



THE

IOWA LAWYER

Volume 76 Number 2 March 2016

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The Iowa State Bar Association seeks to publish original articles that advance the education, competence, ethical practice and public responsibility of Iowa lawyers. Members are encouraged to submit articles and manuscripts to the editor for possible publication. Submissions should be no longer than 1,500 words, although exceptions can be made. Footnotes should be kept to a minimum. Include a short bio of the author(s) and professional photo(s) when submitting. NOTE: Not all submissions are guaranteed publication. The editors and bar leaders review all submissions to a make a determination of suitability for publication. Email all submissions to communications@iowabar.org in Microsoft Word format.

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HotDocs: The amazing tool you didn't know you had

What is your favorite legal technology that you currently use in your practice? For one attorney this piece of technology is HotDocs' document automation software. Learn about this software or discover new features through this informative, detailed article.

By Jonathan Schmidt, Nazette, Marner, Nathanson & Shea L.L.P. in Cedar Rapids, Iowa

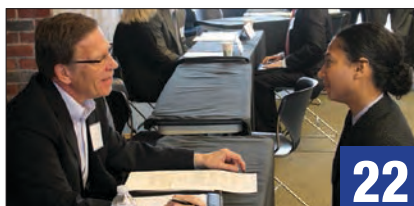


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Why all the court rule changes?

In 2015, the court adopted updates to several rules and forms. Attorneys are encouraged to stay abreast of new rules and amendments. Be sure to review the list and brief descriptions of changes to the Iowa Court Rules during 2015, including a few from early 2016.

By Timothy S. Eckley, Assistant Counsel to the Chief Justice



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Making an impression: Building a brighter future for law practice in Iowa

The ISBA Rural Practice Committee held its second annual rural practice meet-and-greet event in January to combat the reducing quantity of rural-practicing attorneys throughout Iowa. Hear what one attorney and two student participants had to say about the event.

By Ashlee J. L. Sherrill, ISBA Communications Dept.

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ABOUT THE COVER

Eldwin "Charlie" Nichols, legal counsel at Principle Financial Group, is the chair of the General Practice Section, council member of the Corporate Counsel Law Section and member of the Business Law and Commercial and Bankruptcy Law Sections. On page 6, he discusses cloud-based collaborative software and the risks associated with data security. Cover photo by Crystal Newcomb Creative Studios.

KUDOS

The Iowa State Bar Association congratulates the following individuals for recognition they received.



Caldwell

Randal Caldwell, attorney at Caldwell, Brierly, Chalupa & Nuzum, P.L.L.C., in Newton, Iowa, for being appointed to the American College of Trust and Estate Counsel's Elder Law and Practice Committee. The committee makes recommendations for legislation, policies and procedures concerning Medicare, Medicaid and other matters of importance to older Americans.



Carlson

Darren Carlson, a partner with Carlson & Burnett Law Firm in Omaha, Nebraska, for being appointed chairman of the Omaha Home for Boys' board of directors. Carlson has served on the board as a trustee and director since 2002.



Doohen

Steve Doohen, for being elected by the Iowa Chapter of the American Board of Trial Advocates to serve as its National Board Representative. In this role, Doohen will be tasked with attending ABOTA meetings on a national level to represent the interests of the Iowa Chapter. ABOTA is a national organization of experienced trial lawyers and judges dedicated to the preservation and promotion of the jury trial system in the United States. Significant jury trial experience is a qualification for membership.



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Why should the ISBA be concerned about placing lawyers in our rural communities?

There are at least 25 counties in our state that have 10 or fewer attorneys practicing law. At the beginning of my ISBA Presidency, approximately 600 ISBA members in our rural communities were 60 years of age or older, 150 of whom were 70 years of age or older. In addition, fewer young people are attending our law schools. Law school graduates are not staying in our state to practice law and those who do are not staying in private practice in our rural communities. If one of the ISBA's core purposes is to serve the public, we need to not only continue our current efforts but also increase efforts to help younger practitioners serve these communities and help them thrive there.

ISBA Rural Practice Committee Chair Phil Garland and his committee have been active in trying to connect existing practitioners and students both to serve as clerks and to join practices as attorneys. Efforts made by the placement offices at Drake University Law School and the University of Iowa College of Law to promote our recruitment efforts have been essential to the successes achieved so far.

Last year, the ISBA and the Iowa State Bar Foundation granted funding requests to help provide housing and transportation for students placed in summer clerkships in rural practices. Also, through

a partnership with Iowa Legal Aid, there were stipend opportunities available to summer clerks and new associates who worked in rural practices and provided at least 50 hours of service to Iowa Legal Aid.

The ISBA Rural Practice Committee hosted a "Meet and Greet" at the ISBA on Friday, Jan. 15, that brought 28 students and 22 lawyers together. Justice David Wiggins attended to lend the court's support for this effort. Currently, there are also more than 40 student resumes on the website available for review. I am asking practitioners in our rural communities to take the time to review the website and agree to place a student this summer. In addition, I am asking that we increase our efforts in preparing more Iowa students for admission to our law schools. In turn, I want our law schools to increase their efforts in placing students in our state, more particularly in our rural communities.

I request that all of our members help the ISBA Rural Practice Committee by recommending any students and rural practitioners who they believe would be a good fit to the committee. ISBA Rural Practice Committee Chair Phil Garland can be contacted by phone at 641-923-3793 or via email at garlandlawfirm@gmail.com.

I want to encourage the ISBA Board of Governors and the Iowa State Bar Foundation to provide funding opportunities again this summer to help in this process. It remains crucial to advise law students or graduates that existing attorneys, the ISBA Economic Development Committee and the communities will strive to help them, if asked. In addition, I hope that the ISBA will consider asking our legislature to provide assistance for graduates who are willing to locate and stay in our rural areas by allowing credit against law school debt in the future.

Iowa should not be allowed to fall into a position like other states who have large rural areas without any attorneys in private practice to deal with the legal issues of our citizens. I urge each ISBA member to assist in addressing this growing concern.

A handwritten signature in black ink that reads "Bruce L. Walker".

Bruce L. Walker
President, The Iowa State Bar Association
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ISBA President Bruce Walker visits with Iowa Legal Aid Deputy Director Christine Luzzie at the Iowa Legal Aid Iowa City Regional Office.

Data security and use of cloud-based collaborative software

By Eldwin (Charlie) Nichols

Businesses are using cloud-based software at an ever increasing rate. The use of cloud-based collaborative software to share or transfer proprietary or consumer personally identifiable information (PII), either internally, with, or by way of a third party, has increased the risk of cyberattacks. Cloud-based collaborative software, such as the Slack App, Atlassian, Convo, Jive, Yammer, and Socialcast, provide a platform for teams to collaborate and exchange online messages including images and data files. The information transferred to the cloud, whether proprietary or PII, is in certain instances more vulnerable to theft by hackers.¹

All businesses that collect and maintain the personal information of employees, customers, and other individuals are potentially at risk. There are a number of examples of these risks becoming reality, two of which are related to the Slack App. In 2014, a tech writer exposed a flaw in the Slack App that allowed access to the names of team accounts registered with various businesses², and in 2015 the Slack App was hacked compromising users' profile information.³ These data privacy issues linked to the Slack App are only two examples of the many types of risk businesses face when using cloud-based collaborative software.

The United States regulatory environment

In the United States, the patchwork of federal and state privacy and data security laws governing the collection, use, transfer, and disposal of PII continues to evolve, creating a regulatory maze for corporate legal and compliance departments.

Such laws include broad consumer protection laws such as the Federal Trade Commission Act, and sector-specific laws, like the Gramm-Leach-Bliley Act and the Health Insurance Portability and Accountability Act. States also adopt their own laws covering the collection, use, disclosure, and protection of PII, all with varying requirements. Failure to comply with federal and state laws could lead to costly notification requirements, government investigations and sanctions, or expose a business to shareholder suits, class actions or major vendor claims.

Counsel handling data security matters has the unenviable task of staying current with federal and state laws, as well as the common law jurisprudence that has developed around data security.⁴ Additionally, Counsel must also be aware of the guidelines developed by various government agencies and self-regulated industries. Although these guidelines and self-regulatory efforts do not have the force of law, they are typically considered best practices⁵ and often have accountability and enforcement

components that allow for the referral to government regulators if the company fails to comply.⁶

Counsel should understand the regulatory framework under which its business clients operate and the role that the governing regulatory body has in enforcing the privacy and data security regulations. It is also important to be familiar with the common legal arguments made by the governing regulatory body, and the standard of care advocated by the regulator when bringing a legal or administrative action against a company.

The FTC and the "reasonable and necessary measures" standard of care

The FTC has taken the lead on setting the standard of care for cybersecurity practices of companies operating in the United States. Since 2002, the FTC's Bureau of Consumer Protection has obtained more than 50 data security settlements against companies for allegedly deficient cybersecurity practices that failed to protect consumer data against hackers. Last August, the FTC secured a victory in the Third Circuit in *Federal Trade Commission vs. Wyndham Worldwide Corp.*⁷ Wyndham confirmed the FTC's authority under the FTC Act⁸ to set the relevant standard of care for data security required for businesses operating in the United States.

In Wyndham and other cases, the FTC required that businesses take "reasonable and



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necessary measures” to protect consumer data. Accordingly, until the FTC issues formal rules, what is considered a “reasonable and necessary measure” will evolve as new guidelines and case decisions are issued.⁹ For counsel handling a data security issue for a business client, this means staying up-to-date with new FTC cases, guidelines, and publications.¹⁰

Counsel for businesses using cloud-based collaborative software

For counsel handling data security issues related to cloud-based collaborative software, staying abreast of regulatory requirements is only one aspect of counsel’s role. It is also important for counsel to provide its business client with guidance as it engages in ongoing risk assessment to determine whether to revise its security policies and/or adopt additional protective measures related to cloud usage.

Counsel also plays an important role as related to third-party data providers and the protection of PII. In this role, counsel assists the business client in navigating the varying jurisdictional laws and guidance as to potential liability.

It is also critically important for counsel to review and negotiate the terms of third-party data agreements; of which the most important are those regarding control of data; access, monitoring and retrieval of data; and audit rights, termination, and indemnification.¹¹

Conclusion

As data breaches become more common, so does the scrutiny surrounding those breaches. Such scrutiny includes increased regulation in the cybersecurity practices of companies, both before and after an incident. If a company is not subject to an industry-specific regulatory requirement, it could find itself and its data security policies being scrutinized by the FTC. The collaboration and infrastructure allowed by the use of cloud-based collaborative software increases the risk of unauthorized access to proprietary data or consumer PII. Consequently, companies, and their attorneys must address these risks by monitoring and revising their data security policies and adopting additional protective measures as necessary.

¹ See Weikers, Ronald N., *Data Security & Privacy Law* 41-42 (2015 ed.).

