



THE

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IOWA LAWYER



*Lawyer-legislators
begin work in 85th
General Assembly*

ALSO IN THIS ISSUE

- Belin McCormick law firm sees LawPAC contributions as way to finalize ISBA legislative efforts
- These firms achieved 100% support of Iowa LawPAC
- What dad taught me about mediation
- Groundhog Day and business structure



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ABOUT THE COVER

Lawyer-legislators for the 85th General Assembly, which started Jan. 14, line up on the ornate spiral staircase in the state law library in the Iowa Capitol. Serving this year are (from left starting at the bottom) Representatives Kraig Paulsen, Kevin McCarthy, Mary Wolfe and Tyler Olson, Senator Charles Schneider, Representative Megan Hess, Senator Jack Whitver, Representatives Rick Olson, Julian Garrett and Chris Hagenow, Senator Rob Hogg, Representatives Chip Baltimore, David Dawson, Helen Miller and Jo Oldson. Subsequent to the photo being taken, Todd Prichard was elected to the House of Representatives in a special election. Biographies of all the lawyer-legislators, except for Prichard, begin on page 6. Prichard's biography will appear in the March *Iowa Lawyer*.

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Why your voice is important

Recent days have been filled with activities that affirm and underscore the important role that Iowa lawyers and The Iowa State Bar Association play in the civic life of the state of Iowa.

On Jan. 11, I had the pleasure of attending the Know Your Constitution (KYC) award ceremony in Des Moines. The program, which is organized and conducted by the Young Lawyers Division through the ISBA Center for Law and Civic Education, distributes an open-book, 50-question, multiple-choice quiz and one optional essay question covering the U.S. Constitution to high school students across the state. After the completed quizzes and essays are returned to the Bar office, KYC committee members grade the quizzes to select 100 finalists, one from each House district in the state. The finalists and their teachers are invited to attend the awards luncheon where five are chosen at random and awarded an all-expense-paid trip to Washington, D.C. This year trips were awarded to students and their teachers from Spencer, Clear Lake, Cedar Rapids and Farmington.



Cynthia Moser sitting at the governor's desk more years ago than she'd like to admit.

I know from personal experience what an opportunity like that can mean to a young person. At my high school graduation ceremony, it was announced that I had been selected as the statewide winner of a national essay contest sponsored by the Pepsi Company. A week later, my mother and I were flown to Des Moines where, at a ceremony in the governor's office, Governor Robert Ray presented me with an award certificate and invited me to sit behind his desk for a picture. Shortly after that, I joined the other 49 state winners on a one-week, all-expense-paid trip to Washington, D.C. Although I didn't take first place in the national competition, I did score kisses from Bart Starr and Bruce Jenner, who were on the judges' panel. More important, the opportunity to tour historic sites in Washington, D.C., and walk on the same steps trod by generations of our country's most influential leaders awakened my love for American history and civic affairs.

Special thanks and recognition go to the KYC Committee and its co-chairs, Bob Gainer and Sam Langholz. At the urging of the ISBA officers, the committee made several significant changes to broaden the scope of the program. Under their leadership, there was a concerted effort to spread the word about the program to additional schools and improve communication about the contest. This resulted in a 150 percent increase in the number of known participants in the program, up to more than 900 students. The number of schools represented showed a similar percentage increase, with 52 schools from across the state participating. In order to add further substance and added educational benefit to the program, a first-time optional essay exam discussion session was held prior to the luncheon, led by Drake University law professor Tony Gaughan. The awards



luncheon was capped by an inspirational keynote address from U.S. District Court Judge Stephanie Rose who shared real-life stories of our constitution at work in the lives of everyday citizens.

President-elect Guy Cook, Vice President Joe Feller, YLD President Laurie Parrish, Executive Director Dwight Dinkla and I had the privilege of sitting on the floor of the Iowa House Chamber on Jan. 16 to hear Iowa Supreme Court Chief Justice Mark Cady deliver the annual State of the Judiciary address to the joint session of the Iowa Legislature. One of the highlights of that experience was witnessing the warm and sustained standing ovation given to former Governor Bob Ray as he entered the chambers prior to the Chief Justice's speech. A true statesman, Governor Ray has been an influential advocate on behalf of Iowa's judicial merit selection system and generously lent his support to the ISBA's recent efforts to support the judges and justices on the retention ballot last November.

Chief Justice Cady's address eloquently depicted the challenges faced by Iowa's judicial branch, challenges that are mirrored by the changing face of our state. In addition to the criminal and civil cases that Iowa's courts have traditionally handled, our judges are asked to address and resolve a burgeoning caseload of increasingly complex and emotionally charged issues arising out of dysfunctional family dynamics, juvenile delinquency, the fallout from mental illness and substance abuse and the impact of the recent economic recession. At the same time, our courts are asked to dispense justice with a budget that, despite welcome increases during the last legislative session, remains inadequate to deliver the services that Iowans need and deserve.

The Chief Justice's remarks provided an important context for our meetings with

Governor Branstad, Lt. Governor Reynolds and legislative leadership throughout the remainder of that day. Your officers, accompanied by ISBA's able lobbyists Jim Carney and Jenny Tyler, were able to carry the message of the ISBA's strong support for fully funding Iowa's courts and the impact that the current closures of clerk of court offices and reductions in juvenile court staff, court reporters and judicial support staff have had and will continue to have on Iowans.

The judicial branch budget request breaks down as follows:

- Restoring full time clerk of court offices in every county: \$2.4 million in FY 2014 and \$2.4 million in FY 2015; currently none of the clerk's offices are open to the public on a full time basis; in order to provide full time access to justice to all Iowans in every county will require restoration of 106 staff at a total cost of \$4.8 million over two years.

- Juvenile court staff, court reporters and support staff: \$2.7 million in FY 2014 and \$2.5 million in FY 2015
 - Juvenile court services staff work directly with troubled youth by addressing their delinquent behaviors to ensure public safety; for all juvenile offenders to have an in-person meeting with a juvenile court officer requires restoration of 40 staff at a cost of \$2.3 million over two years.
 - All trials require the presence of a court reporter and in order to increase the timeliness of trials, additional court reporters are necessary; restoration of 20 court reporter positions will cost \$1.4 million over two years.
 - Law clerks, case schedulers and court attendants provide assistance to judges to help expedite processing more than one million cases a year in Iowa's district courts; restoration of 10 positions statewide will cost \$560,000 over two years.

Without question, ISBA members are our most powerful resource when it comes to championing full funding for the courts. Please help deliver the critical message that adequately funding Iowa's courts goes to the heart of assuring that all Iowans have meaningful access to justice when and where they need it. Take a moment to send an email, make a phone call or have a cup of coffee with your senators and representatives. Share your personal experiences working in Iowa's underfunded court system and tell them about the impact it has had on your clients, family, friends and neighbors.

Legislators tell us all the time that they rely on their colleagues, the 15 lawyer-legislators in the legislature, for advice on legislative issues, and they respect the knowledge lawyer-legislators bring to the table. Legislators will listen to you. Use your voice as an Iowa lawyer to make changes that better the lives of all our state's citizens.

Cynthia C. Moser

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Meet the 2013 lawyer-legislators

(Editor's note: Sixteen lawyer-legislators will serve in this first biennium of Iowa's 85th General Assembly – 13 in the House and three in the Senate. As this issue was going to press, it was announced that Todd Prichard was elected to the House of Representatives in a special election in House District 52 on Jan. 22. Eleven have served at least one full term and are in their second or more terms. Five are serving their first terms. Lawyer-legislators also serve as the Speaker of the House, and the House Minority Leader. All but Representative Prichard are listed below, along with a brief biography and the committees which they lead or on which they serve for the 2013 session. Representative Prichard's bio will be published in the March Iowa Lawyer. Their e-mail addresses are also included for ease of contacting them.)

In the Senate –



Senator Rob Hogg – District 33 – Democrat

Rob is serving his second term in the Senate after serving two terms in the House.

He received his B.A. degree from the University of Iowa in 1988, his M.A. from the University of Minnesota in 1991, and his J.D. from the University of Minnesota in 1995. Rob is a resident of Cedar Rapids and practices with Elderkin & Pirnie, PLC. He and his wife, Kate, have three children. He serves on the board of directors of Iowa Interfaith Power & Light and is the acting co-chair of the Cedar River Watershed Coalition. He is a member of Christ Episcopal Church and the Iowa State and Linn County Bar Associations.

Leadership positions: Chair, Senate Judiciary Committee; Vice-Chair, Justice System Appropriations Subcommittee

Committees: Appropriations, Education, Judiciary, Natural Resources and Environment, Ways and Means

Subcommittees: Justice Systems Appropriations

E-mail: rob.hogg@legis.state.ia.us



Senator Charles Schneider – District 22 – Republican

Charles is serving his first term in the Senate after a special election late last fall following the death of former

Senator Pat Ward. He was born in Daventry and has lived in Muscatine, Clive, Newton and Richmond, Va. He received his B.A. from Creighton University in Omaha, and his J.D. and M.B.A. degrees from the University of Iowa. An attorney at Principal Financial Group, he has served on the

boards of numerous community and civic organizations including Central Iowa Shelter and Services (Churches United), West Des Moines Development Corporation, West Des Moines Chamber of Commerce, Metro Waste Authority, and Wastewater Reclamation Authority. He and wife, Lisa, live in West Des Moines where Charles was a city council member for five years before being elected to the Senate.

