



THE

Volume 76 Number 1 January/February 2016

IOWA LAWYER

Iowa's lawyer-legislators

*Ready to serve
in 2016*

Teaching trial advocacy
south of the border

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on his drive to serve

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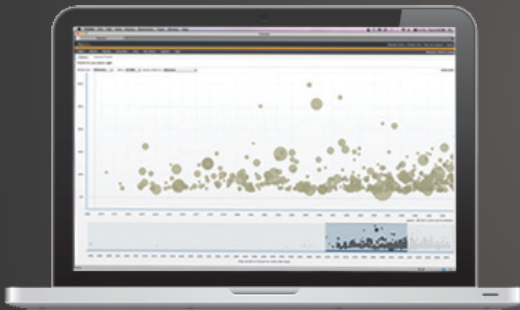
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The Iowa State Bar Association seeks to publish original articles that advance the education, competence, ethical practice and public responsibility of Iowa lawyers. Members are encouraged to submit articles and manuscripts to the editor for possible 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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New House Majority Leader on his drive to serve

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By Steve Boeckman, ISBA Communications Dept.



Now is your chance to get involved

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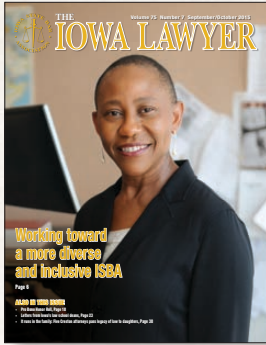
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ABOUT THE COVER

ISBA lawyer-legislators gather for a group photo Jan. 13, after the Condition of the Judiciary Address at the Iowa Capitol Building. Pictured are (front row, from left) Rep. Chris Hagenow, Rep. Chip Baltimore, Rep. Darrel Branham, Rep. Stan Gustafson, Sen. Robert Hogg, (bottom of stairs to top) Rep. Helen Miller, Sen. Julian Garrett, Rep. Megan Jones, Sen. Jack Whitver, Rep. Todd Prichard, Rep. Jo Oldson, and Rep. David Dawson. Not Pictured are Rep. Brian Meyer, Rep. Rick Olson, Rep. Kraig Paulsen, Sen. Charles Schneider and Rep. Mary Wolfe. Find out more about these legislators on page 6.

Letters to the Editor



Dear Editor:



I thought the September/October issue was outstanding! Great series of articles on diversity and inclusion, including the president's letter. The reflections of several members of the association were enlightening, but Commissioner Ryan made the key point — that change happens only when people are committed to change.

My compliments on a great issue!

John Schmidt
Des Moines, Iowa

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is a partner at Phelan, Tucker, Mullen, Walker, Tucker, Gelman, L.L.P., in Iowa City, where he practices primarily in trial law, insurance litigation, personal injury law, employment law and workers' compensation. www.ptmlaw.com

Representing our association

In this issue, our lawyer-legislators are being featured and rightly so. These leaders have taken significant time from their office practices and private lives to serve not only the citizens of this state but also to represent our association. If you are able to do so, please reach out to them to thank them, buy them a cup of coffee, offer to respond to any questions they may have or donate to their campaign in any way you feel comfortable.

One way to show support for our lawyers who are willing to run for public office and be involved in public service is to make a contribution to the ISBA's non-partisan political action committee, LawPAC. Jim Carney, ISBA legislative counsel, and Tom Henderson, LawPAC president, can assist you if you want to learn more about furthering LawPAC priorities..

Like our lawyer-legislators, volunteers are also admired by the leaders and members of our organization. Between now and the ISBA Annual Meeting, it is an excellent time to offer to serve on a section or committee. President-elect Skip Kenyon and the rest of the ISBA Administrative Committee he appoints will need names to be able to fill openings that arise.

Trial lawyer Douglas Burrell is a perfect example of a volunteer. It impresses me that even after moving to Atlanta, Doug is still actively engaged as a volunteer in Iowa. He chaired the Defense Research Institute's Diversity Committee and now serves on the DRI's Board of Directors. Recently, he returned to Iowa to give a presentation on diversification of the bar. I am proud to call him a friend and colleague.

There will be at least six openings on the ISBA Board of Governors to fill our districts. In the past, there have been some issues involved in filling these positions. Please nominate yourself and others who are interested in serving. If you have questions about what the position involves, please ask me or any other member of the BOG. If you know someone you feel would be a good

representative for your district, solicit them to serve. We need input from all areas of the state and all practice fields to make our association as strong as possible.

Finally, there have been a significant loss of members from our association who have passed away since last June's resolution honoring deceased members. While I did not know all of our deceased members, I do know that this association was ably served by these members over the years.

I know that Russ Buchanan was a past president of this organization and served it well. Joe Johnston served in the Iowa Legislature and after that had a trial practice in Iowa City working primarily on the plaintiff's or claimant's side.

Dave Good was a classmate and after graduation had an excellent family law practice in Cedar Rapids before going on the district court bench where he served the Sixth Judicial District of Iowa well.

Ken Keith was an old-time trial lawyer who vigorously represented his clients for over 40 years before retirement. My best recollection of Ken is from a four-week trial that started after Thanksgiving with Ken, Bill Tucker, Dub Barnes, Joe Johnston, Pat Ryan and me in Washington over a three-car accident. Our oldest boy wrote Ken a note asking if his daddy could come home for Christmas. Ken got a big kick out of it, and I felt we remained close thereafter.

One way that Dedi and I showed respect to the memories of our association's members was by making donations to the Iowa State Bar Foundation in their honor. Paul Tyler, ISBF president, and ISBF Board of Directors Bob Waterman, Frank Carroll, Gary Streit, Elizabeth Reynoldson, Mark Schuling and Jane Lorentzen can help you make a memorial gift donation to the foundation.

Bruce L. Walker

President, The Iowa State Bar Association
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Photo by Michael Kreiser

ISBA President Bruce Walker and Douglas Burrell were among the distinguished honorees at the University of Iowa College of Law's 150th Gala last November. Burrell played defensive end for the Iowa Hawkeyes, finished law school in Iowa City and went to work at Shuttleworth & Ingersoll, P.C. When his wife left KCRG to take a job in Atlanta as a broadcaster, the family relocated. Burrell is a trial lawyer and partner at Drew Eckl & Farnham, L.L.P. Even after moving to Atlanta, Burrell is still actively engaged as a volunteer in Iowa.

The 2016 lawyer-legislators

Editor's note: Seventeen lawyer-legislators are serving in this second half of the biennium of Iowa's 86th General Assembly. Thirteen of the 17 serve in the House and four in the Senate.

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District 13 – Indainola
Republican

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Appropriations, Government Oversight (ranking member), Human Resources, and Judiciary

Appropriations Subcommittee: Justice System Appropriations Subcommittee (ranking member)
Permanent Statutory Committees: Iowa Commission on Interstate Cooperation
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(chair), Judiciary (vice chair), Ways and Means
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Permanent Statutory Committees: State Government Efficiency Review Committee
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Appropriations Subcommittee: Economic Development

Appropriations Subcommittee (ranking member)
Permanent Statutory Committees: Public Retirement Systems Committee
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2016 legislative session promises to continue the string of challenging sessions

By the ISBA's legislative counsel team

Looking ahead to the upcoming session, the legislative process is expected to be consumed by the state budget, education spending, Medicaid managed care and elections this fall.

The 2016 session is the second half of the 86th General Assembly. It is scheduled to last 100 calendar days running from Jan. 11 to April 19. However, this is not a hard deadline. Sessions have run shorter and longer. April 19 is the last day legislators will receive per diem to be in Des Moines and typically this helps legislators to find necessary compromise to end the session. The legislative timetable also has two dates referred to as funnels. These dates are the dates that bills must be reported out of committee or the bill is dead for the session. This year, legislative leadership has moved the first funnel (the date bills must be out of their committee of origin) up two weeks to Feb. 19, and they have moved the second funnel (the date that bills must be out of the committee in the opposite chamber) up to March 11. These funnel dates, combined with the shorter 2016 session, have set a very aggressive time table for the legislature.

The leadership of both the Senate and the House Judiciary Committees will be unchanged from last session with Senator Steve Sodders, a non-lawyer from Marshalltown, chairing the Senate Judiciary Committee and Chip Baltimore, a lawyer-legislator from Boone, chairing the House Judiciary Committee. The ranking member of the Senate Judiciary Committee is Charles Schneider, a lawyer-legislator, from West Des Moines, and the ranking member of the House Judiciary Committee is Mary Wolfe, a lawyer-legislator, from Clinton.

The Justice System Appropriations Subcommittee is a joint committee of House and Senate members. The Senate chair will be Tom Courtney of Burlington. The House chair will be Gary Worthan of Storm Lake. Justice System Appropriations is the committee which funds the judicial branch, indigent defense and legal aid.

The Republicans currently have a 57 to 43 advantage in the House. The Senate

will remain in control of the Democrats 26 to 24. There will be a total of 17 lawyers serving in the legislature in 2016 – 13 in the House and four in the Senate. It's very important to remember how fortunate we are to have lawyers who are willing to be involved in public service. Lawyers understand complex issues and are able to find a compromise where others may not. The more lawyers who participate in government the better the work product is for the state.

State budget

Iowa Code requires the Revenue Estimating Conference to meet a minimum of three times a year. They generally meet in October, December and March. By statute, the state budget is predicated upon the estimates provided by the December REC unless the following March REC is lower than the December REC. If that happens, the legislature must use the lower of the two. This happened in the 2015 legislative session lowering the amount of available revenue by \$19.1 million.

The March 2015 REC revenue estimate for FY 16 was \$7.1755 billion and the October REC revenue estimate for FY 16 was \$7.0545 billion. On Dec. 10, 2015, the REC lowered the FY 16 revenue estimate again this time by an additional \$8.9 million bringing the total to \$7.0456 billion.

The REC set the official revenue estimate for the FY 17 general fund revenue at \$7.3274 billion. Net appropriations for FY 16 totaled \$7.174 billion. With the predicted revenue at \$7.327 billion, the legislature will have \$153.1 million in available new revenue for FY 17. This number is derived by subtracting the enacted appropriations of \$7.174 billion from the general fund revenue of \$7.327.

Going into the 2017 legislative session, there is approximately \$400 million in built-in expenditures that have been passed by previous legislatures and areas that are already expected to receive funding increases including Medicaid, Regents, and K-12 education. This creates a shortfall in ongoing revenue of about \$250 million if all programs are funded at the

projected levels and all other programs in the state budget are flat funded. The state does have money remaining in the ending balance, the Economic Emergency Fund and the Rainy Day Fund. In total, there is about \$900 million in the state's saving accounts. However, these are considered one-time funding sources by the legislature and they have been reluctant to use these funds for ongoing programs.

The ISBA will need to work even harder this year to ensure that our affirmative legislative program has sufficient consideration and is advanced in this difficult budget environment. To accomplish this, our membership will need to engage at the local level even more than normal.

FY 17 The Iowa State Bar Association Affirmative Budget Increase Requests

Judicial Branch Budget	\$ 8.3 million
Indigent Defense	
\$5.00/hour increase	\$ 2.9 million
Legal Services Poverty Grants	\$ 0.5 million
Polk County/Courts IT and Furniture	\$ 6.72 million
Iowa Secretary of State	\$ 3.1 million

Total \$ 20.32 million

Indigent defense funding

The Board of Governors continues to support an increase in the indigent defense reimbursement rate. Ideally, the reimbursement rate should be indexed to the economy and increase automatically.

Absent indexing, there is still a need to increase the reimbursement rate incrementally every few years. We will continue to educate legislators on the need to have higher reimbursement rates to keep lawyers interested in providing indigent defense and to recognize the actual costs associated with practicing law.

We will all need to work to protect existing funding because of the budget stresses being placed on the legislature and still press for an increase in reimbursement rates. Private practice court-appointed attorneys in Iowa receive \$29.9 million per year in compensation. About 62,000 claims are paid per year to

approximately 1,000 lawyers who receive court appointments.

New Speaker of the House

Kraig Paulsen, announced last summer that he would be retiring from the House at the end of his term. He also stepped down from the position of Speaker effective Jan. 11. The new speaker is Linda Upmeyer from Clear Lake. Upmeyer was first elected in 2002 and has served the past five years as the majority leader in the House. She will be the first woman elected speaker in the history of Iowa. Her father, Del Stromer, served in the Iowa House for 24 years and was also elected speaker.

New Majority Leader in the Iowa House – A lawyer-legislator

With the current majority leader being elected speaker, the House Republicans have elected a new majority leader. The caucus elected Chris Hagenow from Windsor Heights as their new leader. Chris was first elected to the House in 2008. He has a bachelor's degree from the University of Northern Iowa and his law degree from the University of Iowa in 1997. He is a member of the ISBA and is a founding partner of Whitaker, Hagenow & Gustoff, L.L.P. in Des Moines.

Affirmative legislative program

The ISBA Board of Governors has approved the ISBA legislative proposals for the 2016 session. Legislative proposals are prepared by various sections, presented to the BOG for approval, and adopted as a part of the ISBA legislative program. A chart outlining the ISBA affirmative legislative program appears on page 12 for your review.

The ISBA has one of the most aggressive affirmative programs of any interest group in the state. Normally, the ISBA has anywhere from 15 to 20 proposals each legislative session. The Family Law, Real Estate and Title Law, Business Law and Probate, Trust & Estate Planning Sections are among the ISBA sections that have legislative proposals for this coming session.

All politics is local

The famous quote by Speaker Tip O'Neill that "all politics is local" is very important to remember. Iowa legislators are responsive to constituents. Far too often constituents fail to appreciate the importance of communication with legislators. Even though a legislator may not agree with you 100 percent of the time, we

can assure that they do value contacts from back home and they are concerned about their constituency.

During the time we have had the privilege of representing the ISBA, the method and form of communication with legislators has changed dramatically. From snail-mail days and land-line phones to emails and cell phones, communication has become much easier. Whether it is by snail-mail, fax, calls to the Capitol or contacts back home, we encourage you to maintain communications with your local legislators.

Details on how you can contact your local legislators at any time on any given issue accompanies this article to the right. Better yet, why not invite them to your office for coffee or personally meet with them in some manner while they are back home in the district? Thank them for their public service and discuss issues of importance with them.

Thank you for your great support of the ISBA legislative efforts. For those members who have contributed to LawPAC, we thank you for the resources to fight the fight on behalf of the entire ISBA.

The ISBA legislative team is composed of Jenny Tyler who will be returning for her 17th year of representing the bar and serving as assistant legislative counsel; Doug Struyk, a former lawyer-legislator, will be serving his third year as assistant legislative counsel; and Jim Carney will be returning for his 41st year of representing the bar.

