - 30, President-elect Cindy Moser and I attended the National Summit on Defending Merit Selection held in St. Louis. The purpose of this conference was for bar leaders from around the country to meet and discuss

strategies for advancing and preserving merit selection of judges in their respective states as a way to keep politics out of the courtroom and thereby maintain fair and impartial courts. Those states represented were Alabama, Alaska, Arizona, Colorado, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Missouri, Montana, Oklahoma, Tennessee, Vermont and Wisconsin.

Retired Supreme Court Justice Sandra Day O'Connor was the keynote speaker at the Aug. 29 dinner, and attended one of the plenary sessions. Justice O'Connor stressed the need to protect our courts which are the "one safe place" where all citizens can have their rights protected by the rule of law — except perhaps where judges are elected. She raised the question: "What if your case was legally right but politically incorrect — would you want your case heard by a judge up for election?"

Political contributions lead to public distrust and the appearance of impropriety which she said is bad and must be avoided. Missouri State Bar Association President John Johnston emphasized that although we may not all agree on the best system for selecting judges in every state, we all can agree it is important to keep money and politics out of our judicial system and that we share a common goal to keep our courts fair and impartial.

Topics discussed at this day-long meeting included where the public stands on merit selection and partisan elections. We learned that in 2011, 26 states including Iowa considered legislation to change or replace their judicial merit selection systems.

In Iowa, legislators in 2010 proposed seven different changes to Iowa's judicial merit selection system. One of the seven was HB 343 which would radically restructure how judges are selected, including making state bar members strictly advisory and moving the chair role to the lieutenant governor. Another was SJR 13

which is a constitutional amendment that would end merit selection and replace it with judicial elections.

The ISBA's newly established committee on Fair and Impartial Courts chaired by Vice President Guy Cook will work closely with our legislative counsel Jim Carney (who is an ex officio member of the committee), in fending off challenges to our existing judicial merit selection system.

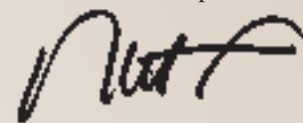
Sept. 7 - 8 Board of Governors meeting in Davenport. Traditionally, the fall BOG meeting is held in the hometown of the ISBA president. My wife, Kim, and I were pleased to host the fall BOG meeting in Davenport this year. We had the opportunity to show off the recently and beautifully restored Hotel Blackhawk.

We held a reception on the top floor of the 11-story hotel in the Rod & Gun Club room overlooking the Mississippi River. More than 80 people attended, including a majority of the Seventh Judicial District judges, two judges from the Southern District of Iowa and four local legislators.

We then moved to the adjacent Club Davenport (located in the space previously occupied by the Davenport Club), where the governors and their guests enjoyed dinner and great conversation. From there, many carried on in the hotel's new bowling alley. (See pictures of the evening that can be found in the Sept. 14 "Iowa Lawyer-Weekly" accessible on the ISBA's website: www.iowabar.org) The following day, the governors conducted business in the hotel's magnificent Gold Room, while a number of visiting spouses enjoyed tours and lunch at the Figge Museum and shopping in the Village of East Davenport.

I was pleased to hear many say they now consider Davenport a "destination location" where they plan to visit again for pleasure. Please consider doing so yourselves!

Thank you for the opportunity to serve as your president. As always, please contact me with your questions, comments or suggestions so that we can all do the best we can to represent our members.



CORRECTION

The headline written by the editor for the article on parental visits and the impact on a child's behavior on page 12 in the September 2011 "Iowa Lawyer" contained an error. It should have said "Guardians ad litem" instead of "Guardian ad litem." We regret any concern this may have caused anyone.

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Bar Foundation board selects Lorentzen as new Fellows president at quarterly meeting

The Iowa State Bar Foundation Board of Directors nominated Jane Lorentzen as the new Fellows president and addressed several other matters at a shorter-than-usual quarterly meeting at the restored Hotel Blackhawk in Davenport on Sept. 7.

Lorentzen, who served as ISBA president from 2009-2010, will serve a two-year term as head of the Fellows organization. Her nomination was subject to approval by the ISBA Board of Governors. (Governors granted that approval at their quarterly meeting the next day -- see story on page 8).

Directors also approved the nomination of Gail Agrawal, dean of the University of Iowa College of Law, as a new Fellow. As a Fellow, she agrees to contribute a total of \$1,000 to the foundation over eight years.

In addition, directors approved a resolution to amend the foundation's bylaws to allow circulation by e-mail of items on which a vote is needed when the vote falls outside of the board's quarterly meeting dates. Presently, the bylaws specify that voting must be done by mail.

Board Secretary, Paul Tyler, volunteered to review the bylaws to make sure they

comport with actual practice, and to recommend updates where necessary. He said he will bring recommendations to the board at its Dec. 6 meeting in Des Moines.

The directors reviewed and discussed a written report from Bernstein Global Wealth Management, the firm that handles the foundation's investments. According to the report, Bernstein doesn't expect any major issues with the stock market in upcoming months, and is comfortable with the current dynamic allocation of the foundation's funds.

The directors also discussed their upcoming retreat on Sept. 23 at the ISBA headquarters. A pre-retreat survey has been sent out to all directors, as well as to all Fellows. Answers were due back to the facilitator by Sept. 19.

Board Vice President, Bill Scherle, who is making arrangements for the retreat, told his fellow directors that he has been collecting information about retreats and boards. The first part of the retreat will be devoted to deciding what priorities the foundation should have, he said. Once the priorities are decided upon, the second part will be how to achieve those priorities.

ISBA exploring interest in Elder Law Section

Do you practice elder law, or can see that more specific knowledge of elder law would be helpful in serving your clients?

Are you interested in joining an Elder Law Section of the ISBA?

A few years ago, the Iowa Rules of Professional Conduct were modified to add "elder law" as a field of practice and specialization. (See. Rule 32:7.4). Since then, a number of attorneys have expressed an interest in a section that focuses on legal issues affecting the elderly.

Elder law may involve many issues and other areas of law, including, but not limited to Medicaid (Title XIX), Medicare, Veteran's benefits, guardianships and conservatorships, civil commitments, capacity issues, and real estate. It may also include some traditional estate planning issues such as wills, trusts and powers of attorney.

The ISBA will survey members in an upcoming issue of the Iowa Lawyer Weekly newsletter to ascertain their interest in establishing and participating in a new section devoted to elder law.



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Board of Governors meet in Davenport; approve two new ad hoc committees among other actions

The ISBA Board of Governors approved a number of resolutions and heard a number of reports at its quarterly board meeting Sept. 8 at the historic Hotel Blackhawk in Davenport. Governors and invited guests, including local district and federal judges, also enjoyed a dinner at the top of the hotel and bowling in the basement at the September meeting, which traditionally is held in the president's hometown.

Actions

Approved without dissent were the following:

- Eric Bidwell, immediate past president of the Young Lawyers Division, as the newest member of the LawPAC board. LawPAC is the politically balanced political action committee that was established years ago as a separate organization to provide funding for legislators who are supportive of the association's legislative initiatives.
- Three legislative proposals from the Criminal Law Section. The three include 1) amending the Iowa Code to remove the restriction on granting deferred judgments to participants in the Youth Offender program; 2) amending Iowa Code section 232.45(7)(a)(1) so Youthful Offender status applies only to children 13, 14, or 15 years of age instead of the current application to any child under the age of 15; creating a new Iowa Code Section 321.561A so that a person whose driver's license is suspended, revoked and/or barred may be convicted of only one violation of Sections 321.218 and 321.561 arising out of one continuous act of driving.
- Minor changes to Chapter 635 and resubmission of the 2010-2011



Members of the ISBA Board of Governors meet in the Gold room of the recently refurbished Hotel Blackhawk in Davenport. The September quarterly board meeting is traditionally held in the president's hometown.

- legislative agenda for 2011-2012 from the Probate Trust and Estate Planning Section.
- Support through the association's affirmative legislative agenda for state funding for Iowa Legal Aid in the amount of at least \$2 million.
- Resubmission of the Family and Juvenile Law legislative proposals from the 2010-2011 affirmative legislative agenda to the 2011-2012 affirmative legislative agenda.
- Tabling of the Revised Uniform Law on Notarial Acts and the LLC Deed Authorization Study Bill from the legislation proposed for the affirmative legislative agenda by the Real Estate and Title Law Section.
- Approval of the proposed Chapter 499C Uniform Common Interest Ownership Act and the Stale Mineral Rights Bill with amendments that was

put forth by the Real Estate and Title Law Section.

- Support of the Real Estate and Title Law Section's proposed Foreclosure "White Knight" Bill amending Senate File 494 and Iowa Code Sections 655A.3, 655A.4 and 655A.6 (service of a notice of rejection), with the condition that members of the section meet with House Representatives Chip Baltimore and Kim Pearson prior to pursuing the bill.
- Ratification of the Iowa State Bar Foundation's nomination of ISBA Past President, Jane Lorentzen, as the new Foundation Fellows president.
- Ratification of the creation of an ad hoc committee to study and recommend to the board whether to create a Master Lawyer Section for senior members of the bar who have reached a certain age or completed a certain number of years of practice (e.g. 60 years of age or 30 years in practice).
- Ratification of a motion to create an ad hoc committee called Fair and Impartial Courts to monitor activities being done around the state regarding retention of judges and justices, and to develop its own activities for educating Iowans on the judicial merit selection system.