Leadership positions: Ranking Member, Judiciary

Committees: Commerce, Economic Growth/Rebuild Iowa, Judiciary, Veterans Affairs, Ways and Means

Subcommittees: Economic Development Appropriations

E-mail: charles.schneider@legis.iowa.gov



Senator Jack Whitver – District 19 – Republican

Owner of Fast Enterprises, Inc., Jack is serving his first term in the Senate. Born and raised in Knoxville, he

graduated from Grinnell High School and received his B. S. and M.B.A. degrees from Iowa State University, and his J.D. from Drake University. He currently serves on the boards of the Iowa Law Enforcement Academy, the Iowa Department of Human Services and the Healthy and Well Kids Iowa. He and wife, Rachel, and their two children live in Ankeny.

Leadership positions: Ranking Member, Appropriations Committee

Committees: Appropriations, Economic Growth/Rebuild Iowa, Ethics, Human Resources, Judiciary, State Government

E-mail: jack.whitver@legis.iowa.gov

In the House –



Representative Francis “Chip” Baltimore II – District 47 – Republican

Chip is serving his second term in the Iowa House. A resident of Boone, he is general counsel and a trust officer for Boone Bank and Trust Co. He received his B.A. in Business Administration from Iowa State University and his J.D. from the University of Minnesota Law School in 1993. Chip is a past director of Boone's Future Economic Development organization, past president and director of the Boone County Community Endowment Fund, past member of the Sacred Heart Church Finance Committee and a past director of the Boone Area Chamber of Commerce. He and his wife,

Diana, have a son and a daughter.

Leadership positions: Chair, House Judiciary Committee

Committees: Commerce, Economic Growth/Rebuild Iowa, Judiciary, Ways and Means

Subcommittees: Justice System Appropriations

E-mail: chip.baltimore@legis.state.ia.us



Representative David Dawson – 14 – Democrat

Currently a sole practitioner in Sioux City, Dave was born in Cherokee and grew up in Washta. He previously

served as an Assistant Woodbury County Attorney and as a litigation associate at a firm in Chicago. He received his B.S. degree from Iowa State University and his J.D. from the UCLA School of Law. He currently serves on the board for the Community Action Agency of Siouxland. He and his wife, Liza, and two step children reside in Sioux City. This is his first term in the House.

Committees: Commerce, Human Resources, Judiciary, Public Safety

Subcommittees: Justice System Appropriations

E-mail: dave.dawson@legis.iowa.gov



Representative Julian Garrett – District 25 – Republican

A resident of rural Indianola, Julian is serving his second term in the

Iowa House. He is a graduate of Central College in Pella, and the University of Iowa College of Law where he received his J.D. in 1967. As an attorney, he served 12 years as assistant attorney general in charge of consumer protection. He also served 10 years as director of the Title Guaranty Division of the Iowa Finance Authority. He has had law offices in Des Moines and Indianola over the years. In addition, Julian farms in southern Warren County where he has raised purebred Charolais cattle for many years. A volunteer Little League and soccer coach for more than 12 years, Julian served on the Indianola Little League Board of Directors and directed the County Little League post-season tournament for Warren and surrounding counties for several years. Julian currently serves on the Child Support Advisory Committee, Human Rights Board, the Judicial Work Group (Mental Health Reform), and the Child Sex Abuse Prevention Task Force. He

and his wife, Nancy, have three sons.

Leadership positions: Vice Chair, Justice Systems Appropriations Subcommittee

Committees: Appropriations, Education, Human Resources, Judiciary

Subcommittees: Justice Systems Appropriations

E-mail: julian.garrett@legis.state.ia.us



Representative Chris Hagenow – District 43 – Republican

Chris is serving his third term in the Iowa House. A resident of Windsor Heights,

he received his B.A. in Political Science and French from the University of Northern Iowa in 1994, and his J.D. from the University of Iowa College of Law in 1997. He is a founding partner of the Des Moines law firm Whitaker, Hagenow & Gustoff, LLP in Des Moines. Chris currently serves on the steering committee for the Iowa Federalist Society, and is a member of the Iowa Prayer Breakfast Committee. He and his wife, Amanda, have two sons.

Leadership positions: Majority Whip

Committees: Administration and Rules, Judiciary, State Government, Ways and Means

E-mail: chris.hagenow@legis.state.ia.us



Representative Megan Hess – District 2 – Republican

Megan is serving her first term in the Iowa House.

Born and raised in Harlan, she presently resides in Spencer where she works with Hemphill Law Office, PLC. She received degrees in Law, Politics and Society and Business from Drake University and her J.D. from William Mitchell College of Law. She is an active member of the Spencer Daybreakers Kiwanis.

Leadership positions: Vice Chair, House Judiciary Committee

Committees: Education, Environmental Protection, Human Resources, Judiciary

Subcommittees: Justice System Appropriations

E-mail: megan.hess@legis.state.ia.us



Representative Kevin McCarthy – District 33 – Democrat

While serving as an executive officer for Attorney General Tom Miller from late

1994-1999, Kevin obtained his law degree from Drake University. He then worked as an Assistant Iowa Attorney

General from 1999-2001 before accepting a position for a year in Washington D.C. as the Litigation and Compliance Counsel for the Tobacco Project at the National Association of Attorneys General, representing the settling states under the 1998 tobacco Master Settlement Agreement. Kevin came back to Iowa and was elected to the Iowa House in an open seat and began serving his first term in 2003. For four years he was Ranking Member of the House Public Safety Committee. During this time, he was also hired as a criminal prosecutor for the Polk County Attorney's Office, a position he held until the fall of 2007 when he moved to private practice as a member of the firm of Wandro and Baer, P.C. In 2009, he became a partner in the firm, which was renamed Wandro & McCarthy, P.C. Presently he is a partner with Brick Gentry, P.C., in West Des Moines. A native and current resident of Des Moines, Kevin is serving his sixth term in the House and is currently the House Minority Leader.

Leadership positions: House Minority leader

Committees: Administration and Rules

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Representative Helen Miller – District 9 – Democrat

Helen is a sixth-term member of the House. She has a B.S. in Business Administration from Howard University, an M.S. in Library Science from Our Lady of the Lake University and a J.D. from Georgetown University Law Center. A resident of Fort Dodge, she is the executive director of Young At Art, an all-volunteer nonprofit organization that promotes economic development through the arts. She also serves on the boards of the Fort Dodge Correctional Facility Advisory Board, Webster County Crime Stoppers, Young At Art, Inc., and the Fort Des Moines Museum and Educational Center. Nationally she serves as chair of the Agriculture Policy Committee, and as a board member of the National Black Caucus of State Legislators, and of State Agricultural and Rural Leaders, Inc. She and her deceased husband (Dr. Edward Miller) have one son, two daughters and four grandchildren.

Leadership positions: Ranking Member, Agriculture Committee

Committees: Agriculture, Economic Growth/Rebuild Iowa, Natural Resources, Transportation

E-mail: helen.miller@legis.state.ia.us



Representative Jo Oldson – District 41 – Democrat

Jo is in her sixth term in the House. She is a former first deputy insurance commissioner and former advisor to Governor Thomas J. Vilsack. She has a B.A. and a J.D. from Drake University. Jo currently serves on the board of the Des Moines Pastoral Counseling Center. She was president of the Young Women's Resource Center

Board of Directors, and has been active in fund raising for a number of community organizations. She has volunteered with the Big Brothers/Big Sisters program, and at a homeless shelter. Jo and her husband, Brice Oakley, reside in Des Moines.

Leadership positions: Ranking Member, Ways and Means Committee

Committees: Commerce, Judiciary, Ways and Means

E-mail: jo.oldson@legis.state.ia.us



Representative Rick Olson – District 31 – Democrat

This is Rick's fifth term in the House. He received his undergraduate and law degrees from Drake University.

A resident of Des Moines, he serves on the Polk County Magistrate Appointing Commission. He is a former member of the Polk County-wide Oversight Committee. He and his wife, Brenda, have three daughters.

Committees: Judiciary, Public Safety, Transportation

Subcommittees: Justice System Appropriations

E-mail: rick.olson@legis.state.ia.us



Representative Tyler Olson – District 65 – Democrat

This is Tyler's fourth term in the Iowa House. A Cedar Rapids native, he received his B.A. in government and

history in 1998 from Claremont McKenna College, and his J.D. from the University of Iowa College of Law in 2003. Currently, he works as the vice president for Paulson Electric Company, a fourth-generation family business with offices in Cedar Rapids, Waterloo and Dubuque. He is a member of the Cedar Rapids Rotary and past member of the board of directors of the Neighborhood Revitalization Service and the New Bohemia Arts and Culture District. He is a founding director of Corridor Free Wireless, Inc. He and his wife, Sarah Halbrook Olson,

have a son and a daughter.