If you have any questions regarding the ISBA affirmative legislative program or any other legislative matter, please feel free to contact Carney, Tyler or Struyk at 515-282-6803 at any time. You can also email them at carney@carneyappleby.com; tyler@carneyappleby.com or struyk@carneyappleby.com.

How to contact your legislator

It is very easy to communicate with your local representatives and senators. You can do it by mail, phone, email or meeting with them back in your home district. Here's how to reach state lawmakers during the legislative session:

SENATORS: Call: 515-281-3371 to reach the Iowa Senate switchboard.
Fax: Senate Chambers 515-242-6108
Secretary of Senate 515-242-5212

REPRESENTATIVES: Call: 515-281-3221 to reach the Iowa House switchboard.
Fax: House Democrats 515-281-5868
House Republicans 515-281-6985

EMAIL: A list of legislators and their email addresses, as well as home contact information, is on the Web at www.legis.iowa.gov. Legislators read their e-mail. This is a great way to communicate with them.

MAIL: Send mail to members of the Legislature at the State Capitol, Des Moines, IA 50319.

WEB ACCESS: See calendars of legislative meetings, track legislation, find your lawmaker, and even listen to live debate on the General Assembly's Web site at: www.legis.iowa.gov.



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Responsiveness to Iowans and to his family key drivers for new House Majority Leader Hagenow

By Steve Boeckman, ISBA Communications Dept.

Newly elected Iowa House Majority Leader Chris Hagenow always knew he wanted to serve in the Iowa Legislature someday. However, his opportunity to run for the Iowa House came a little sooner than he expected.

His predecessor, Dan Clute, who had been elected to his first term in the Iowa House in 2006 for at-the-time District 59, called him less than a year into his first term and said he was not planning to run for re-election.

The call forced Hagenow to make a decision. Even though he had always enjoyed public policy and had been active in political campaigns through his undergraduate years at the University of Northern Iowa, the Iowa Falls, Iowa, native says that was “not necessarily the time I would have envisioned. But you don’t always get to choose.”

After consulting with a number of people, especially his wife Amanda, a dietitian with the Hy-Vee store in Windsor Heights, Iowa, he decided to run. He remembers that the news release announcing his candidacy appeared in a December 2007 issue of the Des Moines Register – the same day his oldest son Owen was born.

“I mark time in this business based on my oldest son,” he laughed. He and Amanda now have three children: Owen, 8; Noah, 5; Sophia, 2.

Hagenow’s path to the Iowa Capital was not an easy one. He faced stiff opposition in the 2008 primary, although he ended up

with 58 percent of the vote. The general election was tighter, only beating his Democrat opponent by 93 votes.

The general election in 2012 was even tighter. He beat his opponent by only 22 votes in that election.

He sees both elections as major successes, however. President Barack Obama, a Democrat, won his legislative district in those years.

His narrow margins in the two general elections have given rise to a tongue-in-cheek comment among his close cronies: “Landslide Hagenow!”

A Political Science and French major at UNI, Hagenow received his law degree from the University of Iowa College of Law in 1997. After law school, he clerked for now Iowa Supreme Court Justice Bruce Zager when Zager was a solo practitioner in Waterloo. After nine months, he moved to Des Moines and hung out his shingle. As he puts it, “I made a go of it for five years” primarily from court-appointed criminal defense cases, wills and some family law cases.

“It certainly has helped me understand the indigent defense funding issue,” he says of the years-long debates in the legislature over raising the rates paid to practitioners for doing indigent defense work.

After his election in 2008, Hagenow connected with Bill Gustoff and Matt Whitaker, a former U.S. Attorney for the Southern District of Iowa, and they founded the firm Whitaker Hagenow & Gustoff LLP in Windsor Heights. Since then, the firm has added Matt Dummermuth, a former U.S. Attorney for the Northern District of Iowa residing in Cedar Rapids, Iowa; Jack Whitver, an Iowa Senator; and Kendra Arnold, who had worked at the Iowa Court of Appeals. The firm’s members practice in the areas of estate planning, probate, criminal defense, civil litigation and business consulting and advice.

As House Majority Leader, Hagenow is responsible during the session for leading the Republican caucus, putting together the schedule of debate, calling up bills for debate on the floor, leading the discussions within the caucus and keeping the 57 members together and working as a team. Outside of the session, he is a leading force in campaigning for members of his party. That requires him to travel around the state recruiting candidates where there are no Republicans running, appearing at campaign events and supporting incumbents. He is also charged with fundraising on behalf of the caucus.

The job is essentially full-time since the election for Iowa House members occurs every two years. While it might seem that a longer election cycle would make more sense, Hagenow thinks the two-year cycle is a good thing. “It requires us to be in contact with the people,” he says. “It makes us responsive to the people.”

Responsiveness to the people who elect him and his fellow legislators is a major element in Hagenow’s political makeup. He believes strongly that there should be conversation and debate among legislators over the issues. And, while they can disagree, they should do so without being disagreeable. “We have to maintain the understanding that all of us are here to serve the people of Iowa,” he says.

As a leader in his party and in the House of Representatives (majority whip starting in 2012 and now majority leader), he wants to focus on building relationships, not breaking them down. Many of the things done in the legislature are bipartisan in nature, he acknowledges. That doesn’t mean there has to be a breakdown in relationships.



“We all sit together,” he says. “You get to know people.”

One of the values of lawyer-legislators (there are 17 currently in the House and Senate) is that they are able to find pathways to compromises for working together, he says. “In my seven years in the legislature, I’ve seen the value that lawyers bring to that.”

Family is also an important component of who he is. Finding the balance between family and his political responsibilities is an ongoing concern, he says. “It’s a priority for me to be an active part of my kids’ lives. Family is always going to be top priority.”

Plus, being a father has helped him be a better elected official, Hagenow believes. “Having children has helped bring into focus what we do here,” he says. “It’s not just for us today, but for the generation coming after us.”

He gives much of the credit for keeping the family a priority to Amanda, who he says has been “incredibly supportive even when things have been difficult.”

“She has made tremendous sacrifices for me to be able to do this. I can’t even begin to express fully my gratitude to her for what she has done to allow me to serve.”

Hagenow says the couple has become “effective” at juggling family needs with his responsibilities in the legislature. “I wouldn’t say we’re good at it, but we’re effective,” he says.

In fact, “family” has been a major consideration in his decision whether to seek higher political office. When Congressman Tom Latham decided not to run for re-election two years ago, he briefly considered tossing his hat in the ring.

“I decided I couldn’t do that and continue to be the husband and father I want to be,” he says. “And, I knew I could continue to make a difference here in Iowa.”



The Hagenow family (from left) Noah, 5; Chris, 8; Amanda; Sophia, 2. Hagenow says that family is always going to be his top priority despite the demands for his time required by the legislature and his law practice.

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IOWA STATE BAR ASSOCIATION — 2016 Affirmative Legislative Program


Bill No./Subject	Description	Status
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." 	In drafting
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.	In drafting
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."	In drafting. Will be placed in Code Editor's bill.
HSB 37/SF 376 Calculation of Probate 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.
SSB 3035 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.	Referred to Senate Judiciary Committee. Assigned to Hogg, Soddors, Schneider.
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." 	In drafting
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. Assigned to Hogg, Bisignano, Garrett.
SSB 3030 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.	Referred to Senate Judiciary Committee. Assigned to Hogg, Soddors, Zaun.
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.
HSB 192/SSB 1249 Redemption from Tax Sale of Property Owned by Persons with Disabilities	Remedies issues arising from Iowa Court of Appeals decision Firestone v. FT13 (Filed 4-30-14) relating to redemption issues arising from ownership of property by minors or persons of unsound mind.	HSB 192 referred to House Judiciary Committee, 3-2-15. Assigned to Hagenow, Gustafson, Anderson. SSB 1249 referred to Senate Judiciary Committee, 3-2-15. Assigned to Quirnbach, Taylor, Garrett.
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.	HSB 192 referred to House Judiciary Committee, 3-2-15. Assigned to Hagenow, Gustafson, Anderson. SSB 1248 referred to Senate Judiciary Committee, 3-2-15. Assigned to Quirnbach, Taylor, Schneider.
HF 572/SSB 3010 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 572 approved by House Judiciary Committee and placed on House Calendar. 4/3/15-Re-referred to House Judiciary Committee 4/3/15. SSB 3010 referred to Senate Judiciary Committee. Assigned to Bisignano, Horn, Garrett.

Bill No./Subject	Description	Status
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.	In drafting
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. Assigned to Sodders, Bisignano, Zaub.
SSB 3031 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)].	Referred to Senate Judiciary Committee. Assigned to Petersen, Taylor, Zaub.
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.	In drafting
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).	Referred to Senate Judiciary Committee. Assigned to Kinney, Bisignano, Garrett.
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.	In drafting
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.	In drafting
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.	In drafting

Updated 1/18/16

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 lowans 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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Three questions with ISBA Assistant Legislative Counsel Doug Struyk

ISBA Assistant Legislative Counsel Doug Struyk was recently elected to the National Association of Bar Executives Government Relations Executive Council.

NABE is an affiliate of the American Bar Association. Founded in 1941, NABE is an independent not-for-profit that enhances the skills and enriches the careers of bar association professionals.

Struyk recently shared his thoughts on the NABE GR section and rising to serve as secretary of the executive council.

What is the NABE GR section?

NABE has three sections: Administration and Finance, Communications and Government Relations. Each section allows NABE members to attend programming specifically tailored to their bar office's needs and the member's individual needs. The NABE Government Relations section helps individuals new to government relations and new to bar association issues develop a network of individuals with experience in the area. For experienced government relations professionals, the section keeps the information exchange going so that each bar association is prepared for the difficulties and issues that may appear in its state in the future.

What benefits do you get from being a part of the NABE GR section?

First and foremost, the NABE GR section participation provides heightened access to the network of other bar association government relations professionals. Members routinely discuss questions or issues that have come up in their states to see how other states have addressed similar questions or issues. Members of the section are very open and willing to share ideas and experiences to help other states.

There is also an annual legislative workshop where the section members come together to share government relations programming presented by experts from around the country.

Finally, NABE GR works closely with the ABA, helping us develop even

stronger relationships with our national organization. For example, ABA Senior Legal Counsel for the Governmental Affairs Office, Ken Goldsmith, is at all of our meetings and participates in our discussions between meetings. We are able to share information from the states with the ABA, and he in turn shares national information back with us. With our network, the ABA is able to keep our section up-to-date on national issues and engage our grassroots at key times.

What motivated you to serve as a NABE GR section officer?

By participating in the section, and especially in being an officer, I will be exposed to even more useful information and develop an even stronger network to assist the ISBA in promoting its legislative agenda here in Iowa. I will be even better suited to advise the section legislative committees on pending issues and possible solutions as they consider legislation.

Additionally, it will be my pleasure to help the section continue to develop quality programming for NABE members and members of the GR section.



ISBA Assistant Legislative Counsel Doug Struyk has more than a decade of government relations experience including time as a lawyer, lobbyist and legislator. He worked at the highest levels of both the executive and legislative branches of Iowa's government. Struyk is well known at the Iowa Capitol as a skilled problem solver with a proven record of working with both parties to resolve controversial issues.



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Arnold "Skip" Kenyon, III

NOW IS YOUR CHANCE! Seeking nominations for sections and committees

As president-elect, it is my privilege to make appointments to the sections and committees of The Iowa State Bar Association.

The sections and committees are the life blood of the ISBA. The opportunities for networking, interaction and the expanding of your practice lie within these groups. In order to assure consistency and a smooth transition, it is essential that we establish a succession plan for each committee and section.

Listed to the right are the sections and committees. Please complete and submit your online application by March 1, 2016 by using the link below. We have many committees and sections, and we have many qualified applicants. You may wish to apply for more than one position, indicating your preferences, in the event a particular section or committee is full.

It is my intention to follow the lead of President Bruce Walker in regard to the appointments. Specifically, we will be appointing a chair and vice chair if possible.

It is imperative that all applications be filed by March 1, 2016, as each application will be reviewed and evaluated. It is my intention to have all appointments completed and in place so that they will become effective at the time of the annual meeting in June 2016.

If you have any questions, or would like additional information concerning any of the sections or committees please contact the ISBA office or me. I am looking forward to serving with you.

Arnold O. Kenyon, III
President-elect
The Iowa State Bar Association
sklaw@iowatelecom.net
641-782-7007

Submit nominations at:
[www.iowabar.org/
2016CommSectSignUp](http://www.iowabar.org/2016CommSectSignUp)



Committees

- Access to Justice
- American Citizenship
- Annual Meeting
- Appellate Practice
- Bar Insurance
- Bench Bar Conference
- Diversity and Inclusiveness
- Economic Development
- Ethics and Practice Guidelines
- Federal Practice
- Independence of the Judiciary*
- Judicial Administration
- Jury Instructions
- LawPAC
- Law Practice Management
- Lawyers Helping Lawyers
- Legal Forms
- Military Affairs
- Professionalism
- Public Relations
- Rural Practice
- Scope & Correlation*
- Ways & Means*

Sections

- Administrative Law
- Agricultural Law
- Alternative Dispute Resolution
- Business Law
- Commercial & Bankruptcy Law
- Construction Law
- Corporate Counsel
- Criminal Law
- e-Commerce
- Elder Law
- Environmental & Natural Resources Law
- Family & Juvenile Law
- General Practice
- Government Practice
- Health Law
- Intellectual Property Law
- International Law
- Labor & Employment Law
- Litigation
- Probate, Trust & Estate Planning
- Real Estate & Title Law
- Taxation
- Trade Regulation
- Workers' Compensation

**Not open to general membership*

Not all section or committee councils will have vacancies. However, ISBA leadership requests nominations for all in order to gauge interest.

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Board of Governors quarterly meeting – ISBA BOG authorizes next steps for technology, member services at quarterly meeting

During the winter ISBA Board of Governors quarterly meeting in Des Moines, the BOG authorized next steps for advancements in technology and member services, acted on additional recommendations for the 2016 ISBA Affirmative Legislative Program and continued to examine and further efforts to energize member engagement.

Actions

Actions taken by the BOG included:

Member service directory

- Authorization to change Find-A-Lawyer from a paid member service to a non-paid member directory that offers any ISBA member the opportunity to opt-in, and to allow the sale of non-attorney advertisements to support the service.

Child support guidelines calculator

- Approval to pursue the creation of co-branded, web-based child support calculators for ISBA members for reduced fees.

50-State Interactive Pro Bono website initiative

- Authorization for the ISBA to enter into a licensing agreement to help generate

support on a national level and thereby indicate interest in participation in a 50-State Interactive Pro Bono Website online advice clinic opportunity.