² Hill, Kashmir, *Slack’s Privacy Fail Exposes Tech Giants’ (Mostly Boring) Working Groups*. *Forbes Magazine-Tech*. Oct. 2014, retrieved from: www.forbes.com.

³ Zorabedian John, *Slack Gets hacked – Rolls out two-factor authentication after user database breach*, *Naked Security by Sophos*, Mar. 2015, Retrieved from: www.nakedsecurity.sophos.com.

⁴ See Weikers, *supra*, at 41-42.

⁵ See Nelson, Matthew, *The Global Impact of FTC v. Wyndham*, *ACC Docket*, Jan./Feb. 2016, at 51.

⁶ See *Id.*, at 52-53.

⁷ 799 F. 3d 236 (3d Cir. 2015).

⁸ Codified at 15 U.S.C. §45(a).

⁹ See Nelson, *supra*, at 55.

¹⁰ For example, The FTC recently published *Start with Security, A Guide for Business Lessons Learned from FTC Cases*, which summarizes the most important facts from over 50 FTC cases into 10 lessons.

¹¹ See Weikers, *supra*, at 42.



Eldwin (Charlie) Nichols is currently Counsel at the Principal Financial Group, where he provides legal support to Principal Global Investors; the global asset management arm of the Principal Financial Group. He was previously Assistant VP of Corporate Legal and Risk Management at Cambridge Investment Research, Inc. He holds a J.D. and an MBA from the University of Iowa.

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Invalidation of Safe Harbor

EU to US data security measures tested, fail

By Brian McCormac

Historically, European nations have placed much greater emphasis on data security than the United States, and the European Union has taken a proactive approach to protecting the privacy of its residents. In the mid-1990s, the EU implemented a comprehensive data protection law, called the European Commission's Directive on Data Protection. Conversely, the United States has taken a piecemeal approach to data protection through specialized legislation providing limited privacy protections, such as the Gramm-Leach-Bliley Act for the financial industry, the Health Insurance Portability and Accountability Act for health care and the Children's Online Privacy Protection Act for children under age 13.

The different approaches of the EU and the US toward data privacy have created compliance challenges for businesses seeking to transfer personal information about customers and employees from Europe to the US. The EU's directive broadly defines personal data as "any information relating to an identified or identifiable natural person," and defines an identifiable person as "one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more specific factors specific to his physical, physiological, mental, economic, cultural

or social identity." The directive prohibits the transfer of personal data to any non-EU country that does not provide "adequate" protection for the privacy of such data. In a nutshell, the test for "adequacy" is whether a country provides data protection laws and safeguards roughly equivalent to those in the EU.

Currently, only 11 countries have been certified by the European Commission to afford adequate protection of personal data,¹ and the US is not one of them. Consequently, transfers of personal information from Europe to the US are allowed only if an adequate mechanism to protect the privacy of this information is in place, such as model contractual clauses prescribed by the European Commission or binding corporate rules, developed by companies and approved by the EU member states. These mechanisms have proven to be cumbersome and presented compliance challenges for businesses.

Implementation of these adequacy mechanisms has proven to be burdensome and time-consuming. Thus, the US Department of Commerce negotiated a "Safe Harbor" framework with the European Commission in 2000 to provide a simplified process for the transfer of personal information from Europe to the US. Safe

Harbor was a self-certification process under which companies would implement policies and practices consistent with EU data protection principles. Safe Harbor offered a popular and widely-used compliance mechanism for large companies with international operations.

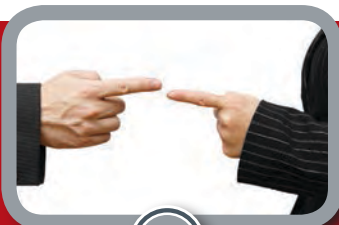
However, in October 2015, in the case of *Schrems v. Data Protection Commissioner*, the European Court of Justice invalidated the Safe Harbor process.² The plaintiff, a Facebook user from Ireland, challenged the transfer of his personal information from Ireland to the Facebook servers in the US. The plaintiff contended that the transfer was unlawful because United States law did not provide adequate protections against the surveillance practices of the US National Security Agency. The ECJ agreed and noted that the US' national security interests were insufficient to justify what it deemed a significant overreach of the NSA surveillance programs and that these programs were incompatible with the fundamental privacy rights of European citizens. Additionally, the ECJ expressed concern over the inability of European data subjects to seek redress for possible privacy violations in US courts.

The invalidation of the Safe Harbor program has caused a great deal of concern among privacy officials and businesses with European operations. Many are considering implementing other adequacy mechanisms for the transfer of personal data, like model clause agreements or binding corporate rules. While these mechanisms were not expressly invalidated by *Schrems*, their continuing availability is in question. NSA surveillance programs could be used to access the data of European residents regardless of the manner in which such data is transferred to the US. Consequently, the same concerns that led to the invalidation of the Safe Harbor program likely apply to the other transfer mechanisms.

Schrems prompted the US Department of Commerce to engage in negotiations with EU officials in an attempt to reach a new Safe Harbor agreement. On the day of the publication deadline for this article, the European Commission issued a press release announcing the framework for a successor to Safe Harbor called the EU-US Privacy Shield.³ While the commission did

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not release the formal agreement or provide specific details, the press release outlines the general elements of Privacy Shield:

- US companies will commit to “robust obligations” on personal data processing and individual rights guarantees and publish such commitments,
- US companies handling human resources data from Europe will agree to comply with decisions by European data protection authorities,
- The US will provide written assurances that law enforcement and national security access to personal data from Europe will be “subject to clear limitations, safeguards and oversight mechanisms,”
- Joint reviews by the European Commission and the US Department of Commerce will be completed annually, and
- Expanded redress options will be in place for EU citizens who believe their data has been misused, and an ombudsperson will be appointed for complaints of illegal access by national intelligence agencies.

The timeframe for approval of Privacy Shield is uncertain, but significant work must be done in the US and EU prior to implementation. For example, each EU member state must review and enact the program and the US must approve the Judicial Redress Act to implement the expanded redress options for European citizens.

Even if the Privacy Shield is not enacted or enactment is delayed, it is not clear that the European data protection authorities will engage in widespread enforcement activities against US companies. Prior to Schrems, the US was the only country with which the EU had negotiated a Safe Harbor program. Other major trade partners with Europe, such as China, India, Russia, Japan and South Korea, needed to use other transfer mechanisms due to the unavailability of Safe Harbor. So while there may be enhanced risks with trans-Atlantic data transfers after Schrems, the invalidation of Safe Harbor essentially equalizes the US with the other “non-adequate” countries from an EU data privacy perspective. However, the invalidation of Safe Harbor has raised awareness of potentially unlawful data transfers and potentially increased the risk of enforcement actions.

Given this uncertainty, what steps should be taken by companies that transfer personal data from Europe to the US? First, they should review their data transfer processes and follow robust privacy protection principles. Second, companies that were using Safe Harbor to transfer data should consider whether to implement an alternative

adequacy mechanism, like model clauses or binding corporate rules. Third, companies should review their privacy policies to verify that they truthfully and accurately describe their privacy practices and data protection processes. Finally, interested companies should closely monitor the status of US-EU negotiations concerning the Privacy Shield program and consider efforts to comply quickly upon approval.

¹ The European Commission has determined that the following countries provide “adequate” protection for their residents’ personal data: Andorra, Argentina, Canada, Faeroe Islands, Guernsey, Israel, Isle of Man, Jersey, New Zealand, Switzerland, and Uruguay.

² *Maximilian Schrems v. Data Protection Commissioner*, Case C-362/14 [2015] E.C.R. I _____ (delivered October 6, 2015).

³ Commission Press Release, IP/16/216 (Feb. 2, 2016).



Brian McCormac is a member at the BrownWinick law firm and assists clients with a wide range of legal concerns, including litigation, business transactions, compliance, privacy, and advertising and promotions. McCormac has a diverse background, which includes practicing at an AmLaw 50 firm, serving as a corporate counsel for a multinational corporation, and acting as the general counsel for a regional water utility. He can be reached at mccormac@brownwinick.com or 515-242-2431.

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HotDocs: The amazing tool you didn't know you already had

By Jonathan Schmidt

I was asked to write about some of my favorite legal technologies for this column. It was not at all difficult for me to select a topic. There is one piece of tech that helps my practice more than any other: HotDocs.

For those of you who don't know, HotDocs is document automation software. Document automation software creates new documents from data that you enter into the software. It also uses document templates that tell the software what to do with that data. The software takes that data and either plugs it into the template directly, or it may alter that data or make calculations based on that data before it enters it into the template. The result? A new, consistently formatted, and error-free document.

A template is a single form that is created in Microsoft Word, other supported word processor, or a PDF file. The template tells HotDocs what information it is looking for in order to generate the document. HotDocs will obtain that information from the user in a dialog. (If you have used IowaDocs, a dialog is the list of questions that you answer on the right side of the screen in the gray box.) Once the dialog information is completed, the user clicks "Finish" and HotDocs generates a new document. In IowaDocs, you can see the templates listed down the left-hand side of the window.

One great thing about HotDocs is that many of you have it already and don't even

know it! Every copy of IowaDocs comes with a copy of HotDocs Developer LE (the LE stands for Limited Edition). IowaDocs is simply a set of document templates that have been designed and published by The Iowa State Bar Association.

I'd be willing to bet that exactly 95.6% of you use forms of some kind. You probably have some server, network storage, cloud storage, or some other place where you keep your forms. You have spent a lot of time over the years building up these forms. Every attorney at my firm uses forms. However, I am currently the only one using HotDocs for my forms (although in fairness, another attorney at my office is exploring HotDocs). In fact, I have no forms outside of HotDocs. All forms are available in one neat, organized place—my HotDocs library.

All this is not to say that I won't ever go outside of HotDocs. I do go to prior cases that I have had in order to copy some language. I will sometimes seek language from other attorneys in my office. But, the starting point is always HotDocs.

I will use a typical dissolution of marriage as an example of my workflow. This will illustrate the power of HotDocs and its ability to increase your productivity, increase your bottom line, and, perhaps most importantly, reduce errors.

When a new client comes to me to file for dissolution, the first thing we do is to create

a new HotDocs answer file. In that answer file, we capture everything we know about the case: each party's name, address, date of birth, social security number, and county; the prefix for the party's name (Mr., Mrs., etc.); the gender of the party; how I want letters to be addressed: using the prefix (Dear Mr. Smith), using first name (Dear Anthony), or some other way (Dear Tony); designate whether the party is Petitioner or Respondent. We also have a list of attorneys that are compiled in HotDocs. We chose the attorney from that list to indicate who is representing each party. In addition, we capture information about the court and case number (if known at the time). Finally, we capture information about the parties' marriage: city, county, and state of marriage; date of the marriage; and name, date of birth, and gender of the children. With all of that information captured, we save that answer file to our server (Last Name, First Name – Year – Case Description).

