



THE IOWA LAWYER

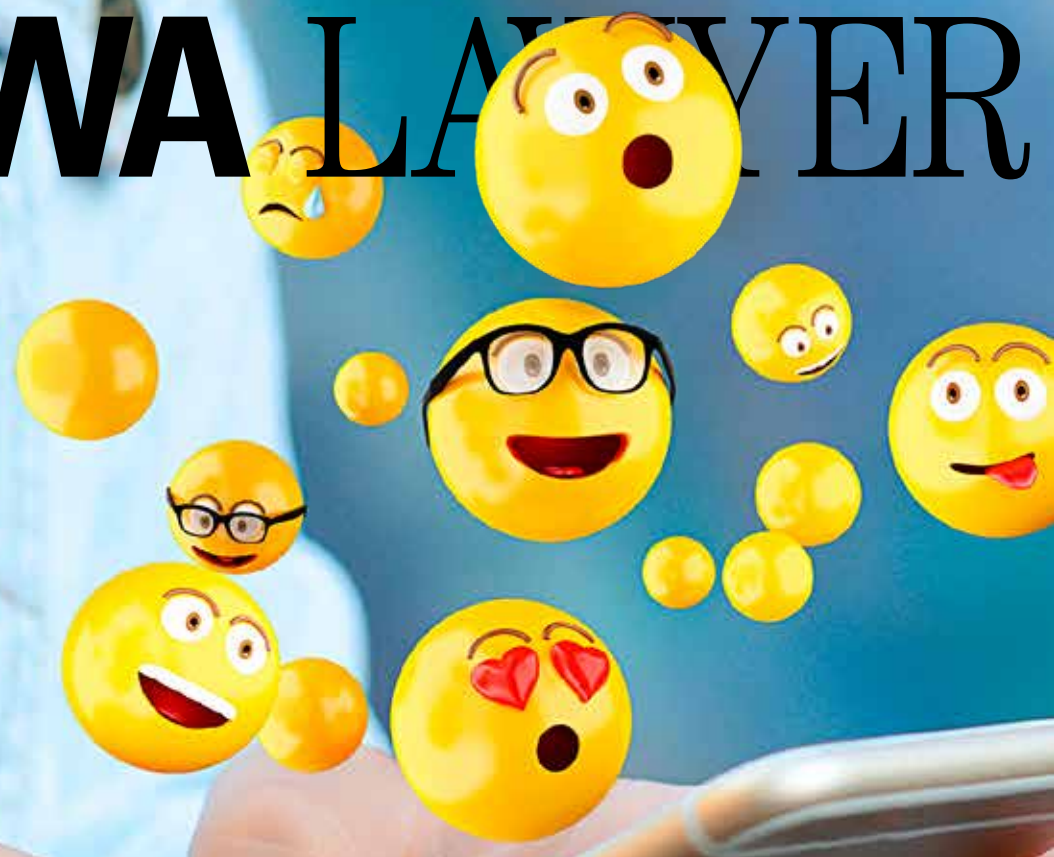
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The Iowa State Bar Association seeks to publish original articles that advance the education, competence, ethical practice and public responsibility of Iowa lawyers. Members are encouraged to submit articles and manuscripts to the editor for possible 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 make a determination of suitability for publication. Email all submissions to communications@iowabar.org in Microsoft Word format.

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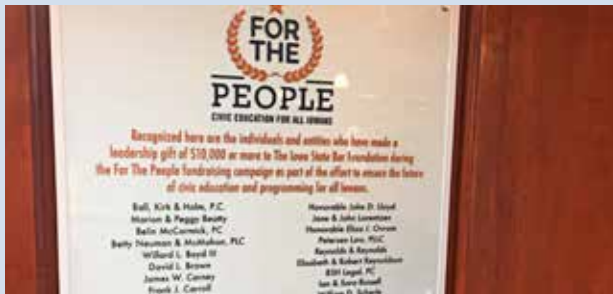
FOR THE PEOPLE CAMPAIGN LEADERSHIP PANEL INSTALLED

A permanent display panel honoring the individuals who made major contributions to the Iowa State Bar Foundation's For the People campaign has been installed outside of the CLE center in the ISBA headquarters.

Launched late last year, the For The People campaign's goal is to raise more than \$1 million to increase the foundation's endowment to more than \$3 million. An endowment of that size will provide enough income each year – based on current and anticipated returns on investment – to fund current ISBA educational programs, as well as providing seed money for other innovative law-related projects.

Approximately \$350,000 has been pledged thus far. The plan is to raise the \$1 million by Dec. 31. That would be a fitting kickoff to the Foundation's 75th Anniversary, which it celebrates in 2019, says Elisabeth Reynoldson, board president.

For more information or to make a donation to the campaign, visit iowabar.org/ISBAFoundation.



NEW APP ALLOWS USE OF ISBA'S ENGAGE PROGRAM ON MOBILE DEVICES

A new app for mobile phones and tablets allows members to use the ISBA's Engage program while away from their computers. The app can be used on any device running Android or Apple's iOS. It is available in the Google Play and Apple stores.

To install the app:

- Open the app store
- Search for MemberCentric
- Download the app
- Type in Iowa State Bar Association once you open the app and see the option to "Search for the organization."
- Log in using the credentials (username and password) you use to access the ISBA website.

ISBA Engage is a private, online professional community for each ISBA committee or section, built on the concept of listservs, but with enhanced features.



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LAWYER WELL-BEING

TOM LEVIS, PRESIDENT

Has this ever happened to you: after work you go home, pull out your favorite alcoholic beverage and start drinking? You're not drinking to be social, rather you are drinking because you had a miserable, stress-filled day dealing with demanding clients, multiple deadlines and difficult lawyers. The next morning, do you sometimes wish you had gone for a walk, a run or a bike ride instead of snuggling up to old Mr. Booze? Guess what? You are not alone. Lawyers all over Iowa snuggle up to Mr. Booze when they've had a stressful day. Some do it more than others. But, drinking is a common experience for many Iowa lawyers.

Do you know of lawyers whose work-life balance is out of whack? They can't seem to find time to spend with their families, friends and loved ones; their after-work happy hours sometimes get pretty crazy; exercise and healthy eating habits have fallen by the wayside; they seem sad, anxious and/or exhausted; and their work product is not quite as good as it once was. We all know lawyers who fit that description.

In August of 2016, the ABA Commission on Lawyer Assistance Program and the Hazelden Betty Ford Foundation released a report on lawyer well-being. This nationwide report found that between 21 and 36 percent of practicing lawyers qualified as problem drinkers and 28 percent of lawyers suffered from depression. It also found that 23 percent of lawyers suffer from abnormal stress while 19 percent suffer from abnormal anxiety. The study further found that younger lawyers in the first 10 years of practice and those working in private firms experience the highest rates of problem drinking, depression and stress! A 2014 ABA survey of law students found similar startling results.

In a nutshell, nearly one-third of all Iowa lawyers suffer from substance abuse, depression, anxiety or other mental health problems! We all know that to be a good lawyer, one has to be

a healthy lawyer. Bar members who are exhausted, impaired, disengaged or overly self-interested will not live up to their full potential as lawyers and will do a disservice to their clients.

Unfortunately, our profession is falling short when it comes to assisting lawyers in their mental and physical health. So, who's going to lead the charge? Well, The Iowa State Bar Association was established 145 years ago to assist lawyers in the practice of law. It's the perfect organization to help lawyers with their "well-being." Therefore, this year, your bar association is going to take some new steps to hopefully improve the well-being of Iowa Lawyers.

First, we're going to conduct annual member surveys that will offer an opportunity for research on Iowa lawyer well-being. The data gathered will help the association fine-tune its outreach and educational efforts. Please be candid when you respond to these anonymous surveys.

Second, The Iowa State Bar Association will sponsor additional high-quality CLE programming on wellness-related topics. The association will continue to provide at least one wellness-related educational opportunity in all bar-sponsored events, including conferences and day-long continuing education events.

Third, subject to approval by the Board of Governors, this year The Iowa State Bar Association will be forming a well-being committee. A number of other bar associations have established lawyer well-being committees and they have been remarkably successful. Like other states, our well-being committee will focus on addressing mental health disorders, but will also be dedicated to compiling resources, high quality speakers, developing and compiling educational materials and programs, and serving as a clearing house for lawyer well-being information.

Interestingly, lawyers are not alone with well-being problems. Physicians

are comparable to lawyers. Recently, I was approached by a representative from the Iowa medical profession to possibly collaborate with Iowa doctors in providing well-being services to both professions. In the next few months, I anticipate that we will explore collaborative wellness programs with the Iowa Medical Society.

Finally, we as a bar association must demonstrate best practices in connection with our activities and meetings. Over the next year, we're going to organize family-friendly functions, scheduling the events during times that do not interfere with personal and family time, as well as include more events such as yoga, fun runs, bike rides, meditation, music and arts and other events unrelated to the practice of law.