2016 ISBA Affirmative Legislative Program items

- Adoption of a resolution to support full funding by the Iowa Legislature of the Office of the Iowa Secretary of State as requested by the Iowa Secretary of State.
- Approval of legislative proposals pertaining to miscellaneous technical amendments to Iowa Code Ch. 633A, the power of attorney act.
- Approval of an amendment to Iowa Code section 633.389 to simplify notices regarding sale of property.

Additional actions taken by the BOG included:

- Approval of the Title Standard Committee recommended changes to Standards 10.6, 16.1, 16.2, and 16.3.



ISBA Governor Victoria A. Feilmeyer, district 2B, engages in discussion of adoption of proposed legislation for the ISBA's 2016 Affirmative Legislation Program, as ISBA Governor Willard Boyd, III, district 5C, looks on.

Reports

Dialogue with Iowa Supreme Court Chief Justice Mark Cady

Chief Justice Cady emphasized three items. First, he apprised governors on progress made on the Polk County Courthouse renovation project. Under state law, county governments are financially responsible to provide physical structures for the court system, but the state is responsible for the furnishings and technological equipment therein. Cady stated that the fiscal year 2017 (FY 17) Judicial Branch budget request provides for the state's investment in the new Polk County Courthouse pursuant to Iowa law. According to Cady and the ISBA's legislative counsel, the request has been well received by the governor. He stressed the importance of building support in rural areas as well.

Next, Cady reported that the judicial branch budget request is \$179 million plus \$5.6 million. This amount would only provide enough funding for the Iowa Judicial Branch to maintain the current level of services that it provides. He stressed that the court has the capacity and will to provide greater justice to all Iowans; it needs additional resources.

Third, Cady explained that under the current budget process, judicial salary increases must be specifically approved by the legislature. The Iowa Judicial Branch hopes to work on changing the process in the future as it does not provide for the level of compensation and increases that are provided for other state employees. This year, the Iowa Judicial Branch is seeking a five percent judicial salary increase that will likely correct for an increase in the cost of living and nothing more.

Both Cady and Counsel to the Chief Justice Molly Kottmeyer answered questions from the governors, including questions regarding new rules promulgated by the court – specifically those that impact solo and small practices.



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President's report

ISBA President Walker thanked the governors who are working with committees and sections to keep the BOG apprised of their goal(s) and activities, requested that those governors continue to do so and asked that all governors perform their respective liaison functions.

President Walker reported on the Dec. 8, 2015, meeting hosted by ISBA Officers with State Court Administrator David Boyd, The Iowa Association of Justice, The Iowa Defense Counsel, The Iowa Academy of Trial Lawyers and ISBA Legislative Counsel. President Walker stated that his overall impression from the meeting is that the main focus this legislative session will likely be on budget-related issues.

President Walker stated that he will be attending meetings around the state and discussing a number of issues, including the upcoming judicial retention elections. ISBA Past President Guy Cook will be forming a retention election action group.

Executive director's report

Executive Director Dwight Dinkla presented a bound collection of the Iowa Lawyer Magazine to ISBA Immediate Past President Joe Feller. The collection contains each magazine published during his presidency. He also reminded the governors of upcoming meetings and legislative events.

Assistant Executive Director Harry Shipley provided a summary of financial activities of the bar association and the ISBA's finances to date:

- The ISBA is on target to meet or exceed its budget.
- The ISBA met all requirements pertaining to its annual audit and there were no recommendations for changes and no additional requirements.
- The ISBA's 2014-2015 Return of Organization Exempt From Income Tax (Form 990) is on file with the IRS.
- Information is available on membership trends including demographics by age,

race and gender to the extent that the self-reported data is available.

Assistant Executive Director Shipley updated governors on member services provided by the ISBA and answered questions pertaining to the ISBA website, Find-A-Lawyer, development of web-based Child Support Guideline Calculators and IowaDOCS@.

Legislative counsel's report

ISBA Legislative Counsel Jim Carney provided the BOG with information regarding:

- Key dates including the state of the judiciary, the lawyer-legislator dinner and breakfast with the bar;
- The status of LawPAC and fundraisers;
- The status of the 2015 Affirmative Legislation Program;
- The ISBA Affirmative Agenda with additions/changes for the 2016 session;
- Information regarding the courthouse facilities construction timetable for Polk County including Iowa law and Polk County project funding; and

Professor David Walker highlighted excerpts from the Uniform Law Commission's Uniform Deployed Parents Custody and Visitation Act and detailed the reasons for adoption of UDPCVA in Iowa.

Probate, Trust & Estate Planning Section Chair Matthew Gardner and Real Estate and Title Law Section Chair Scott Hall presented arguments against and for, respectively, the Real Estate and Title Law Section's proposal to adopt the Uniform Real Property Transfer on Death Act as part of the ISBA's 2016 Affirmative Agenda.

Legislative Service Bureau report

Iowa Legislative Services Agency Senior Fiscal Analyst Jeff Robinson presented the BOG with an overview of the current Revenue Estimating Conference (REC) estimates that are used to create the state's budget.

- Currently, projected FY 2016 revenue growth is equal to \$235 million (3.4%),

projected FY 2017 revenue growth is equal to \$294 million (4.2%). Estimates for FY 2016 and FY 2017 will be reassessed at the December 10th REC meeting.

- From an initial unemployment claims perspective, the U.S. economy is not near a recession and claims are lower than any time since the mid-1970s.
- The number of Iowans counted as unemployed is reaching low levels not seen since the early 2000s.

Robinson responded to questions about how the 2013 legislation aiding commercial and industrial property taxpayers and the recent Department of Revenue rules related to the manufacturing sales tax exemption impacted Iowa General Fund finances and the corresponding counterweight.

YLD president's report

YLD President Joe Goedken provided updates on the YLD's mentor program and reiterated that more mentors are needed. YLD leaders are investigating ways to engage more new lawyers entering practice in Iowa. Outreach efforts include inviting law student bar association leaders to the ISBA YLD quarterly meetings. Ideas are being explored related to co-sponsorship opportunities for bar review, student loan forgiveness, attorney shadowing days and other networking opportunities.

ABA delegate report

ABA Delegate David L. Brown stated that there are a number of ABA Resolutions that will be debated by the ABA House of Delegates at the 2016 Midyear meeting in February. There were no resolutions before the House of Delegates at the time of the winter BOG quarterly meeting. Brown updated the governors on the U.S. Senate Judiciary Committee's vetting of Judge Rebecca Goodgame Ebinger, to be United States District Judge for the Southern District of Iowa and Judge Leonard Terry Strand, to be United States District Judge for the Northern District of Iowa.

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The Iowa State Bar Foundation update

ISBF President Paul Tyler updated the governors on the ISBF's campaign to secure \$10,000 contributions, payable over 10 years, from 100 lawyers. To date, 25 attorneys have pledged or made \$10,000 contributions. The ISBF plans to recognize campaign donors on a permanent fixture outside the ISBF CLE Center in the ISBA building.

ISBF President Tyler outlined the process for becoming an ISBF Fellow and an ISBF Life Fellow. He noted that there are currently funds available through Endow Iowa that enable donors to make gifts to the ISBF and receive Endow Iowa Tax Credits via three accounts at the Community Foundation of Greater Des Moines. Under the current Endow Iowa Tax Credit program, if a \$10,000 gift is made, for example, the overall real cost of a \$10,000 gift is about \$4,000.

Access to Justice Committee

Access to Justice Committee Co-Chair Anjie Shutts updated governors on the committee's work related to participation in a 50-State Interactive Pro Bono Website online advice clinic opportunity. Once implemented, the online clinic will allow individuals

to register and submit legal questions and match attorneys to the questions. Attorneys then provide answers and legal advice.

The national site will be developed, deployed and maintained in a hosted environment utilizing virtual technology. States that are interested in participating in the program are being asked to sign licensing agreements to help generate support for the project at the national level. Shutts stated that the ISBA Access to Justice Committee supports the ISBA's involvement in and becoming a part of the ABA's 50-State Interactive Pro Bono website initiative.

Access to Justice Commission Study Committee

Access to Justice Commission Study Committee Chair Brett Toresdahl provided a report on the Access to Justice Commission Study Committee's work since its formation. The study committee includes a membership that represents key constituents including the Iowa Executive Branch, the Iowa Judicial Branch, the courts, private Iowa attorneys, the ISBA, the legal services community and the business community.

The study committee plans to provide recommendations for different potential

Iowa Access to Justice Commission structures at the March 2016 BOG meeting.

Iowa Lawyer Assistance Program

Iowa Lawyers Assistance Program Executive Director Hugh Grady updated governors on new referrals to the ILAP. He stated that more people are aware of issues that the ILAP seeks to address and that the ILAP is a resource. Grady went on to state that he is happy to make presentations at county bar functions, law firms and other venues and that the presentations are eligible for one hour of CLE credit. The ILAP is monitoring more lawyers and seeks to provide assistance and support early. Grady noted that the ILAP website is being redesigned and that it will include lawyers telling their stories via video.

Ways and Means Committee

Ways and Means Committee Chair and ISBA Past President Jay Eaton reported on the committee's review of the ISBA's Expense Reimbursement Policy for the purpose of clarifying it with respect to Officers, ABA Delegates and YLD Officers. Eaton stated that the review takes place periodically to clarify policy language that could be ambiguous or allow different interpretations. This was not a review of policy dollar limits (which the Ways and Means Committee has done before) or a review of past individual expense reimbursement submissions.

Member Engagement Fast Action Team

Member Engagement Fast Action Team Chair and ISBA Past President Alan Fredregill reported that the team suggested new committees of the BOG. He stated that the intent behind the creation of five committees focused on governance, finance and audit, membership, futures and legislation is that each member of the BOG be involved in some aspect of long-range planning for the future of the association.

Report from Drake Law School Dean

Dean Ben Ullem remarked on several items related to current trends and noted that LSAT numbers are still down as is the number of students matriculating to law school. Ullem provided highlights of news from Drake Law School and noted that Drake Law School Professor and former Dean David Walker and Professor Martin Begleiter will be retiring this year after 36 and 34 years of service, respectively. He thanked them for their many contributions to the law school and the state.





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Thanks to speakers

November

Representing Parties in Education Disputes Nov. 2, 2015

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Heather Palmer, Iowa Department of Inspections & Appeals
Thomas Mayes, Iowa Department of Education
Elisabeth Reynoldson, Reynoldson & Van Werden, L.L.P.
Miriam Van Heukelem, Ahlers & Cooney, P.C.

Mental Health Committal Process Nov. 5, 2015

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Daniel Flaherty, Assistant Polk County Attorney

Are You Ready – Trial Court Application Process A-Z Nov. 5, 2015

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Elizabeth Flansburg, Dougherty Palmer & Flansburg P.L.C.
Hon. Arthur Gamble, Chief Judge, District 5C
Mark Schuling, Office of Consumer Advocate
Hon. Paul Scott, District Court Judge, District 5C

Labor & Employment Law Seminar Nov. 13, 2015

Sponsored by the Labor and Employment Section
Magistrate Judge Helen Adams, U.S. District Court for the Southern District of Iowa
Randall Armentrout, Nyemaster Goode, P.C.
Rick Autry, Attorney, Iowa's Employment Appeal Board
Nate Boulton, Hedberg & Boulton, P.C.
John Doak, Katz Nowinski, P.C.
Ann-Marie Holden Kendell, Brown Winick, P.L.C.
Judge Jeffrey Farrell, Fifth Judicial District of Iowa
Tom Foley, Babich Goldman, P.C.
Gayla Harrison, Harrison, Moreland, Webber & Simplot, P.C.
Glenn Johnson, Nyemaster Goode, P.C.
Becky Knutson, Davis Brown Law Firm
Erin Lyons, Dutton, Braun, Staack & Hellman, P.L.C.
Stan Munger, Munger, Reinschmidt & Denne, L.L.P.
Erin Nathan, Simmons Perrine Moyer Bergman, P.L.C.
Jeff Peterzalek, State of Iowa Attorney General's Office
Lisa Stephenson, Simmons Perrine Moyer Bergman, P.L.C.
Michael Streit, Ahlers & Cooney, P.C.
Vernon Squires, Bradley & Riley, P.C.
Tara Van Brederode, Attorney Disciplinary Board
Kevin Visser, Simmons Perrine Moyer Bergman, P.L.C.
Brooke Timmer, Fiedler & Timmer, P.L.L.C.
JoElyn Whitney, Davis Brown Law Firm
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Discrimination in the Workplace Nov. 16, 2015

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Emily McCarty, Fiedler & Timmer, P.L.L.C.
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Jill Zwagerman, Newkirk Zwagerman Law Firm

Depression and the Need for Balance Nov. 19, 2015

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Hugh Grady, Director, Iowa Lawyers Assistance Program

Top 5 Ethical Issues Facing In House Counsel Nov. 20, 2015

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Ann Michelson, Guide One Insurance
Nicolle Schippers, ARAG
Allan Vestal, Professor at Drake University Law School

Structuring Acquisition Transactions Nov. 23, 2015

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December

Bloethe Tax School Dec. 2-4, 2015

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Tamara Borland, Project Manager Low-Income Taxpayer Clinic
Iowa Legal Aid
Victoria Daniels, Iowa Department of Revenue
Kyle Day, Lane & Wateman, L.L.P.
Audra Deiber, The Tax Law Group, P.L.L.C.
Patty Fulton, Iowa Department of Revenue, Taxpayer Service Specialists
Dan Fretheim, Anderson, Wilmarth, Van DerMaaten, Belay, Fretheim, Gipp & Zahasky Law Office
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James Goodman, Moore, McKibben, Goodman & Lorenz, L.L.P.
Prof. Neil Hart, Iowa State University
Thomas Houser, Davis Brown Law Firm
Alyssa Stewart, Anderson Roberts Porth Wallace & Stewart, L.L.P.
Maureen Kenney, Bradley & Riley, P.C.
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Alex Komya, Iowa Legal Aid
Jenna Lain, Law Office of Jenna K. Lain, P.L.L.C.
James Monroe, James Monroe Law Firm
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Timothy Vavricek, U.S. Department of Justice
Magistrate Judge Ross Walters, Southern District of Iowa
James Whalen, Federal Public Defender
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Implicit Bias: Know it When You See it, and Learn How to Avoid It December 28, 2015

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Member editorial—

Iowa's prison racial disparity and the war on drugs

By Jim Benzoni

Chief Justice Mark Cady discussed the Iowa prison system's extreme racial disparity in his recent State of the Judiciary address. This disparity is the highest in the nation. Former Chief Justice Louis Lavorato raised this same issue years ago – evidence of its intractability.