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Reports President

(President Bob Waterman referred the governors to his written report contained in their handout materials. The content of

that report was included in his president's letter in the September Iowa Lawyer, also available online at <http://digital.turn-page.com/issue/40668>, and the latter portion of his president's letter in this issue of the magazine found on page 6)

Supreme Court

Justice Tom Waterman and Becky Colton, counsel to the chief justice, presented a report to the governors on behalf of Chief Justice Mark Cady who was unable to attend.

Justice Waterman told the BOG members that the Office of Professional Regulation has hired Tre Critelli as an interim prosecutor to help speed up the processing of attorney discipline cases. Tre's presence is already making a difference, he said.

He also said the court continues to look for opportunities to hold oral arguments on the road. Mason City is the next scheduled stop. Oral arguments will occur there in October.

The court retreat focused on maintaining professionalism, but also getting opinions out quicker. The court appears to be making progress in issuing opinions more quickly. His last opinion was issued six weeks after oral arguments, he said.

Justice Waterman also said that the Civil Justice Reform Task Force, which has been studying ways to make the courts more efficient, should release its final report in October.

Becky brought the governors up to date on the rollout of the Electronic Data Management System (EDMS). Four counties have, or soon will have, all cases online, she said. Woodbury County is scheduled to have all civil cases in the system in November. Once Woodbury County is online, plans are to finish implementing EDMS in the remaining counties of Judicial Sub-district 3B, and in all counties of Judicial Subdistrict 2B in April.

The court of appeals is also working on putting the EDMS process in place, she said.

Becky also updated the governors on the preliminary 2011-2012 judicial branch budget, which the administrative staff is working on now. "We will probably ask for restoration of some of the positions lost in 2009," she said. The chief justice is scheduled to meet with the governor in mid-September to discuss the budget.

In response to a question about holding open judicial vacancies, Becky responded that the legislature approved holding judge positions open for up to one year. However the judicial branch considers each opening on a case-by-case basis with the goal of minimizing any hardships in a district. Where a judge is really needed, the judicial branch will try to fill that vacancy.

She also told the governors that all members of the current court are eager to attend district bar meetings. The judicial branch has a form on its website (www.iowacourts.gov) under the "Public Information" tab that individuals can fill out to request a speaker.

Law schools

Gail Agrawal, dean of the University of Iowa College of Law, said that the college admitted 180 students in the most recent class, a slightly smaller number by design than in recent years. Statistically the class is made up of 51 percent Iowa residents, 40 percent women, 18 percent self-identified minorities, 12 percent of individuals with advanced degrees and 11 students who are signed up for dual degrees. The two most popular additional degrees are MBAs and Masters of Health Administration, she said.

The college has been tracking the class of 2011. As of early September, 64.3 percent were employed. Of those employed, 75 percent of the jobs required a J.D.

The college also has been tracking the class of 2010. Ninety percent of those graduates are employed with the vast majority in jobs that require a J.D. Six percent of that class are now pursuing additional advanced degrees.

In response to questions from governors, Dean Agrawal supplied these additional statistics:

- Thirty percent of the 2011 class of 183 students took their first jobs in Iowa
- Seventeen percent of the applicant pool for this year's freshman class are Iowa residents, so "we had to work hard to get to 50 percent of the class from Iowa."
- The 2011 class had the highest grade point average of any class in a long time.
- In-state tuition at \$26,000 and out-of-state tuition at \$46,000 per year places the University of Iowa in the bottom half of tuition costs in schools in its peer group.
- The last graduate from the University of Iowa who opened a solo practice out of law school was in 2007. There are a lot of U of I graduates in solo practice, but they didn't go into solo practices immediately out of law school.

Allan Vestal, dean of Drake University Law School, told the governors that Drake's entering class is 142 students, two more than the target of 140. Women make up 46 percent of the class, up from 42 percent in the previous class. Iowans constitute 53 percent of the class, up from 50 percent last year. Eleven percent of the class members are considered diversity.

In response to a question about tuition and debt, Dean Vestal said that Drake students graduate with an average debt of \$90,000. That's a lot, he said, but it's lower than other private schools by about 13 percent.

He also told the governors that Drake is adding a new tax clinic to its offerings this year.

Legislative

Jim Carney, ISBA legislative counsel, updated the governors on items related to the legislature. The 2011 session was the third longest in the history of the state, and



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resulted in fewer bills, at 118, being passed than in the last two decades.

The 2012 session potentially will be a short one, he said. Since this is the second year of the biennium, legislators receive a per diem allowance for only 100 days. In addition, the redistricting has placed about half of the House of Representatives in new districts and they'll want to be home campaigning.

Jim also put in a plug for Iowa LawPAC, the independent political action committee affiliated with the ISBA. LawPAC formerly was one of the top six PACs in the state, he said. Now it's down to being in the top 25. He urged the governors to become members of LawPAC if they aren't already. A contribution of \$75 per year entitles one to be a member.

Scope and Correlations

Phil Garland, chair of the Scope and Correlations Committee, told the governors that the committee is looking at ways to make ISBA standing committees and sections more self-perpetuating. One idea is to have a YLD member on each committee and section.

The committee is also looking at vetting more candidates for supreme court commissions and boards. He will have a more detailed report at the December BOG meeting.

Fair and Impartial Courts

ISBA Vice President, Guy Cook, who chairs the ad-hoc Fair and Impartial Courts Committee updated the governors on the committee's actions thus far. The committee has had three meetings, he said, including one with Jeff Link of Link Associates. Link Associates served as a consultant to at least one of the nonprofit groups that surfaced last fall to combat the anti-retention

activities occurring around the state.

Jeff's suggestions included:

- Making use of telephone town hall-style meetings
- Making sure all members are informed about what is going on with regard to retention with the goal of unifying the "family."
- Emphasize and promote the court's efforts at improving transparency so its workings are better understood by the public.

The committee will meet again in mid-September, he said. Part of the agenda for that meeting will be to come up with a mission statement, which will be shared with all ISBA members.

Master Lawyer Section

J.C. Salvo, chair of the ad-hoc committee evaluating establishment of a Master Lawyer Section, told the governors that the purpose of the project is to provide resources for lawyers in "the September of their lives" (age 60-plus or 30 years of practice), and to make available to younger lawyers the knowledge these oldsters have gained from years of practice. There is a wealth of things lawyers who are moving into their later years can do, he said.

Approximately 40-50 percent of current ISBA members are baby boomers, he said. For these older individuals, the ad-hoc committee will strive to:

- Help them figure out if they want to leave the practice of law or stay in
- Help those who want to get out figure out how they can do so

In addition, the ad-hoc committee in charge of the project plans to communicate to all members the services available through the Master Lawyer Section.

YLD

Jennifer Zahradnik, president of the Young Lawyers Division, presented a brief report. The YLD's service project for this year is "Serving Our Seniors," she said. The division's next meeting is on Oct. 7 in Council Bluffs.

ABA Delegate

David L. Brown, ISBA ABA delegate, provided a brief report on the ABA's annual meeting in Toronto, Canada. He cited several issues that the ABA is examining.

One issue is the meltdown of court services, which is a problem in all states, he said. The ABA has appointed a task force to look at delivery of justice throughout the country.

Another issue is conflicts of interest and competence by judges. The House of Delegates passed a proposal to establish clear standards when judges should step down, he said.

Another issue that has garnered national attention is the cost of legal education. The ABA is looking at those costs, he said.

Executive Director

Dwight Dinkla, ISBA executive director, reported that membership increased about 1.5 percent in the last year. Current membership as of August is 8,049. Approximately 1,500 of those members live out of state.

He also addressed the issue of LawPAC. It is a separate entity with its own bylaws, he said. The bylaws provide for 10 board members, no more than five from any political party. There were 424 contributors to LawPAC in the past year. They provided nearly \$21,000 dollars, which is doled out to legislative candidates, with an emphasis on lawyer-legislators and those who serve on committees important to the ISBA.

On the horizon are the possible establishment of an Elder Law Section in response to inquiries about such a section, a remake of the video that prospective jurors view, establishment of a video library and the upcoming economic survey conducted every five years.

Dwight asked Assistant Executive Director, Harry Shipley, to report on the results of a recent energy audit of the ISBA headquarters building. The building scored 84 out of a possible 100 for buildings of its size, Harry said. The average energy cost to maintain the building figured out to be 64 cents per square foot per year. The average cost for a building the size of the ISBA building is \$1.20 per square foot per year, he said.

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October is pro bono month —

The ISBA recognizes these attorneys and firms for their service.

In October, the legal profession joins together to highlight and celebrate pro bono in Iowa. The celebration is intended to showcase the great difference that pro bono lawyers make in the state, its system of justice, its communities and, most of all, in the lives of the clients they serve. The month is also dedicated to the quest for more pro bono volunteers to meet the ever-growing legal needs of the state's most vulnerable citizens.

On behalf of the Iowa State Bar Association, the ISBA Public Service Project is pleased to again present the Pro Bono Honor Roll recognizing those Iowa attorneys who helped to make access to the civil judicial system available to hundreds of low-income Iowans in 2010-2011. Their donations of thousands of hours of legal assistance through Iowa's three volunteer lawyers' projects and other pro bono activities is a critical component in making legal services available to indigent citizens of the state.

Included in the honor roll are the names of those attorneys who reported in 2010-2011 that they had closed one or more pro bono referral cases. A case is closed when all work on the case is completed and the final disposition of the case is reported to the volunteer lawyers project. Some attorneys who participate in a volunteer lawyers project report cases through their firm, and these firms are included on the list. Other Iowa attorneys worked on Volunteer Lawyers Project cases in 2010-2011, but are not listed because the case was not closed during this period.