Leadership Positions: Ranking Member, House Appropriations Committee

Committees: Appropriations, Commerce, Ethics, Judiciary

E-mail: tyler.olson@legis.state.ia.us



Representative Kraig Paulsen – District 67 – Republican

A resident of Hiawatha, Kraig is in his sixth term in the House. He earned his

B.B.A. at Iowa State University, his M.B.A. from Embry Riddle Aeronautical University and his J.D. from the University of Iowa College of Law. Kraig is the corporate counsel at CRST International, Inc. He and his wife, Cathy, have four children.

Leadership positions: Speaker of the House

Committees: Administration and Rules, Legislative Council

E-mail: kraig.paulsen@legis.state.ia.us



Representative Mary Wolfe – District 98 – Democrat

This is Mary's second term in the Iowa House. A resident of Clinton, she practices law with her father, where she

handles primarily family law, criminal defense and Chapter 7 bankruptcy. Mary received her B.A. in English from the University of Iowa in 1989, and her J.D., also from the U of I, in 1992. Some of her favorite legal topics include the constitution, the bill of rights and an independent judiciary. Mary is currently a board member of the Clinton County Justice Coordinating Council. She also is active in the local YMCA. One son, John.

Leadership positions: Ranking Member, House Judiciary Committee

Committees: Judiciary, Public Safety, Transportation

E-mail: mary.wolfe@legis.state.ia.us

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IOWA STATE BAR ASSOCIATION — 2013 Affirmative Legislative Program

Bill No.	Bill Subject	Bill Description	Bill Status
	UCC Section 4A-108 Amendment	Amends UCC Section 4A-108 to provide that Article 4A applies to a remittance transfer that is not an electronic funds transfer under the Federal Electronic Funds Transfer Act (EFTA).	
	Contract for Deed Bill	Corrects a conflict in 2 Iowa statutes that simultaneously provide that a long-term contract for deed is barred from enforcement by both the vendor (Code Section 614.21) & the vendee (Code Section 558.5). Provides a clear method for the vendee in possession to obtain legal title when vendor has failed to deliver a deed in fulfillment of the contract.	
	Optional Designation of Registered Agent/Office for Nonresidents or Foreign Corporations	Authorizes non-resident individuals and out-of-state corporations or other legal entities, who have interests in property in Iowa but insufficient business contacts with the state to require them to apply for authority to do business in the state, to optionally file a document with the Secretary of State establishing a registered office/agent in Iowa to receive process or notice.	
	Marital Agreements	Amends Code Chapter 596 to allow for "marital agreements" between present spouses, which include amendment of premarital agreements & creation of new marital agreements. Marital agreements are limited to "post-death matters" only.	
	Youthful Offender Program	Amends statutory provisions relating to the prosecution of children as "Youthful Offenders", including Code Sections 232.8(3) and 232.45(7)(a)(1) to permit a participant in the Youthful Offender program to be eligible for a deferred judgment.	
	Waiting Period for Dissolution Decrees	Amends Code Section 598.19 to give the court discretion, upon agreement of the parties, to waive the 90-day waiting period before a dissolution decree can be entered.	
	Probate/Trust Code Update Bill	Contains update amendments to Iowa Probate & Trust Codes.	
	Juvenile Life with Parole	Amends Code section 902.1, dealing with sentences for juveniles convicted of homicide. Establishes a mandatory minimum sentence of 45 years. Establishes the factors required by the U.S. Supreme Court to be considered during sentencing.	
	Transmission of the Appellate Record	Clarifies duties regarding the transmission of the record on appeal. Specifies that it is solely the duty of the trial court clerk to transmit the record to the appellate court. The responsibility may not be delegated to a party. Transmission will only occur at the request of a party or the appellate court. Allows clerk to keep exhibits of unusual size unless exhibits are specifically requested.	
	Iowa Business Corporation Act Update Amendments (Code Chapter 490)	Amends IA Business Corporation Act with update amendments based on the ABA Amendments to the Model Business Corporation Act.	

Revised 1/22/2013

In addition to the legislative proposals on the previous page, The Iowa State Bar Association supports the following positions as a part of its 2013 Affirmative Legislative Program:

1. Full funding of indigent defense and adoption of legislation providing for an automatic, periodic increase in indigent defense fees.
2. Full funding of the Judicial Branch.
3. Full funding for Legal Services.
4. Child abuse prevention and treatment efforts and funding for child abuse prevention and treatment.
5. Opposition to the legalization of title insurance.
6. Opposition to any proposal to restrict lawyer abstracting under Iowa Title Guaranty.
7. Opposition to absolute immunity legislation.

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

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The Punxsutawney Phil problem — Drafting a business structure that makes owner disputes a little less painful

By Michael J. Dayton*



This month brings to us the most hallowed of holidays: Groundhog Day — a day so steeped in tradition and of national importance that my iPhone has deemed it worthy of being placed on my calendar. It's a day when the world's smallest weatherman, Punxsutawney Phil, emerges from his burrow (a temporary home; apparently he lives with his wife Phyllis in the town library most of the year) and predicts whether we will have six more weeks of winter.

But this article is not a biography of Phil or an account of his day. (For a complete and certainly accurate summary of the historical origins of Groundhog Day and its similarities to pagan prognostication festivals, please consult the appropriate

Wikipedia page.) This article is about what I do on Groundhog Day.

For me, Groundhog Day is a day to find Bill Murray's movie somewhere on cable and a day, more soberly, to ruminate on the most frequently recurring issue seen by the business lawyer — the irreconcilable dispute between or among owners of a company.

For those of you who have not seen the movie Groundhog Day, Bill Murray's character, Phil (like the groundhog Phil) is a despicably self-centered weatherman who is required to relive Groundhog Day over and over and over until he discovers the meaning of life and finds happiness, and wins the girl by doing good for others. A classic man versus himself tale.

The complex, time-consuming, confrontational and expensive process of unraveling a company or buying out an owner because of an irreconcilable owner dispute is the business lawyer's Groundhog Day. This type of dispute has many recurring forms: sibling owners of a family farm in an LLC; close friends who had a great idea and started a business; partners whose individual financial situation has diverged since start-up, to name a few. The dispute often involves people who were very close to each other at start-up and, for this reason, they never conceived of such a dispute. Unfortunately, when a rift between owners has formed that is significant enough for one of the owners to consult an attorney, the company will probably not be able to succeed unless one (or all) of the owners leaves the company. Fortunately, by properly advising your client from the outset and carefully drafting the organizational documents for the company you can help save your client time and money if, and when, the irreconcilable owner dispute arises.

When a client comes in to form a multi-owner entity, it is tempting to simply pull a form off of the shelf, change the names, and circulate the governing documents for signature. However, unlike *Legal Zoom*, we lawyers have the ability to think and to prepare for contingencies and ownership disputes based on the specific facts and circumstances for the company. So we should do so.

Before discussing the types of provisions that may help in the event of an owner dispute, I should point out a few matters that are outside the scope of this article. First, as alluded to above, an initial problem in these matters is convincing the potential owners of a to-be-formed business that there is even an issue to be resolved and that they should pay you money to resolve it. And this assumes that the potential owners have come to you to form the business in the first place. I am sure each of you has your own analogies and horror stories that will help the potential owners see reason, but I recommend showing National Lampoon's Christmas Vacation to your client or equating the business to a marriage.

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Once you have convinced the potential owners that ownership disputes are a serious and frequently recurring problem, and assuming they even want to go into business anymore, there are a few initial decisions to be made [**a further discussion of which I hope to include in forthcoming articles**]. Ethically, you will need to decide carefully who your client is — the to-be-formed company, one owner, or, if permissible, all of the owners.

You should also help your client choose the type of entity to be formed. You may need to assist the client with due diligence on available names for the entity. And you should analyze the formation transaction for other issues, such as securities law compliance.

To help alleviate the pain of owner disputes in any multi-owner entity, I would discuss with the client, at a minimum, the following: 1) governance and voting requirements, 2) share/interest transfer restrictions, 3) purchase price and payment requirements, 4) drag-along and tag-along rights, 5) put and call rights, and 6) deadlock and mandatory buy-sell provisions. The foregoing is certainly not a comprehensive list; other provisions should also be addressed with your client and in the governing documents, depending on the facts and circumstances for the company and for purposes outside of the scope of this article. And, of course, what provisions you decide to include and how you address these issues will be determined ultimately by an analysis of the client's expectations for the company and his/her position (financial, leverage, etc.) vis-à-vis the other owners.

Voting Requirements. The most common response I hear to the question "how will you manage your company?" is "we will make all decisions together." Although

unanimous voting may be impractical, for a two-member LLC or a two-shareholder corporation it is often appropriate (at least for major, as opposed to day-to-day, decisions). In such cases, the mandatory buy-sell and deadlock provisions, discussed below, may be more helpful.