Levis finds well-being through fitness activities. This is a photo from an Ironman Triathlon he completed.

Remember, to be a good lawyer, one has to be a healthy lawyer. The next time you think about a night with Mr. Booze, remember "you lose with Mr. Booze." Take a walk, a run or ride down the street. Join or organize a yoga class. You'll meet new friends and you'll get healthy. Instead of drinking your dinner, fix a big salad from local farmer produce. You'll feel a lot better the next morning when you get up for your early morning run.

Thanks for letting me serve,



Tom Levis

Shareholder at Brick Gentry P.C.

WHAT IS THE EVIDENTIARY SIGNIFICANCE OF 😊?

by Helen Adams, United States Magistrate Judge, Southern District of Iowa¹

If a picture is worth a thousand words, how many is an emoji worth? Is there universal consensus on the meaning of each specific emoji?

Text-based emoticons, such as :) or the more recently created and frequently used graphical symbols known as the emoji have become the communication shorthand of the current times. Emojis are used not only in social communication, but also in communications between business professionals. Senders use emojis to convey emotion, but they also function to represent objects, such as a heart, coffee, etc.

Emojis have become an increasingly important and frequent part of how



Helen Adams

people communicate with each other electronically, especially through social media and text messages, in our constantly developing technological society. For example, Oxford Dictionaries named an emoji known as “Face with Tears of Joy” as its 2015 Word of the Year.

Given the common use of emojis in society, is it any wonder that emojis are now making cameo and lead appearances in legal cases? An appellate court in Connecticut referred to them as “little cartoon face(s) that can be added to the text of an instant message” and further noted that “the faces come in numerous expressions and are used to illustrate how the speaker is feeling or the intended meaning of what he or she has written.” *State v. Nero*, 1 A.3d 184 (Conn. App. Ct. 2010). Two key questions that courts are facing regarding emojis is whether the symbols can be, and should be, interpreted as literal portrayals of the sender’s thoughts, intentions and emotions in civil and criminal cases. The following examples highlight some of the ways emojis are showing their faces in court and the evidentiary issues that courts have and will face as lawyers and litigants seek to introduce emojis into evidence in a variety of civil and criminal cases.²

In the 2015 Silk Road trial, Ross Ulbricht was convicted of conspiracy and other charges related to his founding and operating of Silk Road, an underworld version of eBay for all things illegal that serviced an international network of drug dealers and users. After a prosecutor read the text of the following internet post, a legal debate about an emoji ensued. The

post read: “I’m so excited and anxious for our future, I could burst.” A smiling face emoji followed the text, but the prosecutor did not mention the emoji. Ulbricht’s legal counsel argued that the emoji was a critical component of the communication and must be shared with the jury. He further argued that the posts should be shown to the jury, not read to them as the communications were never meant to be communicated orally. The government disagreed, arguing that the posts were similar to wiretapped conversations that are routinely played or read aloud for jurors. Ultimately, Judge Forrest agreed with the defense that the emojis were part of the communication and must be conveyed to the jury. She allowed them to be read, but she also instructed the jury that there was no indication the messages had been communicated orally. She further determined that the jury should be allowed to see and read the posts for themselves. Judge Forrest distinguished the posts from wiretapped conversations, as the latter were intended as oral communications and the posts were not.

In 2014, Joshua Shepherd and Zachary Hursell were involved in a physical altercation, resulting in serious facial injuries to Hursell. As a result of his involvement in the altercation, the state charged Shepherd with aggravated burglary and felonious assault. At trial, the state and the defense presented very different versions of the altercation. Hursell testified that he was friends with Shepherd’s girlfriend, Holly Rumker, and that Rumker texted Hursell on the day of the altercation seeking to get together. Hursell further testified that Rumker came to his home and when he opened the door to let her in, Shepherd assaulted him.

Shepherd and Rumker painted a different picture of the events leading up to the altercation. They testified that Hursell initiated the text conversation with Rumker and that the text

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conversation from Hursell was part of his continued pattern of harassment of Rumker. They further indicated that they had gone to Hursell's home together to confront him about the harassment and that Hursell started the altercation.

After the jury convicted Shepherd, he appealed. On appeal, Shepherd argued that the court erred by refusing to instruct the jury on aggravated assault, claiming that he was provoked and acted in a sudden fit of rage. As part of his provocation argument, Shepherd argued that he was provoked because Rumker and Hursell's text messages indicated that Rumker was being unfaithful to Shepherd and planned to have intimate contact with Hursell. The court viewed the text conversation as being very benign and not evidence of infidelity. Rather, the text messages conveyed that Rumker had no plans and wanted to hang-out with Hursell. Hursell responded by inviting Rumker to his home followed by a "winky-face" emoji. The court found that the only possible evidence of infidelity was Rumker's testimony that she interpreted the "winky-face" to mean that Hursell wanted to sleep with her. The court determined that such evidence was insufficient to convey words of infidelity and "to find otherwise would require us to make an unsupported assumption of the emoji's meaning. *State v. Shepherd*, 81 N.E.3d 1011, 1019-20 (Ohio Ct. App. 2017).

In a corporate deadlock case, a Delaware court appointed a custodian to sell the business because the relationship of the two business partners had deteriorated to the point of dysfunction and deadlock. *Shawe v. Elting*, 157 A.3d 152, 157 (Del. 2017). The court determined that Shawe engaged in harassing behavior toward Elting, including secretly purchasing a seat directly across the aisle from Elting

on a flight to Paris causing Elting to change seats. In finding that Shawe's characterization of the incident as an attempt to extend an olive branch to Elting was not credible, the court referenced a text message that Shawe had sent to allies, stating: "Was next to Liz on the plane to Paris and she switched seats:)." The court noted that Shawe ended the message with a smiley-face emoticon, which suggested to the court

conversation did not prove the content of the original writing because they did not include the emojis. On appeal, defendant argued that the admitted transcripts violated the best evidence rule because they did not include the emojis and were "thus not an exact or true reflection of the conversation." *State v. Nickell*, 540 S.W.3d 863 (Mo. Ct. App. 2018). While the appellate court affirmed the lower court conviction,

Count	Code	Browser	B&W*	Apple	Andr	Twit	Wind	GMail	DCM	KDDI	SB	Name	Year
1	U+1F602											grinning face	2012*
2	U+1F601											grinning face with smiling eyes	2010 ¹
3	U+1F602											face with tears of joy	2010 ¹
4	U+1F601											smiling face with open mouth	2010 ¹
5	U+1F604											smiling face with open mouth and smiling eyes	2010 ¹
6	U+1F605											smiling face with open mouth and cold sweat	2010 ¹
7	U+1F606											smiling face with open mouth and tightly-closed eyes	2010 ¹
8	U+1F609											winking face	2010 ¹
9	U+1F60A											smiling face with smiling eyes	2010 ¹
10	U+1F60B											face savouring delicious food	2010 ¹
11	U+1F60E											smiling face with sunglasses	2010 ⁴
12	U+1F60D											smiling face with heart-shaped eyes	2010 ¹

that Shawe was amused by yet another opportunity to harass Elting.

Another evidentiary issue may arise based on the "best evidence rule." This rule requires that an original writing, recording or photo is admitted in order to prove its content.³ In *State v. Nickell*, a man was convicted for attempted enticement of a child. The trial court overruled defendant's objection that the transcripts of the

the best evidence rule could become a larger issue as emojis become more prevalent in communications. One of the difficulties that courts face in determining the evidentiary significance of an emoji is that there are multiple variations of a specific emoji depending on the actual platform where the emoji is displayed. The chart included on this page highlights the visual differences that can be seen in an emoji such as "grinning face with smiling eyes."

Depending on the specific visual depiction used for an emoji, a court may interpret that emoji as negative, neutral or positive. One of the difficulties in comparing court interpretations of the same emoji is that many courts do not include a picture of the actual emoji but rather use words to describe the emoji. The tone and context of an emoji, just like words, may shed light



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on the sender's intent and meaning. By including a picture of the emoji in the opinion, judges can better paint the picture and explain their reasoning about the meaning attributed to an emoji.

A second but related complicating factor is that there is no universal agreement on the meaning or definition of each emoji. There are available resources that attempt to define emoji meaning and usage. One of those resources is Emojipedia, advertised as an online encyclopedia of emojis, created in 2013 by Jeremy Burge. At Emojipedia, you can search a specific emoji as presented on a particular platform, such as Apple, Facebook, Google, Twitter or Snapchat. For example, you can search for a "grinning squinting face" and you will be provided the following description "a face with a big smiling mouth, and scrunched-closed eyes." You also will be shown pictures of the variations of the grinning squinting face as it appears on 13 platforms including Apple, Microsoft, Google, Twitter, Messenger and Facebook. You also will be directed to a listing of related emojis such as "astonished face," and "grinning face with smiling eyes." What you will not find is a specific description about what a sender always means or intends by the inclusion of a "grinning squinting face" in a specific post or text message.