After working in Iowa's criminal justice system for years, the cause of this disparity is now apparent: Demographics, sometimes mingled with racism, drives our criminal justice racial disparity.

The percentage of persons committing crime, when controlled for socio-economic class, is roughly the same regardless of race. Thus, enforcement demographics become critical in understanding Iowa's prison racial disparity.

Iowa's minority populations, especially African-Americans, are concentrated in Iowa's cities, tending to group together in the poorest urban centers, while Iowa's white population is spread fairly evenly across the state.

Enforcement in population-dense urban areas is easier – and more efficient. Fewer officers are needed to police more people. Problems in urban areas are more evident and more quickly spotted due to the ease of patrol.

The engine driving this disparity is the "war on drugs." Drugs and drug-related crimes tend to be more concentrated in population-dense urban areas and exacerbated by poverty. Thus, drug enforcement increases in concentrated, poor, urban areas – which tend to be predominantly minority.

Law enforcement is cheaper, faster and in every way more efficient in concentrated urban areas. Many, if not most, of our minority citizens live in the very areas where ease and concentration of law enforcement is greatest.

The demographics of Iowa's most concentrated urban areas is comparable to that of our prisons as contrasted with Iowa's overall racial demographics. Compare Cedar Rapid's racial demographics to that of Iowa prisons, as contrasted with Iowa as a whole.

Drug crimes are relatively easy to enforce and receive a great deal of law enforcement focus. And it is not just drug crimes per se. The majority of inmates are in Iowa's prisons due to some aspect of this so-called war, either for usage or dealing, or the myriad other offenses associated with drugs, including thefts, burglary, robbery, money-laundering, firearms offences, assaults and murders.

Drug enforcement in minority urban areas is like shooting fish in a barrel. Number of arrests per officer, resources expended per arrest and over-all costs of intensive law enforcement in minority urban areas are far cheaper per arrest than in rural or suburban white Iowa.

Thus, Iowa's prison racial disparity. It is not necessarily blatant racism; it is the way we enforce the law. If we are to correct this disparity, we must end – or at least tone down considerably – America's longest running war.

Further, the overly retributive nature of this so-called "war on drugs," driven by

lengthy mandatory minimum sentences and many enhancements, exponentially compounds the racial disparity. People are more easily caught in urban areas. The more easily they are caught, the more likely they are to become repeat offenders with enhanced sentences.

Repeat offenders are most heavily penalized for drug crimes. Essentially, our law enforcement system is engaged in "churning." The more arrests, the higher the sentences, leading to yet more arrests and yet higher sentences, with the axe falling most heavily on Iowa's poor, minority, urban population.

It is estimated at any one time that up to 25 percent of black males are involved in America's criminal justice penal system, whether prison, parole, or probation. Just as in the days of slavery, white society is systematically separating the black male population from its families and communities – with clearly foreseeable consequences for its families and communities and society as a whole.

Thus, our urban populations are more likely to go to prison, and they are more likely to be there longer. This increased and disparate enforcement breeds distrust and contempt for law enforcement, just as surely as blatant racism. Hence, Ferguson.

The war on drugs has a corrupting influence on our police and law enforcement departments, allowing them to confiscate and keep large amounts of cash and goods with scant – or even no – evidence under forfeiture laws. The



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Dallas County Sheriff was convicted of personally profiting from such corruption only a few years ago. The motivating factors for drug enforcement are often far from altruistic.

It has corrupted our court system. Judges routinely allow evidence obtained through betrayal, blatant dishonesty, and lies. Such evidence is accepted by the courts under the rubric: "The end justifies the means." Thus dishonesty becomes enshrined and protected by our courts and our criminal justice system, the very justice system developed so painstakingly over many centuries by these same judges through a profound respect for truth and honesty and morality. It is little wonder why African-Americans, and so many others, have lost faith in our courts and our law enforcement system.

The chaos and destruction does not stop at our border. Mexico and Central America are being decimated by powerful narco-gangs capable of challenging the military, financed and armed by drug sales in the United States. The U.S. government funds the other side of this war, creating violence and havoc

and rampant killing across these impoverished nations. This artificially-created war has so traumatized Guatemala that its president called for an end to the war on drugs.

Morally, the war on drugs cannot be justified. Research shows treatment is more effective (and cheaper) than prison, and that more community resources are necessary in our inner cities. Perhaps this is where the moral lapse has been – in the larger community's failure to recognize its own obligation to heed the moral mandate to care for the poorest and most deprived among us.

In the context of the war of drugs, the courts, and we as lawyers, are at fault in failing to call society's attention to this most serious failing. We must undertake this most basic human responsibility if we genuinely wish to fix Iowa's blatantly racially disparate law enforcement criminal justice system.

If the Iowa Supreme Court is really serious about the racial disparity in Iowa's prison system, it needs to seriously study and call attention to the effect of demographics in the war on drugs,

and what other rehabilitative options for drug crimes might be considered. Without such re-thinking of the war on drugs, we cannot effectively address Iowa's racial disparity in our criminal justice system. And Iowa's African-Americans and other minorities will continue to suffer racially disparate treatment implemented by Iowa's lawyers and judges.

Editor's note: A condensed version of this editorial ran in the Des Moines Register Dec. 17, 2015, prior to the publishing of this issue of the Iowa Lawyer Magazine.



Jim Benzoni practices primarily in immigration and deportation defense. Before becoming a lawyer, he traveled on the road for 10 years, including being deported from Mexico. In 1986, he was falsely charged with capital murder. This experience – and his wonderful court-appointed criminal defense attorney – directly lead to his going to Drake University Law School, and continues to inspire his law practice to this day. To contact Benzoni, email jamesbenzoni@aol.com.



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Disciplinary ACTIONS

Blake D. Lubinus **Des Moines, Iowa** **Supreme Court Decision – Sept. 11, 2015** **30-Day License Suspension**

Blake Lubinus was admitted to the Iowa bar in 2010, and maintained a solo practice in Polk County. This case stems from an operating-while-intoxicated case and from collections cases on a contingent-fee arrangement.

The board alleged several infractions, all essentially admitted by Lubinus in his answer to the board's complaint. In turn, the court found Lubinus in violation of all alleged rule violations. First, the board alleged Lubinus violated Rule 32:1.15(a), which prohibits comingling of clients' property with that of the lawyer. In the OWI case, Lubinus failed to deposit an advance fee into his trust account, and instead deposited into his operating and personal account.

The next violation alleged by the board was Rule 32:1.15(c). The court found this rule was violated when Lubinus deposited the advance fee in the OWI case into his operating and personal account, and for transferring funds out of his trust account prior to earning them in commercial collections cases. In the collections cases, transfers totaling \$6,600 were made from his trust account into his office operating account or personal account in June and July of 2013, prior to Lubinus completing the work. Once this error was realized, Lubinus deposited \$6,100 back into his trust account in late July, and later put \$500 in escrow when he determined the full amount had not been restored.

Next, the board alleged a violation of Rule 32:1.15(f). The court found this rule was violated by the improper June/July transfers, which hindered Lubinus' ability to maintain accurate trust account records.

Lastly, the board alleged a breach of the ethical duty to deposit advance fees and expense payments into the trust account, in violation of Iowa Court Rule 45.7(3). The court found that Lubinus violated this rule by depositing the OWI advance fee directly to his operating account, and for failing to notify his clients of the transfer of unearned fees from the trust account to his personal operating account in June/July 2013.

Given the infractions, the court considered the appropriate sanction. Several mitigating factors were considered, including that Lubinus has no prior disciplinary history; that he was cooperative with the investigation and self-reported the violations; that no client was harmed by Lubinus' violations; and that proactive and corrective measures have been taken to prevent such violations from happening in the future. For aggravating factors, the court focused on the fact Lubinus knowingly removed unearned funds from his trust account. The grievance commission recommended a public reprimand. After considering all of these factors, the court suspended Lubinus' license for a period of 30 days.

Heather Marie Kingery **West Des Moines, Iowa** **Supreme Court Decision – Oct. 30, 2015** **60-Day License Suspension**

Heather Kingery has been a practicing attorney in Iowa since 2010 and has practiced primarily in northeast Iowa. After one year with a private law firm, Kingery opened her own firm in Decorah, Iowa. This is her first disciplinary action and arose from four separate complaints.

The board pursued claims on eight violations of Iowa's rules of professional conduct for Kingery's representation of James Steenhard, Christine Kelly, Brookview Farms, L.L.C., and various court-appointed criminal clients. Preceding the complaints, Kingery had admittedly struggled with managing her bipolar disorder, alcoholism and an immigration issue with her husband. The stress caused Kingery to "sp[?]n out of control," and stop responding to client and court communications. In each of the complaints, it was alleged that Kingery failed to respond to clients, missed court dates, mis-drafted documents, and forced the court to appoint criminal clients with new counsel. In her answer to the board, Kingery admitted to the ethical violations in three of the complaints, but denied ethical violations in her representation of Christine Kelly.

In its analysis, the court found Kingery committed most of the stipulated rule violations. Specifically, Kingery committed neglect in violation of Rule 32:1.3 when she failed to file required documents on time and subsequently ignored a default notice in the Steenhard matter. Kingery violated Rules 32:1.4(a)(3) and 32:1.4(a)(4), which require keeping a client reasonably informed and promptly complying with reasonable requests for

information, when Kingery delayed or failed to respond to her clients' requests for information about their cases. The court found Kingery failed to withdraw from representing her clients in violation of Rule 32:1.16(a)(2) when Kingery's struggle with her bipolar disorder and alcoholism began causing Kingery to miss court hearings, delay court proceedings and sever communication with her clients. Kingery's repeated failure to appear for status conferences, arraignments and other court proceedings (all causing several delays and continuances) also caused the court to find Kingery violated Rule 32:3.2 by failing to expedite the litigation of the cases she was handling. Finally, Kingery's repeated delays were found to constitute conduct prejudicial to the administration of justice in violation of Rule 32:8.4(d) because Kingery's failures forced the court clerk to engage in unnecessary administrative oversight of Kingery's work.

The court did rule that two of Kingery's stipulations could not be accepted because the board did not proffer any evidence showing Kingery made a demand for unreasonable expenses in violation of Rule 32:1.5 or made false statements in violation of Rule 32:4.1(a).

On sanctions, the court was concerned with the harm Kingery caused her clients – most notably the needless jail time endured by some of her criminal clients. Turning to mitigating factors, the court found Kingery fully cooperated in the investigation process, seemed genuinely remorseful for her conduct, had a clear history with conduct as an attorney and engaged in robust rehabilitative efforts to control her alcoholism. Ultimately, the court suspended Kingery for 60 days and required Kingery provide the board with proof she has complied with her treatment provider's recommendations and reimbursed a former client \$347.00.

Alexandra M. Nelissen **Des Moines, Iowa** **Supreme Court Decision – Nov. 20, 2015** **30-Day License Suspension**

Alexandra Nelissen has practiced law in Iowa since 2001. The case arises from allegations regarding trust account violations, misrepresentations in Nelissen's client security report, and improper increase in her hourly rate without notice to the client.

Linda Almburg sought Nelissen's services because her ex-spouse was attempting to modify his child support payments. At the initial meeting, Almburg agreed to a \$3,500 advance retainer. Almburg gave Nelissen a \$2,500 check, which Nelissen deposited into the firm's client trust account. Almburg understood that Nelissen would bill at a rate of \$150 per hour. Although Nelissen prepared a written fee agreement, no such agreement was signed by Almburg.

Following a hearing in which Almburg prevailed, Nelissen sent her two itemized invoices. The invoices appeared to invoice \$1,097.62 in addition to the \$2,500 retainer. In February, Nelissen ended her partnership with her law firm and opened her own practice. In June, Almburg delivered the balance of the \$3,500 retainer (i.e., \$1,000) to Nelissen individually. The \$1,000 was not deposited into Nelissen's trust account. A week later, Nelissen sent Almburg an invoice, on behalf of her new firm, showing \$2,484.22 worth of work performed since February. The \$1,000 was treated as a credit, so the "current balance due and owing" was shown as \$1,484.22 at an hourly rate of \$200. Almburg paid Nelissen the amount owed, despite the rate increase. In November, Nelissen

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billed Almburg for an additional \$4,420 in fees without reflecting the prior \$1,484.22 payment.

In July of 2013, a special audit was performed on the client trust account at Nelissen's new firm. Nelissen did not provide monthly reconciliation statements or lists of client balances.

The court agreed with the board's analysis that Nelissen did not violate Rule 32:3.2 (expediting litigation), 32:1.4 (communication), 32:1.5(a) (unreasonable fees). Nelissen responded to client emails within a couple of days. Further, the removal of an improper late fee on a prebill is not an ethical violation.

However, the court found Nelissen had violated numerous ethical rules. Nelissen violated Rule 32:1.5(b) (requiring communication to the client of fees changes) by increasing her hourly rate to \$200 per hour without informing her client of the change, other than by using the new rate in her billing. The court found Nelissen's trust account violations more egregious. Nelissen mishandled funds she received from Almburg and never communicated to Almburg that withdrawals were being made from the initial \$2,500 retainer in violation of Iowa Court Rule 45.7(4). She also failed to deposit the \$1,000 balance of the retainer in her client trust account in violation of Rule 32:1.15(a), (c) and Iowa Court Rules 45.1, .7(3). Additionally, withdrawals were made from the \$2,500 retainer before the funds were actually earned.

Further, Nelissen violated Rule 45.2(3) by failing to retain billing for six years and trust account records relating to the Almburg representation, and for failing to make reasonable arrangements to retain those records when her former partnership dissolved. Nelissen also committed an ethical violation by not performing monthly reconciliations of her bank statements with client trust account records as required by Iowa Court Rule 45.2(3)(a)(9). Finally, Nelissen violated Rule 32:8.4(c) by misrepresenting on her 2014 client security report that she was performing monthly reconciliations of her trust account balances with bank statements.

As a result of these violations, and after consideration of numerous factors (such as the fact Nelissen received a public reprimand for trust account violations that occurred in 2010 and 2011), the court suspended Nelissen's license to practice law in Iowa for 30 days.

**Paul Arthur Silich
Epworth, Iowa
Supreme Court Decision – Dec. 4, 2015
30-Day License Suspension**

Paul Silich was admitted to the Iowa bar in 2003, and practiced in Dubuque County, Iowa. Silich was publicly reprimanded in 2011 for neglect, inadequate client communication, and failure to expedite litigation. This disciplinary action arose from Silich's "protracted handling" of a Medicare lien and failure to respond to the board's investigation.