Our initial document generation consists of creation of a petition for dissolution (with or without children), a confidential information disclosure form, and civil original notice. When the filings are processed by the court, we generate a template letter about the family law case requirements order. Throughout the case, we create other letters to the client and opposing counsel. We handle discovery requests. We even generate template stipulations and decrees.

You may say that there is no way that these documents could all be automatically generated by HotDocs, but you would be wrong. Given the right information captured in the interview questions at the beginning of the case, you can create any type of document that you want. HotDocs also supports the use of clause libraries that allow you to pick and choose from other form language—a feature that I have yet to make use of. Many of my templates create a 100% finished document in seconds. Some templates only get us 80% of the way there, such as a stipulation in a dissolution. Still, that 80% is better than nothing.

Some of the biggest typos I see from other attorneys are having the wrong "he/she", "him/her/they", or "child/children". HotDocs can solve all of these problems for you. By capturing the gender, HotDocs can calculate that you need to use "he" for a male and "she" for a female. By capturing

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the number of children in the marriage, it can automatically use “child” for one or “children” for more than one. However, you have to capture that information in the first place in order to make use of it later.

Case captions are another area where I see typos. Used correctly, HotDocs can generate an appropriate case caption, formatted nicely and consistently, with the correct party names, and correct case numbers. Again, you just have to capture that information in HotDocs in order to make use of it in your templates.

Consistency and proper formatting is a huge issue for me. I take pride in making high-quality documents—in terms of appearance as much as content. After all, that’s what we as lawyers do for a living—create documents. I have designed all of my templates according to a book that I consider to be the bible in this regard: *Typography for Lawyers* (2d Ed.) by Matthew Butterick. It is a quick read and will help you learn about the importance of formatting documents properly in order to make sure they are best received by the reader. It gives great advice and specific settings for your word processor in order to produce clean, readable documents. Regardless of what style and formatting that you like to use in your documents, HotDocs can avoid common formatting mistakes by making sure that all documents look the same (font, spacing, margins, numbering, etc.).

Creation of templates can get very technical, but it doesn’t have to be. I have refined my templates over a period of years. I have spent considerable time making my templates modular and reusable. For example, if there is a change to the firm letterhead, I only have to change one file called Letterhead Design.docx. Automagically, my templates that use firm letterhead will use the new design. Others in my firm have to update all of their individual letter forms with the new letterhead design. This is not to say that you have to do your templates this way, but I found very quickly that templates can get unmanageable if you don’t put some thought into how you design them.

You have to start somewhere. Jump in and create some templates! Better yet, go through the HotDocs tutorials, which are available from the HotDocs web site at <http://help.hotdocs.com/desktop.htm>.

Be aware that “LE” in HotDocs Developer LE does indicate that the software has limited features compared to HotDocs Developer. LE can make new templates that you can use in your practice. However, if you intend to get serious about developing templates, you will quickly outgrow it. HotDocs Developer LE lacks support for dialog scripting and to configure dialogs, which are important to use to make it easier on users entering data. Most importantly for some,

LE does not support the creation of any new PDF-based templates. If you want your templates to be as easy to use as possible for you, your staff, and others, you will want the full Developer version.

The cost to upgrade from LE to Developer is currently \$450 per seat. It is only needed for those creating or editing templates. Normally, a new license for Developer is \$800, so you have saved money just by being a subscriber of IowaDocs! Furthermore, you should consider getting the Maintenance & Support agreement for HotDocs. For \$200 per year, you can get upgrades to any new versions released during the year and unlimited support. To contact HotDocs sales to order the upgrade, the best number to call is 801-651-2239.



Jonathan Schmidt is a lifelong technologist and a partner with Nazette, Marnier, Nathanson & Shea LLP in Cedar Rapids. He practices primarily in civil litigation and family law. Prior to attending law school, Jonathan spent 13 years in the Information Technology field as a software tester, developer, software and database architect, and project manager. Jonathan can be reached at jschmidt@nazettelaw.com.



What is it?

It is a legal documents library created, endorsed and copyrighted by The Iowa State Bar Association that is automated using HotDocs. IowaDocs templates ask questions and automatically create customized documents based on the answers given. This member service saves time, effort and money in the production of repetitive documents and forms.

Subscriptions

A subscription to IowaDocs is for one calendar year from January to December for current and active members of the ISBA. The subscription agreement is for the use of the forms created by the ISBA. In addition, the use of these forms requires a software component, HotDocs, which is bundled with IowaDocs as well.

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New '.law' instead of '.com' domain name benefits law firms

One Iowa firm says the new domain is shorter, easier to remember and proves that the website is really a law firm

By Steve Boeckman, ISBA Communications Dept.

On Oct. 12, 2015, law firms around the world were able to purchase new internet domain names that end with “.law,” instead of the more common “.com.” While the difference may not seem like much, the .law at the end of a firm’s name – or “.abogado,” the Spanish language version – tells users on the Internet that they are dealing exclusively with real lawyers because of the strict criteria required for using the .law or .abogado domain, according to Dot Law, Inc., the company making the domain available.

The .law domain, also known as a “top-level domain,” is particularly valuable for attorneys or firms that practice primarily in a specific area of law, according to information on Dot Law, Inc.’s website. It cites a Google Consumer study that found 34 percent of people go online to find a lawyer, and more go online to find a specialty lawyer than ask their current lawyer or a friend.

Whitfield & Eddy Law in Des Moines, Iowa, is one firm in the state that has purchased the .law domain. It now has a website with the address of www.whitfield.law.

“We had planned on purchasing www.whitfield.law since we knew it would be available, but are not making it a primary URL (Internet address) for the firm at this time,” said Marc Hollander, business development coordinator for Whitfield & Eddy. Whitfield “will use it as a rollover to our current site,” for the foreseeable future, he said.

“Our Business Development Committee recognized that the .law domain would have little immediate value for the firm due to

the newness, but it would be a worthwhile asset over time as more businesses adopt similar URLs outside of .com, .org and others,” he said. “We believe it will evolve to be widely used in the future. These domains allow web users a much simpler and easy-to-remember website name to type when on a mobile or desktop device.

“Our current URL is www.whitfield-law.com, so www.whitfield.law is a much more succinct update,” he said. “Currently, we do not advertise www.whitfield.law, but if people type it in, they are directed to our website.”

Hollander said that he first learned about the .law domain becoming available from a Legal Marketing Association Facebook group of which he is a member, and began paying close attention to its progress in July 2015. The marketers from across the nation, who are members of the group, discussed best practices and strategies for adoption and usage of the new domain.

The .law domain was released on a staged rollout, he explained. Trademark owners could register in July, and the



Internet users may type in www.whitfield.law to visit the Whitfield & Eddy Law website. Currently, the firm uses the new .law URL as a roll-over to drive traffic to the site.

domain became available for credentialed legal practitioners on a first-come, first-served basis in October.

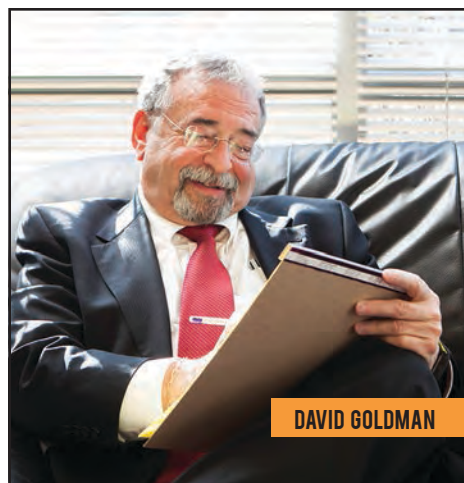
Cost of the .law domain and other such specific domains is based on uniqueness and availability, he said.

Purchasing the .law domain requires an attorney to verify and complete the purchase. An administrative assistant or secretary can initiate the process, but attorneys are the only ones who can complete it.

Hollander said he likes the way the .law domain rollout is being handled because it keeps squatters from purchasing website names and extorting high prices from users by reselling them. “I believe this is an exceptional practice to ensure the right people and businesses can use these URLs,” he said. “The problem with the process is that you cannot purchase from traditional registrars like Network Solutions or GoDaddy.”

He recommends that law firms claim their domain names and use them as rollovers to their current websites. “It is better safe than sorry,” he said. “It is a land grab of sorts for these new domains, but it also allows for creativity in developing new URLs for practices or niches.”

For information on eligibility criteria, questions and answers, and an overview of the .law domain, go to the Dot Law, Inc. website at <http://nic.law>.



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Iowa attorneys share why they blog

Marketing their practices among the most common reasons; providing initial information to clients, enhancing their reputations are others

By Steve Boeckman, ISBA Communications Dept.

Ten law firms creating more than 20 blogs among them responded to a request for attorney bloggers in the July 22, 2015 Iowa Lawyer Weekly newsletter. The topics the attorneys in these firms write about vary widely, from agricultural law to handling life's challenges professionally and personally.

In nearly all cases, the authors have something they want to share with the world. The articles, usually written informally and posted on the firms' websites or personal websites, provide that opportunity.

What is a blog?

For those unfamiliar with the term, "blog" (in legal circles sometimes called "blawg") is "a website containing a writer's or group of writers' own experiences, observations, opinions, etc., and often having images and links to other web-

sites," according to Dictionary.com. Blogs originated in the mid-1990s as "weblogs." Technically, weblogs were defined as: "Any kind of diary published on the World-Wide Web, usually written by an individual (a "blogger") but also by corporate bodies."

Why blog?

Iowa attorneys blog for a number of reasons. The majority use blogs to market their practices. However, some write about non-legal topics because they see a need.

Rush Nigut with the Brick Gentry law firm in West Des Moines, Iowa, regularly blogs on legal business topics at www.rushonbusiness.com. He wrote in his response to the newsletter request that: "I cannot overstate what my blog has done for my practice. Since I began blogging in 2006, I have obtained literally hundreds of clients from my blog. Similar to a word-of-mouth referral, the blog clients are almost

always terrific clients. There is no question that blogging has been one of the most beneficial things I have ever done in my career."

Nigut wrote that in addition to generating clients for his practice, he has become regarded as a subject matter expert (particularly in franchise law) due to his writings. That has resulted in his being quoted in the Des Moines Register, the Des Moines Business Record, and Forbes and Entrepreneur magazines. His blogs also have been selected as one of the top franchise-related blogs in the country by the Wall Street Journal.

Matthew Garner with Gardner Law Firm, P.C., in Urbandale, Iowa, who blogs about estate planning at www.iowaestateplan.com, wrote that: "Some of my biggest fees have come from clients who found me through the blog, including one from Ukraine."