However, for an entity with more than two owners, the unanimous-voting answer is likely based on a failure to consider all of the issues that might arise during the life of the company. A simple majority voting requirement may be enough for most issues. But organic changes to the business (conversion, re-domestication, dissolution) and the sale of substantially all of the assets of the business are common actions that may require a supermajority or unanimous vote.

In some circumstances owners may want to require supermajority voting for any host of business decisions, such as incurring debt above a certain threshold, hiring or firing employees, entering into transactions with affiliated parties or changing the purpose of the business. Discussing and drafting these provisions from the outset will set owner expectations and hopefully avoid disputes when these issues arise.

Transfer Restrictions. Almost all owners of a closely held start-up intend to only have their initial partners be in the business with them. However, generally, ownership interests in an entity are freely transferable (both voluntarily by sale or involuntarily by, for example, death) unless transfer restrictions are included in the entity's governing documents.

A complete prohibition on the transfer of interests may be desired among the owners, but may be impractical (what happens when one of the owners dies?) and is frowned upon by courts. As such, transfer restrictions are frequently subject to rights of refusal, first in the company and second in the remaining owners' pro rata based

on their ownership interests.

Restrictions on transfer may have certain permitted transfers carved out, such as transfers to lineal descendants in a family farm LLC. Properly addressing transfer restrictions will help to protect your client's expectations for the company and will provide a set of procedures to follow if a transfer event occurs that you will not find in the applicable organizational statutes.

Purchase Price and Payment. Part and parcel with transfer restrictions are purchase price and payment terms. If the company and the remaining owners will have rights of refusal, the terms of such rights must be clear. For voluntary transfers, the proposed price to be paid by the third-party purchaser is often used as the purchase price for the company's and remaining owners' rights of refusal, though purchase price deductions can be used to deter voluntary transfers.

For involuntary transfers, a certificate of agreed value backed up by an appraisal is a common method, but a formulaic approach can be useful for companies with a sufficient operating history. Deductions for certain "bad" involuntary transfer events (e.g., breach of a subscription agreement or operating agreement, termination of employment for cause or placing a lien on an ownership interest) can also be used. Payment terms should balance the owners' need and desire for liquidity against the company's or remaining owners' ability to cash flow the purchase. Key-man insurance should be considered to provide the company with the necessary liquidity to redeem an owner's interest on death.

The nice part about negotiating these provisions, is that in almost all cases each owner does not know whether he or she will be on the purchasing or the selling end of the transaction, which is a good atmosphere for compromise.

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Drag-along and Tag-along Rights. The previously discussed provisions are helpful to set owner expectations and to provide procedures where there are no statutory defaults, but none of these provisions provides an exit strategy to an owner. Properly drafted exit strategies, if they mirror owner expectations, can be wonderful in an owner dispute. Like transfer restrictions, you will not find a satisfactory exit strategy in an organizational statute.

Two potential exit strategies, which dovetail with voting requirements, are drag-along and tag-along rights. Because an ownership interest is the personal property of the owner, absent an agreement to

the contrary, an owner cannot be forced to sell his ownership interest. This situation may prevent the other owners of an entity from effectively selling the company to an interested third party.

In certain circumstances it may be appropriate for the owners who desire to sell to be able to “drag” the obstinate owner along so that he is required to sell his ownership interests to the third party purchaser. In such cases, drag-along provisions should be included. The converse of the “drag along” is the “tag along” – the right of an owner to tag along with other owners when a third party purchaser may be attempting to buy only a majority of

the ownership interests in a company. If a drag-along right is included in governing documents, a tag-along right is often included as well.

Put and Call Rights. Put and call rights provide exit strategies that may be appropriate in certain circumstances. A “put right” is an owner’s right to have his/her ownership interest redeemed by the company (or purchased by the other owners) upon the occurrence of a certain date or triggering event. The converse, a “call right,” is the right of the company (or the other owners) to purchase an owner’s interest based upon the occurrence of a certain date or triggering event. These provisions are most commonly utilized when a preferred investor is involved in a transaction, but can be used in other cases as well.

Mandatory Buy-Sell and Deadlock Provisions. Finally, what is the cheap, convenient exit strategy for an entity owned and controlled 50:50 by two owners? There is one, though it is not for every owner, nor the faint of heart.

The mandatory buy-sell, or “wild west shootout” as I like to call it, works like this: at any time one owner (Owner A) can hand the other owner (Owner B) a piece of paper with a number on it. The number is the price at which Owner B can buy out Owner A or be bought out by Owner A; who does the buying is up to Owner B, but he/she must choose.

You may require deadlock on a major issue as a triggering event for the mandatory buy-sell process, though requiring deadlock may just be adding something else for the two owners to dispute. Do be wary of using such a provision, however, as it will give the owner with greater personal wealth an advantage over the lower-wealth owner.

So, the next time a client comes into your office to form a multi-owner entity, tell her or him some horror stories, avoid the forms and do some good by advising him/her on the issues discussed in this article. Maybe that good deed will be sufficient to avoid the business lawyer’s Groundhog Day.

**Michael Dayton is a shareholder in the Business, Finance and Real Estate Department of Nyemaster Goode, PC in Des Moines. He practices in the areas of corporate and partnership law, regulatory law, commercial law and securities law. He can be reached at 515-283-3111 or mjd@nyemaster.com.*



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The Iowa Supreme Court's Office of Professional Regulation has invited lawyer organizations in the state to submit nominations to fill several vacancies on the Attorney Disciplinary Board and the Grievance Commission. The ISBA invites you to submit your nomination to the ISBA.

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Brief (one or two paragraphs) biographical information (i.e., name of law school, type of law practice, years in practice, name of current employer, civic organizations, involvement in professional organizations, and any other information that would assist bar leaders in evaluating nominations. Because of the nature of the duties, preference by the ISBA will be given to nominees with eight or more years of practice experience.)

Please e-mail the above requested information to isba@iowabar.org by Feb. 22. The information will be given to President-elect Guy Cook and bar association leadership who will then make nominations to fill the vacancies.

Those appointed will begin their service July 1. A list of the openings can be seen on the ISBA website at: <http://iowabar.org/displaycommon.cfm?an=1&subarticlenbr=804>.

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My father, the lawyer, and what he taught a trained mediator about mediation

By Kimberly Stamatelos*

My father taught me how to lawyer. In exchange, I joke, I taught him how to mediate.

I took mediation training in 1986, and then I trained him and some other attorneys. In this, the 11th year after his death and in my 26th year as a mediator, I now realize HE taught ME how to mediate.

When I first introduced my dad to the concept of mediation he said: "This is how we resolved cases in the old days. The other lawyer and I would sit down and drink a scotch and when we were done talking the case would be settled and we always kept our word."

I snickered wondering how he could have such a lack of insight. I knew that for any mediation to work you had to ask certain questions, do risk analysis with the parties, employ skillful negotiation strategies. You had to document things in an enforceable mediation agreement. What did he know?

Turns out he knew a lot. After mediating for 26 years I have come full circle. I can't

tell you the last time I asked the magical five questions, or the last time I did "the two number technique" or employed any particular mediation trickery.

But in order to understand why you have to know my dad.

My father, Daniel Stamatelos, grew up in Valley Junction (West Des Moines) where everyone knew him as "Danny". His law office was a remodeled house on the corner of 10th and Grand in West Des Moines. As a young girl I would earn extra money answering the phone and noticing all of the interesting people who came to Dad's office.

His clients were of all colors, genders and socioeconomic backgrounds, and several spoke broken English. Dad once told me one of the things he loved about being a lawyer was that "you never know what's going to walk in the door."

Whoever walked in got to see Danny, always with a smile on his face, and to talk to him for as long as they needed. People



left the office with a lighter step than when they had come in.

Dad also served as Justice of the Peace when I was a little girl. One of his responsibilities was to perform marriages. People

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would come to be married at our house on Ashworth Road and Dad would let me watch the wedding from the top of the stairs with my two younger brothers.

I now see that many of the people who came to be married were unconventional couples for the times; interracial couples, hugely pregnant women, people who were obviously poor, people who were stressed and not necessarily happy at the occasion. My father smiled and treated them all with respect, and he let my brothers and me throw rice as the couple drove out our curving driveway.

As a prominent lawyer, my dad had connections. His friends were the bankers, the insurance men, doctors and other lawyers who were leaders in the community. But he was never pretentious and always talked to every person in the same manner. It didn't matter if it was a businessman in a starched shirt or a worker with dirt and grime on his clothes, my father treated them all the same. He gave them respect, listened, joked with them, and of course flashed them that ever-present smile.

No matter what the problem, he was the first person they went to when there was trouble of any kind, not just legal trouble. Be it their houses, their finances, their wives, their children or their state of mind, people knew they could count on Danny to help. And he would. Whether it was calling his friend the banker to see about a loan for them, sending them to his doctor friend to determine if there was something physically wrong, even paying their utility bill out of his own pocket if their lights were shut off, my dad gave them each something that they lacked before they talked to him: Hope.

Often on Sundays, after we worshiped at the Greek Orthodox Church, Dad would take us to the nursing home, to visit the elderly Greeks and old Valley Junction folks.