The names that are highlighted in bold face type are attorneys who provided 50 or more pro bono hours. This is the aspirational standard established in the Iowa Rules of Professional Conduct, rule 6.1

In addition to taking cases, many attorneys provide pro bono services in other ways. They provide valuable assistance to the legal services community by doing intake, talking with clients at clinics, training and research, assisting with funding efforts, providing leadership on boards, and serving as mediators and as support to the court.

The ISBA thanks all Iowa attorneys for their generous commitment and support of pro bono in Iowa and their services to the public.

Pro Bono Honor Roll 2010-2011

This list has been compiled by the ISBA Public Service Project, with the assistance and cooperation of the three entities in Iowa that place cases with volunteer attorneys -- Iowa Legal Aid Volunteer Lawyers Project, Polk County Bar Association Volunteer Lawyers Project, and HELP Legal Assistance Pro Bono Project. The list is based on information the attorneys reported to these organizations from January 2010 through June 2011.

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SCOTT: Joe Adams, Kathleen Bailey, Steve Berger, Anthony Bribriesco, John Bribriesco, Michael Bousselot, Ed Borders, Molly Skjei Bulfel, Art Buzzell, Ed Cervantes, Drew Chambers, **Jennie Claussen**, Daniel Condon, Jeff Cook, Kate Cox, Joseph Creen, Jack Darland, H. J. “Jack” Dane, Richard Davidson, Dennis Duffy, Marc Englemann, Brian Fairfield, Tricia Farfield, Jean Friemel, John Frey Jr., Cheryl Fullenkamp, Abbey Furlong, Robert S. Gallagher, Alicia Gieck, George Goebel, Michael Gorsline, April Gutting, Kevin Halligan, Melissa Hancock, Michael Haring, Jack Harris, Steve Havercamp, Lindsay Hecht, Ralph Heninger, Milissa Hofmann, Jordan Kaplan, Jeannette Keller, Hany Khoury, **Jeannette Keller**, Patrick Kelly, Dr. Andrea Kirsch, Dan Kresowik, Gary Lane, Lane & Waterman, LLP, Matthew Leddin, Mike Liebbe, **Doug Lindstrom, Eric Long, Sandra Madsen**, Josh Mandlebaum, Maggie Manternach, April Marshall, Ron May, Mike McCarthy, Jeff McDaniel, Robert Meyer, Wendy Meyer, Dave Millage, **Tommy Miller**, John Moeller, Tara Moffit, Dave Morrison, Judge John Nagra, KENZA Nelson, Justice Linda Neuman, Steve Newport, Dorothy O’Brien, Candy Pastrnak, **Ben Patterson**, Ted Priester, **Ian Russell**, Rex Ridenour, Michael Rock, Breanne Schadt, Rebecca Sharpe, Doug

Scovil, Judy Shawver, John Singer, Penelope Souhrada, Angelique Stacey, Steven Stickle, John Tacker, Mark Tarnow, Robert Tappa, Tonya Tappa, Howard Thomas, Don Thuline, Dave Treimer, Leanne Tyler, Scott VanVooren, Kelly VanVeldhuisen, Marlin “Hap” Volz, Jr., Joel Walker, Barb Wallace, Khana Washington, Rian Waterman, Wendy Weiskirscher, **Douglas Wells**, Cal Werner, Jeffrey Wilson, Tom Wine, Wendy Young.

SHELBY: William Early, Richard Schenck. **STORY:** Andrew Boettger, David Dickson, Aaron Fultz, Timothy Gartin, Robert Huffer, Christine Hunziker, Christine Keenan, Kate Lyon, Jere Maddux, Mack Maffett, Jane Mathison, Clark Pasley, John Timmons, Dario Zaffarano.

TAMA: **Kimberly Meyer**, Allan Richards. **UNION:** Douglas Daggett, Marion James, Arnold Kenyon.

WAPELLO: Robert Breckenridge, Michael Carpenter, H. Edwin Detlie, Dennis Emanuel, Philip Ferren, Steven Gardner, Richard Gaumer, Gayla Harrison, Cynthia Hucks, Joni Keith, Lloyd Keith, Thomas Kintigh, **Jeffrey Logan**, Ryan Mitchell, Allan Orsborn, Victoria Siegel, Sara Wenke, Paul Zingg.

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WINNEBAGO: Tom Kunstle.

WINNESHIEK: Marion Beatty, James Burns, Daniel Fretheim, Laura Parrish, Sara Reichenauer, Craig Steger, Andrew Van Der Maaten.

WOODBURY: A. Frank Baron, **Grant Beckwith**, Suzan Boden, Timothy Bottaro, Melanie Cassel Liebsack, Francis Cleary, Matthew Connealy, Charles Corbett, Mark Cord, James Daane, Robert Deck, Tod Deck, Jay Denne, Daniel Dykstra, Ray Edgington, Michael Ellwanger, Leif Erickson, **Douglas Flom**, Wil Forker, Priscilla Forsyth, **Jason Gann**, Judith Garnos Huitink, John Gray, Maureen Heffernan, Amber Hegarty, Michael Jacobs, Angela Kayl, Michele Lewon, Gregory Lohr, Robert Meis, Glenn Metcalf, Richard Moeller, Jesscam Noll, Teresa O’Brien, Barbara Orzechowski, Wayne Prichard, James Redmond, Elizabeth Rosenbaum, Angie Schneiderman, Robert Stewart, Suzan Stewart, Al Sturgeon, Bruce Thomas, Rodney Vellinga, **Cindy Weber-Blair**, Harold Widdison, Joshua Widman, Kendra Zirbel Olson.

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Drake Law School embarks on partnership with the bench

By Jerry Foxhoven, Executive Director, Drake Legal Clinic

This year, the Drake University Law School has begun a new partnership with the court system, in what is seen as an exciting opportunity for both the bench and for the law school. This partnership is designed to provide unique opportunities for Drake Law School students and, at the same time, to meet some of the space challenges experienced by the court system in Polk County.

Judge Joel Novak took senior status beginning Sept. 1 with the intent of continuing to serve as an active senior trial judge. There is an abundance of work for judges in Judicial District 5C, but the challenge was finding space for court chambers and a courtroom for a senior judge. The Polk County Courthouse has experienced a severe shortage of space for a number of years, making it very difficult for the court to take advantage of using a new senior judge to deal with an ever-growing caseload.

Chief Judge Arthur Gamble, Senior Judge Joel Novak, Dean Allan Vestal and I collaborated to find a solution that would serve the needs of the court and, at the same time, provide law students and law school faculty members with opportunities that, only a year ago, would have been considered impossible. The group arrived at a solution: Judge Novak would be a "Judge in Residence" at the Drake Legal Clinic where he would be given an office and have a courtroom available.

Moving into his new "residence" on Aug. 31, Judge Novak immediately noted the welcoming attitude of the Drake faculty and staff.

"If my first day is an example of how I will be treated in the future, I would have retired years ago and moved in", he said. "The faculty and their support staff

couldn't have done any more than they did to make me feel welcome."

One person joked to Judge Novak that the only downside to the arrangement was that he did not go to Drake for law school. He quickly replied, "I can't imagine what more they could or would have done if I had been a Drake, as opposed to an Iowa, graduate. I think I will consider Drake has adopted me as one of their own."

Chief Judge Gamble commented on the beneficial aspects of the new arrangement to the court system.

"By allowing Senior Judge Novak to have his chambers at the Neal & Bea Smith Legal Clinic, Drake University Law School is providing great assistance to our court. Due to courthouse overcrowding, Judge Novak would not have an office in our facility as a senior judge and he would scramble to find an adequate courtroom to hear his cases."

The new arrangement is not just a service to the courts, but also provides a great opportunity for the students and faculty at the Drake University Law School. Drake Law Dean Allan Vestal indicated that the arrangement is consistent with the core mission of the Drake University Law School.

"We pride ourselves in providing our students with hands-on, one-of-a-kind experiences," he said. "Like the First Year Trial Practicum, this is an opportunity for our students not available anywhere else."

The partnership will allow Drake law students to have more opportunities to observe hearings and trials, and will allow those same students to drop in on a senior judge to ask questions and visit about the judicial system and the role of the court. Faculty members will also have greater

opportunities to have Judge Novak present to students in the academic classes at the law school.

Judge Novak is not only known for his keen legal mind and extensive experience, but also for his professionalism and sense of humor.

"At Drake, we strive to produce lawyers who are not only intellectually and experientially prepared to practice law," commented Dean Vestal, "but also ones who have the professional identity that will make them stand out as exceptional members of the legal community." Having the opportunity to observe and interact with Judge Novak, Drake University Law School students will have one additional opportunity to develop a strong professional identity.

The mutual benefits of this collaboration between the Fifth Judicial District Court and the Drake University Law School is perfect: Both parties see benefits from the arrangement. Chief Judge Gamble summed up those mutual benefits when he said, "By holding court at the Drake Legal Clinic courtroom, Judge Novak will be very productive as a senior judge, and law students will have the opportunity to share in his wisdom and experience. It's a 'win-win' for both the court and the law school!"

Judge Novak sees the initiative as an exciting new adventure for him as well.

"I am thrilled that the Drake Legal Clinic has given me the opportunity to have 'The Office' at the clinic to perform some of my senior judge duties there and, at the same time, be of some help to their students." He is looking forward to adding teaching and mentoring to his traditional judicial duties.