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Garner, who is a solo practitioner, stated that he started blogging years ago “to help build my practice (marketing). The result has not only been increased visibility to the public and added clientele, but also increased awareness from other lawyers within the bar,” he wrote.

One of his most recent blogs was a five-question post entitled: “Estates in Iowa: Do I Really Need to Go Through Probate?”

In addition to generating new clients, blogs can provide initial information for clients and potential clients that otherwise would be conveyed in face-to-face or

telephone meetings. It saves the client and the attorney time and money.

Mark Newman with Newman Thompson & Gray, P.C., in Forest City, Iowa, wrote that blogging has helped his practice in that “I can simply refer to my blog when talking to a client. They can read it later; it saves us both time and money.

“Also, I find that sometimes I like to talk about these things (he blogs primarily about farming issues at www.newmanlawoffice.net/) so much that I am tempted to ‘lecture’ a client about some issue which is only marginally of value to him or her. So the reference to the blog instead of discussing the matter makes clients happier about paying a bill. Clients don’t like to pay for information they did not ask for and maybe cannot use.”

Ed Cox, a young lawyer with Orsborn Milani Mitchell & Goedken, L.L.P., in Centerville, Iowa, also uses his blogs to help clients gain information about their issues before meeting with him. “Legal blogs shouldn’t be a last stop for people with legal needs, but they can be useful in helping someone narrow down the issues they’re facing and to then approach an attorney with a basic understanding of their needs,” he wrote. “This is useful for the attorney and the potential client.”

Cox writes periodically about legal and policy updates in agricultural law with a focus on Iowa and Missouri at www.MOIAFarmLaw.com. He wrote that “providing valuable information and engaging the legal community has absolutely helped my practice. If you’re providing helpful information to the public and other attorneys, it improves your reputation.”

Helpful information also improves search engine rankings, called “search engine optimization,” or SEO. Cox wrote that many individuals seeking information on a subject will search for that information by typing key words into a web-based search engine such as Google, Yahoo, Bing, etc. He has observed, however, that Google and other search engines appear to be developing systems that rank sites based on quality of content rather than the redundant use of keywords. “This benefits those searching for information and rewards bloggers writing useful articles,” he wrote.

Blogging can benefit law firms or other legal entities beyond just bringing in more clients. Matthew McKinney, a young lawyer with Brown Winick, P.L.C., in Des Moines, Iowa, wrote that blogging “not only allows

me to stay on top of the latest court decisions (in Iowa and elsewhere), but it further helps develop writing and communications skills as well as helping to open doors for speaking engagements and client development. He has been blogging about business and corporate dispute issues for several years at www.corporatedispute.com.

Most blogs focus on the particular area of law in which the author practices primarily, or in which he or she is particularly interested. Stephen Lombardi with the Lombardi Law Firm in West Des Moines, Iowa, has been producing blogs for more than 15 years at www.lombardilaw.com/blog/. His blogs focus on personal injury and workers’ compensation aspects of the law. They are divided into categories including farm accidents, boating accidents, dog bite accidents, as well as unemployment benefits in Iowa and lottery, gaming and games of chance. One of his posts in the lottery category is entitled “Lottery - Should I take a lump sum or the 20 years of payments?”

Goosmann Law firm in Sioux City, Iowa, hosts 13 blogs on its website at goosmannlaw.com/blogs/. The blogs range from “CEO on Your Side,” which is aimed at top-level business owners, to “Cyber Lawyer on Your Side,” that tells individuals how to protect themselves and their companies from cybercrimes, to “Divorce Lawyer on Your Side,” and “Construction Lawyer on Your Side.” All of the lawyers in the firm write blogs several times a month about trending topics within their practice areas, wrote Rachel Thompson, marketing director for Goosmann Law.

There were some exceptions to the legal subjects that comprised most of the blog sites submitted to the ISBA. For example, Hope Wood, a solo practitioner who was admitted to the bar in 2013, writes a blog called “Problem Solver” on her website <http://hopewoodjd.com/problem-solver>. As she described the blog, “it isn’t about legal topics. The primary audience is working professionals, including attorneys.”

She wrote that her posts are about “ideas to handle life’s challenges – mostly in the work environment – but there is usually a blurred line between work issues and personal issues.” Good examples are her “Working from home with children” posted on Dec. 28, and her “The ideal morning,” which she posted on Nov. 29.

Billi Brahn with Iowa State Bank in Urbandale, Iowa, wrote that she started

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blogging last summer about family financial issues – “those issues I see as a trust officer and formerly as a private-practice estate-planning attorney, but with a more personal approach that is reader-friendly.”

She wrote that she hopes her blog, brahnmoneymatters.blogspot.com, “will give parents ideas about talking about money with their children, and help spouses talk to each other about their finances and long-term planning.” She added that “I enjoy writing, but blogging is an exciting new challenge since it involves writing for the general public.”

Tips for a successful blog

There are dozens, if not hundreds, of websites that advise would-be bloggers on how to make their posts successful. One only has to search the Internet to find them.

Most advisors agree on several elements necessary to make a blog successful. Here are nine tips from one of the websites tailored to lawyers who blog:

1. **Pick a niche topic:** Choose a topic that strikes a balance between appealing to the largest possible audience and focusing on a niche area that you are knowledgeable about and that will draw traffic.
2. **Focus on quality content:** Content may be king but low-quality content will turn readers away. On the other hand, professional, well-written, expertly researched blog posts will help you build your platform as an expert in your niche area and grow your readership.
3. **Post regularly:** Regular posts will keep your content fresh and draw more readers to your blog. Daily posts are ideal but hard to maintain when you are busy. As a general rule, one to three blog posts a week will keep your blog fresh. Failing to update your blog regularly will not only turn readers off but will lower your search engine rankings.
4. **Engage readers:** Engage your readers through comments and discussions to develop a loyal readership. Post content that is cutting-edge, controversial or informative, ask open-ended questions, start a dialogue and encourage readers to comment on specific blog posts.
5. **Examine web metrics:** Utilize web metrics to measure traffic and page views. Metrics can help you gauge your growth and learn what topics interest your readers the most, allowing you to fine-tune

your content to reader demand.

6. **Utilize SEO:** The majority of your readers will find your blog through a Google, Yahoo, Bing or other search. Therefore, it is essential to optimize your pages so they rank high in the search engines. Free Web tools like Wordtracker, Google AdWords, Google Trends and the Yahoo! Buzz Index can help you choose key words that will draw the most people to your site.
7. **Include your bio:** Create an “About” section to highlight your skills and background and promote your law practice or business, if applicable.
8. **Incorporate audio and visuals:** You can give your blog added dimension by including audio or visual components such as videos and photographs.
9. **Steer clear of giving legal advice:** Stay away from giving legal advice, even if you are a lawyer, or from giving readers the impression that an attorney-client relationship was formed.

Finally, as attorney Cox in Centerville wrote about his MOIAFarmLaw.com blog: “I started the blog for a number of reasons, but first and foremost, I did it because it’s enjoyable. Writing a blog shouldn’t be a chore. If it is, you’re probably not going to do it for long.

“The bottom line is, if you enjoy your practice and writing about it, the benefits follow,” he wrote.

IN MEMORIAM

Joe Cosgrove, 88, of Sioux City, Iowa, died Dec. 20.

Cosgrove was born in Sioux City. He earned his J.D. from Creighton University in 1951 after serving in the Navy during World War II. Joe practiced law in Sioux City for more than 60 years, and was a past president of the Woodbury County Bar Association.

Craig Hastings, 66, died Jan. 23 in Ames, Iowa.

Hastings was born in 1949 in Minneapolis, Minnesota. He graduated from the University of Minnesota in 1971 and earned his J.D. from the University of Michigan Law School in 1974. He then joined a small practice in Ames, where he served for 42 years.

Joseph C. Johnston, 76, died Sep. 19 in Iowa City, Iowa.

Johnston was born in 1938 in Waterloo, Iowa. He served in the National Guard after high school, and received his J.D. from the University of Iowa College of Law in 1968. He practiced law in Iowa City for nearly 40 years while also serving as a member of the Iowa Legislature. In 2014 he was inducted into the Iowa Democratic Party Hall of Fame.