He went to say hello and let them know they were being remembered. I hated those visits because I was a kid and I wanted to be doing something else. But I was stuck going, so I watched my dad interact with the people during our visits. I watched how tender he was with them, having all the time in the world to hear them, letting them know they mattered, and administering that same medicine, hope, with a smile.

Dad always looked professional. Every day my mother laid out a suit, shirt and tie. He always looked like a modern Perry Mason. When people came to his office they saw a man who looked like he had wisdom and authority. He made you feel better just sitting across the desk from him. He looked like a lawyer should look.

Eventually I decided to be a lawyer like Dad, graduating from his alma mater Drake Law School, in 1981. Not wanting to be in my father's shadow I went off to practice law in Dallas, Texas where I learned about mediation. When my first child was born I came back to Iowa and found a group of interested lawyers who I trained in mediation. I opened a mediation firm doing business in five states and practiced law part-time with Dad and his partner Greg Kenyon. By the time I came back to Iowa, I realized what an honor it was to practice in my father's shadow.

What I do now in my mediation practice, just as my father did, is to meet people with a smile on my face. I listen to them as though I have all the time in the world. I empathize with them. I respect them no matter what their makeup or story. I don't worry about if the case settles or not or if I can claim a sterling settlement record.

I might give ideas to help resolve matters if I have some that come to mind as a result of my experience. I help parties dig deep to come up with an agreement that works for them, and one they can buy into, rather

than coercing them to sign something in the pressure of the moment.

Dad wasn't perfect. He handled his imperfections with class. A self proclaimed compulsive gambler and member of Gambler's Anonymous, he donated time to assist fellow gamblers with their recovery. He told his story without shame knowing that his testimony would give others who suffered with the addiction the magic potion: hope. Inspired by his openness I sometimes share my own life experiences with people in mediation, walking alongside them as they process their own issues.

Now as a lawyer and mediator, I honor my father by using the skills I saw him use throughout my life to help parties peacefully resolve conflict. I smile and view life through an optimistic lens. I teach as an adjunct professor at Drake Law School, encouraging my mediation students to be problem solvers, listening intently to the needs of people who are hurting. I feel blessed to pass on the legacy I was given from the best lawyer I know: my father, Dan Stamatelos.

**Kimberly Stamatelos is an attorney and mediator practicing in West Des Moines. She can be reached at Kim@attorneymediate.com or at 515-223-1631.*

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Drake University students finish at the top in two mediation tournaments

By Richard Calkins*

A team of three students from Drake University Law School took runner-up honors in the second annual mediation tournament in Bhopal, India, last October. Another team of Drake undergraduate students — Aaron Mohr, Nikhil Pillai and Josh Mascharka — were named national champions in the Mediator Division of the National Intercollegiate Mediation Tournament in Gainesville, Ga., in competition with 35 other teams from around the United States.

The accomplishment in India by the Drake Law School students was due in part to support from the ISBA's Alternate Dispute Resolution (ADR) Section. The ADR Section has joined with the International Academy of Dispute Resolution (INADR) in reaching out to undergraduates, graduate and law students to introduce them to mediation. As part of this program, the section is a co-sponsor of mediation tournaments around the world, which give students an opportunity to participate in mock mediations as mediators and attorney/clients.

In India, mediation has been nonexis-

tent. That changed, however, in February 2012 when lawyers from Des Moines and Chicago, Ill., travelled to Bhopal and ran a first-ever mediation tournament. Twenty-four law schools fielding 32 teams from around India participated. Law students, having little or no exposure to mediation, were given two days of training and then participated in two days of mediations.

The Bhopal tournament was so successful that the host law school, The National Law Institute University, has made it an annual affair and held its second tournament last October. Drake law students Jennifer Anderson (3L) from Portland, Ore., Jonathan Hartsfield (3L) from Detroit, Mich., and Cale Nelson (2L) from Rochester, Minn., comprised the team. It was received with great warmth and enthusiasm from the India students, and excelled in all aspects of the tournament, including receiving the second place overall team honors.

The best thing about the experience for Jennifer, Jonathan and Cale was not only how well they were received and treated but the fact they represented Drake Law School

and the State of Iowa. India students may have heard of Harvard Law School, but now they are acquainted with Drake Law School, and they know where Iowa is. The Drake Law School ADR Society is looking forward to attending the Third Annual India Tournament in October 2013.

Future tournaments co-sponsored by the Section are the Great Lakes Invitational Tournament in Ann Arbor, Mich., Feb. 28-March 2, and the International Law School Mediation Championships in Dublin, Ireland, March 12-15. Anyone trained in mediation is welcome to judge at these tournaments.

The ADR Section is also in the process of planning the Fifth Annual Mediation Congress at Drake Law School scheduled for Oct 18-19.

**Richard Calkins is the owner of Calkins Mediation Services and Training in West Des Moines. A former dean of the Drake University Law School, he is presently a full time mediator/arbitrator and adjunct professor at Drake. He can be reached at 515-283-0331, or amta@dwx.com.*



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10:45 - 11:15	Making the Most Out of Mediation	Speaker: Jace Bisgard
11:15 - 12:00	Debt Collection	Speaker: Robert Gainer
12:00 - 1:00	Lunch (lunch not provided)	
1:00 - 2:00	Federal Case Law Update	Speaker: Hon. Ross Walters
2:00 - 2:45	Probate and Trust Law	Speaker: Marlin (Hap) Volz
2:45-3:00	Break	
3:00-4:00	Judgment Collection	Speaker: TBA
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For questions: phone (515) 697-7874 or e-mail cle@iowabar.org

Cancellation Policy/Walk-in Registration Fee: Registration refunds will be issued only if written notification is received by the Bar Office by May 2. Written notification can be mailed, faxed, or e-mailed to the Bar Office. Walk-in registration fee will be an additional \$50 (fee will begin on May 8).

If requesting electronic materials only, you will receive the electronic materials at the event. However, a link to the materials will be e-mailed to you in advance so you may print off any outlines you'd like. Please make sure the ISBA has your most up-to-date e-mail address.



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dates!**

Fastcase Webinars (FREE)

March 5 • March 7 • March 20
April 2 • April 4 • April 17

Fastcase, an online legal research service, provides free live training webinars so that ISBA members can learn how to use Fastcase right from the comfort of their own computers. All webinars have been approved for 1 state hour of CLE.

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Clio Overview Webinar (FREE) **March 7**

1:00 - 2:30PM

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Child Abuse Hearings (Telephone CLE) February 22

12:00 - 1:00PM

Speaker:
Kristi Traynor, Regents &
Human Services Division

CLE Credit: 1 state hour

Basic Skills Course April 18-19

Sheraton Hotel
1800 50th Street
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CLE Credit (pending):
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This course is targeted to attorneys needing to fill their basic skills training as required by Iowa Supreme Court Rule.

Criminal Law Seminar April 26

ISBA Headquarters
625 East Court Avenue
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Juvenile Law Seminar May 2

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Two Person Best Shot Golf Tournament

July 22

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SCHEDULE

Registration

9:30 - 10:30 a.m.

Ethics Presentation with James Sayre, Sr., James Sayre, P.C.

10:30 - 11:30 a.m.

(1 state hour which includes 1 ethics hour)

Lunch (provided)

11:30 a.m. - 12:30 p.m.

Golf (shotgun start)

12:30 p.m.

Cash Bar & Awards (immediately following golf)

Please note: Entry deadline is July 17 (no refunds after the entry deadline)



Registration Form: Two Person Best Shot Golf Tournament

Name: _____ Member # _____ Phone # _____

Address: _____ City, State, Zip: _____

E-mail: _____

Registration Fee:

Early bird pricing (ends June 1): \$150 per player

Fee after June 1: \$160 per player

(Entry fee includes seminar, box lunch, green fees, cart rental, driving range, prizes, and trophies)

My golf partner is: _____

or (check here to be paired with another player)

Please check one of the choices below to aid in planning *(fee is the same no matter which option is chosen)*:

I will attend the 1 hour presentation, sack lunch, and play golf

I will eat sack lunch and play golf

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Reminder: Entry deadline is July 17 (no refunds after the entry deadline)



Stephanie Eifler

Stephanie Eifler has joined the Law Offices of Hopkins & Huebner, P.C., as an associate attorney. Stephanie received her B.A. in Journalism from Iowa State University in 2009 and her J.D. from Drake University in 2012. She worked as a law clerk for the firm prior to her graduation from law

school and will practice in the firm's Des Moines office in the areas of workers' compensation law and litigation.

Michael B. Abbott, Karin A. Johnson, and **Lance W. Lange** have become partners of Faegre Baker Daniels LLP.

Michael has become a partner from his former position as special counsel. His practice focuses on corporate and finance law. Mike joined the firm in 2011. He received a bachelor's degree from Iowa State University in 2000, an MBA from the University of Iowa in 2005, and a law degree from the University of Iowa College of Law in 2005.



Michael B. Abbott



Karin A. Johnson

Karin has become a partner from her former position as associate. She focuses on employment litigation and counseling. Karin received a bachelor's degree from Luther College in 2001 and a law degree from Drake University Law School in 2004.