In 2008, Silich began representation of a Ms. Sanderson in a personal injury action arising from a motor vehicle accident, during which Sanderson unexpectedly died. Silich substituted the estate's administrator and conservator as parties, and settled the case contingent on resolution of any Medicare lien. More than a year after settlement, Silich fell out of contact with the estate administrator and failed to appear for a status conference ordered by the court. The administrator and conservator filed a motion for contempt. The hearing to show cause was Silich's first contact with the clients

in seven months. After a series of hearings to monitor Silich's progress, the court found that Silich repeatedly failed to comply with its orders to send copies of all correspondence on the matter to the administrator and diligently pursue settlement of the lien. Silich also failed to take action to avoid dismissal of the personal injury case for failure to prosecute, despite the administrator sending Silich a signed dismissal, release, and settlement checks to resolve the lien and case. The resolution of the Medicare lien took two years and nine months.

During the board's disciplinary proceedings, Silich failed to provide a response to the board's request for information for 10 months.

The court found several ethical violations. The court held Rules 32:1.3 (due diligence), 32:1.4 (client communication) and 32:32.2 (expediting litigation) all sanction "neglect," which Silich committed when he took over 33 months to resolve the Medicare lien. The court was unpersuaded by Silich's argument the federal contractor was responsible for delaying resolution.

Instead, the court found Silich waited seven months to respond to the contractor's correspondence, Silich's clients had to pursue court action to address Silich's neglect, and Silich failed to respond to the administrator's inquiries or comply with the court's orders to correspond with the administrator. The court also found Silich allowed both the probate and personal injury matters to languish while he failed to resolve the lien. The court also found violations of Rule 32:1.8(b) for failure to respond to the board, and Rule 32:8.4(b) for conduct prejudicial to the administration of justice for his failures to respond to his clients, comply with court orders, and timely respond to the board.

The court then found Silich's prior public reprimand and failure to respond to the board to be aggravating factors in considering sanctions, with no mitigating factors. The court then found public harm was reduced because Silich was not planning to return to legal practice and imposed a 30-day license suspension.



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Microscopic hair analysis—

Could “Serial” or “Making a Murderer” happen here?

By Audrey McGinn, Tricia Bushnell and Dr. Brian Farrell

In recent years, stories like those of Adnan Syed, featured in the popular “Serial” podcast, and Steven Avery, featured in the new Netflix documentary “Making a Murderer,” have captured the attention of both the public and legal community. It isn’t hard to understand why their stories have proven so intriguing, as they raise the horrifying prospect that an innocent person could be convicted of a crime they did not commit.

If stories like Syed’s and Avery’s could occur in Maryland and Wisconsin, respectively, is it so hard to believe that a similar story may be waiting to be told here in Iowa?

We believe the criminal justice system accuses the right person most of the time. But, is most of the time good enough? Is it good enough when we are talking about taking away a person’s most fundamental right, their freedom, and locking them in a cell for years, decades, or the rest of their life?

The system sometimes gets it wrong. We know that. DNA has been a great tool to identify the factors contributing to wrongful convictions. To date, there have been 336 DNA exonerations in the United States alone.¹ In those 336 cases, DNA has shown, without a doubt, the person convicted was

not the actual perpetrator of the crime. How did we get it wrong in so many cases?

In 70 percent of these exonerations, eyewitness misidentification played a role in the conviction.² This means the witness or the victim picked the wrong person from the six-pack of photos, the live line-up, the show-up or in court. This means the witnesses were incorrect; it does not necessarily mean they were coerced to pick the wrong person, nor that they purposefully conspired to choose someone other than the real perpetrator. It just means that sometimes, as humans, we don’t remember things as well as we think we do. But we believe our own memory to be highly accurate, and when we believe we are right, we are able to do a great job at convincing a judge or jury of our own beliefs, even when those beliefs aren’t accurate.

It is also hard to believe as a rational, educated and moral person, that people sometimes admit and confess to crimes they did not commit. In the DNA exonerations mentioned above, the defendants admitted to having committed the crime, even though DNA would later prove they were innocent, in more than one out of four cases.³ How can so many people admit to having commit-

ted terrible, gruesome, violent crimes, when they know they are innocent? Interrogations and police questioning often last for hours on end. People end up believing the police when they are told that if they just admit to the crime, the police will help them, and they will be able to go home to their families and friends. People just want the questioning to stop, so they tell the police what they want to hear just to be able to go home. They do this on the mistaken belief that the system will eventually get it right. They believe that because they are innocent, they will never be convicted of the crime, so why not just tell the police what they want to hear to end the questioning now and figure it out later?

DNA has allowed us to discover and learn about how an innocent person can be convicted of a crime. DNA is one of many forensic science developments we have seen over the past decades. In almost half of the DNA exonerations, erroneous or improper forensic testing and testimony played a part in the conviction.⁴ There have been significant developments in firearm and ballistics, fingerprinting, arson, shaken baby syndrome, microscopic hair comparisons and many other fields. Part of understanding the limits of these types of disciplines is an examination of the ways in which we over-stated (and under-questioned) the strength of these results in the past. One of the things DNA has afforded us is the opportunity to test the validity of some of these disciplines. If for example, a forensic scientist compared, under a microscope, the suspect’s hair to hair found at a crime scene, and determined that it came from the same person, we are now in a position not only to subject that hair to more rigorous testing, but to also understand the way that scientists testified in the past regarding the strength of their results and how they conveyed those associations to juries.

Not only have the sciences advanced, but we have also learned more about the limits of forensic science and the weight that we place on a scientist’s own experience as a measure of the validity of the result. This is evidenced by the recent developments by the FBI regarding microscopic hair analysis. In April of 2015, the United States Department of Justice, the Federal Bureau of Investigation, the Innocence Project and the National Association of Criminal Defense Lawyers reported that “the FBI has concluded that the examiners’ testimony in at least 90 percent of trial transcripts the bureau analyzed as part of its Microscopic Hair Comparison Analysis Review contained erroneous statements.

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Twenty-six of 28 FBI agent/analysts provided either testimony with erroneous statements or submitted laboratory reports with erroneous statements.²⁵ The FBI review focused on cases prior to 2000. Mitochondrial DNA testing became routine around that time and now supplements traditional microscopic hair comparison analysis, which we now know cannot be used to identify a person.

The FBI has told us that when analysts testified to the statistical weight of an association or identification, they were making an error. Not only that, but when analysts used their own experiences as a kind of statistic, the FBI now considers that erroneous too. The FBI trained analysts all over the country, including Iowa. Some analysts in Iowa's Division of Criminal Investigation, like hundreds of their colleagues across the country, attended FBI training. This type of comparison examination and testimony could be present in hundreds of cases since 1970. We don't suspect any malfeasance on the part of hair examiners, but rather that they were following procedures and abiding by the best practices of the time. That being said, as champions of accuracy in forensic science, we are obligated to review hundreds of cases for errors that may have inculpated innocent defendants.

Because of the FBI's announcement, the Innocence Project of Iowa, the Office of the State Public Defender's recently created Wrongful Conviction Division and the Midwest Innocence Project have collaborated to review these cases. Together, they will perform a systematic statewide review of any Iowa case where microscopic hair comparison may have been used to obtain a conviction.

The review process began with a meeting between State Public Defender Adam Gregg, Commissioner of Public Safety Roxann Ryan and representatives from DCI. Recognizing this was potentially a massive undertaking, it was agreed that the best starting point would be for the State Public Defender to provide a list of incarcerated individuals, effectively narrowing the number of lab reports DCI would need to pull from its archives. This process allowed us to screen for cases where someone was actually convicted of a crime and hair analysis may have played a role. Always expressing an allegiance to scientific standards and a desire to "get it right," Iowa's DCI laboratory has helped identify potential cases where hair comparisons have been conducted. DCI immediately began to search for these old reports and sent the Wrongful Conviction Division relevant lab reports.

As of the date of this article, the Wrongful Conviction Division has received over 100 lab reports from DCI and expects to receive more as the review continues. Audrey McGinn, the Director of the Wrongful

Conviction Division, has reviewed all of the lab reports and culled reports where a hair was located in the investigation and a microscopic hair comparison analysis was performed, and in which that hair was linked to either the suspect or the victim in the case. McGinn cross-referenced the reports with the names of the suspects to determine if the suspect was convicted and if they are still incarcerated. To date, she, with partners at the Midwest Innocence Project, has identified over 90 cases that need a more thorough review to determine if an error was made.

Of the 90 cases, some date back to as early as 1974. To review these cases, the organizations above will need to carefully review the transcripts, briefings and police and lab reports. A thorough analysis of the case is necessary to determine if the hair was material to the conviction, the testimony provided regarding the microscopic hair comparison analysis, and how the hair was used in light of the other evidence. Only then will these organizations be able to determine if further investigation is necessary and if the case has potential for post-conviction relief.

In order to prioritize these cases, these organizations have sent a letter to all of the inmates in the cases where review is necessary. With the letter, the inmate was sent a screening questionnaire asking for more information about the case and whether the inmate is claiming factual innocence of the crime for which he or she was convicted. The Midwest Innocence Project will receive all of the questionnaires from the inmates and prioritize the ones claiming factual innocence. If the inmate is not claiming factual innocence, he or she will not necessarily be precluded from further review. For example, the case may raise other important legal issues which should be pursued via post-conviction relief by a court-appointed contract attorney.

Locating and reviewing the transcripts for all of these cases will be a significant challenge. As you can imagine, many of these cases involve very serious crimes: murder,

rape, kidnapping, sexual assault, etc., and the transcripts will likely be thousands of pages long in every case. The staff in these organizations will perform this review, but alone, this could take months or years.

How can you help? These organizations are looking for volunteer attorneys to help review these cases for potential errors. This would be an amazing opportunity to fulfill your pro bono hours for the year and assist with very meaningful work. You could also seek to add your name to the list of contract attorneys handling PCR cases to assist in the cases these organizations are not able to take. To help with this review, please contact Audrey McGinn of the Wrongful Conviction Division at amcgin@spd.state.ia.us. To date, there have not been any DNA exonerations in Iowa. Together, it is our duty to make sure this isn't due to a lack of effort. Only by reviewing these cases can we ensure justice for all of those convicted in Iowa.

¹ <http://www.innocenceproject.org/causes-wrongful-conviction>

² Id.

³ Id.

⁴ Id.

⁵ <https://www.fbi.gov/news/pressrel/press-releases/fbi-testimony-on-microscopic-hair-analysis-contained-errors-in-at-least-90-percent-of-cases-in-ongoing-review>



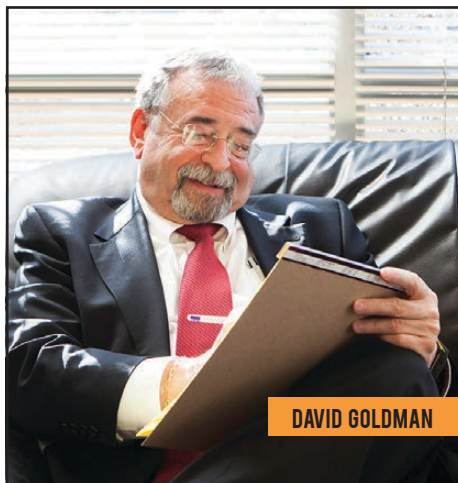
Audrey McGinn is the director of the Wrongful Conviction Division in Iowa's Office of the State Public Defender.



Tricia Bushnell is the Legal Director of the Midwest Innocence Project, a non-profit dedicated to freeing the innocent in MO, KS, NE, and AR.



Dr. Brian Farrell is a Lecturer in Law and Human Rights at the University of Iowa College of Law. He is also president of the Innocence Project of Iowa.



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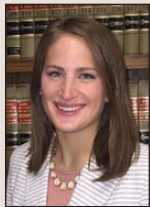
DAVID GOLDMAN

Phone: 515.309.6850

Email: dgoldman@babichgoldman.com

References Available On Request

TRANSITIONS



Ausborn

Kaitlyn J. Ausborn joined Brown, Kinsey, Funkhouser & Lander, P.L.C., in Mason City, Iowa, as an associate attorney. She received her undergraduate degree from the University of Iowa in 2012, and her J.D. degree from Drake University Law School in 2015. She will

primarily be engaged in social security disability and worker's compensation for the firm.

Amanda M. Phillips and Michael D.

Sands recently joined the law firm Baylor Evnen Curtiss Gruit & Witt, L.L.P., in Lincoln, Nebraska, as associates.



Phillips

Phillips joined the firm's workers' compensation practice group. Her practice includes Iowa and Nebraska workers' compensation defense and family law. She received her J.D. from Creighton University School of Law in 2010.



Sands

Sands joined the firm's litigation and workers' compensation practice groups with a focus on ERISA and the Affordable Care Act. He received his J.D. from the University of Nebraska College of Law in 2015.



Craven

S. Luke Craven has become the newest member at Whitfield & Eddy, P.L.C., in Des Moines, Iowa. He was formerly an associate. He received his law degree from Drake University Law School. Craven's practice focuses primarily on the litigation

aspects of personal injury, insurance/surety, employment, and family law.



Dinkla

Dylan Dinkla recently joined Security National Trust in the Des Moines, Iowa, office as a trust officer. He earned his B.A. in history from Simpson College and his J.D. from Washburn University School of Law in 2015.



Geer

Todd A. Geer has returned to Heronimus, Schmidt, Allen, Schroeder & Geer in Grundy Center, Iowa. He recently retired from the judiciary after serving 20 years as a district court judge in northeast Iowa. He will return to general practice and also engage in mediation.



Uhlenkamp

Jessica A. Uhlenkamp and **Ellen C. Tolsma** joined the Heidman Law Firm located in Sioux City, Iowa, as associates.

Uhlenkamp received her B.A. from the University of Northern Iowa and her J.D. from the University of Iowa College of Law. Her practice will involve representing and advising employers on workers' compensation and employment law matters.



Tolsma

Tolsma received her bachelor's degree from Northwestern College and her J.D. from the University of Iowa College of Law. She will maintain a general practice including family law, commercial law, business law, real estate law, torts, and personal injury.



Henry

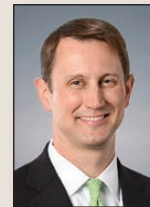
Edward Fuerste Henry joined Fuerste, Carew, Juergens & Sudmeier, P.C., in Dubuque, Iowa. He received his B.A. from the University of Iowa and his J.D. from the University of Iowa College of Law. Henry will maintain a general practice

including real estate law, estate planning, business law, and bankruptcy.



Kirkpatrick

Kent Kirkpatrick joined Hupy and Abraham, S.C., P.C., in the Des Moines, Iowa, office. He attended the University of Iowa for his undergrad and obtained his law degree from St. Mary's Law School in San Antonio, Texas. His areas of practice will include personal injury, medical malpractice and insurance bad faith cases.