It certainly appears that various people ascribe different interpretations to the same emoji. HighSpeedInternet.com conducted an international survey

among major English-speaking countries to better understand what emojis mean to people around the world. [Rachel Oaks, *Are Emojis Really the Universal Language of the Internet*, (Aug. 6, 2017), <https://www.highspeedinternet.com>.] Based on the survey results, the innocuous "eggplant" emoji was meant to be the actual vegetable or could be meant as a sexual reference. The survey also suggested that there were generational differences in the meanings ascribed to various emojis. For example, 18-to-24-year olds ascribed a sexual connotation to the "water droplets" emoji while all other age groups characterized the emoji to signify rain.

Certain emojis caused more confusion than others. The "hugging face" emoji (described as a face displayed with an open-hands gesture, offering a hug) was described as meaning "that's cool," or "funny shrug" as well as denoting a hug. People were similarly split on the happy face sticking out its tongue to the side: 40 percent of respondents thought it meant "silly," 30 percent opted for "yum," and 20 percent felt it denoted "joking."

Courts are not immune from ascribing different meanings to the same or similar emojis. A winking smiley face emoji is a good example of different meanings that can be given to a similar emoji. Remember *Shawe v. Elting* mentioned earlier in this article? In that case, the judge found the inclusion of the emoji to suggest that Shawe was enjoying his ongoing harassment of Elting. In a federal district court case,

the judge interpreted a smiling winking emoji to mean that the preceding statement was made in jest. *Lenz v. Universal Music Corp.*, 2010 U.S. Dist. LEXIS 16899 (N.D. Cal. Feb. 25, 2010). There are other cases where parties have argued that including a smiling winking face emoji after a potentially threatening statement nullifies the threat as a jest. In the case of an emoji, a picture may not adequately describe the hidden meaning that parties and lawyers may want to attach to the emoji.

The purpose of this article is to highlight the increasing emergence of emojis as potential evidence in court and possible evidentiary issues that can arise. As you can see from the sampling of cases referenced in this article, lawyers may present emoji evidence in virtually any kind of case involving electronic communications that may support or diminish a party's claims or defenses.

Lawyers and judges need to have an understanding of the world of emojis so that they can better anticipate the evidentiary challenges that might be faced. Can an emoji constitute hearsay? What role does the "best evidence rule" play regarding admissibility of a writing including emojis? Is an emoji an admission of a party opponent? How does a lawyer authenticate and lay a proper foundation to admit emoji evidence? What meaning can be ascribed to an emoji? Is that a jury question? Will expert testimony be allowed on emoji usage? What instructions, if any, should jurors be given about emoji evidence? Do you feel prepared to do battle with the emoji or is there more that you need to learn?

Perhaps this is a topic to be explored through an ISBA seminar or meeting of your local bar association or Inns of Court. ;)

1. For a further discussion of the roles that emojis have played in recent civil and criminal cases, see MORE THAN WORDS The Evidentiary Value of Emoji, 57 No. 10 DRI For Def. 34 (2015) (John G. Browning and Gwendolyn Seale).

2. FED. R. EVID. 1002.

3. Meghan Neal, What the Emoji You're Sending Actually Look Like to Your Friends, VICE: MOTHERBOARD (Nov. 12, 2015, 1:25 PM), https://motherboard.vice.com/en_us/article/78kzn9/what-the-emoji-youre-sending-actually-look-like-to-your-friends



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FUTURE-PROOFING YOUR LAW PRACTICE

by Sharon D. Nelson, Esq. & John W. Simek © 2018 Sensei Enterprises, Inc.

As we travel around lecturing to lawyers on technology and security topics, we've met a lot of lawyers worrying about the future of their practices. Some are resigned. It is not uncommon to hear "I just want to hang on for a couple more years. Then I'll retire." The younger lawyers don't have that option. They are inclined to ask, "What can I do? How will I survive?"

But take heart, there are ways to compete – and not only to survive, but thrive.

IT'S A DIGITAL WORLD

There is no way of getting around the need to educate yourself on the digital world. You don't need to be a technologist, but you do need a fundamental knowledge of the technology you are (and should be) using. Not only do ethical rules require that, it just makes sense. There are lots of CLE courses to assist you.

If you haven't gone paperless yet, it is way past time. Lawyers waste interminable amounts of otherwise billable time searching for files. You can't compete if you refuse to take advantage of tools to keep everything organized electronically where it is easy to find.

If you haven't started to automate your practice yet, it is also past time. Incorporate as many efficiencies as you can into your practice. However, as one of our friends points out, many law firms have terrible processes. He advises "decrapifying your legal processes before you automate them." Memorable and excellent advice.

Outlook is not a case management system. You will improve your efficiency and your client services by using a bona fide case management system. You should also be using a time and billing software product. A best practice would be to implement a practice management system that includes managing matter information and billing/accounting.

Maybe it is time to explore a client

portal, where clients can securely access documents, look at their invoices, etc. Many case management systems include secure client portals these days. Attorneys are flocking to client portals and clients love them. You want your clients to love their lawyers, right?

Remember, law practices are all about clients. Please them and you will reap referrals. Lawyers are beginning to understand that having emotional intelligence is critical to their success. If you don't know that term, Google it for stories of how it helps lawyers get and keep clients. One example? Clients today want to pay less for more – making your practice more efficient can accomplish that. Now you can more readily compete with alternative legal providers. And, by sympathizing and responding to your clients' needs, you have the perfect occasion to demonstrate the extent of your emotional intelligence, providing a win-win scenario.

FISH WHERE THE FISH ARE

This is an old saying of boat captains – and good advice for the modern lawyer. Where are your prospective clients today? Online. So make sure your website is easy to use, modern in appearance and kept up-to-date. Make sure it loads quickly and that it is mobile phone friendly. More than 50 percent of our own website traffic comes from smartphones, which is also why you need to be running Google Analytics reports on your website each month – learn where your traffic is coming from. These reports will also help you see whether improvements you've made on your website are bearing fruit.

For the most part, forget print advertising. In short order, it lines bird cages and house-trains puppies. What lives in the digital world has a much more extended life. Get to understand the effective use of online marketing tools such as blogs and social media sites. Reporters follow Twitter and scan

for subject matter experts across social media. If your name is out there and your material is good, you'll get calls. One of the best forms of advertising is being quoted in major publications.

CYBERSECURITY: GETTING TO GOOD

No law firm cybersecurity is perfect. And perfect is not the goal. "Getting to good" is a start. As we often say in our CLEs, law firms have data on many individuals and businesses; hence, they are especially valued targets. And they hold a lot of PII (personally identifiable data) as well as a lot of regulated data (SOX, HIPAA, Graham-Leach-Bliley, GDPR, etc.) Fines and penalties for not adequately securing data can be stiff. Public shaming in the press can lead to clients beating a path to the exit door.

Recognizing that an advanced hacker with sufficient skill and funding WILL get into to your network, you need to have systems in place to detect a breach. You need to have an Incident Response Plan because no one thinks clearly in a crisis. You need to have your backups engineered so they are impervious to ransomware. At least one backup should always be unconnected to your network. Yes, cloud backups are fine, but you need at least two backup sets.

Develop cybersecurity policies – and enforce them. Train your employees in cybersecurity at least annually and form a "cybersecurity culture" where everyone is mindful of security and trained in the "See something? Say something" way of thinking.

If you are not in a large firm (over 500 employees), become familiar with the NIST Cybersecurity Framework standards. Version 1.1 was published in April 2018.

THINK OUT OF THE BOX

This is not your grandmother's or grandfather's law practice. Clients want greater availability – they don't want to have to take time off from work to see you. Offer extended hours. There's

a reason that major stores sometimes have law offices in them – you may be better located in a strip mall than in a traditional law office. Rotate shifts with other lawyers. Keep asking yourself what clients want.

Set aside quiet time to figure out how you can distinguish yourself from your colleagues and how to make your skills known. Speak, write, network with other lawyers, etc. And yes, networking is still key – so cultivate those personal relationships.

Make a plan for the future and follow up on the plan. If you practice law the way it was practiced 20 years ago, you are going to get run over by technology and alternative legal providers. Instead of being afraid that you will lose your job to artificial intelligence, figure out what new opportunities exist. As an example, we have certainly seen a marked increase in the number of lawyers handling data breaches and privacy law matters. “Sniffing the air” for emerging opportunities is a great

way to make sure there is viable legal work for you to do.

Finally, remember that many current lawyer functions – drafting wills, contract review, e-discovery review, business formation, legal research, etc. – is automated already or will be shortly. Some of this work is automated through expert systems and some through artificial intelligence – it really doesn’t matter which. Just as we were writing this article, a news story was published saying that the number of patents filed within the category “legal services and handling legal documents” has risen 484 percent in the last five years, according to an analysis by Thomson Reuters of data from the World Intellectual Property Organization. There is little point in bemoaning the work that will be lost to lawyers – but there is plenty of work out there for those who are energized enough to strategize for the future.