Lance W. Lange

Lance has become a partner from his former position as special counsel. He practices commercial litigation with a focus on antitrust and finance matters. Lance received a bachelor's degree from Stanford University in 1996, a master's degree from the University of Iowa in 1998, and a law degree from Columbia Law School in 2001.



Bruce A. Johnson

Bruce A. Johnson will join the firm of McKee, Voorhees & Sease, PLC of Des Moines and will be located at the firm's new satellite office in Austin, Texas. Bruce received his J.D. from the University of Texas School of Law in 1994 and his BSEE in Electrical Engineering from Iowa State University in 1990. Bruce

is a patent attorney with 18 years of experience with law firms and start-up companies. His practice areas include all areas of intellectual property law, with an emphasis on hardware and software patent prosecution, patent infringement analysis, and licensing.



Maury J. Noonan

Maury J. Noonan recently joined Pappajohn, Shriver, Eide & Nielsen P.C. in Mason City as an associate. Maury received his B.A. in Political Science from Grinnell College in 2007 and earned his J.D. from the University of Kansas School of

Law in 2012. His practice will focus on real estate, business transactions, and general civil litigation.



Casey Rigdon

Casey Rigdon has joined the law firm of Dunakey & Klatt, P.C. in Waterloo as a general practice associate. He earned his J.D. from Drake University Law School in 2012 and received his B.A. in 2009 from Luther College.



Leslie Ann Christensen

Leslie Ann Christensen has opened her own solo practice, Leslie Ann Christensen, Attorney at Law. Her law practice is dedicated primarily to family and juvenile law matters. She is licensed in both Nebraska and Iowa.

Leslie can be reached at 3050 South 32nd Avenue, Omaha, Neb., 68105, (402) 934-6420, and at leslie@lesliechristensenlaw.com.



Ashley J. Fuhrmeister

Ashley J. Fuhrmeister, Joseph F. Leo, and **Haley R. Van Loon** have been named members of the Des Moines law firm of BrownWinick.

Ashley joined the firm in 2006 and practices in the areas of corporate and business law and securities law. She earned her B.S. from Iowa State University in 2003 and her J.D. from Drake University Law School in 2006.



Joseph F. Leo

Joseph joined the firm in 2006 and practices in the areas of securities law and corporate transactions. Joe earned his B.S. from the University of

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Wisconsin-Madison in 2000 and his J.D. from Drake University Law School in 2006.



Haley R. Van Loon

Haley joined the firm in 2006 and practices in the areas of litigation and corporate transactions. Haley earned her B.A. from Iowa State University in 2003 and her J.D. from the University of Iowa College of Law in 2006.

Roger J. Kurt and **Bradley T. Boffeli** of the Kurt Law Office, P.C., of Cascade and Dubuque, are pleased to announce the opening of an additional office branch at 114 West Platt Street in Maquoketa.



Seth R. Schroeder

Seth R. Schroeder has become an associate in the Grundy Center law firm of Heronimus, Schmidt & Allen. Seth received his B.S. in Agricultural Business and Economics from Iowa State University in 2005 and his J.D. from Drake University Law School in 2009. He has

also been appointed as an Assistant Grundy County Attorney.



Tom Currie

Tom Currie and **Mark Liabo** announce the opening of Currie & Liabo Law Firm at 1853 51st Street NE, Suite 1, in Cedar Rapids. **Tom** received his J.D. from the University of Iowa College of Law in 1985 and **Mark** received his J.D. from Drake University Law School in 1979. Prior to opening Currie & Liabo Law Firm, Tom and Mark were members of the Tom Riley Law Firm. Tom practices primarily in workers' compensation law, and Mark practices primarily in personal injury law, including product liability and malpractice cases.



Mark Liabo



Kerry A. Finley

Kerry A. Finley has joined Shuttleworth & Ingersoll, P.L.C. as counsel. Kerry is a graduate of the University of Iowa College of Law and Dartmouth College. She worked for firms in New York City and Des Moines prior to returning to the practice of

law in the Cedar Rapids area. Her practice has focused on professional and corporate defense

and litigation. She has a general practice including but not limited to litigation and appellate law.



Kristy Latta

Kristy Latta was recently elected shareholder at Ahlers & Cooney, P.C. in Des Moines. Kristy graduated from Drake Law School. After law school and prior to joining the firm, Kristy served as a judicial law clerk for Justice David S. Wiggins of the Iowa

Supreme Court. Kristy's primary practice is in the firm's Education Law area, serving school district and community college clients. She is also a member of the firm's Public Finance & Law and Employment & Labor Law practice areas, as it relates to her education clients.

Garth D. Adams has been elected president of the Des Moines firm of Belin McCormick. Garth is a shareholder of the firm who practices primarily in the areas of venture capital, mergers, acquisitions, and general corporate law. He earned his law degree at Columbia University and his B.A. at Drake University.



Scott Hall

Scott Hall has returned to Carney & Appleby, P.L.C. in Des Moines as an associate after serving one year with the Whitfield & Eddy law firm in Des Moines. Scott received his B.A. in English from the University of Iowa and his M.B.A. in

business administration from the University of Phoenix on-campus in 2004. In 2008, he received his J.D. from Drake University Law School. Scott will practice mainly in the areas of business formations and transactions, real estate, landlord & tenant, agriculture, probate, estate planning, debtor & creditor rights, and civil litigation.



Nathan Barber

Nathan Barber and **Kelsey Knowles** join Garth on the three-person Belin McCormick Management Team. Nathan earned his B.A. at the University of Iowa and earned his law degree from the University of California, Berkeley. Kelsey earned a B.S. at Arizona State University and earned her law degree from Boston College.



Kelsey Knowles

The Iowa State Bar Association congratulates the following individuals/firms for the recognition they have received:



Steve Eckley

Steve Eckley with the Belin McCormick firm in Des Moines for being invited to membership in the American Society of Legal Advocates (ASLA). The ASLA is an invitation-only, nationwide organization of lawyers in practice today who combine stellar legal credentials with a proven commitment to community engagement and the highest professional standards. Membership in ASLA is limited to two percent of all licensed lawyers nationwide, with specialties varying per state depending on the number of practicing lawyers.



Carole A. Tillotson

Carole A. Tillotson, Associate Director of Career Development at Drake University Law School, for receiving the Madelyn M. Levitt Distinguished Community Service Award. In addition to commitment to community service, recipients are chosen based on their record of leadership or involvement in community projects and personal or professional behaviors and values surrounding the ideals of giving back to others. It is the highest honor Drake faculty and staff can receive.

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Disciplinary ACTIONS

Peter Sean Cannon, West Des Moines License suspended for 30 days Supreme Court Decision Oct. 19, 2012

The Iowa Supreme Court Attorney Disciplinary Board alleges Cannon violated Iowa Rule of Professional Conduct 32:8.4(b) based upon three separate criminal convictions in 2009 and 2010. The Iowa Supreme Court found Cannon violated Rule 32:8.4(b) and that a 30-day suspension was the appropriate discipline under the circumstances.

On July 13, 2009, Cannon was convicted of the crime of operating a boat while intoxicated, first offense in violation of Iowa Code 462A.14(2009). On Oct. 8, 2009, Cannon was convicted of possession of cocaine in violation of Iowa Code section 124.401(5). On Nov. 17, 2010, Cannon was convicted of operating a motor vehicle while intoxicated (OWI), first offense, in violation of Iowa Code section 321J.2. This conviction was the result of a plea agreement, because Cannon had been convicted of OWI, first offense in 2007, as well.

The Board contends these offenses violated Iowa Rule of Professional Conduct 32:8.4(b) ("it is professional misconduct to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer") and recommended a public reprimand.

The court analyzed the nature of Cannon's violations, Cannon's mental state, whether there was a pattern of criminal conduct, whether Cannon displayed disrespect for the law and law enforcement,

and whether there was any physical or economic harm as a result of the crimes. The court determined these factors weighed in favor of finding a violation due to Cannon's substance abuse and mental health issues, his repeated disrespect for the law and law enforcement, and the "very real risk that his repeated, irresponsible conduct could have caused significant harm to people and property."

The court found that based upon mitigating factors including Cannon's compliance with treatment for depression and alcoholism and the aggravating factor of a pattern of repeated offenses, an appropriate sanction was a 30-day suspension from the practice of law.

Eric Jonathan Palmer, Oskaloosa License suspended for 30 days Supreme Court Decision Jan. 11, 2013

The Iowa Supreme Court Attorney Disciplinary Board alleges Palmer forged the signature of his client on documents pertaining to a conservatorship and filed them with the court. The Iowa Supreme Court found Palmer violated provisions 32:3.3(a)(1) and 32:8.4(d) of the Iowa Rules of Professional Conduct, and that a 30-day suspension was the appropriate discipline under the circumstances.

These charges stem from one incident. In 2009, Palmer was hired to establish a conservatorship for a minor child for the purpose of settling a personal injury claim for that child. Mr. Palmer directed his secretary to sign the mother's name on three docu-

ments required to establish the conservatorship and approve a settlement of the ward's personal injury claim. The three documents included a petition for the appointment of conservator, an application to settle the ward's injury claim and an application to seal the record of the settlement.