Klinefeldt

Nicholas Klinefeldt joined Faegre Baker Daniels in the Des Moines, Iowa, office as a partner. He joined the firm after serving six years as the U.S. Attorney for the Southern District of Iowa. Klinefeldt will focus on representing businesses and individuals in government investigations, conducting internal investigations and counseling clients on compliance and regulatory issues.



Lambert

Katie Lambert has joined Security National Bank of Omaha, Nebraska, as a Wealth Management Trust Officer. She received her J.D. from Creighton University School of Law. Lambert's focus will be assisting families in managing wealth and establishing estate plans.



Daane

James N. Daane and **Zachary S. Hindman** are now partners of the firm Mayne, Arneson, Hindman, Hisey & Daane in Sioux City, Iowa.

Daane received his J.D. from the Drake University Law School in 1985. He primarily represents persons injured by the negligence of others.



Hindman

Hindman received his J.D. from the Drake University Law School in 2010. His practice consists primarily of personal injury, family law, criminal cases, and appeals.



Nelson

Catherine Nelson recently joined Iowa Legal Aid's Southwest Iowa Regional Office in Council Bluffs, Iowa. Nelson received her J.D. from the Drake University Law School in 2013.

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Abhay Nadipuram and **Eldwin (Charlie) Nichols** joined Principal Financial Group, in Des Moines, Iowa.



Nadipuram

Nadipuram joined as an attorney. He earned his bachelor's degree from Wartburg College and his J.D. from the University of Iowa College of Law. He will practice in asset management and regulation of investment advisors.



Nichols

Nichols joined as counsel. He earned his bachelor's degree from Morehouse College, his J.D. from the University of Iowa College of Law, and his MBA from the University of Iowa Tippie College of Business. He will provide legal support to Principal Global Investors.



Schroeder

Jonathon Schroeder recently joined the Davis Brown Law Firm in the Ames, Iowa, office as an associate attorney. He earned his J.D. at Drake University Law School, where he served on the staff of the Drake Law Review. Schroeder will keep a general practice including real estate transactions, business and non-profit formation, and zoning and development law.



Simmons

John Simmons joined Hupy and Abraham, S.C., P.C., in their Davenport, Iowa, office. Simmons earned his J.D. from the University of Illinois College of Law in 2006. He will be representing clients in various personal injury fields.



Whitfield & Eddy, P.L.C. moved

its offices to Des Moines' Hub Tower on 699 Walnut

Street. The firm's offices will now occupy the 19th and 20th floors of the building. The firm's Ankeny office moved to the new office space as well. The firm's office in Mount Pleasant will remain unaffected by the move. Simultaneous with the move, the firm introduced its new brand name, Whitfield & Eddy Law.



Staudacher

Emily A. Staudacher has joined Heronimus, Schmidt, Allen, Schroeder & Geer in Grundy Center, Iowa as an associate. She earned her J.D. and a certificate in agricultural law from Drake University Law School in 2015. Staudacher will be engaged primarily in general practice for the firm with an emphasis on agricultural law.



Demoret

Martin Demoret, Bryce Morgan and Dasha Ternavska joined the Faegre Baker Daniels Law Firm Des Moines office. **Demoret** received his J.D. from the University of Nebraska College of Law in 2014. He is joining the firm's business litigation team.



Morgan

Morgan received his J.D. from the University of Iowa College of Law, and his MBA from the University of Iowa Tippie School of Management. He will practice in corporate law.



Ternavska

Ternavska received her J.D. from the University of Iowa College of Law in 2013. She is joining the firm's liability and environmental team.



Galbraith

Anthea (Annie) Galbraith has joined the Waterloo, Iowa, Regional Office of Iowa Legal Aid. She received her bachelor's degree from the University of Iowa and her J.D. from Drake University Law School in 2013.



Redinbaugh

Aaron Redinbaugh has joined the Finley Law Firm in Des Moines, Iowa. He earned his J.D. from the University of Iowa College of Law.

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Mike Mesch
CPA/ABV, ASA, CFF
Partner

Russell "Russ" Buchanan, 92, of Algona, Iowa, died Dec. 20.

Buchanan was born in Tama County. He earned his J.D. from the University of Iowa College of Law after serving in the Navy during World War II. In 1955 he began his solo practice in Algona, a firm that grew to include offices in Emmetsburg, Bancroft and Lakota. In 1986 he was elected as president of The Iowa State Bar Association, and received the ISBA Award of Merit in 1990. He was also a fellow of the American College of Trust and Estate Counsel, the American College of Tax Counsel and the American Bar Association.

Louis "Lou" Fusco, 65, died Aug. 16 in Indianola, Iowa.

Fusco was born in 1949 in Astoria, Queens, New York. He graduated from Simpson College in 1971 and earned his J.D. from St. John's Law University in 1975. He began his career with the Wilson and Fowler law office where he later became a partner.

Joseph C. Johnston, 76, died Sept. 19.

Johnston was born in Waterloo, Iowa. He received his B.B.A. in accounting and economics from the University of Iowa and earned his J.D. from the University of Iowa College of Law in 1968. Upon graduation, Johnston was elected to the Iowa Legislature and re-elected in 1970. He practiced law in Iowa City with the firm of Johnston, Stannard, Klessner, Burbridge and Fitzgerald.

Timothy McKay, 64, died May 29 in Ottumwa, Iowa.

McKay was born in Ottumwa in 1950. He completed undergraduate studies at the University of Notre Dame and his J.D. at the University of Iowa College of Law. McKay began his law career as a law clerk for Justice Maurice Rawlings of the Iowa Supreme Court in 1975. In 1979 he joined the firm that became McKay

and Moreland, where he practiced until retirement in 2005.

Keith E. McWilliams, 92, died June 3 in San Diego, California.

McWilliams was born in 1923. He completed undergraduate work and his J.D. at Drake University. During his career, he served as an assistant U.S. Attorney, a U.S. Bankruptcy Judge and retired as a general in the U.S. Army.

Theodore H. Miller, 96, died Dec. 27 in Des Moines, Iowa.

Miller was born in Des Moines in 1919. He completed his J.D. at Drake University Law School. He served in the U.S. Air Force during World War II, as well as being a member of the post-war Army Judge Advocate Division. Miller spent 20 years as a partner with Tesdell, Miller, Rydell and Hall before serving as a judge for the 5th Judicial District in Iowa until his retirement in 1998.

Boyd J. Milroy, 96, died Jan. 21, 2015, in Vinton, Iowa.

Milroy was born near Ryan, Iowa, in 1918. He served with the U.S. Marine Corps during World War II as part of the Sixth Marine Division. He then graduated in 1951 from the University of Iowa College of Law. Milroy began his own practice in Vinton and continued there until his retirement in 2009. He also spent time as the Benton County Attorney, a member of the Board of Governors for the ISBA, and as president of the Benton County Bar Association.

Richard D. Morr, 84, died Dec. 1 in Chariton, Iowa.

Morr was born in Wall Lake, Iowa, in 1931. After high school he served in the U.S. Air Force and Iowa National Guard. He received his J.D. from the University of Iowa College of Law, and then opened his own practice in Chariton, where he practiced until 2003. Morr also served as

Lucas County Attorney and was appointed as an Iowa District Court Judge.

Peter Courtney Percival, 62, died April 3 in Des Moines, Iowa.

Percival was born in Des Moines in 1953. He completed undergraduate studies at Marquette University and his J.D. at the Seattle University School of Law. Percival practiced law in Des Moines for several years, then continued his career with Wells Fargo Bank as part of the Trust and Investment Management Department. Most recently he formed his own investment advising firm, Nth Degree Financial, L.L.C.

Anthony Renzo, 69, died Nov. 1 in Santa Fe, New Mexico.

Renzo was born in Des Moines, Iowa, in 1946. He completed undergraduate studies at the University of Iowa and his J.D. at the University of Colorado. Renzo spent time clerking for the chief justice of the Colorado Supreme Court before joining private practice and teaching first amendment law. He spent almost 10 years working on civil liberties issues, and another 10 years teaching before retiring in 2013.

Donald Ribble, 85, died Nov. 4 in Cedar Rapids, Iowa.

Ribble was born in Cedar Rapids in 1930. He earned his bachelors' degree from Coe College and his J.D. from the University of Iowa College of Law in 1955. After serving in the United States Marine Corps, he joined the Lynch law firm where he practiced for over 50 years as a trial lawyer until his retirement. Ribble also served as the president of the Linn County Bar Association and was a member of both the American and Iowa Academy of Trial Lawyers.

Robert "Bill" Sackett, 82, died Nov. 6 in Okoboji, Iowa.

Sackett was born in Spencer, Iowa, in 1933. He completed undergraduate studies at Iowa State College and his J.D. from Drake University Law School. He joined his father's firm in Spencer where he practiced for more than 50 years. During that time he served as Clay County Attorney, Spencer's City Attorney, and as a member of the ISBA Board of Governors.

Steven C. Schrader, 66, died July 14 in Decorah, Iowa.

Schrader was born in Cedar Rapids, Iowa, in 1948. He completed his undergraduate degree and his J.D. at the University of Iowa. After spending five years as part of the Luther College faculty, he served for 35 years as a Winneshiek County magistrate.



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2015 CLE Information		(T) Telephone CLE (W) Webinar			
Date	Event Title	State	Federal	Ethics	Activity ID
Jan. 7	New Rules: Expedited Trial and Discovery Changes (W)	1	0	0	173405
Jan. 16	Expedited Civil Actions and General Discovery Rules Amendments - A Review (W)	1	0	0	173406
Jan. 27	Consumer Data & Privacy: Contractual Risk Management Strategies (W)	1	1	0	167755
Jan. 30	Avoiding Ethics Problems with Pro Se Parties (T)	1	0	1	176859
Feb. 13	FEMA: From Disaster Declaration to De-obligation (T)	1	1	0	177214
Feb. 27	Hot Topics Under the Fair Labor Standards Act (T)	1	1	0	180353
March 26	Elder Care Mediation (W)	1	0	0	180276
March 27	Government Practice Seminar	6	1	2	176861
Apr. 2	Financial Services – What’s Going on in the Regulatory Horizon	1.5	0	0	180355
Apr. 2	Financial Services – What’s Going on in the Regulatory Horizon (W)	1.5	0	0	180356
Apr. 17	Criminal Law Seminar	7	0	1	186301
Apr. 17	Criminal Law Seminar (W)	7	0	1	186300
Apr. 24	Workplace Violence and Crime Prevention Through Environmental Design	1	0	0	186303
May 1	Juvenile Law Seminar	6.75	0	1	186304
May 8	Spring Tax Institute	6.5	0	1	186840
May 13	Legal Issues Surrounding “Drones” and “Big Data” in Agriculture (W)	1	0	0	186750
May 14	What You Need to Know about Ag Liens (W)	1	0	0	186751
May 14 - 15	Bridge the Gap Seminar	15	6.5	3	176864
May 18	Other Agency Action: Tips for Practitioners (T or W)	1	0	0	180370
May 21	Unpacking the Legal Implication of a Pipeline (W)	1	0	0	186730
May 28	Establishing an LLC (W)	1	0	0	186731
May 29	Commercial and Bankruptcy Seminar	6.75	4.5	1	189709
June 10	RFP’s and Bids, Practical Information, and Do’s and Don’ts (W)	1	0	0	189675
June 15 - 16	Basic Skills Course	10	1	1	187568
June 15 - 17	Iowa Judges Annual Conference	14	*	5	187594
June 15 - 18	Annual Meeting	19.5	15.25	7.5	187567
June 17	Access to Justice Symposium	3	0	0	187593
June 29	Technology In and Out of the Courtroom (W)	1	0	0	191735
July 9	Real Estate Issues in Wind Energy Development (W)	1	0	0	191770
July 23 - 24	Summer Seminar	7.75	3.5	1	191771
July 24	Two Person Best Shot Golf Tournament	1	0	1	195109
Aug. 7	Maximizing Life Insurance to Minimize Iowa Inheritance Taxes (W)	1	0	0	196493
Aug. 7	Maximizing Life Insurance to Minimize Iowa Inheritance Taxes	1	0	0	196492
Aug. 19 - 21	8th Circuit Social Security Disability Conference	15	15	1	191772
Aug. 25	Cleric Sexual Abuse of Children and How to Mediate Such Matters (T)	1	0	0	196571
Aug. 26	Mechanic’s Liens in Iowa Under the New Rules (W)	1	0	0	196895
Sept. 11	Corporate Counsel/Trade Regulation Seminar	6	4.25	1	196572
Sept. 17	Ag Law Seminar	7	0	1	196511
Sept. 23	Domestic Violence CLE (W)	1	0	0	199841
Oct. 2	Nuts & Bolts (Coralville)	7	*	1	199857
Oct. 5	Nuts & Bolts (Des Moines)	7	*	1	199856
Oct. 19	Native American Law 101 (W)	1	1	0	204289
Oct. 23	Environmental Law Seminar	6.5	5	1	199842
Oct. 29 - 30	Family Law Seminar	15	2.5	1.5	199859
Nov. 2	Representing Parties in Education Disputes (T)	1	0	0	205892
Nov. 5	Are You Ready - Trial Court Application Process A-Z	1	0	0	203593
Nov. 5	Are You Ready - Trial Court Application Process A-Z (T)	1	0	0	203594
Nov. 5	Are You Ready - Trial Court Application Process A-Z (W)	1	0	0	206237

2015 CLE Credit Information		(T) Telephone CLE (W) Webinar			
DATE	Event Title	State	Federal	Ethics	Activity ID
Nov. 5	Mental Health Committal Process (W)	1	0	0	204309
Nov. 13	Labor and Employment Seminar	7	6	1	206234
Nov. 16	Discrimination in the Workplace	1	0	0	207430
Nov. 19	Depression and the Need for Balance (W)	1	*	0	196844
Nov. 20	Top 5 Ethical Issues Facing In House Counsel	2	2	2	199846
Nov. 20	Top 5 Ethical Issues Facing In House Counsel (W)	2	2	2	199845
Nov. 23	Structuring Acquisition Transactions (W)	1	0	0	204290
Dec. 2 - 4	Bloethe Tax School	15.5	9.5	2	206236
Dec. 8	Whistleblower Actions (Telephone CLE)	1	0	0	196845
Dec. 11	eCommerce & IP Law Seminar	6.5	4	1	199847
Dec. 11	eCommerce & IP Law Seminar (W)	6.5	4	1	199848
Dec. 14	Competence in A Client-Lawyer Relationship - Are You Meeting Ethical Standards (W)	1	1	1	204291
Dec. 14	Competence in A Client-Lawyer Relationship - Are You Meeting Ethical Standards (T)	1	1	1	204292
Dec. 15	The Ethics Complaining Process - And Tips to Help You Avoid It (Live Webinar)	1	1	1	207431
Dec. 16	Unauthorized Practice of Law (W)	1	1	1	207432
Dec. 17	Taxation Legal Ethics (W)	1.5	1.5	1.5	207472
Dec. 18	Federal Practice Seminar	6	6	1	207449
Dec. 28	Implicit Bias: Know it When You See it	2	2	2	207474
Dec. 28	Implicit Bias: Know it When You See it (W)	2	2	2	207473
Dec. 31	A Review of the Aspirational Rules of Professional Conduct (W)	1	1	1	207475
Dec. 31	A Review of the Aspirational Rules of Professional Conduct (T)	1	1	1	207476
* Credit Pending					