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Bill No./Subject	Description	Status
HSB 578 2014 Amendments to Uniform Voidable Transactions Act (Current IA Code Chapter 684, "Fraudulent Transfers")	The Uniform Fraudulent Transfer Act was approved by the Uniform Law Commission in 1984. It has not been revised or updated since its original approval. Iowa adopted the Act, which is presently found in IA Code Chapter 684. In 2014, the Uniform Law Commission adopted amendments to update the Act, which are being proposed to update IA Code Chapter 684 as follows: <ul style="list-style-type: none"> • Change the name of the Act from "Uniform Fraudulent Transfer Act" to "Uniform Voidable Transactions Act". • Choice of Law- Provide that a claim for relief is governed by the local law of the jurisdiction in which the debtor is located when the transfer is made or obligation is incurred. • Evidentiary Matters- Provide uniform rules on allocation of burden of proof and standards of proof relating to operation of the UVTA. • Delete the special definition of "Insolvency" for partnerships. • Revise provisions relating to defenses available to a transferee or obligee. • Clarifies that the UVTA applies to transactions in which a series organization engages. • Replace references to "writing" with "record." 	HSB 578 approved by House Judiciary Committee, 2/16/16.
SSB 3076 Benefit Corporations	Amends IA Business Corporation Act (Chapter 490) to authorize formation of "Benefit Corporations", which are formed not only for the purpose of shareholder profitability but also for a social purpose or public benefit.	Referred to Senate Judiciary Committee. Will not advance this session.
Corrective amendments to IA Business Corporation Act (Code Chapter 490)	Amends Code Sections 490.1320(1) and .1320(3)(a) and (b), "Notice of Appraisal Rights", to replace references to "part" and "chapter" with references to "division."	To be included in Code Editor's bill.
HSB 37/SF 376 Calculation of Probate Court Costs	Relates to how the clerk of probate court determines and collects charges in connection with services provided in probate matters. Excludes from the determination of court costs property over which the court lacks probate jurisdiction and for which the clerk renders no services. Specifies that for purposes of calculating the costs for other services performed by the court in the settlement of the estate of any decedent, minor, person with mental illness, or other persons laboring under legal disability, the value of such a person's personal property and real estate is equal to the gross assets of the estate listed in the probate inventory minus, unless the proceeds of the gross assets are payable to the estate, joint tenancy property, transfers made during such person's lifetime such as to a revocable trust, and assets payable to beneficiaries.	HSB 37 referred to House Judiciary Committee, 1-15-15. Approved by subcommittee on 2-26-15. SF 376 approved by Senate Judiciary Committee. Referred to Senate Ways & Means Committee, 3-16-15. Assigned to Hogg, Petersen, Schultz, 3-17-15.
SF 2112 Uniform Fiduciary Access to Digital Assets Act (UFADAA)	Adopted by the Uniform Law Commissioners in July 2014, the Act ensures that legally appointed fiduciaries can access, delete, preserve, and pass along a person's digital assets (i.e., documents, photographs, e-mail, and social media accounts) as appropriate.	Approved by Senate Judiciary Committee. Placed on Senate Calendar, 2/8/16.
HSB 528/SSB 2184 Notice Under the Iowa Trust Code; IA Probate Code Amendment; Iowa Uniform Power of Attorney Act Technical Corrections	This proposal does the following: <ul style="list-style-type: none"> • Amends Iowa Trust Code by inserting new Section 633A.1109 ("Methods and Waiver of Notice"), which provide for notices to trust beneficiaries and notices of judicial proceedings. The Trust Code currently provides for notice provisions for creditors, heirs and surviving spouses, but otherwise, notice provisions default to the Iowa Rules of Civil Procedure. The proposed amendment would address such notices except as otherwise provided. • Amends Iowa Probate Code Section 633.389 to simplify notices regarding sale of property. • Makes several technical corrections to Iowa Code Chapter 633B, "Iowa Uniform Power of Attorney Act." 	HSB 528 approved by House Judiciary Committee, 2/4/16. SF 2184 approved by Senate Judiciary. Placed on Senate Calendar, 2/15/16.
SSB 3032 Attorney Fees and Court Costs in Action to Quiet Title After Request for a Quitclaim Deed.	Updates Code Section 649.5, which relates to attorney fees and court costs for a party who succeeds in an action to quiet title and who requested a quitclaim deed from the party holding an apparent adverse interest prior to bringing the action to quiet title. Brings the dollar amounts closer to current market rates and maintains the moving party's ability to request attorney fees.	Referred to Senate Judiciary Committee. Will not advance this session.
HSB 531/SF 2150 Forcible Entry & Detainer Actions After Forfeiture of Real Estate Contracts	Makes changes to procedures for eviction after forfeiture of a real estate contract. Grants statutory authority under Code Chapter 648 for a vendor in a real estate installment contract to seek Forcible Entry & Detainer action against holdover vendee who fails to vacate after forfeiture proceedings are complete, while affording holdover vendees proper due process. Allows small claims magistrates to hold preliminary hearings in forfeiture cases and to enter judgments of removal only if the defendant defaults or appears and does not raise facts which would constitute a defense to eviction. Provides that a judgment of eviction also operates against persons holding under the defendant, such as subtenants, the defendant's children, and persons living on the premises by permission of the defendant.	HSB 531 approved by House Judiciary Committee, 2/15/16. SF 2150 approved by Senate Judiciary Committee. Placed on Senate Calendar, 2/10/16.
SF 220 Expert Witness Fees	Amends Code Section 622.72 to remove the \$150 per day cap on expert witness fees and to permit the district court to assess as costs a fair and reasonable expert witness fee in an amount not to exceed \$2,500 for the expert's time testifying at trial or in depositions used at trial.	Senate passed on 3-10-15, 48-2. Referred to House Judiciary Committee 3-11-15.
SSB 1249 Redemption from Tax Sale of Property Owned by Persons with Disabilities	Remedies issues arising from Iowa Court of Appeals decision <i>Firestone v. FT13</i> (Filed 4-30-14) relating to redemption issues arising from ownership of property by minors or persons of unsound mind.	Approved by Senate Judiciary Committee, 2/16/16.
HSB 192/SSB 1248 Requirements for Timely Filing of Releases or Satisfactions of Mortgages Proceedings	Remedies ambiguities and inconsistencies in existing statutes & provides remedies for failure of mortgagees to issue releases of mortgages.	Bills referred to House & Senate Judiciary Committee respectively. Placed on hold by ISBA for further work.
HF 2282/SF 2060 Appointment of Guardian Ad Litem (GAL) for Minor Child in Adoption Proceedings	Amends Code Section 600.5 to require an adoption petition to state whether a GAL should be appointed for a minor child to be adopted, and if not, the reasons why a GAL should not be appointed. Adds New Code Section 600.6A which requires the Court, prior to ordering a hearing on the adoption petition, to make a determination of the need for a GAL for a minor child to be adopted and, in writing, appoint or waive the appointment of a GAL for purposes of the adoption proceeding in the order setting the adoption hearing.	HF 2282 approved by House Judiciary Committee. Placed on House Calendar, 2/15/16. SF 2060 approved by Senate Judiciary Committee. Placed on Senate Calendar, 1/26/16.

Bill No./Subject	Description	Status
SSB 3103 Clarification of Roles in Child Representation	Amends Code Section 598.12 to clarify roles of child's attorney, guardian ad litem, and custody investigator. Existing 598.12 provisions for child representation are not compliant with ABA standards for child representation.	Referred to Senate Judiciary Committee. Approved by Senate subcommittee.
SSB 3033 Waiver of 90-Day Waiting Period in Dissolutions	Allows for waiver of 90-day waiting period at the court's discretion upon the agreement of the parties. Current Code Section 589.19 requires a 90-day waiting period before the court can grant a decree dissolving a marriage unless grounds of emergency or necessity exist which satisfy the court that immediate action is warranted or required.	Referred to Senate Judiciary Committee. Will not advance this session.
SF 2062 Amendment of Code Section 232.2(39) Definition of "Parent"	Amends the definition of "parent" to include a father whose paternity has been legally established by operation of law. The Iowa Supreme Court in <i>In re J.C.</i> , 857 N.W.2d 495 (Iowa, 2014) determined that a legal father of a child (not a biological parent but father whose paternity was established by operation of law by marriage to the mother) was NOT a necessary party to a Child in Need of Assistance proceeding. This proposal makes the legally established parent a necessary party and conforms the definition of "parent" in Code Section 232.2(39) with the Bridge Order statute [Section 232.103A(1)(b)].	Approved by Senate Judiciary Committee. Placed on Senate Calendar, 1/26/16.
Codify Formula for Division of Defined Benefit Plans	The case of <i>In re Marriage of Benson</i> provides a formula for division of a defined benefit plan. This proposal amends Code Section 598.21(6) to codify the formula.	Placed on hold by ISBA for further drafting work.
HSB 525/SSB 3029 Uniform Child Support Payment Processing	Child support payments are processed differently depending on the type of case and the existence of an income withholding order. This proposal amends Code Section 598.22, Chapters 252B & 252D so that all child support payments will be paid into the Collections Services Center (CSC).	HSB 525 referred to House Judiciary Committee. SSB 3029 referred to Senate Judiciary Committee. Neither bill will advance this session.
HSB 520 Appeal Deadline for Private Termination of Parental Rights Actions	Amends Code Section 600A.9(2) to reduce the 30-day appeal deadline for private termination of parental rights (TPR) actions to a 15-day appeal deadline to be consistent with Chapter 232, which governs TPR actions initiated by the State.	HSB 520 approved by House Judiciary Committee, 2/4/16. SSB 3056 referred to Senate Judiciary Committee. Assigned to subcommittee: Taylor, Petersen, Zaun.
SSB 3144 Uniform Deployed Parents Custody & Visitation Act (UDPCVA)	Approved by the Uniform Law Commission in 2012, the UDPCVA addresses issues of child custody and visitation that arise when parents are deployed in military or other national service.	Approved by Senate Judiciary Committee, 2/16/16.
Proceedings to Establish Paternity	Amends Code Section 600B.8 to allow fathers to file an action to establish paternity consistent with the Iowa Supreme Court's decision in <i>Callender v. Skiles</i> , 591 N.W.2d 182 (Iowa 1999). Updates Code Chapter 600B.	Placed on hold by ISBA for further drafting work.

Updated 2/17/16

In addition to the legislative proposals above, The Iowa State Bar Association supports the following positions as a part of its 2016 Affirmative Legislative Program:

- Full funding of indigent defense and adoption of legislation providing for an automatic, periodic increase in indigent defense fees.
- Full funding of the Judicial Branch.
- Full funding for Legal Services.
- Full funding for the Office of Substitute Decision Maker to protect the interests of Iowans who have no one else to manage their financial and health care needs.
- Child abuse prevention and treatment efforts and funding for child abuse prevention and treatment.
- Opposition to the legalization of title insurance.
- Opposition to any proposal to restrict lawyer abstracting under Iowa Title Guaranty.
- Opposition to absolute immunity legislation.

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Why all the court rule changes?

The year 2015 in review—plus early 2016

By Timothy S. Eckley, Assistant Counsel to the Chief Justice

The Iowa Supreme Court's process of amending the Iowa Court Rules is necessarily an ongoing effort due in large part to the many requests for updates from bar members and the public. Even so, the Iowa Supreme Court is sensitive to the burden a barrage of rule changes may impose on attorneys and court users. For this reason, the court is solicitous in its effort to develop and maintain current, accurate, and useful court rules.

The Iowa Court Rules and forms govern practice and procedure, judicial administration, professional regulation and judicial qualifications and conduct. The 41 chapters of rules, not including the pending chapter 16 rules for electronic filing, comprise more than 1,000 pages and 269 separate court forms. The Legislative Services Agency publishes the official version of the Iowa Court Rules and maintains current rules on the Iowa Legislature website at: <https://www.legis.iowa.gov/law/courtRules/courtRulesListings>.

Even simple changes to a court rule or form can involve long and laborious processes. It is the court's practice to submit proposed rule changes for public comment. The court carefully considers all comments received, and often the particular committee or entity that proposed the rule change reviews and responds to the comments. The court does not adopt all proposed rule changes.

The court circulates orders for each proposed rule change and adoption of each rule change widely through the Iowa

Judicial Branch subscription service and by direct email to bar family and interested groups. The court orders that implement the rules provide a summary of the amendments, but thoroughly reviewing the change is necessary for completely understanding it.

Improving the justice system and responding to legislative enactments are two main sources of new rules. For example, creation of the expedited civil action is an innovation responsive to the demands of court users, and finalizing the electronic filing rules in new chapter 16 is necessary to navigating Iowa's first in the nation comprehensive electronic filing system. Other new rules or rule amendments emanate from suggestions from judges, attorneys and clerks of court. Some rule or form changes may not be substantive but are necessary to clarify language to avoid misinterpretation or to include more plain English to assist the increasing numbers of self-represented litigants using the court system and to further alleviate access to justice concerns.

In 2015, the court adopted updates to several rules and forms with input from Iowa judges, attorneys, advisory committees, educators, bar associations and the public. Attorneys are encouraged to stay abreast of new rules and amendments to maintain the requisite level of competent service for their clients. Below is a list and brief description of changes to the Iowa Court Rules during 2015, including a few from early 2016. The court orders and rule

You have to learn the rules of the game. And then you have to play better than anyone else.