Palmer notarized the signatures on the documents and filed them with the clerk of district court. A district court judge entered orders appointing a guardian ad litem, appointing the child's parents as conservators, and scheduling a hearing on the applications to settle the claim and seal the record. Another district court judge entered an order authorizing the conservators to settle the ward's claim.

Palmer filed a motion two years later to withdraw as counsel for the conservators. In that motion, he asserted he had been unable to prepare an annual report for the conservatorship because the conservators had failed to pay his attorney's fees and refused to respond to his attempts to communicate with them. When the conservators appeared for a hearing on the motion to withdraw, one of the conservators denied the authenticity of some of her signatures in the conservatorship proceedings and acknowledged the authenticity of her signatures on others. The presiding judge notified the Board of the apparent forgeries.

The Board filed a complaint against Palmer alleging he had violated Iowa Rules of Professional Conduct, and in response, Palmer admitted the signatures on the petition, application to settle the ward's claim, and application to seal the settlement were affixed by his secretary. Palmer asserted the signatures were affixed with the conservator's express permission because "[t]ime was of the essence" to assure settlement of the ward's personal injury claim.

At the hearing before the grievance commission, the conservator testified that she did not remember giving Palmer the authority to have his secretary sign documents on her behalf, but noted that her memory was compromised by a traumatic brain injury. She also acknowledged that it was possible she had given Palmer authority to affix the signature, but could not recall doing so.

Palmer testified the conservator had given him permission to affix her signature because of the urgency of obtaining prompt court approval in the tort settlement and the conservator's difficulty in travelling from Ottumwa to Palmer's office in Oskaloosa during the winter months. Palmer also asserted that the time demands of his service in the legislature also led to urgency of obtaining the signatures.

Palmer was not paid a fee for services, but he did not reveal to the court that the signatures were not those of the conservator. There is also no dispute as to whether Palmer notarized the signatures notwithstanding the fact that she did not sign the document.

The court concluded that Palmer violated Rule 32:3.3(a)(1) by liking documents and failing to reveal to the court that the signatures were affixed by a third person and by misrepresenting through the acts of notarization that the conservator had appeared before him to sign the documents. The court also concluded that Palmer's conduct was prejudicial to the administration of justice and in violation of Rule 32:8.4(d).

Based upon prior cases regarding false notarizations by attorneys and the mitigating facts in this case, the court found an appropriate sanction was a 30-day suspension from the practice of law.

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(Editor's Note: The Iowa Lawyer is making a change to the "Positions Available" in the classified ad section of the magazine. Beginning with the November issue, all job openings that are published will come through the ISBA's online job service – the Career Center. To use the Career Center to see what jobs are available or to post a job, go to the ISBA's website (www.iowabar.org) and click on "Career Center" in the blue bar at the top of the page.

There is a charge for posting a job on the Career Center, but feedback from employers who have posted jobs there indicates they receive more applicants from the online posting than from the printed version. In addition, thanks to technology, the online posting is instant; there is no waiting for the next issue of the magazine to arrive in the mail. Plus, it reaches more prospective job candidates.

Jobs posted in the Career Center will be published in the Iowa Lawyer magazine for one issue. Every effort will be made to publish the job in the magazine as close to the time it is posted in the Career Center as possible. Please notify the editor at editor@iowabar.org if you do not want your job published. All other categories – Law Practice for Sale, Office Space for Rent, etc. – in the classified ad section will continue to be published in the magazine as they have in the past. We trust you will find this new arrangement to be more efficient and to provide more qualified candidates than the previous arrangement.)

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ASSOCIATE — The global law firm of Faegre Baker Daniels LLP is actively recruiting an experienced litigation associate to join the Business Litigation practice group in our Des Moines office. Faegre Baker Daniels is an AmLaw 100 firm with offices located throughout the U.S., Asia and the UK. Our Business Litigation practice includes all phases of commercial and civil litigation for a national and international client base, including corporate and white collar criminal matters. Our ideal candidate will have two to five years of general commercial and business litigation experience, including deposition and motion-practice experience. Excellent writing skills, attention to detail, and strong academic credentials are required. This position offers competitive compensation and unlimited potential for professional growth. Please apply through our firm's website OR submit your resume, law school transcript, and a writing sample in confidence to Dana Gray, Legal Talent Manager, Faegre Baker Daniels LLP, 2200 Wells Fargo Center, 90 South 7th Street, Minneapolis, MN 55402 / email: dana.gray@FaegreBD.com. (3-13)

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OFFICE SPACE — Available for one or two attorneys. Two offices with storage space and a conference room available May 1, 2013 and maybe earlier at 8450 Hickman Rd., Ste. E, Clive, IA. If one attorney, the rent would be split with an existing attorney, and would be approximately \$750/mo. If two attorneys, the rent would be approximately \$500 per mo. per attorney. Please call 515-331-2156 to inquire about this office space. (3-13)

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ADMISSION ON MOTION
 The following individuals have applied for admission on motion to the Iowa Bar:
Jody Innocent Hirsch, University of Iowa Hospitals and Clinics, Iowa City;
Christopher M. Kennedy, Kennedy & Kennedy, Mankato, Minn.; **Brian Cooper Hansen**, Hansen, Lautenbaugh & Buckley, LLP, Omaha, Neb.; **Paulette S. Sarp**, Hinshaw & Culbertson LLP, Minneapolis, Minn.; **Brendan Kelly**, Law Office of Brendan M. Kelly, Omaha, Neb.
 Anyone with questions or comments should contact Dave Ewert at the Office of Professional Regulation, 1111 East Court Avenue, Des Moines, IA 50319; Phone: 515-725-8029.



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PROUDLY WELCOMES FOUR TALENTED ATTORNEYS TO THE FIRM:



Thomas Hanson

Tom has been one of the most active trial lawyers in Des Moines for more than 30 years, litigating civil and criminal cases in state and federal court. Tom also represents corporations, boards and corporate officers

in business transactions, disputes, lawsuits and white-collar crime proceedings.



Fred Beaver

Fred is a business and commercial law attorney handling business transactions, contracts and agreements, corporate governance, entity formation and commercial litigation. As a non-practicing

CPA, Fred has also represented accounting firms in malpractice litigation.



Mike Ensley

Mike practices primarily in litigation, including insurance defense, products liability, personal injury, medical malpractice, property matters and family law. Mike is a Certified Family Law Mediator providing

services in Polk County and neighboring counties.



Dale Knoshaug

Dale has over 25 years' experience in state and federal trial and appellate courts in Iowa. He maintains an insurance defense and employment law practice. Dale also represents both plaintiffs and defendants in

personal injury, tort, and commercial lawsuits.

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Des Moines firm aims to ‘finish the job’ through Iowa LawPAC

Each year, ISBA committees and sections devote more than 2,000 hours identifying and addressing areas for improvement in Iowa’s laws and regulations. While ISBA members perform important work studying changes to laws and making legislative proposals, it is up to the legislature to turn any proposal into law. Attorneys serving in the legislature are uniquely suited to understand and advance the often technical but important proposals advanced by the ISBA.

With this crucial role for lawyer-legislators in mind, attorneys from Belin McCormick in Des Moines wanted to help ensure attorneys, and non-attorneys who are supportive of ISBA initiatives, are elected to the legislature through a firm-wide commitment to Iowa LawPAC. In December, Belin McCormick set a goal of making an average donation to LawPAC at the \$75 level per attorney. The firm surpassed its goal, giving it the highest participation rate for a firm its size (33 attorneys) in LawPAC’s history.

Founded 22 years ago, Iowa LawPAC is bi-partisan and contributes to attorneys and non-attorney candidates supportive of the ISBA’s legislative priorities. Iowa LawPAC does not give contributions

to statewide races or federal races. It offers two levels of participation: \$75 for a contributor and \$250 for a sustaining contributor.

That Belin McCormick attorneys would take the lead in supporting an ISBA initiative like LawPAC should not be surprising. According to Steve Zumbach, a Belin McCormick attorney, the firm’s attorneys have a long history of leadership on ISBA committees and sections, on the Board of Governors and in the Young Lawyers Division. Partner Roger Stetson (now deceased) served as ISBA President; five firm attorneys have served as members of the Board of Governors, including current District 5C Representative Steve Eckley; eight firm attorneys have chaired committees, including current Judicial Administration Committee Chair Matt McDermott; and many others are active members of various sections and committees.

“A core value of the Belin McCormick Law Firm is for all of its members to give back to both the profession and the community,” Zumbach says. “We try to support many parts of our community — from lead gifts to the United Way, the Greater Des Moines Partnership, and

the Community Foundation of Greater Des Moines, to Iowa Legal Aid and Bravo Greater Des Moines Arts Council — and we’ve got to support lawyers who raise their hands to help write the laws of our state.”