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October 13, 2011

12:00 - 1:30 pm

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Topic: Heath Care Reform

Speaker: Susan Freed, Davis Brown Law Firm

CLE Credit (pending): 1 State hour

November 10, 2011

12:00 - 1:30 pm

ISBA Headquarters • 625 E. Court Ave. • Des Moines 50309 **or** via live webinar

Topic: Corporate Attorney Client Privilege and Discovery Issues

Speaker: James Quilty, Crawford Quilty Law Firm

CLE Credit (pending): 1 State hour

December 12, 2011

12:00 - 2:30 pm

ISBA Headquarters • 625 E. Court Ave. • Des Moines 50309 **or** via live webinar

Topic: Discussion on Ethical Issues

Speaker: William Raisch, Chair of the Corporate Counsel Section and Adjunct Professor at Drake Law School

CLE Credit (pending): 2 State hours which includes 2 Ethics hours

Labor & Employment Seminar

November 17, 2011

8:15 - 4:30 pm

Hotel Fort Des Moines • 1000 Walnut St. • Des Moines 50309

CLE Credit: 6.25 State hours which includes 1 Ethics hour and 4.75 Federal hours

Federal Practice Seminar

December 9, 2011

Downtown Des Moines Marriott • 700 Grand Ave. • Des Moines 50309

A block of rooms has been reserved. Reservations may be made by calling the Downtown Marriott at 800-514-4681 or by visiting www.desmoinesmarriott.com.

Register online at www.iowabar.org or send in the registration form on the next page

ISBA Standard Registration Form

Name : _____ Member # _____ Phone # _____
Address: _____ City, State, Zip: _____
E-mail: _____

CORPORATE COUNSEL LUNCH & LEARN CLEs

Registration Fee (October 13):

ISBA Corporate Counsel Section Member ___ \$20
ISBA Member ___ \$30
Non-ISBA Member ___ \$50

Registration Fee (November 10):

ISBA Corporate Counsel Section Member ___ \$20
ISBA Member ___ \$30
Non-ISBA Member ___ \$50

Registration Fee (Dec. 12)

ISBA Corporate Counsel Section Member ___ \$30
ISBA Member ___ \$40
Non-ISBA Member ___ \$60

TOTAL: \$ _____

Please pick an attendance option for the day(s) attending:
(fee is the same no matter which option is selected):

Oct. 13: ___ In-Person ___ Live Webinar

Nov. 10: ___ In-Person ___ Live Webinar

Dec. 12: ___ In-Person ___ Live Webinar

Lunch (Oct. 13): Yes No

Lunch (Nov. 10): Yes No

Lunch (Dec. 12): Yes No

LABOR & EMPLOYMENT SEMINAR - November 17

Registration Fee:

ISBA Labor & Employment Section Member ___ \$150
ISBA Member ___ \$160
Non-ISBA Member ___ \$235

Lunch: Yes No

FEDERAL PRACTICE SEMINAR - December 9

Registration Fee:

ISBA Member ___ \$160
Non-ISBA Member ___ \$235

Lunch: Yes No

GRAND TOTAL: \$ _____

Method of Payment: ___ Check enclosed Check Number _____ CLE Season Pass _____
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For questions: phone (515) 697-7874, fax (515) 243-2511, or e-mail cle@iowabar.org

Cancellation Policy: Registration refunds will be issued only if written notification is received by the Bar seven days before date of event(s) attending. Written notification can be mailed, faxed or e-mailed to the Bar Office. Walk-in registration fee will be an additional \$50 (fee will begin day of the event).

72nd Annual Bloethe Tax School

November 30 - December 2

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The Bloethe Tax School is back for its 72nd year! No other tax seminar offers you the best up-to-date tax information brought to you by some of the most experienced tax speakers around such as Orville Bloethe, David Bibler, and Lee Wilmarth. Other first-rate speakers include the new director of the Iowa Dept. of Revenue and Finance, Courtney Kay-Decker, who will be giving an IDOR update, James Goodman and Maureen Kenney will explore and help you understand the new tax forms, tax-exempt organizations and their forms will be explained by Thomas Schenkelberg, all while Kristy Maitre from the IRS will be available to answer any of your questions. Visit the ISBA website for additional information, speakers, and topics that will be covered at the 72nd Annual Bloethe Tax School in Des Moines.

Registration Form: 72nd Annual Bloethe Tax School

Name : _____ Member # _____ Phone # _____

Address: _____ City, State, Zip: _____

E-mail: _____

Advanced Registration Fee: (includes 2011 Tax Manual and Outlines)

ISBA Members:

___ Admitted to practice prior to July 1, 2005	\$295
___ Tax Section Member admitted prior to July 1, 2005	\$275
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For questions: phone (515) 697-7874, fax (515) 243-2511, or e-mail cle@iowabar.org

Cancellation Policy/Walk-in Registration Fee: Registration refunds will be issued only if written notification is received by the Bar Office by November 23, 2011. Written notification can be mailed, faxed, or e-mailed to the Bar Office. Walk-in registration fee will be an additional \$50 (fee will begin on November 30).

Wear jeans/casual clothes and help charity

The Iowa chapter of the Association of Legal Administrators is organizing a statewide casual day on Oct. 28 with the suggested \$5 donation for the privilege of dressing casually going to Iowa Legal Aid.

All attorneys and staff at private law firms, in corporate legal departments and in government offices; all judges, staff and clerks in the judiciary; and all faculty, staff and students at Iowa's two law schools are encouraged to participate.

Participation is simple. With proper permission from your organization's management, designate a member of your organization to e-mail an announcement (available online at <http://hhlawpc.com/files/jeans/announcement>) to all members of your organization -- now, and again as a reminder immediately before the event on Oct. 28. Also, assign a member of your organization to collect a suggested \$5 donation from each member who wears jeans or other casual attire sanctioned by your organization's

management on Oct. 28.

Managers who prefer not to allow jeans in the workplace might consider allowing favorite college football team shirts, ugly ties, tennis shoes or some other variation on the casual attire.

You may also wish to display a sign (available online at <http://hhlawpc.com/files/jeans/sign>) at your reception desk on Oct. 28 to announce your participation in the fundraiser and explain the reason for the casual attire to clients and other constituents.

On or soon after Oct. 28, send your organization's donations (preferably in the form of one consolidated check) to the Iowa Legal Aid office in Des Moines at: Iowa Legal Aid, 1111 9th Street, Suite 230, Des Moines, IA 50314.

If you have questions, please contact the chair of the Iowa Association of Legal Administrators' Community Challenge Weekend Committee, Phyllis Hetheriton, at 515-288-6440, or Judy Tunning at 515-244-0111.

In Memoriam

Sharon K. Leslie-Burr, 62, died July 14 at Hospice of Northeastern Iowa.

Born in Iowa City, she was a resident of St. Charles, Ill.

Phil Elgin, 85, died Aug. 26 in Indianola.

Born in Carlisle, Phil received his undergraduate degree from Simpson College and his J.D. from the University of Iowa College of Law. He practiced law in Indianola for almost 63 years.

David Scott Walker, 42, of Marshalltown died Aug. 28 from injuries received in an auto accident.

Born in Iowa City, David had served as the assistant Tama County attorney since September 2010.

Raymond Drew, 80, died Aug. 31 at the Franklin General Hospital in Hampton.

Born in Winneshiek County, Ray attended Loras College then the University of Iowa where he received his undergraduate degree. After receiving his J.D. in 1960 from the University of Iowa College of Law, he moved to Hampton and opened a law office with classmate Larry Gilchrist. He later joined AJ Hobson and GA Cady II in the firm that became Hobson, Cady and Drew. In 1990, he opened the Drew Law Firm where he finished his career. A member of the ISBA Board of Governors from 1986-1990, he delivered the keynote address at the 50-member luncheon in June 2010.



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Mr. Mullin has served as the neutral in more than 1,000 mediations, including 200 or more per year since 2008. He handles cases involving personal injury and wrongful death suits, product liability suits, insurance coverage and bad faith disputes, professional liability claims, construction disputes, employment disputes, commercial and corporate disputes, FELA actions, FLSA collective actions, and class action disputes. Mr. Mullin has settled more than 90% of his mediated settlements.

For more information, to see Mr. Mullin's calendar of availability, and/or to schedule mediations online, go to www.kutakrock.com/mediation/mullin

A short history of the Iowa Court of Appeals

By Chief Judge Rosemary Shaw Sackett and Judge Richard H. Doyle, Iowa Court of Appeals

This year marks the 35th anniversary of the Iowa Court of Appeals. In celebration, we look back on some highlights of its history. (A complete history will be published in the Fall 2011 issue of the *Drake Law Review* (Vol. 60, Issue 1). The authors thank University of Iowa College of Law student, Gina Messamer, for her research and editing assistance.)

The legislature created Iowa's first court of appeals in 1868. Designated the "General Term," this intermediate appellate court lasted only two years before the legislature inactivated it. There is little history of the short life of this court, except that its decisions, noted for their brevity, were usually embraced in one word: "affirmed" or "reversed."

Fast-forward to 1970, when the Iowa Supreme Court was facing a drastically increasing workload. The number of cases docketed each month had more than doubled during the previous decade. To meet the demand, the court enhanced its productivity by several means, including sitting in panels of five, writing more per curiam and memorandum opinions, and considering more cases without oral argument. Despite these measures, by the end of 1975, the

supreme court's backlog had grown to 300 cases, and it took an average of 22 months for the court to decide a civil case.

To eliminate the appellate delay, in 1976 the 66th General Assembly created the Iowa Court of Appeals. The legislature designed the court of appeals to function as a transfer court, with the supreme court retaining original appellate jurisdiction. Then Iowa Supreme Court Chief Justice C. Edwin Moore expressed confidence that with the new five-judge appellate court, "we will get our docket current within a few months" and surmised that the new court would handle at least a third of all appeals.