- Albert Einstein

changes are available in full on the Iowa Judicial Branch website under the tabs "Court Rules and Forms—Recent Amendments & New Iowa Court Forms."

Basic skills course requirement—rule 41.12 (Jan. 21, 2015). The rule change eliminates the Basic Skills Course attendance requirement for all persons admitted to practice law in Iowa after 2014.

Discovery rules and forms—rules 1.500, .507, .906, and forms 2 and 3 of rule 23.5 (April 1, 2015). The amendments include an exemption of domestic relations proceedings from the new discovery conference and trial scheduling requirements, an adjustment to the signature block on the trial scheduling and discovery plan forms, and clarification of the deadline for pretrial submissions on trial scheduling and discovery plan forms.

Court interpreters and translators—rules 47.7(1) and 47.8(6) and Canon 1 to chapter 48 Code of Conduct (May 18, 2015). The amendment extends the deadline for annual report filing for interpreters to begin in 2017, and clarifies the comment to Canon 1—Accuracy and Completeness in the interpreter's and translator's code of conduct.

Registration of foreign house counsel—rule 31.16 (May 18, 2015). The amendments define "foreign lawyer" and provide a process for foreign lawyers to register as house counsel in Iowa.

Reinstatement of license after revocation—rule 35.14 (May 18, 2015). The amendments outline a procedure for an attorney whose license has been revoked or an attorney who has been disbarred to apply for reinstatement after a period of five years and upon meeting certain requirements.

Trial scheduling and discovery plans—rule 23.5, forms 2 and 3 (Sept. 25, 2015). The amendments assist attorneys and clerks of court in using the forms to set pretrial

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deadlines for discovery matters and reflect the practice of judicial districts that do not provide precise trial dates until after parties have held their discovery conference. Parties unable to provide specific dates for deadlines may fill in blank text fields for pretrial and discovery time frames.

Professional conduct—chapter 32 (Oct. 15, 2015). The amendments update chapter 32 to remain consistent with the Model Rules of Conduct and to maintain uniformity with the rules of other jurisdictions providing attorneys familiarity with the ethical rules of other jurisdictions where they may practice.

Shorthand reporter certification by reciprocity—chapter 46 (Oct. 15, 2015). The amendments, including primarily new rule 46.17, expand on the veterans' reciprocity rule to provide a general rule of reciprocity of licensure for other persons who hold valid reporting licenses in good standing in other states.

Uniform Bar Examination—chapter 31 (Oct. 15, 2015). The court adopted the Uniform Bar Examination (UBE) as the examination for admission to the Iowa bar beginning in February 2016. The amend-

ments to chapter 31 governing admission to the bar incorporate the UBE into Iowa's bar admissions process.

Professional regulation—omnibus amendments to division III (Nov. 20, 2015). The amendments are to numerous chapters in Division III—Professional Regulation.

Effective date for required death or disability plan—rule 39.18 (Jan. 15, 2016). The amendment sets Jan. 1, 2017, as the effective date for new rule 39.18—Requirement for Death and Disability Plan.

Electronic filing in the appellate courts (Jan. 21, 2016). Beginning Feb. 1, 2016, all appeals will be filed through EDMS with the Iowa Supreme Court's Clerk's office.

Professional regulation—chapters 34, 35, & 36 (Jan. 26, 2016). A recompilation strikes the original chapters and reorganizes the Iowa Supreme Court Grievance Commission and Attorney Disciplinary Board administrative provisions and rules of procedure.

What to watch for in 2016. Other noteworthy items the court anticipates addressing during 2016 include a restyling (nonsubstantive) of the rules of evidence, finaliza-

tion of the electronic filing rules (chapter 16), implementation of a fee for admission pro hac vice and further adjustments to the expedited civil action rule and forms.

Additional information. Additional information regarding changes to the Iowa Court Rules is available on the Court Rules & Forms section of the Iowa Judicial Branch website, located at: http://www.iowacourts.gov/Court_Rules__Forms/Recent_Amendments__New_Iowa_Court_Rules/.



Timothy S. Eckley is Assistant Counsel to the Chief Justice of the Iowa Supreme Court. He is a graduate of the University of Iowa College of Law where he was Managing Editor of the Iowa Law Review. He served as judicial law clerk for the Honorable Charles R. Wolle at both the Iowa Supreme Court and the United States District Court for the Southern District of Iowa. Tim engaged in private practice for approximately 15 years in Des Moines, Iowa, before spending four years as Staff Attorney and Publications Associate with the American Judicature Society. He has been working with the Iowa Supreme Court since 2010.



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Legal Aid Society of Story County fills a niche for indigent civil legal representation

By Carin M. Forbes

If you are a lawyer in Iowa, you likely know all about Iowa Legal Aid, the not-for-profit legal services corporation that provides legal services to low-income Iowans across the state. But, did you know that there are a very small number of legal aid service organizations that are independent of Iowa Legal Aid in Iowa? Most attorneys don't, or assume that when they hear about these other legal aid offices, that they are somehow connected with Iowa Legal Aid, or that the smaller offices provide the same model of services that Iowa Legal Aid provides.

My name is Carin Forbes, and I am the executive director of The Legal Aid Society of Story County. Like Iowa Legal Aid, we are also a private not-for-profit legal service. Our mission is to provide legal representation in civil matters at low or no cost for income-eligible families of Story County, Iowa. The Legal Aid Society of Story County has been representing indigent Iowans for more than 40 years.

We were founded in 1974 by a group of concerned judges and attorneys to provide civil legal services to income-eligible residents of Story County. We are a small office, with three attorneys including myself, a part-time office manager, a part-time receptionist and one or two part-time Iowa State University students through the work study program. We draft our own letters, write our own pleadings and manage our own calendars. As the executive director, I also manage a caseload in addition to administrative duties.

As an independent, small, nonprofit law firm, we are largely funded by local sources, including: local city and county governments, Iowa State University's Government of the Student Body, United Way of Story County, Central Iowa Community Services and members of the Story County Bar Association. We also receive IOLTA grant money. We do not receive legislative appropriations from the State of Iowa or any federal funding whatsoever.

In order to become a Legal Aid Society of Story County client, a person must meet the following criteria: be a resident of Story County, Iowa; have an average gross income of 125 percent or below of the federal poverty guidelines for family size; have a civil case that is non-fee generating; complete an intake form and meet with an attorney. We do not place further restrictions on the demographics of our clients, such as criminal history, legal status and the like. We do not cherry-pick cases based on the circumstances of the particular case, such as whether or not the person applying for a divorce has been the victim of domestic violence. If an individual meets income and residency guidelines, fills out the intake form and has a type of case that we can help with, assuming there are no conflicts of interest, that person will have the opportunity to meet with an attorney to discuss his or her issue and talk about what steps need to be taken in that person's case.



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Our office model is based on full and complete representation of the client. We provide in person, one-on-one representation to every qualified client. We do not simply give legal advice in cases that require court action, and we do not refer people to pro se representation forms. In all cases that need court action, we represent clients from the initial steps of their case to the final order, much like a traditional private law firm.

We do not consider a person to be a client of the office until that person meets with an attorney and signs an attorney-client agreement for representation. If an individual contacts our office wanting a simple legal question answered, they must go through the intake process and become a client before we are able to help them with that question. We do not provide telephone advice or hand out forms that encourage self-representation in complex cases. We never count referrals to other attorneys as a client served or a case. To our office, clients served means that a file was open, was handed to an attorney, and that attorney met with the client from the beginning of the case until the end of the case. Some of those cases only require a 1-hour meeting for advice, and some require presentation of the case in court at trial. Even Iowa Legal Aid seems to recognize our office as an important line of defense for Story County residents, as we consistently receive client referrals from Iowa Legal Aid.

On this model of legal service, our attorneys served 442 clients and families in the last fiscal year. Each and every one of those clients met with an attorney at least once on an annual budget of approximately \$270,000 per year. Our clients that do not have immediate need cases, defined as someone who has been served with legal papers or has a legal deadline, are placed on a waitlist with an average wait time of about one month.

Since we do not place restrictions on a person becoming a client beyond the initial eligibility for services, the majority of our cases are family law cases, including divorce cases, custody and visitation cases and decree modification cases. In our last fiscal year, 56 percent of all cases were family law related. These cases are notoriously

difficult to place with private volunteer lawyers willing to take pro bono cases, likely because these cases tend to be very complex, emotionally draining and overall time consuming.

While our income eligibility requirements are very similar to Iowa Legal Aid, our office plays an important role in filling in the legal needs of indigent Story County residents that Iowa Legal Aid cannot meet due to restrictions in funding and availability of staff. When both types of models of legal service that Iowa Legal Aid and Legal Aid Society of Story County provide are fully

and well-funded, we can better meet the legal needs of all indigent Iowans.



Carin M. Forbes is the executive director at the Legal Aid Society of Story County, which is a private non-profit law firm that serves indigent residents of Story County, Iowa, in civil legal cases. Forbes graduated from Drake University Law School in 2003, and joined Legal Aid as a staff attorney in 2008. Carin can be reached at her office by telephone at 515-382-2471 or by email at cforbes@legalaidstory.org.



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Making an impression

Rural Iowa attorneys meet with students to help build a brighter future for law practice in Iowa

By Ashlee Sherrill, ISBA Communications Dept.

There is a tremendous need for young lawyers in rural Iowa communities as more and more attorneys prepare to retire. One way the ISBA is combating this problem is through its Rural Practice Committee programs. One such program includes meet-and-greet events between rural practicing attorneys and current law students.

Through coordinated efforts between the ISBA and local law schools, students interested in practicing in rural locations meet with rural-practicing attorneys to discuss options of summer clerkships or even eventual permanent hires. Two such events have occurred thus far and more are planned for the future on an annual basis.

After the most recent event in January, the ISBA received an overwhelmingly positive response from attorneys and students alike, according to ISBA Rural Practice Committee Chair Phil Garland. The following are responses demonstrating that both students and attorneys found the meet-and-greet event advantageous.



Megan Hingtgen

University of Iowa College of Law – 1L

Hometown: Iowa City, Iowa

Background: Hingtgen currently works with the Office of the State Public Defender through the University of Iowa Citizen Lawyer Program. Prior to attending law school,

she worked as system engineer for General Mills. Previous to that, she was a writing consultant while attending Iowa State University, where she earned her bachelor's degree in chemical engineering. Hingtgen is fluent in Spanish and participated in ProWorld Peru, an Iowa Regent's program where she assisted in community initiatives in Cusco, Peru.