Sharon D. Nelson, Esq., is the President of Sensei Enterprises, Inc., a digital forensics, cybersecurity and information technology firm in Fairfax, Virginia. Nelson is the author of the noted electronic evidence blog, Ride the Lightning and is a co-host of the Legal Talk Network podcast series called “The Digital Edge: Lawyers and Technology” as well as “Digital Detectives.” She is a frequent author (sixteen books published by the ABA and hundreds of articles) and speaker on legal technology, cybersecurity and electronic evidence topics. She was the President of the Virginia State Bar June 2013 – June 2014 and a past President of the Fairfax Law Foundation. She may be reached at shelson@senseient.com



John Simek is the Vice President of Sensei Enterprises, Inc. He has a national reputation as a digital forensics technologist and has testified as an expert witness throughout the United States. He holds a degree in engineering from the United States Merchant Marine Academy and an MBA in finance from Saint Joseph’s University, and holds the prestigious CISSP (Certified Information Systems Security Professional) certification in addition to multiple other technical certifications. He is the co-chair of ABA TECHSHOW 2019 and a co-host of the Legal Talk Network podcast Digital Detectives. He is a frequent author (sixteen books published by the ABA and hundreds of articles) and speaker on legal technology, cybersecurity and electronic evidence topics. He may be reached at jsimek@senseient.com.

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Appreciating the **GOOD TIMES**

JOE BANTZ, CFP®, AIF®, CKA®, *Lead Advisor*

For nearly my entire life, I've been the model of health. I rarely got sick, was free from significant injury (except a dislocated shoulder in college), and rarely missed a day of school or work. I would hear about others' health challenges and could empathize but couldn't really relate. I took for granted feeling good in the morning, going out for a morning jog, and going to the gym for a good workout.

Until October 16, 2017. Cancer. Prostate cancer. The same disease that took my dad's life six and a half years prior.

I felt fine but now had all sorts of questions, uncertainty, and anxiety racing through my mind. Suddenly, I had a new appreciation for the 51 years of good health I had enjoyed. All the years of "easy good health" suddenly were put into perspective. I searched online, hoping to understand what was happening inside my body. I talked to numerous men who had walked this path before

me. But ultimately, my doctor and I decided on a plan, and we walked through the plan together. I knew he had my best interests in mind as we discussed options, knowing his professional expertise and training gave him more insight than what I could find online.

Investing is kind of like that, as well. I came into this profession in 2003. In fact, I often have joked the markets woke up from the early century doldrums in March, 2003 when Foster Group issued me an opportunity to join the company. For the first 54 months, the markets just went up. I was a bit perplexed when we had a month that was flat or perhaps even slightly negative! Then, ten years ago, I learned how fickle the markets can be and appreciated the good times more as 2008 ended.

Following that, the markets had another great run, and it became easy to get complacent and think the good times were simply a "new normal." But

then the month of March happened, like a cancer diagnosis, and we were reminded: It's the willingness to walk through the volatility that makes us investors and not speculators.

That's where my cancer story ties in. I worked with my doctor to get through the valley, to find a solution and emerge healthy. I didn't panic and take matters into my own hands. I listened to counsel and direction, learned how the body works, and executed the plan. The future is still unknown, though all signs indicate successful treatment. But I have confidence and peace, because I've stuck to a solid plan. I have a renewed appreciation for a healthy body!

If the market volatility of the last few months has gotten your clients a bit unsettled, talk to them about their plan. If they are not confident in theirs or have no plan, don't be afraid to call us. **WE PUT THE CLIENTS' INTEREST FIRST, EVERY TIME.**



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GIVING IOWA'S BUSINESS COMMUNITY THE SERVICE IT DESERVES

by Paul Pate, Iowa Secretary of State

Offering service at the speed of business, not the speed of government, has been my goal since returning to the Iowa Secretary of State's Office in January 2015. Thanks to the recent launch of the Fast Track Filing system, I'm proud to announce that we are now able to provide Iowa's business community with the service it deserves. New business filings are significantly expedited thanks to this innovative application.

Many of you are aware of the technological challenges my office has faced. Our systems were old and antiquated. We missed the Bill Gates Era completely. It was with great dismay that I discovered a lot of the equipment and systems in the Secretary of State's Office were the same in January 2015 as they were when my first tenure ended in January 1999.

The filing process for new businesses was taking longer than any of us would have liked. From now on, registering a new business with the State of Iowa is quick, easy and efficient.

We publicly launched the Fast Track Filing system on June 18. The response from Iowa's business community has been overwhelmingly positive. Under the old method, new incorporation filings were taking up to nine business days. New businesses using Fast Track Filing have their documents processed within a maximum of two days, and a minimum of five minutes.



Entrepreneurs will be able to get their new business ventures up and running much quicker, and your clients will greatly appreciate the speed of the filing process. The system is accessible online 24 hours a day at filings.sos.iowa.gov. Since we launched it on June 18, the average time to complete new business filings is less than 15 minutes. Nearly 70 new businesses are being created every day through Fast Track Filing.

The Fast Track Filing system was made possible through the Iowa Legislature's creation of the Technology Modernization Fund in 2017. I would like to thank members of The Iowa State Bar Association for your support and advocacy for this fund.

This innovative application was designed by the Information Technology Division in my office, with assistance from QCI, a West Des Moines-based technology consulting firm. Our I.T. specialist Kyle Phillips deserves most of the credit for the technological aspects. He did a fantastic job.

WHAT THEY'RE SAYING

Here is a sampling of some of the feedback we have received from Fast Track Filing users:

"The new FTF system has been a time saver for our office. What we used to wait weeks for now only takes minutes. After a bit of exploring the capabilities on the new system, we are now comfortable with the FTF dashboard, filing options and other abilities of our account. It's been a great asset." – Megan Rasmussen, Roberts & Eddy, P.C. in Independence

"The Fast Track Filing System is really great. It has expedited filing times. Our clients are very happy with it as well." – Jordan Simmons, Homes Law Firm P.C. in Cedar Rapids

"We have been very pleased with the Fast Track Filing so far. We have used it several times, and in each instance the turnaround time has been great." – Nicholas K. Cochrane, Johnson, Kramer, Mulholland, Cochrane, Driscoll & Cochrane P.L.C. in Fort Dodge

"I am very, very happy with how quickly the documents are filed and available to view. That is exactly what we needed." – Rebecca Rupp, Hogan Law Office in Des Moines

"One client called me a miracle worker, but it was actually Fast Track Filing that was the miracle. This is perfect! Can't wait until we can file more forms with FTF." – Elizabeth Brandt; Simmons, Perrine, Moyer, Bergman, P.L.C. in Cedar Rapids

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“I filed articles of incorporation after 4:30 p.m. and had confirm of filing by 7:30 the next morning. This was amazing.” – *Jacquelyn K. Arthur; Heiny, McManigal, Duffy, Stambaugh, & Anderson, P.L.C. in Mason City*

“I love this process! It has been very easy to use and extremely efficient.” – *Kathleen Nolan; Meardon, Sueppel & Downer, P.L.C. in Iowa City*

“I find the platform to be very straightforward and user-friendly and turnaround time for my filings has been outstanding!” – *Kaycee J. Schippers; Davis Brown Law Firm in Des Moines*

“In the past, in order to have a document filed right away we had to use a delivery service and pay a fee of \$75 to \$125 per filing in order to have the filings walked in for same-day service. I have made several filings using the Fast Track Filing and find it very easy to work with, and the

turnaround is amazing!” – *Kelly Christman; Crary, Huff, Ringgenberg, Hartnett & Storm, P.C. in Sioux City*

Early projections also show Fast Track Filing will save the Secretary of State’s office more than 4,000 staff hours annually. It greatly reduces or eliminates processes my staff currently handles, like scanning documents, serving as cashiers and extended correspondence with filers. Fast Track Filing enables us to offer Iowa’s business community the customer service it deserves.

The Iowa Secretary of State’s Business Services Division has processed a record amount of new business filings during each of the past three years, surpassing 20,000 filings annually. The office handles more than 60,000 phone calls and approximately 12,500 walk-in customers each year.

Fast Track Filing is currently available for new business filings only, but will expand to handle other types

of business filings in my office in the future. We are just getting started. It is my hope that all our business filings will be available through the Fast Track method soon. My staff and I are fully dedicated to giving Iowa’s business community the service it deserves.