2015 On-Demand CLE Information						
Start Date	End Date	Event Title	State	Federal	Ethics	Activity ID
July 30, 2014	July 30, 2015	Family Law (Basic Skills)	1	0	0	150693
July 30, 2014	July 30, 2015	Iowa Criminal Law and Criminal Procedure (Basic Skills)	1	0	0	150692
July 30, 2014	July 30, 2015	Iowa Contracts (Basic Skills)	1	0	0	150691
July 30, 2014	July 30, 2015	Probate and Estate Administration (Basic Skills)	1	0	0	150689
July 30, 2014	July 30, 2015	Iowa Law of Torts (Basic Skills)	1	0	0	150681
July 30, 2014	July 30, 2015	Guardianships (Basic Skills)	1	0	0	150680
July 30, 2014	July 30, 2015	Real Estate (Basic Skills)	1	0	0	150671
July 30, 2014	July 30, 2015	Business Entities (Basic Skills)	1	0	0	150670
July 30, 2014	July 30, 2015	Ethics Law For New Iowa Lawyers (Basic Skills)	1	0	0	150665
July 30, 2014	July 30, 2015	Civil Procedure (Basic Skills)	1	0	0	150664
Oct. 31, 2014	Oct. 31, 2015	Nuts and Bolts of Revocable Trusts	2	0	0	165450
Dec. 10, 2014	Dec. 10, 2015	Juvenile Law Training Series	2.75	0	0	167752
June 29, 2015	June 29, 2016	Residential Settlement Practices	1	0	0	192115
July 2, 2015	July 2, 2016	Challenging Drug Test Results	1	0	0	193230
July 2, 2015	July 2, 2016	Differential Response - Lessons Learned and How to Divert a Case	.5	0	0	193209
July 2, 2015	July 2, 2016	Practice Pointers Regarding Competency	5	0	0	193229
July 2, 2015	July 2, 2016	Pre-Marital and Post-Marital Agreements	5	0	0	193250
July 2, 2015	July 2, 2016	Substance Abuse and Depression	1	0	1	193189
July 2, 2015	July 2, 2016	Termination of Parental Rights and Other	1	0	0	193249
July 30, 2015	March 1, 2016	Business Entities (Basic Skills)	1	0	0	212803

2015 On-Demand CLE Information

Start Date	End Date	Event Title	State	Federal	Ethics	Activity ID
July 30, 2015	March 1, 2016	Civil Practice & Procedure (Basic Skills)	1	0	0	212804
July 30, 2015	March 1, 2016	Ethics Law For New Iowa Lawyers (Basic Skills)	1	0	1	212812
July 30, 2015	March 1, 2016	Family Law Update (Basic Skills)	1	0	0	212809
July 30, 2015	March 1, 2016	Guardianships (Basic Skills)	.75	0	0	212801
July 30, 2015	March 1, 2016	Iowa Contracts (Basic Skills)	1	0	0	212811
July 30, 2015	March 1, 2016	Iowa Criminal Law and Criminal Procedure (Basic Skills)	1	0	0	212810
July 30, 2015	March 1, 2016	Iowa Law of Torts (Basic Skills)	.5	0	0	212800
July 30, 2015	March 1, 2016	Iowa Real Estate Law (Basic Skills)	1	0	0	212802
July 30, 2015	March 1, 2016	Probate and Estate Administration (Basic Skills)	.75	0	0	212814
Aug. 5, 2015	Aug. 5, 2016	Medicaid and VA Pension Planning	.75	0	0	196570
Aug. 5, 2015	Aug. 5, 2016	New Power of Attorney Act	.5	0	0	196507
Aug. 5, 2015	Aug. 5, 2016	Non-profit Formation	.5	0	0	196569
Aug. 5, 2015	Aug. 5, 2016	When the Reefer Hits the Road	.5	0	0	196508
Aug. 10, 2015	June 19, 2016	Current Issues in Probate, Trust & Estate Planning Law	1	0	0	196849
Aug. 10, 2015	June 19, 2016	Expedited Civil Actions	1	0	0	196851
Aug. 10, 2015	June 19, 2016	List Serv Issues	1	0	0	196843
Aug. 10, 2015	Aug. 10, 2016	Estate and Trust Law Update	.75	0	0	196831
Sept. 5, 2015	Sept. 5, 2016	Mechanic's Liens in Iowa Under the New Rules	1	0	0	200170
Dec. 4, 2015	Dec. 4, 2016	Juvenile Law Training Video Series	3	0	0	209169

2015 Fastcase CLE Information

Start Date	End Date	Event Title	State	Federal	Ethics	Activity ID
Jan. 1, 2014	Dec. 31, 2014	Introduction to Legal Research on Fastcase (W)	1	0	0	174715
Jan. 1, 2014	Dec. 31, 2014	Introduction to Boolean (Keyword) Search (W)	1	0	0	174716
Jan. 1, 2014	Dec. 31, 2014	Advanced Tips for Enhanced Legal Research (W)	1	0	0	174749

Construction Law Seminar (In-person or Live Webinar)

Thursday, February 25

1:30 - 4:30 p.m.

In-person portion of this event will take place at the ISBA Headquarters in Des Moines

CLE CREDIT (pending): 2.75 state hours

1:00 - 1:30

Registration

1:30 - 1:35

Welcome and Introduction

Speaker: Ben Roach, Nyemaster Goode, P.C.

1:35 - 2:05

Current Issues and Developments in Commercial General Liability (CGL) Insurance on Construction Projects

Speaker: Roger Stone, Simmons, Perrine, Moyer, Bergman, P.L.C.

2:05 - 2:35

Mechanic's Liens on Residential Construction Property

Speaker: Stephen Marso, Whitfield & Eddy, P.L.C.

2:35 - 3:05

Case Law Update

Speakers: Sean O'Hair and Bradley Beaman, Bradshaw, Fowler, Proctor & Fairgrave, P.C.

3:05 - 3:15

Break

3:15 - 3:45

Two Common Construction Employment Law Issues – Independent Contractor vs. Employee Status and Drug Testing

Speaker: Ben Roach, Nyemaster Goode, P.C.

3:45 - 4:15

Construction Ethics

Speaker: John Templar, Whitfield & Eddy, P.L.C.

4:15 - 4:30

Q & A

4:30 - 5:30

Networking Reception

Register online at www.iowabar.org/event/2016ConstructionLaw

Introducing the new ISBA career center

Offering more value for ISBA members one job at a time

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

In an effort to provide greater member value, the ISBA transitioned to a new career center in January. The new site offers a cleaner design, easier navigation and reduced rates for members posting to the job board.

Boxwood Career Solutions, a career center management company, is the new provider for the ISBA's career center services. Many of the same features will still be available: The career center will be located in the same location on the ISBA website, new job postings will be published in the Iowa Lawyer Magazine's classifieds section and the Iowa Lawyer Weekly e-newsletter will feature the current job listings.

There are a few items to note, however. Job seekers and employers who created profiles in the old career center will need to create new accounts if they wish to be

featured in the new career center. There are also a few additional features worth mentioning.

For job seekers

Job seekers will notice an easier search design. Users can simply scroll through the list of jobs on the job board or create a narrowed search. Job seekers can explore where jobs are available on an interactive Google map or browse by sector, discipline, level or location.

Once job seekers are registered, they may elect to receive job alerts based on their search parameters. Job seeking users who upload a resume can elect to make it searchable for hiring employers or store it for future job applications. They can save jobs to reference later, and the system will track the jobs for which users have already applied.

The ISBA career center is now connected to social media. Followers of the ISBA Facebook and Twitter will receive updates to their newsfeeds when new jobs are posted on the ISBA career center. The ISBA Facebook page now has a career center tab where jobs will be shared in real time.

The newest feature to the new career center are the professional job seeker resources now available. Those who want to know what their references are saying about them, need help crafting their resumes, or are looking for advice on where to go next in their careers can use any of these added features for a fee.

For employers

Hiring authorities will see the greatest value in the new career center upgrade. ISBA members who are looking to hire will receive a significantly reduced rate on job posts. ISBA members who post a new job opening can save hundreds of dollars on a single post and receive further discounts on advertising enhancements.

Job posting options for the new career center have changed slightly. Employers choose from a 30-, 60- or 90-day job posting. Rates for the posts vary: members and non-members receive different rates, and attorney positions differ from support staff positions. A chart of rates is available at <http://careers.iowabar.org/rates>.

Once registered for an account, employers can post jobs or search resumes posted by job seekers. All functions within the career center are managed by Boxwood Career Network, and all questions about posting jobs should be directed to the company at 1-888-491-8833 Ext. 2573.

Legal job exchange network

The Legal Job Exchange Network is a strategic industry alliance of associations in the legal profession nationwide. These associations have networked their job boards together, enabling employers to reach a broader audience of candidates. If employers choose to post jobs onto the Legal Job Exchange Network, the job post will not only appear on the ISBA career center, but it will be distributed to the job boards of the partner sites as well.

Nyemaster Goode is pleased to announce that

Todd Van Thomme & Dan Blakeslee,

both Registered Patent Attorneys, have joined the law firm. Todd and Dan will practice in the firm's growing Intellectual Property Department.

Todd can be reached at:
(515) 283-8036
tvanthomme@nyemaster.com

Dan can be reached at:
(515) 283-3152
dblakeslee@nyemaster.com



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The network includes the American Bar Association, the Federal Bar Association, the American Association for Justice, the National Bar Association and many more. The list of partners on the Legal Job Exchange continues to grow. The partners networked all job boards together to provide a one-stop-shop for both job seekers and employers. There are more than 13,000 searchable resumes and more than 300 active employers.

Promotional Discounts

Unlike the previous career center, this new platform allows for promotional discounts. Members can expect the ISBA to market career center discounts from time to time. To kick off the launch of the new career center, the ISBA is offering its first promotion: Members who post a job throughout the month of February can receive a 20 percent discount on any 30-day job posting, enhancement or package by entering the promotional code LAUNCH2016 when checking out. How's that for added value?

Navigating to the new career center is easy. Visit the ISBA website, and the career center falls beneath the Practice Tools tab. You can also navigate there directly at <http://careers.iowabar.org>. As one last added benefit, no longer will users have to navigate a clunky mobile website; the new, mobile-friendly site features responsive design making it easier for people on the go.

Boxwood Career Solutions will provide the majority of the customer service for both job seekers and employers. However, for general questions or promotional offers, please email isba@iowabar.org, or call 515-243-3179.

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Fellows announced

American College of Trial Lawyers – The following attorneys were admitted as fellows to the American College of Trial Lawyers:

Kevin Driscoll, partner in Finley, Alt, Smith, Scharnberg, Craig, Hilmes & Gaffney, P.C., in West Des Moines, Iowa. He received his J.D. from Drake University Law School. Driscoll maintains a general practice including malpractice, construction law and professional liability.

William W. Graham, partner with Graham, Ervanian, Cacciatore, L.L.P., in Des Moines, Iowa. He received his J.D. from the Boston College Law School. Graham practices in a wide range of litigation matters including commercial, employment, discrimination and liability.

Jennifer Rinden, senior vice president with Shuttlesworth & Ingersoll, P.L.C., in Cedar Rapids, Iowa. She received her J.D. from Drake University Law School. Rinden practices primarily in medical malpractice defense and insurance defense.

Michael Thrall, attorney with Nyemaster Goode, P.C., in Des Moines, Iowa. He received his J.D. at the University of Iowa College of Law. Thrall practices commercial litigation including insurance, railroad and complex tort defense.

Iowa Academy of Trial Lawyers – The following attorneys were admitted as fellows to the Iowa Academy of Trial Lawyers:

Scott J. Beattie, partner in Peddicord, Wharton, Spencer, Hook, Barron & Wegman, L.L.P., in West Des Moines, Iowa. He received his J.D. from Drake University Law School. Beattie practices civil litigation including personal injury, employment, civil rights, workers' compensation and products matters.

Henry J. Bevel III, attorney with Swisher & Cohrt, P.L.C., in Waterloo, Iowa. He received his J.D. at the University of Kentucky College of Law. Bevel has a general practice including insurance defense, civil litigation and criminal defense.

David H. Luginbill, shareholder in Ahlers & Cooney, P.C., in Des Moines, Iowa. He received his J.D. from Drake University Law School. Luginbill practices in a wide range of litigation matters including commercial, fire investigation and defense and intellectual property.

Richard O. McConville, founding member of Coppola, McConville, Coppola, Carroll, Hockenberg & Scalise, P.C., in West Des Moines, Iowa. He earned his J.D. from Creighton University School of Law. McConville practices litigation and appeals, both civil and criminal.

Michael C. Walker, attorney with Hopkins and Huebner P.C., in Davenport, Iowa. He received his J.D. from the University of Iowa College of Law. Walker has a general practice including litigation, insurance and municipal law.