Why Rural Practice: Going to law school was never a part of the plan. After graduating from Iowa State, I went to work as an engineer in a cereal manufacturing facility. I loved my job, and I was surrounded by wonderful people, but I knew that I didn't want to make food products for the rest of my life. The best part of my job was the opportunity I had to work with people every day. As I began to search for possible new career paths, I looked for careers that would allow me to work with people in a constructive way and to positively impact their lives. The field of law seemed to offer exactly that. As a lawyer, you have the privilege of being of service to others in both some of the most trying and some of the most exciting times of their lives. The decision to go to law school was a difficult one, but I am so excited to see where my legal career will take me.

As a law student and an Iowa native, I would love to practice in my home state. I think there is a definite feeling among young people in Iowa that they need to leave the state in order to have fulfilling experiences as young professionals. However, leaving Iowa to work in the Chicago area made me realize how many wonderful things Iowa has to offer, especially for young people. I decided to attend the ISBA Rural Practice Meet & Greet because it seemed like the perfect place to find opportunities in Iowa. Additionally, small firms have highly varied work opportunities and can often offer a more hands-on experience than bigger firms. The event was a great way to learn more about small practices and to meet lawyers from across Iowa. I really enjoyed the experience, and I'd recommend that anyone who thinks they might be interested in practicing in Iowa take advantage of the opportunity to learn more about what small firms have to offer.



John Waters

University of Iowa College of Law – 1L

Hometown: Nebraska City, Nebraska

Background: Waters currently works as an editor and contributor for RealClearPolitics based out of Washington, D.C. After graduating from the Naval Academy in

Annapolis, Maryland, he was in the U.S. Marine Corps. During his time in the military he deployed to Afghanistan, Iraq, East Africa, Arabian Gulf and Western Europe. He has attended U.S. Marine Corps Infantry Office Course, Scout Sniper Unit Leader Course, Ground Intelligence Officer Course, and Winter Mountain Leader Course. Waters also finds time to volunteer as a Veterans Affairs caseworker in Iowa City.

Why Rural Practice: I first read about Phil Garland and Iowa's rural practice initiative in a Des Moines Register article titled "Rural Areas Face Declining Lawyer Numbers" (<http://goo.gl/zEXisv>). The piece was published in November 2014. I had only recently returned home to North Carolina from a deployment to Iraq, but I was already in the process of leaving the Marine Corps and considering new career paths. The story caught my interest because it revealed the deficiency of lawyers in rural communities across Iowa. It was one of the few articles I could find about the legal profession that described a need for young lawyers. I have been interested in the program ever since.

The opportunity for immediate responsibility, as a lawyer and a community member, led me to attend the rural practice meet/greet at the bar association headquarters in Des Moines. The event itself was tremendous. The attorneys I met helped me to deepen my understanding of the law and their home communities across our state. I learned so much through this experience, which I attribute to the leadership of Phil Garland and the generosity of all the practitioners in attendance. I hope to continue my involvement with the program in the years ahead.



Randall Willman is a partner at Leff Law Firm, L.L.P., in Iowa City, Iowa. His general practice includes but is not limited to family law, mediation, personal injury, defense litigation and civil litigation.

Re: Rural Practice Committee Meet and Greet-January 15, 2016

Dear Gentlemen:

I would like Iowa bar leadership to know how much I enjoyed the day-long Rural Practice Committee meet-and-greet at the bar association office. Kudos to Steve Boeckman and Phil Garland on what I thought was an excellent and productive day.

Maybe I am getting old, but I think experienced Iowa lawyers have an obligation to mentor prospective graduates from our state law schools. The students that I met (more than 25 over the course of the day) came with resumes; they were bright and eager; and as a whole, they made a great impression on the old dogs doing the interviews.

I can only hope that in the future, this meet-and-greet event becomes so successful that it requires a room much larger than the bar association conference room in order to accommodate all of the rural practice lawyers and the interested law students. Thank you for inviting me to participate in this wonderful event. It is my sincere hope that the law students who attended enjoyed the experience as fully as I did.

Very truly yours,
Randy Willman

Resumes for these law students and others who participated in the event, as well as for those who weren't able to attend, are available on the ISBA website by navigating to the Rural Practice Committee webpage. Attorneys are encouraged to reach out to the students

or the committee if interested in placing one of the interested students.

Attorneys and students interested in participating in future meet-and-greet events or other rural practice programs should contact the ISBA Rural Practice Committee.



Committee Contacts:

Phil Garland, committee chair, 641-923-3792 or garlandlawfirm@gmail.com.



Steve Boeckman, committee staff liaison, 515-490-2279 or sboeckman@iowabar.org.



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March 28

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March 31

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April 11

Understanding Open Government Laws
(Live Webinar)

April 19

Guide to Calculating Damages in Patent Infringement
(Live Webinar)

April 22

Commercial and Bankruptcy Law Seminar
(In-person or Live Webinar)

April 28

Juvenile Law Seminar
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April 29

Criminal Law Seminar
(In-person or Live Webinar)

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May 4-6

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May 17

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(Live Webinar)

May 20

Government Practice Seminar
ISBA Headquarters
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Commercial and Bankruptcy Law Seminar

April 22
In-person
(ISBA Headquarters)
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TOPICS:

- Garnishments and UFTA Amendments
- UCC Update
- Case Law Developments in Iowa
 - How to Lose your Appeal Without Trying
 - Corporate Farming Law, Farm Tenancies and Contract Feeding Insurance
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C R I M I N A L L A W S E M I N A R

April 29

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TOPIC HIGHLIGHTS:

- » Making a Murderer - The State of Wisconsin vs. Steven A. Avery
Special Guest Speaker: Dean Strang, Avery's Attorney
Hear the defense attorney from the captivating Netflix series
- » Juvenile Sentencing » Case Law Update
- » Effective Use of a Private Investigator
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- The Role of Leadership in Professional Ethics - Nick Critelli
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TRANSITIONS



Crane

Sarah Crane has been elected shareholder at Davis Brown Law Firm, in Des Moines, Iowa. Crane is a member of the litigation division and maintains a general litigation practice, including business litigation, commercial litigation, appellate practice, health law, antitrust law, insurance defense, and employment law.

Toby J. Gordon and **Heather Palmer** joined the Iowa Division of Workers' Compensation in Des Moines, Iowa, as a Deputy Workers' Compensation Commissioners. They will preside over workers' compensation hearings and issues written decisions concerning contested cases and motions.



Gordon

Gordon received his bachelor's degree at the University of Northern Iowa and his M.P.A. and J.D. degrees at Drake University. Prior to his placement as a deputy commissioner, he practiced at the firm of Swanson, Gordon, Benne, Clark, and Kozlowski, L.L.L.P., in Burlington, Iowa, where he practiced significantly in the area of workers' compensation, primarily representing claimants.



Palmer

Palmer earned her B.A. degree in sociology and M.A. degree in counselor education from the University of Iowa and earned her J.D. from Drake University Law School. Prior to her

placement as a deputy commissioner, she worked as an administrative law judge for the Iowa Department of Inspections and Appeals, Administrative Hearings Division, hearing disputes involving agricultural and environmental matters, child and dependent adult abuse, competitive bidding, employment matters, employment and housing discrimination, firearms permits, insurance and securities, public benefits, and taxation.

Michael R. Reck has been re-elected president and **Stephen Locher** and **Espnola Cartmill** will join him on the three-person management team of Belin McCormick, P.C., in Des Moines, Iowa.

Reck earned his law degree at Harvard University

and undergraduate B.A. at the University of Iowa. This is his second term as president of the firm. Reck is a shareholder of the firm who practices primarily in the areas of complex commercial litigation and labor and employment law.

Locher earned a B.A. at the University of Notre Dame and his law degree from Harvard University. He is a shareholder and practices primarily in commercial litigation, appeals, internal investigations and white collar criminal defense.

Cartmill earned her B.A. at the University of Iowa and earned her law degree from Harvard University. She is a shareholder of the firm practicing in the areas of employment law, complex commercial litigation, trial practice and family law.



Reck



Locher



Cartmill



Green

Jenna Green has joined Hupy and Abraham, S.C., P.C., in Des Moines, Iowa, as an associate. She received her undergraduate degree in accounting from the University of Iowa in 2007 and her law degree from Drake University Law School in 2010. Green will assist clients with various personal injury and insurance bad faith cases.



Gulbranson

Tim B. Gulbranson has joined the law firm of Lane & Waterman, L.L.P., in Davenport, Iowa, as an associate. Gulbranson received his J.D. in 2015 from Drake University Law School. He will practice primarily in the areas of estate planning, probate and trust administration, and real estate

Nicholas O. Cooper, **Jason M. Casini**, and **John F. Fatino** have been named as the new executive committee for Whitfield & Eddy in Des Moines, Iowa. The committee develops

comprehensive strategic direction and leads all initiatives of the firm.



Cooper



Casini



Fatino



Marty

Megan Kennedy Marty has been named a shareholder of the Finley Law Firm in Des Moines, Iowa. Marty is a graduate of the University of Iowa College of Law and also obtained her Master of Accountancy from the University of Iowa Henry B. Tippie School of Business.



Mohrhauser

Luke T. Mohrhauser has recently been named a member of the law firm McKee, Voorhees & Sease, P.L.C., in Des Moines, Iowa. He joined the firm after graduating from Creighton University School of Law in 2009. Mohrhauser's practice focuses primarily on patent prosecution, trademarks, copyrights, and licensing.



Loftus

Christopher K. Loftus and **Erin R. Nathan** have become members at Simmons Perrine Moyer Bergman, P.L.C., in Cedar Rapids, Iowa.

Loftus practices primarily in the firm's banking group, focusing in finance and financial institutions, banking litigation and bankruptcy law.

Nathan practices commercial litigation, focusing in employment and labor law, class actions and appellate law.



Nathan



Thompson

Nicholas C. Thompson has been named a member of Fuerste, Carew, Juergens & Sudmeier, P.C., in Dubuque, Iowa. He practices primarily in general practice, business law, contracts law, litigation, mergers and acquisitions and estate planning.



McAllister

Emily McAllister has been named a shareholder in Duncan Green Brown & Langeness, P.C., in Des Moines, Iowa.



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Meeting the legal needs of college students

By Kelly A. Mroz and Amanda L. Elkins

Remember college? A security deposit was like a boomerang – something that was supposed to come back but never did. And an underage drinking citation? Time to plead guilty and pay the fine. No matter how big or small the legal issue, most college students never consider legal counsel.

Student legal services offices meet the unique needs of students, providing collegians with access to justice and redefining the communities they inhabit.

Student legal services offices are not a new concept: UC Berkeley’s office opened in 1967 and the University of Iowa’s office opened its doors in 1971 to help students who had been arrested during Vietnam War protests. These offices are not rare, either. The National Legal Aid and Defender Association lists 98 offices in 38 states that provide some form of direct legal services for students. Iowa has two SLS offices: the University of Iowa and Iowa State University.