On Sept. 23, 1976, Governor Robert Ray appointed the first five judges to the new court of appeals: Robert G. Allbee and Leo E. Oxberger, Fifth Judicial District judges; James H. Carter, Sixth Judicial District judge; Allen ("Barney") L. Donielson, U.S. Attorney, Southern District of Iowa; and Bruce M. Snell, Jr., an attorney from Ida Grove.

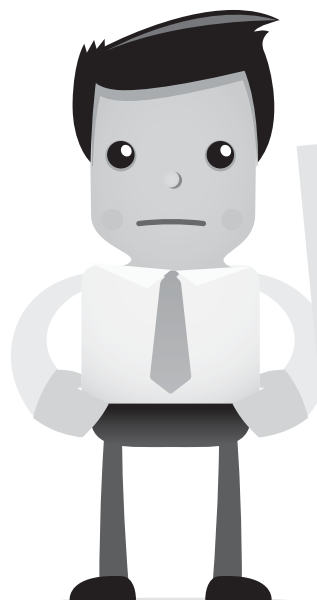
But no sooner had the new judges taken their oath and donned their robes than they received a challenge to their positions on the new Iowa Court of Appeals. In an

unsolicited, hand-delivered opinion, Iowa Attorney General Richard Turner told Governor Ray that the appointments of district court judges Allbee, Carter, and Oxberger were void because the appointments violated Iowa Constitution article V, section 18 (as amended in 1962). The constitutional provision in question stated:

Judges of the Supreme Court and District court shall be ineligible to any other office of the state while serving on said court and for two years thereafter, except that district judges shall be eligible to the office of Supreme Court judge.

Joining the fray, State Senator James Redmond filed a petition for supervisory review in the Iowa Supreme Court challenging the eligibility of the district court judges for appointment to the court of appeals. Senator Redmond, a persuasive advocate for the creation of the court, explained that the suit was a vehicle to get a quick resolution of the controversy.

Turner countered with a two-pronged attack against the appointment of the three district court judges. He filed a petition in



See Dick.

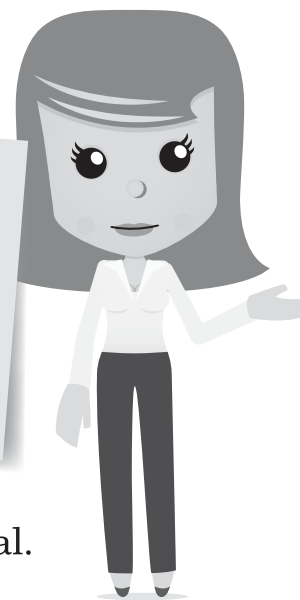
Dear Dick,
I just found out that my contract with XY & Z Associates had a provision for renewal that expired LAST week. Aren't I paying you to notify me of these things?

Dick's client is hopping mad.

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Polk County District Court asking that the three judges be “ousted” from the appellate court. In addition, he filed a petition of intervention in Senator Redmond’s supreme court action, arguing that the Polk County District Court should exercise jurisdiction in the dispute. Turner contended that Senator Redmond had filed a “friendly” action and planned to “roll over and lose this case.” Senator Redmond called the accusations “ridiculous and unfair.”

On Nov. 23, 1976, the supreme court filed its decision in *Redmond v. Carter*, 247 N.W.2d 268 (Iowa 1976). Holding that article V, section 18 could not be applied to bar district judges from appointment to the court of appeals because to do so would infringe their equal protection rights, the court dismissed Senator Redmond’s petition for supervisory review and Turner’s petition of intervention, thus allowing the district judges to take their new seats on the court of appeals.

For the first two months, the judges worked out of the state law library in the Iowa State Capitol, before moving to a small frame building near the freeway. Location of space for the court’s operations was a matter of some dispute, with Chief Justice Moore “locking horns” with legislators over space allocation at the Capitol building. When space became available after the Secretary of Agriculture moved to the Wallace Building, the court relocated into the Capitol against protests from the legislature. Chief Justice Moore told the legislature, “Well, gentlemen, you can argue all you want to, but when the case comes to court, the court will decide and we’ve decided this space goes to the [c]ourt of [a]ppels.”

The judges who lived outside Des Moines, Judges Carter and Snell, traveled to Des Moines at their own expense once a month to hear cases. They spent nights at the homes of friends or on couches in their chambers. Judge Carter stated, “We were instrumental in having the shower installed in the court of appeals quarters.”

In 2003, the court moved to the new Judicial Branch Building, where it occupies most of the third floor and has its own courtroom.

In the ensuing years, the court of appeals’ workload grew, with the number of cases on appeal increasing by 75 percent. In 1983, the legislature increased the size of the court by one judge in order to allow the court to hear and submit cases in three-judge panels. By its 10th anniversary, the court was handling two-thirds of all appeals. Facing a logjam of cases, Chief

Judge Oxberger suggested the court could use three more judges.

By its 20th anniversary, the court of appeals was overwhelmed with work, and in order to process the appellate case load, the supreme court retained cases that should have been transferred to the court of appeals. In response to the situation, the legislature restructured the appellate courts in 1998 by reducing the number of supreme court justices from nine to seven and expanding the court of appeals from six judges to nine. This permitted the court of appeals to bear more of the appellate load, which then enabled the supreme court to sit en banc and limit its consideration to cases with substantial precedential or public policy implications.

Besides its record as an extremely productive court, the Iowa Court of Appeals has a long history of female judges. In 1978, Drake University Law School professor Janet Johnson, the first woman ever nominated for a position on an Iowa appellate court, became the first woman to serve on the court of appeals. When the 1983 legislature increased the size of the court to six judges, Governor Terry Branstad appointed Rosemary Shaw Sackett, an attorney from Spencer, to fill the new position.

In 1996, Judge Sackett was elected chief judge, becoming the first woman to lead an Iowa appellate court. When elected again in 1999 to serve as chief judge, the Des Moines Register took the occasion to recognize Chief Judge Sackett for “the path she has blazed for women in the law as Iowa’s longest-tenured female appellate judge.” With Governor Chet Culver’s appointment of Assistant Attorney General Mary E. Tabor to the court in April 2010, Chief Judge Rosemary Sackett now headed up a court composed of a majority of women.

On its 35th anniversary, the court of appeals continues to be the workhorse of Iowa’s appellate system. The supreme court transferred 1,000 cases to the court of appeals in 2010, and the court decided 969 of these by written opinion. Of the 969, 720 were civil and 249 were criminal cases.

In 2010, the average elapsed time from the transfer of a general civil case until the filing of an opinion was 2.4 months. For priority civil cases involving child custody and parental rights, the average time was 1.4 months. For criminal cases, it was two months. On average, each judge on the court authors approximately 100 opinions per year. Each judge also votes on an additional 200 opinions written by his or her panel members.

A decision of the court of appeals is final unless accepted by the Iowa Supreme Court for further review, and the supreme court grants further review in very few cases. For example, in 2010, out of the 451 applications for further review filed, the supreme court granted further review in only 67 cases. In 2010, the supreme court affirmed seven court of appeals decisions, vacated 49, and modified six. The net effect is that a court of appeals’ holding is the last word in about 88 percent of all appeals decided by formal opinion.

The nine current judges serving on the court of appeals are (in order of seniority): Chief Judge Rosemary Sackett, Judge Gayle Vogel, Judge Anuradha Vaiteswaran, Judge Larry Eisenhauer, Judge Amanda Potterfield, Judge Richard Doyle, Judge David Danilson, Judge Mary Tabor, and Judge Michael Mullins.

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Ethics Opinion 11-01

Use of Software as a Service – Cloud Computing

September 9, 2011

The Committee has been asked to address whether a lawyer or law firm may utilize what is known as “software as a service” commonly referred to as “SaaS.” The American Bar Association’s Legal Technology Resource Center explains SaaS as follows:

SaaS is distinguished from traditional software in several ways. Rather than installing the software to your computer or the firm’s server, SaaS is accessed via a web browser (like Internet Explorer or FireFox) over the Internet. Data are stored in the vendor’s data center rather than on the firm’s computers. Upgrades and updates, both major and minor, are rolled out continuously.... SaaS is usually sold on a subscription model, meaning that users pay a monthly fee rather than purchasing a license up-front.

Because SaaS involves storing client information on computer servers that are not owned and operated by the lawyer or law firm, lawyers have questioned whether SaaS can be used in light of Iowa Rule of Professional Conduct 32:1.6 Comment [17]. Rule 32:1.6 [Comment 17] states:

[17] When transmitting a communication that includes information relating to the representation of a client, the lawyer must take reasonable precautions to prevent

the information from coming into the hands of unintended recipients. This duty, however, does not require that the lawyer use special security measures if the method of communication affords a reasonable expectation of privacy. Special circumstances, however, may warrant special precautions. Factors to be considered in determining the reasonableness of the lawyer’s expectation of confidentiality include the sensitivity of the information and the extent to which the privacy of the communication is protected by law or by a confidentiality agreement. A client may require the lawyer to implement special security measures not required by this rule or may give informed consent to the use of a means of communication that would otherwise be prohibited by this rule.

We believe the Rule establishes a reasonable and flexible approach to guide a lawyer’s use of ever-changing technology. It recognizes that the degree of protection to be afforded client information varies with the client, matter and information involved. But it places on the lawyer the obligation to perform due diligence to assess the degree of protection that will be needed and to act accordingly.