Paul D. Pate of Cedar Rapids was elected to serve as the 32nd Iowa Secretary of State. He previously served as Iowa Secretary of State from 1995-1999. Pate also served two terms as mayor of Cedar Rapids from 2002 –2006. In addition, he was elected twice to the Iowa State Senate representing NE Cedar Rapids, Marion and parts of Linn, Buchanan and Delaware Counties from 1989-1995. He is a lifelong Iowa resident, born in Ottumwa, and growing up in Linn County. His family includes his wife Jane, three children and five grandchildren who all reside in Iowa.



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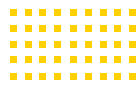


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UI COLLEGE OF LAW BEGINS 2018 SCHOOL YEAR WITH NEW DEAN

Kevin Washburn brings listening skills to deanship, will focus on “innovating” by Melissa Higgins

As luck would have it, the University of Iowa College of Law’s brand-new dean, Kevin Washburn, spent his very first week on the job at the ISBA Annual Meeting in Des Moines. That wasn’t planned, but as Washburn professed during the board of governors meeting occurring that week, talking and learning from UI alum and members of the Iowa Bar is “exactly where I ought to be.”

Washburn began his new job as the N. William Hines dean of the University of Iowa College of Law on June 15, succeeding Gail Agrawal, who served as dean of the College of Law since July 2010. Washburn will be the 18th dean of the College of Law, which was founded in 1865.

He sees his job a few different ways: as a CEO, a leader and a keeper of the public trust.

“The law school is primarily the faculty. They teach our students and choose our educational mission. Thus, in the broader enterprise, I view the faculty largely as the board of directors, and I am their CEO. On policy matters, it is my job to present the faculty with options and then take their direction,” he explained. “I am also the leading member of the law

school staff. In that role, my job is to work with my staff colleagues so that faculty administrative needs are met so that they can keep focused on solving important legal problems and changing the world through their ideas and their students.”

Additionally, Washburn concluded that “public service is a public trust and, whether in government or a public law school, one must listen to the community. I find myself listening a lot in my first few months on the job.”

Washburn comes from a recent stint in government work. In August 2012, he was nominated by President Barack Obama to serve as the Assistant Secretary to the Bureau of Indian Affairs. In that role, he was the principal advisor to the Secretary of the Interior and president of the United States on matters involving tribal nations, serving as



(photo courtesy: Thomas Langdon)

the principal link between the federal government and the country’s 567 tribal nations.

Washburn, who is a citizen of the Chickasaw Nation of Oklahoma, earned his Bachelor of Arts from the University of Oklahoma and his Juris Doctor from the Yale Law School. Following law school, he clerked for Judge William C. Canby Jr. of the U.S. Court of Appeals for the Ninth Circuit. He then joined the Honors Program at the U.S. Department of Justice in Washington, D.C.

He went on to become a federal prosecutor in New Mexico, serving in the Violent Crimes Section of the U.S. Attorney’s Office, then a trial attorney with the U.S. Justice Department, later serving as general counsel of the National Indian Gaming Commission. He has judicial experience from his service as chief judge for the Court of Appeals of the Saginaw Chippewa Tribe of Indians in Michigan and as a justice of the Appellate Court for the Meskwaki Tribe in Iowa.

Washburn is married with three children, who, along with his wife who also has a law degree, are all members

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“NO ONE HAS BEEN MORE WELCOMING THAN DEAN JERRY ANDERSON OF DRAKE’S LAW SCHOOL AND I AM DELIGHTED THAT THERE IS A STRONG RELATIONSHIP BETWEEN OUR TWO GREAT LAW SCHOOLS” —New UI Dean Kevin Washburn

of the Chickasaw Nation of Oklahoma. “Together, we increased the Native American population of Iowa by five!” he said, about his family’s recent move to this state.

“We have two teenage boys. We also have a little boy who is 18-months-old. In light of our ages (Washburn is 50), we call him the ‘miracle baby.’ Raising the baby has been a lot easier with four of us to share the load, and our teenagers have been invaluable,” he said.

Washburn began his academic career at the University of Minnesota Law School in 2002. He spent the academic year of 2007 to 2008 as the Oneida Nation Distinguished Visiting Professor of Indian Law at the Harvard Law School. From 2008 to 2009, he was the Rosenstiel Distinguished Professor of Law at the University of Arizona James E. Rogers College of Law, before becoming the first Native American dean of any school of law in the U.S at the University of New Mexico School of Law, from July 2009 to October 2012.

As a dean once again at the UI College of Law, he knows there will be one major issue always on his plate.

“In legal education and in public education more generally, the fiscal challenges loom large. My mandate from the faculty is to continue to navigate the tough economics while continuing to provide a high-quality, low-cost legal education for Iowans and talented non-residents, some of whom will fall in love with Iowa and remain here. My predecessor Gail Agrawal masterfully managed significant cuts to the College of Law, producing a program that is more lean, but still very strong. The economic crisis is not behind us. The economy is uncertain and the new farm crisis is keeping me up at night with worry. In tough times, though, people turn to lawyers for leadership and we must continue to produce those leaders,” he said.

To combat these fiscal concerns, he is committed to guiding the College of Law toward innovative solutions.

“Legal education is innovating, and we will be looking at ways to innovate as well,” he said. “What does legal work look like in a world of autonomous cars, farm equipment and railroads?

We must answer those questions. But we must also continue to produce lawyers able to compete on the cutting-edge in New York, Chicago, Denver or Phoenix, and also those who work on main street in places from Sioux City, Waterloo, Dubuque and the Quad Cities, and all of the county seats in between.”

And uncovering those innovative

solutions involves talking to as many stakeholders as possible, which is why Washburn found his first week on the job, mingling with the Iowa bar and its leadership, so valuable.

“I am new to Iowa and I have already learned so much,” he said. “I have met hundreds of members of the bar and I have found them capable, competent and unfailingly friendly.”



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MARSHALLTOWN TORNADO

The community of Marshalltown is focused on recovery efforts after an EF-3 tornado hit the downtown district, causing significant damage to businesses and the Marshall County Courthouse. Several law

firms located in the downtown district suffered damage as well.

On Monday, July 23, a delegation consisting of ISBA President Tom Levis, Executive Director Dwight Dinkla, Assistant Executive Director

Harry Shipley and Communications Director Melissa Higgins, visited some of the affected firms and attorneys to offer assistance. The ISBA is prepared to provide whatever support necessary to help affected members recover.



The EF-3 tornado, carrying winds up to 144 miles per hour, struck Marshalltown on July 19.



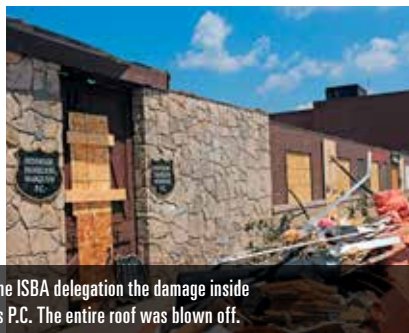
Court clerks and services have been moved to alternate locations, as it will take months to fix the damage at the Marshall County Courthouse.



Larry McKibben shows pictures of the damage to his office of Moore, McKibben, Goodman & Lorenz.



Attorney Brian Danielson (left) shows the ISBA delegation the damage inside his office Hinshaw Danielson Marquess P.C. The entire roof was blown off.



An exterior view of the law offices of Rutherford & Bidwell, which had the door blown out and significant roof damage.

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Information from Marshalltown Times Republican

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Transitions



OLSON

Anthony (“Tony”) Olson has joined Rush & Nicholson, P.L.C., in Cedar Rapids as an associate attorney. He received his J.D. from Creighton University School of Law. Prior to joining the firm, Olson was a shareholder in Leehey Olson Law, P.C. His practice includes personal injury, workers’ compensation and employment law.



FISHMAN

Eddie Fishman has joined Hopkins & Huebner as an associate attorney in the firm’s Adel office. Eddie earned his J.D. from the University of Iowa College of Law. He will practice in the areas of business organization, estate planning, real estate, criminal and family law.



PEACOCK

Daniel Peacock has joined Goodman Law, P.C., in West Des Moines as an associate attorney. He is a 2017 graduate of Drake University Law School. His practice will focus on civil litigation.



HOWARD

Niq Howard, Caitlin M. Andersen, Nathan J. Borland and Maggie L. Simonson joined the BrownWinick Law Firm in Des Moines as associates. **Howard** received his J.D. from the University of Kansas School of Law. He is a registered patent attorney with a focus on patents, trademarks and intellectual property rights.



ANDERSEN

Andersen received her J.D., with honors, from Drake University Law School. She is a registered patent attorney with a focus on patents, trademarks and intellectual property rights and has a general practice including, but not limited to, agribusiness, and business and corporate law, including startup organizations.