As the 85th Iowa General Assembly gets to the business of Iowa, there are 14 attorneys and one law student who graduated in December serving in the Iowa House of Representatives and Senate. (That number changed to 15 attorneys and one law student based on the outcome of a special election on Jan. 22.) These men and women arrive at the Capitol representing not just their constituents, but the legal profession.

As part of their task to promote good public policy, they are responsible for updating laws to fit with the challenges that face the people and the businesses of the state. Every two or every four years they must stand on their record for re-election.

“For many reasons, having members of the legal profession serving in the Legislature is important,” says Quent Boyken, the firm’s 2012 president and leader of the successful LawPAC campaign. “To have lawyers working in the Capitol chambers who can readily grasp the many important

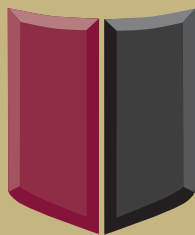


Some of the 33 attorneys at Belin McCormick, PC in Des Moines gather around one of the firm’s conference tables. The members are (seated, from left): Quent Boyken, David Nelmark, Patricia Shoff, Espnola Cartmill, Kelsey Knowles, Dick Lozier, Bill Bartine and Matt McDermott. (Standing, from left) are: Matt Wallace, Dennis Ogden, Tom Flynn, Chuck Becker, Garth Adams, Todd Lantz and Jerry Sharpe.

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ideas our bar association puts forth is vital to keeping Iowa a thriving place to live and conduct business.”

Belin McCormick attorney Matt McDermott, a former YLD President, expanded on that sentiment. “Every year we have great legislative proposals coming out of the ISBA’s sections and committees, and we must ensure legislators understand and advance those ideas at the Capitol if our bar work is to have its greatest impact. Support of LawPAC is one way to accomplish that.”

Legislators appreciate the support they receive from LawPAC. As Senator Rob Hogg, a lawyer-legislator from Cedar Rapids who chairs the Senate Judiciary Committee, explains: “LawPAC plays an essential role in helping attorneys and others who support the Bar Association run for office. It costs a lot of money and takes a lot of time to run for office and to serve. Throughout my legislative career, I have always been able to count on LawPAC for support, easing the heavy burden associated with fundraising.”

Chip Baltimore, a two-term lawyer-legislator from Boone who chairs the House Judiciary Committee, says “LawPAC has been key to my two victories for the House. The dollar contributions to my campaign are very much appreciated. But what’s more important is showing to the voters that my profession stands solidly behind me.”

Every year, the ISBA asks members to contribute to LawPAC to assist lawyer

candidates who are willing to pursue public service by running for the state legislature. Iowa LawPAC is annually eclipsed by many of the more than 400 political action committees (PACs) operating in Iowa.

According to the Iowa Ethics and Campaign Disclosure Board, in 2011 (the most recent year complete records are available) Iowa LawPAC attracted \$37,841 in contributions. That compares poorly with other leading PACs. For example, the Iowa Health PAC received approximately \$394,000, and the Associated General Contractors of Iowa PAC took in \$279,000 in the same year.

“Iowa is recognized by the U.S. Chamber of Commerce and many other national organizations as a leading state with laws that encourage good business practices,” says ISBA lobbyist Jim Carney. “To help ensure our well-earned reputation, we need to elect leaders who fully understand the law. We need to strive for more than 10 percent of our legislature to be lawyers. Involvement on ISBA committees is vital, but we need significantly more participation in LawPAC to finish the job that volunteer lawyers have started.”

Explaining the role of Iowa LawPAC and the importance of attorneys contributing to it has been a challenge, Carney acknowledges. More people are beginning to recognize the annual efforts of the ISBA’s affirmative legislative programs and the impact Iowa attorneys have had on updating the Iowa Code.

ISBA section councils and legislative committees typically spend well more than 2,000 hours each year studying and drafting legislative proposals that become a part of the ISBA affirmative legislative program.

Carney notes that since 1975 the ISBA has been involved in the passage of more than 800 legislative proposals updating the Iowa Code, and completely rewriting the Code to include such provisions as the administrative procedure act, probate code, trust code, marketability title act, dissolution of marriage, partnership act, limited liability act, and many more. The ISBA also lobbies every year in support of full funding for the judicial branch, Iowa Legal Aid and indigent defense. In addition, the ISBA regularly lobbies against legislation that would have an adverse impact on the citizens of Iowa or the administration of justice.

Iowa LawPAC Committee members are in the process of formulating a plan to grow contributions to LawPAC, Carney says. Those plans include regular recognition of firms that obtain 100 percent participation from their members in LawPAC. (See list of 100-percent firms and individuals starting on page 30.)

The committee will be presenting its recommendations to the Board of Governors when the details are firmed up. The goal is to grow LawPAC and make it once again one of the larger PACs in the state, and an effective tool for the legal profession, Carney says.



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*Based on 35% marginal federal tax rate

These firms contribute 100 percent to Iowa LawPAC

(Editor's note: The Belin McCormick law firm in Des Moines is the largest firm to have achieved 100 percent participation in Iowa LawPAC in the PAC's 22-year history. However, there are 22 other firms of two or more attorneys in the state who achieved 100 percent participation in Calendar Year 2012. A firm achieves 100 percent participation when all attorneys in the firm contribute \$75, the minimum required each year to qualify as a contributor. We plan to feature those firms, a few at a time, in future issues of the Iowa Lawyer. For now, they are listed below:)

Arends & Lee, Humboldt

Marc Arends
Ashley Emick
Robert Lee

Carney & Appleby, P.L.C., Des Moines

George Appleby
James Carney
Diane Dornburg
Scott Hall
Nate Mundy
Jenny Tyler

Carr & Carr, Manchester

E. Michael Carr
John Carr
Steven Carr

Cornwall Avery Bjornstad & Scott, Spencer

Stephen Avery
Christopher Bjornstad
Jill Davis
David Scott
Andrea Smook

Elverson Vasey & Peterson LLP, Des Moines

Allison Abbott
William Buckley
Todd Elverson
Zoshua Zeutenhorst
Emily Tisinger
Jon Vasey
Gregory Peterson

Goeke Law Firm, Waverly

Dale Goeke
Quintin Goeke

Hartung & Schroeder, LLP, Des Moines

Jonathan Garner
John Hartung
Bradley Schroeder
Ashley Tollakson

Hayek, Brown, Moreland & Smith, L.L.P., Iowa City

Laura Bergus
David Brown
John Hayek
Matthew Hayek
Joseph Moreland
Alison Werner Smith

Hintermeister & Kundel, Muscatine

John Hintermeister
Steven Kundel

Holland & Anderson, L.L.P., Iowa City

Lars Anderson
Joe Holland

Huffer Law, PLC, Story City

Duane Huffer
Robert Huffer

Larson & Evenson, Iowa City

Amy Evenson
Randy Larson

Law Offices of C. Kevin McCrindle, Waterloo

Janelle Ewing
John Harris
Sara McClintock
C. McCrindle

Lawler & Swanson, PLC, Parkersburg

Thomas Lawler
Amy Swanson

Loney & Schueller, LLC, Des Moines

Eric Loney
Randall Schueller

Murphy Collins & Bixenman PLC, LeMars

Scott Bixenman
W. Eugene Collins
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William Napier
Christy Popejoy
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Terry Abernathy
Stephanie Hinz
Matthew Novak

Rensink, Pluim and Vogel, Orange City

Daniel Pluim
John Rensink
Patricia Vogel

Skinner Law Office PC, Altoona

Edwin Skinner
R. Bradley Skinner

Vickers Law Office, Greene

Patrick Vickers
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CPA/ABV, ASA



James D. Nalley
CPA/ABV, CFF, CVA

In Memoriam

Michael Wayne Manske, 54, died of a heart attack at his home in Topeka, Kans., on Nov. 16.

Born in Wayne, Neb., Michael received his J.D. from the University of Nebraska College of Law and practiced law in Nebraska and Iowa. For the last 18 years, he was associate professor of Criminal Justice and Legal Studies at Washburn University in Topeka. A retired colonel in the U.S. Marine Corps, he also served as Ethics Administrator for the Kansas City, Kans., Board of Public Utilities.

Daniel Williamson, 86, died Dec. 19 at Horn Memorial Hospital in Ida Grove.

Dan was born in Battle Creek and after graduating from Battle Creek High School joined the U.S. Navy where he was a cook in the Sea Bs. Following his discharge in 1946, he went to Morningside College then to the University of Iowa College of Law where he received his J.D. in 1952. Dan retired in 2009, after practicing for 57 years. His practice was in Early, Battle Creek and Ida Grove.

Lewis H. Jordan, 82, died Dec. 26 at the Madison County Memorial Hospital in Winterset.

After attending high school in Detroit, Mich., the farm boy from Spencer hitchhiked to, and attended college at, the University of Iowa. A three-year hitch in the U.S. Navy separated his undergraduate education, but he returned to the University of Iowa after his discharge from the Navy in 1954. He received his bachelor's degree in 1957 and his J.D. in 1958 from the U of I College of Law. Following graduation from law school, he joined the Winterset firm of Webster & Frederick. He retired from the successor firm – Jordan, Oliver, Walters, and Smith – in 2008.

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