Access to stored data and data protection should be taken into consideration when performing due diligence. Whatever

form of SaaS is used, the lawyer must ensure that there is unfettered access to the data when it is needed. Likewise the lawyer must be able to determine the nature and degree of protection that will be afforded the data while residing elsewhere.

It is beyond the committee’s ability to conduct a detailed information technology analysis regarding accessibility and data protection used by the presently available SaaS services. Even if we had that ability our analysis would soon be outdated. Instead we prefer to give basic guidance regarding the implementation of the standard described in Comment 17.

Accessibility

We suggest that lawyers intending to use SaaS, or other information technology services that store the lawyer’s work product and client information on servers that are not owned by the lawyer, should ask the following questions:

1. Access:

Will I have unrestricted access to the stored data? Have I stored the data elsewhere so that if access to my data is denied I can acquire the data via another source?

2. Legal Issues:

Have I performed “due diligence” regarding the company that will be storing my data? Are they a solid company with a good operating record and is their service recommended by others in the field? What country and state are they located in and do business in? Does their end user’s licensing agreement (EULA) contain legal restrictions regarding their

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responsibility or liability, choice of law or forum, or limitation on damages? Likewise does their EULA grant them proprietary or user rights over my data?

3. *Financial Obligation:*

What is the cost of the service, how is it paid and what happens in the event of non-payment? In the event of a financial default will I lose access to the data, does it become the property of the SaaS company or is the data destroyed?

4. *Termination:*

How do I terminate the relationship with the SaaS company? What type of notice does the EULA require? How do I retrieve my data and does the SaaS company retain copies?

Data Protection

In addition to the concepts covered above, lawyers intending to use SaaS should also perform due diligence regarding the degree of protection that will be afforded the data:

1. *Password Protection and Public Access:*

Are passwords required to access the program that contains my data? Who has access to the passwords? Will the public have access to my data? If I allow non-clients access to a portion of the data will they have access to other data that I want protected?


2. *Data Encryption:*

Recognizing that some data will require a higher degree of protection than others, will I have the ability to encrypt certain data using higher level encryption tools of my choosing?

Lawyer's Use of Information Technology Due Diligence Services


The committee recognizes that performing due diligence regarding information technology can be complex and requires specialized knowledge and skill. This due diligence must be performed by individuals who possess both the requisite technology expertise as well as an understanding of the Iowa Rules of Professional Conduct. The committee believes that a lawyer may discharge the duties created by Comment 17 by relying on the due diligence services of independent companies, bar associations or other similar organizations, or through its own qualified employees.

For the Committee,
NICK CRITELLI, Chair
ISBA Ethics and Practice Guidelines Committee



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Disciplinary ACTIONS

Eric K. Parrish, Des Moines
60 day suspension
Supreme Court Decision
August 5, 2011

The Iowa Supreme Court Attorney Disciplinary Board filed a complaint against Parrish alleging violations of Iowa Rule of Professional Conduct 32:1.5(a), which prohibits counsel from making an agreement for, or collecting, an unreasonable fee; Rule 32:1.15(c), which requires client funds be kept in a trust account and be withdrawn "only as fees are earned or expenses incurred;" Rule 32:1.15(d), which requires lawyers to notify clients and third persons when the lawyer is in receipt of funds the client or third party has an interest in, requires prompt delivery of such funds to the person entitled to them, and requires the attorney to "promptly render a full accounting" of such funds; and 32:1.15(f), which provides that all client trust accounts are governed by chapter 45 of the Iowa Court Rules.

The charges against Parrish came about as a result of two separate cases, both involving criminal matters. In the first case, Parrish's client paid him a \$10,000 retainer for representation in connection with felony methamphetamine and theft charges. Parrish deposited the retainer in a trust account, but withdrew the entire amount within two months of representing the client. A plea agreement was not finalized until six months later; approximately a month and a half after the client was sentenced in accordance with the plea agreement.

After his sentencing, the client immediately requested a final bill. It took Parrish seven months to produce a final bill, which showed he had earned \$1,532.54 and the client was owed a refund of \$8,467.46. However, no refund was given.

Over the next seven months Parrish sent at least three revised billing statements showing larger amounts earned. The dispute eventually went to the Polk County Fee Arbitration Committee, who determined the client was due a refund of \$8,467.46. No refund had ever been issued, and at his disciplinary hearing Parrish stated he believed he had earned the entire retainer, though he could not provide an accounting proving his claim.

The second matter involved a client who hired Parrish to represent him in a South Dakota criminal matter, and paid an initial retainer of \$5,000. A subsequent \$3,000 payment was also made. Parrish was unsuccessful in representing the client and the client terminated the attorney-client relationship. The client then requested a full refund of the \$3,000 payment and any unused retainer funds. Parrish refunded the \$3,000, but did not refund any of the \$5,000 retainer; nor did he provide an accounting for the \$5,000 retainer. Parrish withdrew funds from the client's trust on four different occasions, and the total funds withdrawn equaled more than Parrish's billing statements indicate he earned. Parrish acknowledged a refund was due, but never refunded any of the retainer.

The Court found that Parrish had violated rule 32:1.5(a) in both cases. Rule 32:1.5(a) prevents lawyers from charging or collecting unreasonable fees or violating any restrictions on fees imposed by law. This includes taking fees before earned, and failing to return unearned advance fees. The Court found that Parrish had withdrawn both clients' entire retainers before earning them, and failed to refund unearned portions.

The Court further found that Parrish had violated both Rule 32:1.15(c) and Rule 45.7(3), during both representations of his clients by failing to provide an appropriate

accounting and to refund advance payments that were unearned. The Court also found that Parrish violated Rule 32:1.15(f), and therefore, Rule 45.7(f), by failing to notify the clients of withdrawals from the trust account at the time the funds were withdrawn.

However, the Court found that Parrish had not violated Rule 32:8.4(c), which states "[i]t is professional misconduct for a lawyer to . . . engage in conduct involving dishonesty, fraud, deceit, or misrepresentation" and Rule 32:8.4(d), which states that "[i]t is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice[.]"

In regards to 32:8.4(c), the Court found there was no evidence "Parrish made knowing misrepresentations of material facts by failing to return the retainers." In regards to 32:8.4(d), the Court stated that it could not conclude Parrish's actions "hampered the efficient and proper operation of the courts or an ancillary system upon which the courts rely."

The Commission suggested Parrish receive a public reprimand; the Board recommended a suspension period of four months or more. The Court considered both aggravating and mitigating circumstances when determining Parrish's discipline.

Aggravating factors examined by the Court included Parrish's past history with attorney discipline, including six private admonitions in the past 10 years, as well as Parrish's "failure, now over many years, to return funds to his former clients" and the fact that Parrish had yet, at the time of the decision, refunded either of his two clients. The Court noted mitigating factors as well, including Parrish's pro bono activities and community involvement, as well as remedial actions taken by Parrish to improve the accounting problems in his practice.

After evaluating Parrish's behavior along with aggravating and mitigating factors, the Court held that a public reprimand would be inadequate, and suspended Parrish's license for 60 days. Parrish was also instructed to refund the remaining retainers to both clients and provide proof of those refunds before reinstatement. Parrish was additionally ordered to attend continuing legal education courses for "billing, timekeeping practices, and client trust accounts" and provide proof of attendance prior to reinstatement.

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Michael A. Carmoney

Michael A. Carmoney has recently formed his new law office, Carmoney Law Firm, PLLC, in Des Moines. Mike was formerly an equity member of Grefe & Sidney, P.L.C. also located in Des Moines. In 1987, he graduated from Wittenberg University and then went on to receive his J.D. at Drake

University Law School. Mike's practice will continue to be focused in the areas of civil litigation and trial, insurance defense, and insurance coverage analysis. The contact information is: Carmoney Law Firm, PLLC, 1163 24th Street, Suite 200, Des Moines, IA 50311; phone: 515-277-6550; fax: 515-277-6561; e-mail: mike@carmoneylaw.com.

David Bright, Stacey Hall, and Jess Vilsack have joined the Nyemaster Goode law firm.



David Bright

David will practice in the firm's corporate, business and banking department in Cedar Rapids. He earned his B.A. from the University of Iowa in 1992 and his J.D. from the University of Iowa College of Law in 2001. David has been in practice since 2002.

Stacey will practice in the firm's litigation department in Cedar Rapids, with an emphasis on labor and employment and gaming law. She graduated from the University of Missouri in 1998 and then went on to receive her J.D. from the University of Iowa College of Law in 2001. She has been in practice since 2003.



Stacey Hall

Jess, before joining the Nyemaster Firm, worked as in-house counsel for the MidAmerican Energy Company, as a former prosecutor, and served for five years as an Assistant Polk County Attorney. Jess also served as a law clerk to the Hon. Ronald E. Longstaff of the United States District Court for the Southern District of



Jess Vilsack

Iowa. He received his B.A. from Hamilton College, Clinton, NY, in 2000 and graduated from the University of Iowa College of Law in 2003. He will be located at the firm's Des Moines location.



Susan Bernau

Susan Bernau, previously the City Attorney for Cedar Falls, has joined the Des Moines-based firm, Ahlers & Cooney, P.C. She will be working with companies, educational institutions and municipalities as part of the firm's employment and labor law practice area. Susan graduated with a B.A. in Public Administration from the

University of Northern Iowa and received her J.D. from the University of Iowa College of Law.