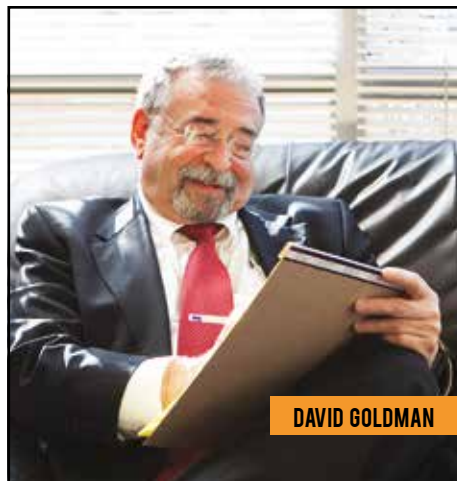
BORLAND

Borland received his J.D., with high honors, from Drake University Law School. He also earned certificates in Health Law and Litigation and Dispute Resolution based on his focused studies in those areas. He practices primarily in litigation, corporate investigations and employment and labor law.



SIMONSON

Simonson received her J.D. from the University of Iowa College of Law in 2014. While in law school, Maggie also received the Boyd Service Award with High Honors for 150 hours of volunteer service. She is a dually-licensed attorney and CPA and has a general practice including, but not limited to, taxation law, business and corporate law, estate planning, employment law and startups.



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Civil Rights Disputes.



DAVID GOLDMAN

Phone: 515.309.6850

Email: dgoldman@babichgoldman.com

References Available On Request

SANDRA E. SUAREZ-QUILTY

Iowa Supreme Court No. 17-1555

May 18, 2018

License Revocation

On May 18, the Iowa Supreme Court accepted the Grievance Commission’s recommendation of disciplinary action and revoked Sandra E. Suarez-Quilty’s license to practice law. The brief history of this disciplinary matter is as follows:

Suarez-Quilty has been licensed to practice law in Iowa since 2000. In 2014, the Attorney Disciplinary Board filed a complaint alleging Suarez-Quilty (1) violated two ethical rules in 2013 by engaging in communication with a represented party and making false statements to a tribunal, (2) violated two ethical rules in 2013 by engaging in the unauthorized practice of law during a previous license suspension, and (3) violated 14 ethical rules in 2013 and 2014 due to her handling of fees and other trust account issues. Various status hearings were held on these matters while Suarez-Quilty sought alcohol and mental health treatment following her guilty pleas to two counts of third offense OWI.

In 2016, the Attorney Disciplinary Board amended its complaint, adding four new counts, including that Suarez-Quilty (1) violated seven ethical rules in 2014 due to her neglect and trust account issues related to a custody modification, (2) violated one ethical rule in 2015 by committing two felony third-offense OWIs, (3) violated two ethical rules in 2014 based on her unauthorized use of a client’s credit card, and (4) violated eight ethical rules in 2016 related to an immigration appeal whereby she was neglectful, retained client money with no claim to it, failed to provide requested records, knowingly made a false statement to the court and engaged in conduct prejudicial to the administration of justice.

Suarez-Quilty stipulated to all facts, findings and aggravating and mitigating circumstances related to the complaint. Based on the evidence, the Grievance Commission found Suarez-Quilty violated twelve ethical rules and eleven trust account rules, some multiple times. The commission also found she engaged in the unauthorized practice of law.

The commission recommended license revocation based upon two violations; specifically, it felt revocation was warranted due to Suarez-Quilty’s theft by unauthorized use of a credit card and conversion. The court focused on these violations in its opinion, finding that Suarez-Quilty had the requisite intent to sustain a violation of Rule 32:8.4(c), relating to dishonesty, fraud, deceit or misrepresentation. Specifically, the court found the violations were knowing in both instances. First, where Suarez-Quilty charged a client’s credit card \$5,000 despite knowing the fees were disputed. Second, where Suarez-Quilty retained \$630 of client funds she had no colorable future claim to. The court noted that it has revoked an attorney’s license to practice law in nearly every case where the attorney converts client funds without a colorable future claim. Based on this, and finding it unnecessary to discuss the other rule violations in detail, the Court revoked Suarez-Quilty’s license to practice law in Iowa for a period of at least five years.

MEET THE ISBA'S NEW VICE PRESIDENT

Jerry L. Schnurr III will serve as president in the 2020-2021 fiscal year

Q: WHY DID YOU WANT TO BE A LAWYER?

I had an interest in politics and government when I was young. I also liked history and literature more than I liked science and math. I thought the legal professions offered a number of options for making a good living. I saw that lawyers in my town were held in respect and seemed to have interesting lives.

Also, my dad worked in a family business. He would talk about John Mitchell and Gene Blackburn, the lawyers that guided them in the business. The business was involved in a lawsuit that went to the U. S. Supreme Court. Dad would sometimes talk about the meetings, strategy and work of the lawyers that seemed interesting and important. I was impressed with the fact that a small business in Iowa could



go into court on an equal basis with an agency of the federal government. I thought that if I could help people the way the lawyers helped my dad's business, that I would have a good life.

Q: TELL US ABOUT YOUR FAMILY AND YOUR HOBBIES.

I married my high school sweetheart. Beth teaches children with behavior disorders at Butler Elementary School in Fort Dodge. We have three children: Will is an actor/musician in New York; Ellen is a nanny and childcare provider in Fort Dodge; and Ben just graduated from UNI and will be a teacher and coach.

I enjoy fishing, photography, bicycling, music, classic movies, watching college football and wrestling (especially Hawkeyes) and good meals with friends. In the summer we enjoy spending time at my parent's cottage at Okoboji where we fish a little, swim, boat, lay in the sun, play cards and put together jigsaw puzzles. My wife and I also enjoy going to concerts and riding bike trails in the area.

Q: WHY DID YOU DECIDE TO GET INVOLVED IN THE ISBA AND RUN AS AN OFFICER?



Schnurr and his wife, Beth, attending a University of Iowa Hawkeye football game at Kinnick Stadium

SCHNURR'S BACKGROUND

- Grew up in Fort Dodge, attended undergrad and law school at University of Iowa
- Began practicing law in Fort Dodge in 1986; Solo practitioner since 1992
- Practice is civil trial work, wills, estates, probate and real estate
- On ISBA Board of Governors since 2012
- Served on Iowa Trial Lawyers Association Board of Governors for 11 years
- Serves on Iowa Association of Worker's Compensation Lawyers Board of Governors

The legal profession has been good to me. It has allowed me to do interesting work that is useful in helping people in their daily lives. Getting involved with the ISBA was an opportunity to grow professionally and personally. It is a way I hope to give back to the profession.

Q: ARE THERE ANY SPECIFIC ISSUES YOU WANT TO FOCUS ON DURING YOUR TIME AS AN OFFICER?

Some issues I hope to work on:

1. Educating the public on the role and importance of the legal profession, role of the courts and rule of law.
2. Work on access to legal services. We see a growing lack of lawyers in rural areas of the state. I hope to find ways to make it feasible for young lawyers to come to more rural areas to practice. This will include work on student debt issues, resources for lawyers starting an office, artificial intelligence and alternative services like Legal Zoom, etc. The YLD has done some great work in some of these areas and I want to encourage and support that work.
3. Engage ISBA members in the work of the association.
4. Advance the continuing work of the ISBA and find ways to support the lawyers of the State of Iowa.

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ISBA Wellness Retreat: AMAZING CUBA

by Tom Levis, ISBA President

To jumpstart your 2019 personal wellness program, let the ISBA take you and your spouse to Havana, Cuba, for the experience of a lifetime. No need to worry about travel restrictions, the ISBA has that covered. No need to worry about what to see or do in Havana, the ISBA has everything planned, from hotel accommodations to restaurants and spectacular cultural events. I guarantee that if you and your travel companion(s) take advantage of this trip, it will be one of the best, if not the best, cultural experiences of your life. I can make this guarantee because I took the trip last April.

ISBA Executive Director Dwight Dinkla and I joined 15 other bar association leaders from around the country on a four-day cultural exchange in Havana, Cuba. Cuba Cultural Exchange (CCE), a travel business owned and operated by American lawyers who have family connections in Cuba, organized our trip. CCE was established several

To give you a quick glimpse of our four days in Havana: we stayed in five-star hotels, ate at five-star Cuban restaurants, listened to a concert by a famous Cuban musician and his jazz band, watched a performance by a talented and world famous Cuban dance group, experienced a private concert by the Havana Youth Symphony, listened to a fascinating economic presentation on Cuban economics by a professor from the University of Havana, had lunch with a law professor from the University of Havana law school, had lunch with a local TV newscaster and discussed with her how news was handled in a Communist Cuba, took an architectural tour of the city with a world famous Cuban Architect, spent a morning viewing and experiencing famous Cuban art with the Curator of the Cuban Museum of Art, had dinner with a Canadian lawyer successfully doing business in Cuba, took a guided tour of “old” Havana led with a Cuban historian, rode through Havana in amazingly pristine American automobiles built before the 1959 Revolution, drank some incredibly wonderful coffee and admittedly drank a few mojitos with our new friends from other bar associations. To top it off, Dwight and I and our other bar association friends wandered the streets of Havana shopping, listening to live music, eating Cuban food and experiencing the amazingly friendly Cuban people in one of the most fascinating cities in the world!