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BUSINESS ATTORNEY – Arenson & Maas, P.L.C., Cedar Rapids, Iowa – Law firm is seeking a motivated business attorney with at least five years of practice experience. Litigation experience is a plus. The successful candidate will be highly motivated, experienced, self-sufficient, organized, and possess

excellent communication skills and an entrepreneurial spirit. Ideal applicants will be high energy, with a strong work ethic and willing to work each job in the office. To apply, email jarenson@arensonlaw.com. (76-2)

ASSOCIATE ATTORNEY – Cutler Law Firm, West Des Moines, Iowa - A six-attorney firm seeks an attorney with a minimum of three years of experience in the areas of workers' compensation and/or civil litigation. The best candidate will have a comprehensive knowledge of at least one of these areas as well as legal writing, deposition and trial experience. We're interested in someone with a strong work ethic, excellent communication skills and the desire to become part of a small and growing team. Salary commensurate with experience. All inquiries will be kept in strict confidence. To apply, email junning@cutlerfirm.com. (76-2)

INTELLECTUAL PROPERTY COUNSEL – Genus, P.L.C., Madison, Wisconsin – An animal genetics company is seeking a collaborative team player with an entrepreneurial spirit for the role of intellectual property counsel. This role is accountable for partnering with global research and business teams to maintain and implement the Genus intellectu-

al property strategy for IP creation, protection and compliance. Candidates with 5-10 years experience in agricultural biotechnology, genetic engineering and complex biotechnology licensing transactions are encouraged to apply. To apply, email NAM.HR@genusplc.com. (76-2)

ASSOCIATE ATTORNEY – Lynch Dallas, P.C., Cedar Rapids, Iowa - A well-established law firm seeks an associate attorney with at least 1 to 2 years of experience in general litigation and/or public sector law. Ideal candidate must have a strong work ethic and excellent analytical, interpersonal, writing and research skills. Competitive salary and benefits. Please send cover letter, resume and copy of law school transcript to Amy L. Reasner, Lynch Dallas, P.C., P.O. Box 2457, Cedar Rapids, IA 52406-2457 or areasner@lynchdallas.com. (76-2)

ASSOCIATE ATTORNEY – Leff Law Firm, L.L.P., Iowa City, Iowa - AV-rated firm seeking an associate attorney for general civil practice, with focus on litigation and family law. To apply, email resume and cover letter to willman@lefflaw.com. (76-2)

IN-HOUSE ATTORNEY – Seeking second attorney for bank trust department. Prefer trust, estate, tax experience, but beginning attorney considered. Great rural location in Carroll, Iowa – it's not West Des Moines, but we do have Dunkin' Donuts and other essentials. Genuinely a fun and interesting job that includes contact with great attorneys from across the state. Send resume to mnelson@iowasavingsbank.com. (76-2)

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Teaching trial advocacy south of the border:

Helping Mexico transition to an adversarial military justice system

By U.S. Air Force Maj. Daniel Schoeni

Two years ago in these pages, I wrote about my experience deploying to Colombia in 2012-13 (see “View from Bogota, Colombia through the eyes of an Iowa native and Air Force Judge Advocate,” March 2013). I am pleased to report that I have so far avoided a third deployment, although there were two near misses last year. I am taking a new tack. Unlike my previous articles (see also “Iowa Attorney and Full-Time JAG Officer Provides a Peek Inside Criminal Defense Work in a War Zone,” June 2010), instead of writing about a deployment, I am here to humble-brag about my role in assisting Mexico in transitioning to an adversarial justice system as an adjunct with the Defense Institute of International Legal Studies. Or as I like to put it, being paid to escape harsh New England winters for a sunnier clime, telling war stories to captive audiences by day, and eating like an Aztec monarch by night. What’s not to like about that?

My background

I came into the U.S. Air Force in 2004. Following officer training and a stint at the Judge Advocate General School at Maxwell Air Force Base in Montgomery, Alabama, I served as a prosecutor, trial defense counsel, and appellate defense counsel each for three years in California, Germany, Southwest Asia, and Washington, D.C.

After I aged out of military justice litigation, the Air Force sent me back to school for a masters of law in government procurement. I took one for the team: skipping unit physical training, adopting nocturnal student hours and donning blue jeans instead of camouflage.

Since graduating, I have been assigned at Hanscom Air Force Base, Massachusetts, as part of the legal team advising procurement officials who manage \$5.6 billion in command and control, intelligence and reconnaissance systems. This has been a stimulating professional experience and New England is as historic as it is beautiful, but I’d still ask for a measure of sympathy as Boston was buried in 108.6 inches of snow last winter, the most since recordkeeping started in 1872.

The Defense Institute of International Legal Studies

DIILS was founded in 1992 and serves as the lead U.S. defense security cooperation resource for professional legal engagement with international military

service members and defense civilians. Its Latin motto signifies “bring justice for all the earth.” With just 32 full-time staff and a \$9 million budget, its in-house and adjunct legal faculty conduct institutional capacity building programs and teach courses on human rights, military justice, the law of armed conflict and other areas of international and security sector law, supporting 122 engagements with 80 countries in fiscal year 2015. In preparation for teaching at the Inter-American Air Forces Academy at Lackland Air Force Base, Texas, I recently drove to Rhode Island to meet with the DIILS staff. When I saw firsthand just how small the organization is, I marveled at its global reach. And, although Newport itself is a stunning coastal city, the airman in me shed a tear for the austere Navy accommodations.

I first came into contact with DIILS while deployed to Colombia. One of my duties was to figure what sort of training the Colombian military legal community wanted, and then make arrangements with organizations like DIILS either to send students to the United States for in-residence courses or to bring down teams of experts to teach in country. During my six months, we had four mobile teams from DIILS. To save money in these early days of sequestration, I was adopted as an adjunct instructor and apparently impressed DIILS enough that they have continued inviting me on trips to Latin America for my Spanish, seemingly

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Trial advocacy students and instructors pose for a graduation photo in front of the Centro de Estudios Superiores Navales in Mexico City, Mexico.

endless supply of (true?) military justice stories and nose for good restaurants, not necessarily in that order.

Mexico's drug war & broken justice system

You've read about it in the news. Since 2006, Mexico has engaged in intense fighting with its drug cartels. Former President Felipe Calderón enlisted 40,000 soldiers. The most intense fighting was in 2006-2011, claiming some 47,000 lives.¹ But with the military's increased role complaints of human rights abuses "soared."²

Yet Calderón sent soldiers instead of policemen for a reason: Mexico's civilian justice system is widely considered untrustworthy. A familiar example is drug trafficker Joaquín "El Chapo" Guzmán's recent prison escape for the second time in 15 years, this time on a motorcycle through a mile-long air-conditioned tunnel; digging a tunnel leading directly to his cell would've been impossible without help from the inside. Too often civilian authorities are easily bribed.

Setting aside corruption, Mexico's justice system was also "cumbersome and inefficient, and lacked transparency."³ State and federal systems were characterized by poor protections for defendants, high levels of impunity and low public confidence.⁴ Suspects awaiting trial for minor offenses are "mixed with the general prison population" and "languish in jail for months or even years without a sentence."⁵ Although the "probability of being arrested, investigated and prosecuted is extremely low," "a guilty verdict is highly likely, particularly when a suspect is poor and the crime is petty," by some estimates as many as 85 percent are found guilty.⁶ And, studies indicate that "nearly half of all prisoners in Mexico City were convicted for property crimes valued at less than 20 dollars."⁷



A class of Mexican navy judge advocates take notes as U.S. judge advocates present information during the trial advocacy course.

The drug war strained the system.⁸ Impunity rates reached 98 percent.⁹ The system came "under domestic and international scrutiny for its inability to adequately respond to crime and violence."¹⁰

Mexico's transition to an adversarial criminal justice system

Consensus on the need for reform led to constitutional amendments in 2008 mandating the adoption of an adversarial justice system by 2016. Under Article 20 of the new Code of Criminal Procedure, "criminal proceedings shall be accusatory and oral."¹¹ Soon after, "sweeping legislation" was proposed to similarly reform the military justice system,¹² which was in turn ratified in 2014.¹³

The United States encouraged these reforms, with one pillar of the \$1.9 billion Mérida Initiative dedicated to "institutionalizing the rule of law."¹⁴ This rule of law

effort focuses on "supporting Mexico's transition to an oral, accusatorial justice system."¹⁵ As former Attorney General Eric Holder said, "the rule of law" has become "one of the United States' greatest exports[.]"¹⁶

What does this new adversarial system mean in practice? First, under Mexico's inquisitorial system, prosecutors' authority was "virtually unconstrained," whereas the new system "boosts the role of the public defender to match" prosecutors.¹⁷ Second, judges assume a "moderating role," serving as "impartial mediator."¹⁸ Third, the "most heralded aspect of the 2008 reforms is the introduction of 'oral trials,' with live public proceedings to be held in open court."¹⁹ It is hoped that these reforms will address abuses by prosecutors, reduce judges' discretion "largely outside of public view" and introduce checks and balances, efficiency and transparency.²⁰

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U.S. Air Force Maj. Daniel Schoeni stands with two Mexican navy judge advocates from the trial advocacy course.

DIILS & the Mexican military justice system's reforms

Starting with the Mérida Initiative in 2008, the United States has played an active role in Mexico's reforms. On the civilian side, the Department of Justice has the lead for U.S. support to the transition from an inquisitorial to an adversarial system. On the military side, that duty falls to the combatant command, U.S. Northern Command, which has in turn partnered with DIILS.

DIILS has played an important role in the transition to an adversarial system by sending teams of Spanish-speaking instructors to teach two-to-three week courses on trial advocacy. I taught my first course in May 2013, when it was still a three-week program, and a second course this past July. Instructors come from a variety of backgrounds. Fellow adjuncts have included U.S. Army Reservists who are state and federal prosecutors, an Air National Guardsman who is a sitting superior court judge in Puerto Rico and active duty attorneys with experience as prosecutors,

defenders and military judges.

The curriculum is just what you would expect from a trial advocacy course and consists of lectures, demonstrations, exercises and a mock trial. Our content has evolved with laws that are changing to meet the 2008 reforms' 2016 deadline. For example, a continuing challenge is that Mexico does not have written rules of evidence, but at least they now have rules of criminal procedure in place that provide more structure to our mock trial.

The students have ranged from brand new lieutenants fresh out of law school to army colonels and navy captains with 20 and 30 years' experience. We even had a three-star general in one course. They are often experienced lawyers, just not experienced oral advocates. We throw a lot at them. Although the course focuses on practical application, we also give them some of the theory behind our system so that they have some context. Thus, in addition to the advocacy component, it's sort of like three years of law school crammed into two weeks. We give them a brief lecture,

maybe a demonstration and then we put them on their feet in front of their peers and superior officers.

Their professionalism and commitment to honing their craft is impressive. I translate their written feedback, and they love what we're doing and relish the challenge of thinking on their feet. What is most gratifying is their confidence that applying what they learn will make their system better.

Conclusion


This experience has been career broadening. I have learned the value of trial advocacy skills; how essential lawyers' several roles are to a properly functioning adversarial system; and that countries around the world are using our system as a model for reform – and must be doing so for a reason.

My trips to Mexico have not been hardship tours. The last team I served with were all foodies and insisted on sampling local delicacies such as corn fungus, ant eggs and grasshoppers. Our evenings ranged from the high-brow Bailes Folkloricos to raucously cheering on a lucha libre at a low-rent venue.

I have been invited for another trip to Mexico in February. My wife has suggested coming along, and my parents are thinking of paying a visit. I can't imagine why anyone would want to escape Iowa or Massachusetts at that time of the year.




A Mexican judge advocate delivers an argument during the class mock trial.



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¹ *But see* Damien Cave, *Mexico Updates Death Toll in Drug War to 47,515, but Critics Dispute that Data*, N.Y. TIMES, Jan. 11, 2012, <http://www.nytimes.com/2012/01/12/world/americas/mexico-updates-drug-war-death-toll-but-critics-dispute-data.html> (reporting there were “nearly double” the murders officially reported).

² Brett J. Kyle & Andrew G. Reiter, *Militarized Justice in New Democracies: Explaining the Process of Military Court Reform in Latin America*, 47 LAW & SOC’Y REV. 375, 391 (2013).

³ Paul J. Zwier & Alexander Barney, *Moving to an Oral Adversarial System in Mexico: Jurisprudential, Criminal Procedure, Evidence Law, and Trial Advocacy Implications*, 26 EMORY INT’L L. REV. 189, 190 (2012).

⁴ Matt Ingram & David A. Shirk, *Judicial Reform in Mexico: Toward a New Criminal Justice System* 3 (2010), <https://justiceinmexico.org/judicial-reform-in-mexico-toward-a-new-criminal-justice-system/>.

⁵ *Id.* at 5.

⁶ *Id.*

⁷ *Id.*

⁸ Erin Creegan & Clare J. Hatfield, *Creeping Adversarialism in Terrorist States*, 29 CONN. J. INT’L L. 1, 28 (2013).

⁹ *Id.* at 29.

¹⁰ Deborah M. Weissman, *Remaking Mexico: Law Reform as Foreign Policy*, 35 CARDOZO L. REV. 1471, 1481 (2014).

¹¹ Código Federal de Procedimientos Civiles, as amended, art. 20, Diario Oficial de la Federación, Feb. 24, 1943 (Mex.).

¹² Kyle & Reiter, *supra* note 2, at 376.

¹³ Eugene R. Fidell, *Text of 2014 Changes to Mexican Code of Military Justice* (Jun. 14, 2014), GLOBAL MILITARY JUSTICE REFORM, <http://globalmjreform.blogspot.com/2014/06/text-of-2014-changes-to-mexican-code-of.html#uds-search-results> (citing Diario Oficial de la Federación, Jun. 13, 2014 (Mex.); *Mexico Ends Military Jurisdiction for Crimes Against Civilians*, FOX NEWS LATINO (Jun. 14, 2014), <http://latino.foxnews.com/latino/news/2014/06/14/mexico-ends-mili->

[tary-jurisdiction-for-crimes-against-civilians/](http://latino.foxnews.com/latino/news/2014/06/14/mexico-ends-mili-tary-jurisdiction-for-crimes-against-civilians/)).

¹⁴ Clare Ribando Seelke, CONG. RESEARCH SERV., R43001, SUPPORTING CRIMINAL JUSTICE REFORM IN MEXICO: THE U.S. ROLE 12 (2013) (explaining that the Mérida Initiative was an anticrime assistance program, whereby the United States trained and equipped law enforcement and provided technical assistance to reform the criminal justice system).

¹⁵ *Id.* at 13.

¹⁶ Oversight of the Department of Justice: Hearing Before the S. Comm. on the Judiciary, 111th Cong. 6 (2009) (statement of Eric H. Holder, Jr., Att’y Gen of the United States). *But see* Allegra M. McLeod, *Exporting U.S. Criminal Justice*, 29 YALE L. & POL’Y REV. 83 (2010) (criticizing such exports to countries with incompatible legal traditions).

¹⁷ Connie Dang, Comment, *Admissible or Inadmissible: The Role of Formally Codified Rules of Evidence in Mexico’s Developing Adversarial System*, 15 San Diego Int’l L.J. 425, 434 (2014).

¹⁸ Ingram & Shirk, *supra* note 4, at 10-11.

¹⁹ David A. Shirk, *Justice Reform in Mexico: Change & Challenges in the Judicial Sector*, 3 MEX. L. REV. 205, 217 (2011).

²⁰ *Id.* at 221.



U.S. Air Force Maj. Daniel

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