Jeffrey B. Lang

Jeffrey B. Lang has joined the Lane & Waterman firm as a partner in its white collar criminal defense and corporate compliance practice. As U.S. Attorney for the Central District of Illinois in 2010, Jeff managed the U.S. Attorney's Offices in Springfield, Urbana, Peoria and Rock Island, Ill., and served as

the chief federal law enforcement officer for the 46 counties in the Central District. He earned his B.S. from Northern Illinois University and his J.D. from Salmon P. Chase College of Law. Jeff is currently licensed to practice law in the states of Iowa, Illinois, Florida and Ohio.



Zachary S. Hindman

Zachary S. Hindman has joined the Sioux City law firm of Bikakis, Mayne, Arneson, Hindman & Hisey. Zachary received his J.D. from Drake University Law School in 2010. Prior to joining the firm, Zachary clerked for the Hon. Steven M. Colton of the United States Court of Appeals for the 8th

Circuit. He is presently admitted to practice in Iowa and Nebraska.



Luke C. Holst

Luke C. Holst has recently joined the firm of McKee, Voorhees & Sease, PLC in Des Moines as an associate attorney. He received his B.S. in biology in 2002 from Iowa State University and his J.D. in 2005 from Creighton University School of Law. Luke was formerly a law clerk for the Hon. Mark W. Bennett

and served as legislative counsel for Congressman Steve King. Luke also worked as a Patent Office Examiner at the United States Patent and Trademark Office. Luke joins the firm to practice primarily in biotechnology prosecution and litigation.

Jessica S. Harder, Jana M. Luttenegger, Ann Naffier, Brian Torresi, and Matthew Warner-Blankenship have recently joined the David Brown Law Firm in Des Moines as associate attorneys. Ann will work in the firm's immigration department while the others will work in the business division of Davis Brown.



Ann Naffier

Ann received her B.A. from the University of Iowa in 1988 and earned her J.D. from Drake University Law School in 2011. Prior to joining the firm, Ann worked for the American Friends Service Committee where she provided

immigration counseling to immigrants and refugees and represented immigrants before the U.S. Citizenship and

Immigration Service. She is Davis Brown's only bilingual attorney.



Brian Torresi

Brian maintains a general practice that includes, but is not limited to, corporate transactions, real estate, business litigation and creditors' rights. Brian received his B.S. in 2003 and his M.B.A. in 2011, both from Iowa State University. He received his J.D. from the Penn State University College of Law in 2006. Prior to joining the firm, he was a partner at Newbrough Law Firm, L.L.P. in Ames and an associate at Nyemaster Goode, P.C.



Jana M. Luttenegger

Jana maintains a general practice including, but not limited to, trusts and estate planning. Jana received her B.A. from Western Illinois University in 2008 and her J.D. from the University of Iowa College of Law in 2011. Prior to joining the firm, she was a summer associate at both the Davis Brown Law Firm and the Dickinson Law Firm in Des Moines.



Jessica S. Harder

Jessica practices in the areas of lobbying, governmental relations and environmental law. Jessica received two B.A. degrees from Colorado State University in 2002 and her J.D. from the University of Nebraska-Lincoln College of Law in 2005. Prior to joining the firm, Jessica served as the Director of Governmental Affairs for the Iowa League of Cities and also previously served as Governmental Affairs Counsel.



Matthew Warner-Blankenship

Matthew practices in the area of intellectual property. Matthew earned his B.A. from Grinnell College in 2001, his M.S. from the University of Iowa in 2004, and his J.D. from the University of Iowa College of Law in 2011. Prior to joining the firm, he worked for both the University of Notre Dame and the Northwestern University School of Medicine.

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Congratulations to the following individuals for the awards and/or recognition they've received:



Bill Boyd

Bill Boyd, Nyemaster Goode in Des Moines, for authoring Iowa chapter of the American Bar Association's "Guide to State Procurement: A 50 State Primer on Purchasing Laws, Processes and Procedures." The new publication includes information on purchasing laws for each state, descriptions of purchasing methods, bid protest procedures, contract claims processes and administrative and judicial reviews.



Susan Low

Susan Low for being selected chair of the ABA's Government and Public Sector Division for 2011-2012. The Division has in excess of 17,000 members and counts among its members judges and lawyers practicing in the public sector at all levels of government and in the military

as well as those in public sector areas including legal aid and public defenders.



Jim Hanks

Jim Hanks, Ahlers & Cooney in Des Moines, who was recently elected as an officer for the ABA's Section of State and Local Government Law at the annual ABA meeting in Toronto. He joins the section's executive committee as its secretary and will eventually serve as chair of the section in three years.



John M. Fitzgibbons

John M. Fitzgibbons of Tampa, Fla., for being appointed by Florida Senators Bill Nelson and Marco Rubio to a second term as Statewide Chair of the Florida Federal Judicial Nominating Commission, which recommends to the senators the names of the finalists for all Florida U.S. District Judges, U.S. Attorneys and U.S. Marshals.

John is formerly from Estherville, graduated from the University of Iowa College of Law and was an Assistant U.S. Attorney in Des Moines.

James H. Cossitt of Kalispell, Mont., for being appointed as a member of the National Ethics Standards for Bankruptcy Professionals Task Force by the president of the American Bankruptcy Institute. The Task Force, comprised of ethics experts from around the country representing consumer, business

and financial interests, will work in coordination with the American Bar Association's Committee on Ethics and The Federal Committee on Bankruptcy Rules to develop a set of national standards for bankruptcy professionals. James received his law degree from the University Of Iowa College Of Law in 1986. After practicing law and serving as a bankruptcy trustee in central Iowa, he established a private practice in Kalispell in 1999.



(L-R) William Kelly, Courney Strutt Todd, Governor Branstad, and Dick Rue

The **Davis Brown Law Firm** for receiving an Iowa Employer Support of the Guard and Reserve (ESGR) Governor's Award for the third time. Nominated by Major William P. Kelly, a JAG Officer and Davis Brown attorney who recently returned from serving in Afghanistan, the Iowa ESGR Governor's Award recognizes the exemplary ways Iowa employers support their National Guard and Reserve employees.



(L-R) Dick Rue, Howard Hagen, Janet Phipps, and Rick Malm

Dickinson Mackaman Tyler & Hagen PC, Des Moines, for receiving a Patriotic Employer Award from Iowa Employer Support of the Guard and Reserve (ESGR). The Patriotic Employer Award is given by ESGR to supportive managers, supervisors, or the company in general to show appreciation from their military-member employee. Employers are nominated for the award by military employees of a company.

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ATTORNEY — The law firm of Wilcox, Polking, Gerken, Schwarzkopf, Copeland & Williams, P.C., located in Jefferson seeks an attorney to assist in the firm's business practice with an emphasis in commercial matters, business planning and commercial real estate. Estate planning, taxation or civil litigation experience beneficial. Candidates should have at least 2 years of practice experience. Salary to be commensurate with experience and qualifications. All inquiries will be kept confidential. Send cover letter and resume to Wilcox, Polking, Gerken, Schwarzkopf, Copeland & Williams, P.C., 115 E. Lincolnway, Suite 200, Jefferson, IA 50129, or e-mail to vtaylor@wilcoxlaw.com. (12-11)

ATTORNEYS — Gonzalez Saggio & Harlan seeks attorneys for its Litigation Practice Group and Employment Practice Group. Both positions are located in the firm's West Des Moines office. Litigation candidates must have at least 3 years of experience handling insurance defense litigation relating to automobile accidents and/or premises liability. Employment candidates must have at least 8 years of experience handling employment-related claims against employers at the commission level as well as state and federal court. Appellate work experience a plus, but not required. Strong research, writing, communication, computer and teamwork skills required. Must be licensed to practice in Iowa. Please send resume and cover letter, with salary requirements to Human Resources at 225 East Michigan Street, Fourth Floor, Milwaukee, WI 53202, or email to hr@gshllp.com. Information about the firm can be found at: www.gshllp.com. (12-11)

ATTORNEY — Hemminger Law Office, a well-established personal injury and work comp practice, seeking an associate attorney; minimum three years' experience in related

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ATTORNEY/ASSOCIATE — Diment Law Office, an established law office in West Des Moines practicing in the areas of Workers' Compensation (claimants only) and Personal Injury, has an excellent opportunity for an established practitioner/attorney in these areas, or for an associate interested in practice

in these areas, to share office space, cases, and overhead. Compensation is negotiable depending on experience and requirements. If you are an attorney in an established practice in these areas, or an attorney interested in these practice areas, and want an opportunity to practice in West Des Moines sharing office space and overhead along with work in pending and prospective claims, send an e-mail of your interest to Dimentbj@aol.com. (11-11)

ASSOCIATE — Gonzalez Saggio & Harlan seeks an associate for its Energy, Communications and Regulatory practice group. This position is in the firm's West Des Moines office. Candidates should have at least 2 years experience. Background in telecom-munications, media, energy, pipelines, economics, administrative law, technology, IP, land use, litigation, or government relations a plus. Strong research, communication, computer and teamwork skills required. Candidates should exhibit excellent writing skills. Must be licensed to practice in Iowa. Some travel may be required. Interested candidates should e-mail a resume and cover letter to: utilities_associate@gshllp.com. Equal Opportunity Employer. (11-11)

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MISCELLANEOUS

NOTICE: — MEDICAID RECOVERY PROGRAMS: Casualty Lien Recovery –

Iowa Code 249A.6 provides that the Iowa Department of Human Services has a lien against the recovery recipients obtain from third party tortfeasors. An attorney representing an applicant for, or recipient of, assistance on a claim upon which the department has a lien under this section shall notify the department of the claim. For further information, contact Andrea Speten, 515/256-4620.