Havana is a very old coastal Caribbean city housing nearly three million people. Despite its size, you can safely walk the streets of Havana day or night. If you were like me before my trip, I suspect you have a misconception of Cubans. Make no mistake about it, the socio-economic and political issues in Cuba are complex, but the reality is Cubans are an incredibly vibrant, educated, talented people who are acknowledged around the world for their contributions to medicine, science and the arts. While they do continue to suffer under a “loosening” Communist

dictatorship and experience certain disadvantages, the Cubans I met all love their music, their food, their cigars, their rum and their history. They are incredibly social and love talking to American tourists.

In some respects, going to Cuba is like going back to the 1950s. The old cars are awesome, but the technology is not the same as we have come to expect in America. You can access the internet at certain hot spots around the city, but for the most part, you will not be able to access your email while in Cuba. You will survive, trust me! In fact, because none of the lawyers on our trip had access to the Internet, we spent nearly every waking hour enjoying the company of Cubans and our new friends from the other bar associations.

You can read more about the upcoming ISBA-sponsored trip planned for Feb. 1-5, 2019 on the next page, including cost details. It may sound like a lot, but once you unpack your luggage in your five-star hotel room, eat your first fabulous meal and listen to your first concert, I guarantee you’ll not complain about the cost.

I hope to see you in Havana. I, for one, am going back!



Levis pictured in front of one of the iconic vintage cars common in Cuba.

years ago to take American lawyers (and significant others) to Cuba and introduce them to Cuban culture. CCE wanted Dwight and me to experience the trip and then recommend the trip to bar association members if we saw fit.

Our two CCE Cuban guides, Dani Perez, an American lawyer with Cuban family connections, and Ileana, a Cuban lawyer not bashful about critiquing her Cuban government, met us at the Havana airport. During the next four days, Dani and Ileana provided us with an amazing cultural experience.



ISBA Executive Director Dwight Dinkla (center) and Levis (right), with mojitos in hand, saw the sights with other bar association members.

JOURNEY TO CUBA

FEBRUARY 1-5, 2019



The Iowa State Bar Association invites you and your guest(s) to join our private delegation for an eye-opening journey at this most pivotal time in U.S.-Cuba relations. Our specially designed program will explore Cuba's rich and varied cultural heritage. We will go beyond tourist corridors by engaging with local scholars, attorneys, musicians and artists who will offer in-depth commentary on the Cuban legal system, art, history, architecture, and religion.

We have teamed with Cuba Cultural Travel to create this extraordinary trip. Our private journeys (space is limited) include the following:

- Thought-provoking CLE lectures by renowned scholars and legal experts (6 hours of Iowa CLE credit)
- Private performances and reception by prominent dance companies and musicians
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To request a brochure and registration information, please email Dwight Dinkla at ddinkla@iowabar.org.

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Hon. Paul Ahlers, District Associate
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Federal Case Law Update

Hon. Stephen Jackson, United
States Magistrate Judge, Southern
District of Iowa





Taking good care of loved ones: **IRREVOCABLE LIFE INSURANCE TRUSTS**

by Gordon Fischer & Mackensie Graham

Life insurance is often reasonably and affordably priced, making it an accessible investment for folks across the economic spectrum. It's also a pragmatic tool effective for many varied financial planning goals. Yet, even for the savviest of Iowans, figuring how life insurance fits into the estate planning puzzle can prove complicated. For some, the irrevocable life insurance trust (ILIT, pronounced *eye-lit*) is an important, flexible part of the plan that can maximize the benefits and sidestep policy payout pitfalls.

THE MANY AND VARIED BENEFITS OF LIFE INSURANCE

Income replacement

The most common use of life insurance is to provide a source of support for the insured's family (and/or other dependents of the insured), in the event of the insured's premature death. For working folks, who may have little savings, life insurance can be their largest asset. In such cases, if the insured as the primary provider passes away, life insurance proceeds are absolutely critical to keep paying the mortgage on the house, feed the family, educate children and pay for unexpected expenses.

Providing liquidity to pay for taxes, costs and fees

Iowans with sufficient or even many assets will still find life insurance extremely useful. The death benefit is money provided to the survivors quickly. Your other assets may be tied up in probate, or else are illiquid and not easily sold. Life insurance means a death benefit of cash, helping to pay all the expenses associated with a death, such as taxes, costs, attorneys' and accountants' fees, funeral charges and so on.

Providing liquidity to fund buy-sell agreements

For business owners, life insurance can play an important role by providing the cash needed to fund "buy-sell agreements." In its simplest terms,

buy-sell agreements are contracts between business owners regarding when, and under what circumstances, and for what amount, the business may be bought or sold.

There are many nuances to a buy-sell agreement. In the case of two co-owners, usually they choose to get insured and name one another as the owner of the other's policy. When a buy-sell agreement is funded with life insurance, the policy owner uses the insurance proceeds to purchase the business interest of the deceased owner's interest at a predetermined amount. The deceased owner's loved ones receive cash from the sale, instead of non-marketable close corporation stock. The remaining owner is then freed up to carry on the business, and grieving dependents need not worry about (or, frankly, interfere with) the business. Without this foresight and planning, the business may dissolve upon the death of a co-owner.

For larger businesses with more than two owners, a different buy-sell agreement will be effective. This buy-sell agreement strategy requires insurance to be taken out on all business owners and makes the business both the owner of the policy and the beneficiary. This way all money flows back into the business to be used as necessary by the remaining business owners, as the remaining owners use the cash to "buy out" the deceased business owner's interest.

In both scenarios, the business has a quick influx of cash that may be used by any remaining co-owners if the business is in need of liquidity.

Equalizing distributions

Life insurance is useful for Iowans to distribute property equitably among loved ones. Some estates may have a single large asset, which is not easily divisible to sell, and, in any case, the owner may not want to sell. Assets such as a large home, scenic beach property and renowned art collection may fall into this category.

The insured may give this asset outright to one or two loved ones and provide remaining heirs with life insurance proceeds, reducing familial friction that otherwise might exist.

Family businesses

Suppose Mom runs the neighborhood candy store; two kids stayed home to help her with the family business, and the other two left the state. When an insured's estate consists largely of a close corporation, and some of the kids participate, while others do not, the insured faces a conundrum. Should the business be given only to kids who helped run the store? Or give equal shares to all four? If Mom only wants to give the business to the kids involved, insurance proceeds can provide equivalent bequests to the others.

CHALLENGES POSED BY LIFE INSURANCE IN ESTATE PLANNING

"Sudden windfall"

The most serious issue created by the use of life insurance in estate planning is what we call the "sudden windfall" problem. In the case of a premature or unexpected death, life insurance proceeds may be a sudden windfall to your beneficiary (or beneficiaries). Would you really want, say, your 19-year-old child to inherit several tens or hundreds of thousand dollars at one time? Is there any 19-year-old, no matter how mature, smart and responsible, who could handle this windfall? Even oldsters with experience managing finances might find a huge influx of cash to be overwhelming.

Special needs

Another issue to consider: does your beneficiary receive government benefits? If so, proceeds from your life insurance policy may put your beneficiary at risk for losing benefit eligibility without careful estate planning considerations. By the way, don't think that those receiving government aid such as Medicaid are all elderly. Quite the opposite—78 percent of Medicaid (and Children's Health Insurance Pro-

gram known as the hawk-I program) recipients in Iowa are under age 44, as of fiscal year 2013 data.

Estate taxes

For high-net worth (HNW) individuals and families, there’s always the issue of avoiding estate taxes. It’s true that under the Tax Cuts and Jobs Act of 2017, fewer folks will have to pay the estate tax. For the estates of persons dying, and gifts made, after Dec. 31, 2017, and before Jan. 1, 2026, the gift and estate tax exemption amount increases to \$11.2 million for a single person or \$22.4 million for a married couple. Rare indeed will be Iowans whose estate holds this level of wealth. But, some do.

Included in your estate’s total valuation is everything you owned in your name at death, including the total value of the death benefit of your insurance policy. Considering that many insurance policies carry quite hefty death benefits (several hundred thousand dollars or more), those with considerable assets must carefully consider moving life insurance, with an ILIT (irrevocable life insurance trust), out of their estates.

IN TRUSTS WE TRUST

To address these challenges of insurance in estate planning, an ILIT is of great use. An ILIT is written so that the trust becomes the owner of the life insurance policy (or multiple policies) instead of you. An ILIT doesn’t change anything about the policy itself, it simply changes where it “lives.”

THREE PARTIES TO AN ILIT

ILITs, like all trusts, is simply a legal agreement between three parties—grantor, trustee and beneficiary. The grantor is the purchaser/insured of the life insurance policy. The grantor (or grantors, such as a married couple) would make payments or “gifts” to the trust to pay for insurance premiums during their lifetimes.