While consistent in that they are legal offices designed to provide services for students at a college or university, these programs do not follow a single model. Some offices provide advice and referral only, others also offer representation. Services may be provided by contract attorneys, staff attorneys or law school clinics. The funding sources can be endowments, general funds, activity fees or organizational fees. Yet SLS offices retain a key shared characteristic in that services are either free or inexpensive to qualifying students.

Regardless of how they are structured, SLS offices do not fit the traditional profile of a legal services agency. In “Re-inventing the Practice of Law: Emerging Models to Enhance Affordable Legal Services,” editor Luz Herrera, notes that

“lawyers may want to consider new outreach models and niche markets as ways to engage untapped markets with unmet legal needs.” While not in the typical mold, SLS organizations do meet unmet legal needs and align with the three prongs of the U. S. Department of Justice Access to Justice Initiative: Promoting accessibility, ensuring fairness and increasing efficiency.

Promoting Accessibility

For college students, there are enormous barriers to legal services. Money and transportation are common problems. In a thank-you card after his case was resolved, a University of Iowa student wrote: “I appreciate all that every one of you do, you give students like me a place to go when we need help with a situation.”

There are less obvious barriers as well – these first-time users of the judicial system are unfamiliar with the process of finding an attorney. A Purdue University student responding to a survey wrote, “Such a useful resource!! I needed help with my lease and landlord and I wouldn’t know where else to go besides here!”

Ensuring Fairness

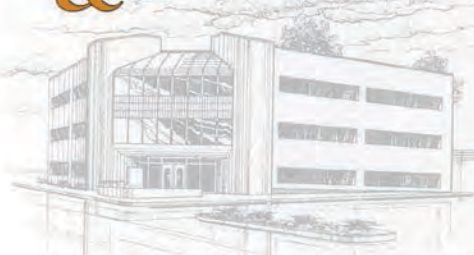
Fairness is served by leveling the playing field between resource-rich businesses and resource-poor students. Students may even be unaware of what constitutes a fair result under the law.

In one such case, a student from China studying at Ball State University came into her SLS with \$80,000 in outstanding medical bills. She had incurred the expenses thinking that she was covered under her husband’s policy, when it had actually been cancelled upon his termination from employment. She came to SLS because she had no idea what to do next. According to Ball State SLS’s managing attorney, John Connor, he investigated and found that her husband’s prior employer had failed to provide proper notice under COBRA regarding her right to continuing coverage. The employer paid her bills in full.

Efficiency

These offices do not deal exclusively in heartwarming fact scenarios and grateful clients. They get the students who want to

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challenge the landlord's charge for cleaning mojito stains from the carpet, the students who think getting out of a lease just means telling the landlord they changed their minds, and the ones who are certain it is a defense that the one-hitter they were holding was really their roommate's.

Justice is still served in these cases because there is an inherent efficiency in legal representation. SLS attorneys advise students when claims lack merit, adjust expectations for outcomes, negotiate resolutions outside of court and provide representation in hearings.

Not only do SLS organizations fulfill the vision of access to justice, they are serving a population with an acute need for these services.

Criminal convictions can profoundly impact this demographic as they dive into a stagnant job market. Despite improvements in national unemployment rates from recession highs of more than 9 percent to current rates around 5.5 percent, the trend is largely attributable to increases in low-income jobs. According to an analysis conducted by the National Employment Law Project (NELP), mid- and high-income positions have not recovered at the same

rate as low-income jobs, such that there are two million fewer jobs in 2014 that are desirable to college grads than there were in 2008. As college students compete for these scarce jobs, a criminal record will be no secret to a prospective employer. In a 2010 survey conducted by the Society of Human Resources Management, 92 percent of their members conduct background checks on prospective employees.

This profound impact is evident in a case where a student was charged with a felony -- a small-time marijuana case in the heyday of tough drug sentences. The director of the University of Michigan's SLS office, Douglas Lewis, recalls that he was able to work out a deal that resulted in dismissal of the charges and a sealed record, thus enabling the student to leave college with a clean slate. Lewis received an update five years later: The student had graduated, gotten a job with a large corporation, married and celebrated the birth of his first child. Imagine the differences in that student's life five years out if he had been convicted and served jail time.


Of concern is not just the longevity but also the immediacy of the impact of legal issues in the college population. In a 2009 Associated Press and mtvU (the MTV college network) survey, 85 percent of college students reported feeling stressed in their daily lives. When legal woes arise, this stress can quickly turn into a crisis.

In one case, a veteran suffering from post-deployment psychological stresses went to an emergency room seeking mental health treatment. He was living out of his car and barely meeting basic expenses, so the resulting \$3,000 bill only made his condition worse. The director of Texas State University's SLS, Shannon M. FitzPatrick, recounts that her office was able to work with both the hospital and physicians' group and both entities wrote off 100 percent of the charges a few days before Christmas. The veteran contacted the SLS office a year later to say thanks and that without its help, the past Christmas might have been his last. Instead, he connected with veterans' support groups and his life is moving in a positive direction.

The impact of an SLS office transcends the individual cases as these offices educate and train future lawyers and judges. Each semester, the University of Iowa SLS office supervises 1-5 law student interns, while larger offices may have a dozen students or more. The office allows students to take appointments, manage their own case files, and appear in court under the direction of licensed attorneys. This externship provides invaluable practical experience and exposes law students to a variety of legal topics. There are at least five judges and magistrates currently on the bench in Iowa who spent time at the University of Iowa SLS office either as a legal intern or an attorney. Not too shabby.



Despite their value, such organizations are far from universal. As part of the legal profession's commitment to access to justice, consider ways you can help your alma mater or local university create, maintain or expand legal services for students — because you remember college and how easy it was to stay out until 4 a.m. and still make it to class. Ah, college. Those were the days. Too bad there's no way to get that security deposit back now.

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Kelly A. Mroz is the director of student legal services for the Division of Student Affairs at the Pennsylvania State University.



Amanda L. Elkins is the assistant supervising attorney for Student Legal Services at the University of Iowa.

Digital Assets: Managing mine, advising clients about theirs

by Tyler S. Smith

Almost every client, or potential client, who walks into an attorney's office regularly uses the Internet. In fact, many if not most clients contact their law firm by using their smart phone, either by email, phone call, text message, or instant-chat feature, etc. As of 2015, "64% of American adults [] own[ed] a smartphone of some kind . . ."¹ Like their clients, attorneys' practices have shifted to "digital" (e.g., electronic court filings, digital-only files, email, and video meetings). All of the "digital information" that is created, gathered, and stored is commonly referred to as a person's "digital assets."

This past summer, I was tasked with a drafting project: include digital assets in an Assignment of Interest. While working on the drafting project, I was assigned another task: attempt to locate the whereabouts of a party to a potential lawsuit. After about an hour of searching online and, specifically, Facebook, I confidently placed the individual at or near one of two towns in another state. The location was approximately 400 miles away from the last known place of residence. Nonetheless, the individual's Facebook account was "public," and thus I was able to view specific locations where the individual had "checked-in," including a city park and a county fair. It was the combination of these two projects that made me realize that I need to carefully consider how I am managing my digital assets (social media accounts, other online accounts, computer files, etc.). Moreover, I realized that, in practice, I will need to properly advise clients regarding their digital assets. Below is my third-year-law-student advice on managing digital assets.

Whether it is a client seeking help for a personal injury, an estate plan, a business expansion, or a criminal defense (among many others), attorneys need to be prepared to advise on a number of legal issues stemming from clients' digital assets. In advising clients with regard to digital assets, lawyers are

presented with legal issues ranging from preventing the collection of damaging, admissible evidence for a case, preventing or remedying identity theft, or enabling the efficient transfer of valuable and sentimental assets at death. Providing advice to clients regarding management of digital assets is twofold: (1) inventorying and (2) securing.

If I am going to advise my clients to make sure their Facebook profile is not linked to searches of their name when it is searched online, I need to know what exactly that means and heed my own advice. Facebook contains helpful material on these types of profile and search issues under the "Settings"² tab. If I am going to tell my clients to inventory their username and password information for digital accounts and devices, then I should have an idea what "inventorying" looks like, including a basic understanding of the array of categories for digital assets. If I am going to advise my client to exercise discretion when tweeting, posting on Facebook, or blogging, then I need to consider whether I am exercising discretion and maximizing security settings.³

Inventorying digital assets is especially pertinent in estate planning and business succession planning. This is because inventorying allows individuals to organize their digital estate and make decisions about whether certain digital files, accounts, and information should be transferred at death and to whom. Examples of templates for inventorying digital assets, including suggestions for categorizing digital assets, can easily be found online. Here is one example, which the drafter called a "digital audit."⁴

The digital audit also includes line items for computers and other devices, bank accounts, brokerage/financial accounts, online shopping accounts, and many more types of digital assets. After digital assets are inventoried, attorneys can advise

regarding "securing" those digital assets. This type of advice goes beyond tips on creating secure passwords. Rather, attorneys should instruct clients to maximize security features on accounts (Instagram, Facebook, Snapchat, Twitter, Online Bank Account Profiles, etc.) and devices (tablets, laptops, smart phones, external hard drives, etc.). Maximizing security *features* helps attorneys identify legal issues (e.g., intellectual property, access after death, and general privacy); navigate "terms of use agreements" on social media, online shopping, and other online accounts; and then, advise accordingly.⁵

Inventorying and then securing digital assets is sound advice, even outside the legal community, but advising clients to think about both with regards to their digital assets may allow for an attorney to help prevent future legal problems.

¹ See AARON SMITH, U.S. SMARTPHONE USE IN 2015, PEW RESEARCH CENTER (April 1, 2015), <http://www.pewinternet.org/2015/04/01/us-smartphone-use-in-2015/>.

² See *Privacy Settings and Tools: Who can Look Me Up?*, FACEBOOK, www.facebook.com.

³ For helpful guidance concerning, specifically, social media use by attorneys, see MICHAEL H. RUBIN, WHAT'S A BAR ASSOCIATION TO DO ABOUT SOCIAL MEDIA?: SOCIAL MEDIA, BAR ASSOCIATION, BAR EMPLOYEES, AND LAWYERS, NAT'L ASS'N OF BAR EXECS. (August 6, 2014), http://c.yc.mdn.com/sites/www.nabernet.org/resource/collection/B5D4454-5006-46B6-939B-367054CB830F/Wed_Aft_Plenary_Rubin_Social_4aMedia_and_Legal_Employment_NABE_Boston_August_2014.pdf.

⁴ See JAMES D. LAMM, MY DIGITAL AUDIT: PASSWORDS, ONLINE ACCOUNTS, & DIGITAL PROPERTY, <http://www.digitalpassing.com/digital-audit/>.

⁵ See e.g., *Security Settings: Legacy Contact*, FACEBOOK, www.facebook.com.



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