Estate Recovery — Iowa Code 249A.5(2) provides that the provision of medical assistance creates a debt due the department from the individual's estate for all medical assistance provided on the individual's behalf for those recipients 55 years of age or older or a resident of a facility. The personal representative or executor may be held personally liable for the amount of medical assistance paid on behalf of the recipient if a distribution is made without having executed the obligations pursuant to section 633.425. For further information, contact: Ben Chatman, 888/513-5186, 515/246-9841, www.iowa-estates.com. (SE)

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Economic survey coming — please respond

If you are an actively practicing attorney in Iowa, look for an e-mail around the middle of this month asking you to answer questions about the management and financial aspects of your practice.

The questions are part of an economic survey The Iowa State Bar Association conducts every five years to create a snapshot of the practice of law in the state.

The answers taken in the aggregate provide information that the ISBA uses for such things as championing the practice of law, and for planning programs and services for members, says Executive Director Dwight Dinkla. Results from the 2006 survey, for example, were used to lobby the legislature to raise the rate paid to attorneys who contract with the state to represent indigent defendants.

Additionally, the results will allow members to compare their own practices against the sum total of practices in their district and statewide, Dinkla says.

Questions on the survey will address areas such as:

- Bar members' net income by principal position, gender, field of law, office location, work status, years in practice and firm size.
- Associate, legal assistant and secretary compensation by years of experience and office location.
- Attorney time allocated to billable and non-billable professional activities.

- Overhead expenses associated with maintaining a private practice by office location and firm size.
- Other law office management practices.

This year's survey will be conducted electronically — the second time the quinquennial survey has been conducted in this manner. Advancements in technology have made it more convenient for bar members to answer the questionnaire, and the answers can be tabulated and analyzed more quickly if they are in electronic form.

Electronic surveys also protect the members' anonymity as well or better than paper forms. However, "we don't want to leave anyone out,"

Dinkla says. "Any attorney who is uncomfortable with the electronic survey form may request a paper form."

The answers from the paper forms will be added to those from the electronic forms so there is no discrimination between the two methods.

Dinkla stresses that the response rate must be high to make the results as statistically accurate as possible. He'd like to see a 100 percent response rate.

"This will allow the ISBA to speak with authority on issues involving law practice economics," he says. "It also will provide a realistic benchmark against which attorneys can compare themselves and their practices."

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Comparing British and American law practice through the eyes of a young barrister

By Maria Critelli* & Judge Celeste Bremer*

Every August one brave, young British Barrister puts down his or her wig and makes a journey “across the pond” to Des Moines to observe how Iowa lawyers practice law.

Last year, Ms. Amy Clarke arrived in Des Moines on Aug. 8, dropped off her luggage, and then spent the day at the Iowa State Fair, getting a generous slice of Americana, and learning about Iowa hospitality.

The chance for a new barrister to meet and work with Iowa lawyers comes via the Anglo-American Exchange Program, sponsored by the Honourable Society of the Middle Temple in London, and Critelli Law in Des Moines. The goal is to broaden the experience of both Iowa lawyers and British Barristers.

Young British Barristers compete for the opportunity to come to Iowa in August, before they start practice in their Inn of Court. The Inn of Court plays a significant role in the life of English Barristers; it is where they train to practice law, are called to the bar, keep their personal offices and dine with their colleagues.

There are four inns of court in London, but the only inn involved in the Anglo-American Exchange competition is the Middle Temple Inn of Court. In order to compete for the exchange position, the young barristers must complete a detailed application, essay and a final interview with questions that cover the applicants’ knowledge of a fused law profession (the American style of practice) and the great State of Iowa.

The winner is then chosen by members of the Middle Temple and sent to Des Moines for one month. The cost of travel is awarded by a grant from the Middle Temple and the Critelli Law firm.

The American Inns of Court offers a scholarship to the Temple Bar for four law-

yers who have completed an appellate clerkship; they are offered the chance to spend a month in London.

The idea for the Anglo-American Exchange came about 20 years ago, when Nick Critelli became an English Barrister. During the course of his studies in London, as he interacted with fellow students, he realized that they had never been exposed to any other method of practicing law. Critelli and his fellow barristers at the Middle Temple created the Anglo-American Exchange. The first barrister visited Iowa in 1991, and this August, another new Barrister observed the Iowa lawyers’ experience while clerking in the Critelli firm.

The English Barristers’ interest in the program stems from the fact that they have never seen a lawyer practice in a “fused” law firm. In England, there are solicitors and barristers. The solicitors do all of the pre-trial work, are the only direct contact with the client, and handle all of the paperwork and trial preparation. The barrister actually tries the case, but has little to no contact with the client, because he/she steps in after the solicitor has prepared the case.

The idea of taking a case all the way from the initial client meeting through a jury verdict is completely foreign to these young practitioners. The exchange recipients spend a great deal of time at the office, but they also get out and have some fun exploring the State of Iowa.

The 2010 winner, Amy Clarke, was fortunate enough to arrive in Iowa the same week as the Iowa State Fair began. During the day, she assisted the Critelli Law attorneys in preparing a contract case for trial, sat in on depositions and reviewed discovery, while at night she explored the state fair, and other Iowa events. Some of her favorite finds at the Fair were country music, fried cheese on a stick, and the “Octo-dog.”

She participated as a witness in the ISBA YLD “Trial by Jury.” Amy also spent a week as an intern with U.S. Magistrate Judge Bremer, where she observed civil and criminal trials, had a trip to a prison, the county jail, and helped in chambers



Amy Clarke (green shirt) assists a Drake Law student (left) with intake at Stand Down for Homeless Vets on the State Capitol grounds, September 2010.

preparing court outreach materials.

She also attended a Blackstone Inn of Court meeting in Des Moines. The Blackstone Inn of Court is one of the three Inns in Des Moines, and provides its members with opportunities for communal dining and continuing education. Amy addressed the Blackstone Inn members, first offering the traditional toast, and then describing her experience of being “called to the bar” shortly before leaving for Iowa.

Litigation was not the only order of business for Amy, as she also watched mediations at the American Academy of ADR Attorneys with Dick Calkins and helped the Drake Legal Clinic at the Stand Down for Homeless Vets. She spent time observing trials and hearings, met with judges at the Polk County Courthouse, and got a better understanding of the Clerk’s Office with the help of court administrative staff member Colleen Adams.

Other truly American highlights of Amy’s trip were a visit to WalMart, her first experience with s’mores and, when Colleen took Amy to a picnic on her family farm, an opportunity to drive a combine. Needless to say, Amy returned to England well-educated in the American justice system, and well-stocked with Iowa hospitality. Iowa lawyers who had the chance to show Amy highlights of their practices found her questions interesting and challenging, as they were able to compare and contrast law practices in both countries.

The Anglo-American exchange works thanks to the generosity of Iowa lawyers, who share their time and talent freely, as well as the Critelli Law Firm, which orchestrates and subsidizes the journey.

**Maria Critelli is a first-year law student at the University of Iowa College of Law.*

**Hon. Celeste Bremer is a U.S. Magistrate Judge for the Southern District of Iowa.*

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Pro bono month –

Young attorney benefits emotionally and professionally from cases she takes

By Steve Boeckman, Editor

More than once Victoria Nwasike has had clients she runs across in a restaurant hug her and introduce her to everyone at the table.

These aren't the corporate CEOs that constitute her day-to-day general and corporate litigation practice at the Davis Brown Law Firm in downtown Des Moines. These are pro bono clients whose cases she receives from the Polk County Volunteer Lawyers Project. Most need help with family law issues, but can't afford to hire an attorney.

"These clients really appreciate me. Without my help, they wouldn't get help," she says when describing the satisfaction she gets from her pro bono work. "I think 'wow! If I hadn't helped this person, she would still be married to someone she hasn't seen in 24 years, and wouldn't have any other way to resolve the situation.' That's very rewarding to me.

"The hardest part is that many of these people have so many complex issues and I'm only helping them on a narrow thing such as a divorce.

"But at least I can help with this little, small portion," she adds. "I can help with her divorce or her child custody or her child support payment so there's more income coming into the house."

Victoria tries to log between 200-250 hours a year of pro bono work. In the past year, she logged 242.5 hours. She was a public service scholar at Drake University Law School, and one of the requirements for receiving the three-year scholarship is to provide 900 hours of pro bono service of some kind to her community in the four years after she graduated. She's on track to complete that requirement in 2012.

However, she quickly points out that providing pro bono service is something she has always desired to do, and she plans to continue even after her scholarship obligation is over.

It helps, too, that her firm encourages its members to provide pro bono services, she says. In fact, the firm is allowing her to count her current pro bono hours as part of her annual billable hour total.

Victoria notes that it's difficult to estimate the amount of time a case will take from beginning to end. She has had a few that have taken a substantial amount of time. Divorce cases with minor children where there is a dispute about the children are in the longer category. So are the few cases she has had where the partners went through mediation then didn't want to abide by what they had agreed to.

As her skills have improved, the cases go faster, she says.

While rewarding, she knows that family law is not something she could practice full-time. "It's such a draining situation where you take on the feelings of the clients. And that weighs heavy on you," she says.

"It takes a special person to practice family law full-time."

Beyond the emotional lift she gets from feedback she receives from clients are the benefits she has received professionally.

She has gained a better appreciation for the law and what it's really about — a place where people can resolve disputes. "Pro bono work brings you

back to reality," she says. "You realize this is what happens to individuals in our society."

Her pro bono cases frequently require her to go to court, so she's becoming more familiar with that process. She has met and gotten to know more judges. And, because she handles entire cases from start to finish, she has learned more about general client relationships and has been able to hone her skills as an attorney.



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