The trustee can be anyone the grantor selects; a trustee can be an individ-

ual (such as your spouse or sibling), or it can be a qualified corporate trustee (like the trust department at your bank). Unlike numerous other types of trusts, the one individual you wouldn’t want to name as trustee would be yourself. If you name yourself as trustee, the IRS may then determine the life insurance has not been removed from your estate.

Most often, spouses, children and/or grandchildren are the named beneficiaries of an ILIT, but really it can be any individual(s) the grantor names. The charitably-minded grantor may also choose to name a nonprofit organization as the recipient of death benefit proceeds.

The term “beneficiary” may be confusing here, because there is the beneficiary of the insurance policy and the beneficiary of the trust. The ILIT itself is named as the beneficiary of the policy; loved ones are named as the beneficiaries of the trust.

HOW DOES AN ILIT ACTUALLY WORK?

To keep this easy, let’s break down step-by-step how an Iowan would go about creating a trust to pay for insurance and avoid the issues life insurance can create for estate planning. These aren’t in chronological order, but rather occur somewhat simultaneously:

- 1. With the help of a qualified attorney, the grantor has the trust paperwork drawn up and selects a trustee and beneficiaries to the trust.**
- 2. The grantor opens a bank account in the name of the ILIT, transfers cash to that bank account and uses only that bank account to pay life insurance premiums.**
- 3. The grantor’s insurance policy is transferred to the ILIT’s trustee (such as a financial institution), and the grantor no longer owns the policy. The trust does.**
- 4. The beneficiary designation on the life insurance policy is changed to name the ILIT as the beneficiary.**

When the grantor makes “gifts” to the ILIT, they are used to pay the policy premiums, but considered a gift to the trust beneficiaries. Because the trust beneficiaries (technically) have a power to withdraw gifts made to the trust, it allows the gift to the trust to qualify for the annual gift tax exclusion, meaning no gift tax return need be filed and no lifetime gift tax exemption need be used. (In 2018 the annual exclusion is \$15,000.)

When the insured (grantor) named in the life insurance policy dies, the life insurance company pays the policy proceeds to the ILIT, because the ILIT

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is the policy's beneficiary. The life insurance asset avoids probate entirely, and the trustee of the ILIT then distributes the tax-free proceeds to the beneficiaries of the trust according to the instructions provided in the trust itself.

MAJOR BENEFITS OF ILITS

The benefits an ILIT provides are numerous and can serve as a solution to remedy the aforementioned issues created by life insurance in estate planning. Of course, these benefits will inure only if the ILIT is properly drafted and executed.

Greater control and flexibility of distributions

An important benefit the ILIT provides is distributions of life insurance proceeds. The conditions under which a beneficiary receives distributions from an ILIT are entirely up to you as the grantor of the trust; the ILIT allows you to decide in detail how, when, where, and even why, your named beneficiary receives life insurance death benefits.

You can, for example, specify that your beneficiary receives monthly or annual distributions, as opposed to a lump sum. Plus, you can decide the amounts. The distributions may be based on age: for example, one-third given when your beneficiary reaches age 20; one-third given when your beneficiary reaches age 30; and the final one-third given when your beneficiary reaches age 40.

You may even dictate that your beneficiary receives distributions when s/he reaches milestones which you choose. For example, you can provide for a large (r) distribution when a beneficiary reaches a certain age, graduates from college or a post-graduate program, buys a first home, marries or has a child. Or, really, just about any other condition or event that you decide is appropriate.

You can also give the trustee broad discretion. For example, under the ILIT, the trustee may provide distributions when your beneficiary needs it for a special purpose, like pursuing higher education, starting a business, making an investment and so on.

Providing for unique family situations

ILITs can be incredibly useful for blended families. The insured may want to benefit a new spouse but also children from a previous marriage. Either the second spouse or the children, or both, would be good candidates to be beneficiaries of an ILIT.

For heirs that are recipients of government benefits, an ILIT can account for the guidelines of programs like Medicaid and Supplemental Security Income so that ineligibility is avoided.

Guaranteed money for heirs and protection against creditors

Another advantage of the ILIT is that the death benefits are then protected from creditors and legal action (including divorce) against your beneficiaries. The trust now owns the life insurance policy, so it's not considered a

part of any individual's estate until the monetary distributions are transferred to the beneficiaries. A properly drafted and administered ILIT should mean guaranteed money that legally remains in a permanent trust for your heirs until the policy pays off in full.

Lower taxable estate & increased gifts

Rather than rendering the ILIT moot, the higher estate tax exemption rates actually create a window of opportunity for Iowans to lock in advantages now through the sunset at the end of 2026. For one, the increase in exemption means a grantor can now make greater tax-free gifts to an ILIT to pay insurance premiums. Additionally, increased life insurance planning may make sense for folks who have substantive non-cash assets like business operations, real estate or an art collection.

CAUTIONARY NOTES


Irrevocable means irrevocable

The first word in ILIT is irrevocable. An irrevocable trust means it cannot be altered, amended or revoked by the grantor (or anyone else) after establishment. Therefore, once you establish the trust, you will lose control over the asset(s) contained and you cannot change any terms. A simple example would be a grantor trying to transfer a policy owned by an ILIT into her own name.

So, if you anticipate that someday you may need to access the policy's cash value for your own purposes, or you are not completely convinced that the ILIT is an overall permanent strategy appropriate for you and your circumstances, an ILIT is probably not for you.


Three-year rule

An ILIT is governed by the so-called three-year rule. A life insurance policy must be transferred to the trust for three years prior to the insured's death, or the death benefit proceeds are included as a part of the taxable estate. For instance, let's say Laura Lawyer sets up an ILIT then unexpectedly passes away just 17 months later. The death



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benefit proceeds would be considered a part of Ms. Lawyer's estate for estate tax purposes. (Again, those limits were set extremely high by the 2017 tax bill.)

Crummey rule

Grantors must also be aware of the Crummey rule. As mentioned earlier, the premium payments put into the ILIT will qualify for the annual (currently, \$15,000) gift tax exclusion. In other words, you can gift \$15,000 to anyone and everyone without any gift tax consequences. However, under Crummey, the payment only qualifies if beneficiaries are given proper written notice (a "Crummey letter") each time the money is paid into the trust. This notice gives the beneficiary the right to pull money out of the trust for at least 30 days. And, yes, the beneficiary really can take the money and run (although presumably that's the last premium payment they will ever receive).

ILITs are useful, with many advantages and few areas of caution. Consider for your own estate plan, or your clients' estate plans, whether ILITs should play a supporting role.

ENSURE INSURANCE IS ACCOUNTED FOR: MAIN TAKEAWAYS

With all of this said, there are a few simple steps you can take immediately to make sure your insurance policy fits into the estate plan puzzle.

First off, meet with a competent financial professional and estate planner to discuss your financial situation and goals for your estate.

As simple as it may seem, it is also vital to complete annual reviews of your policy as things change. It can be easy to forget what's actually included in the policy, how it works and what will happen in the event of the insured's death.

Consider any issues that a policy payout to one or more of your beneficiaries could cause and discuss prospective solutions to these life insurance-related issues with your estate planner.

If you've already accounted for life insurance in an estate plan that was made before the passage of the Tax

Cuts and Jobs Act, it's a good idea to revisit. Review how the estate plan is structured and if certain provisions or trust vehicles need to be amended.

Without a doubt, an ILIT can provide you, your loved ones and your estate with significant benefits. To maximize the best benefits, it's imperative to have any ILIT situation thoroughly reviewed and understood before you commit. The trust must also be properly administered, with accompanying documentation to confirm said proper administration.

Of course, the information provided herein is general, is not legal advice, and certainly may not fit each individual's situation.

THANKS TO SPEAKERS — FROM JULY 2018

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SECURED TRANSACTIONS UNDER ARTICLE 9 OF THE IOWA UNIFORM COMMERCIAL CODE (LIVE WEBINAR)

Tuesday, July 24

*Sponsored by The Iowa State Bar Association
Business Law Section*

John Blyth, Nyemaster Goode PC



Gordon Fischer is an Iowa attorney with more than 20 years of experience, focused on estate planning, charitable giving and nonprofit formation/compliance. He welcomes discussion on any aspect of smart estate planning and may be contacted at gordon@gordonfischerlawfirm.com and 515-371-6077.



Mackensie Graham serves as chief content officer at Gordon Fischer Law Firm, P.C. She's an Iowa native, graduate of Drake University, and holds a master's degree in public policy. She's excited to start law school at the University of Iowa this fall.

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LETTER TO THE EDITOR: ROBERT D. RAY

Attention: Editor-in-Chief

Date: July 10, 2018



Robert D. Ray

The great state of Iowa lost one of its best in the passing of Governor Robert D. Ray who served as our 38th Governor

from 1969 to 1983. In my May 2009 ISBA President's Letter, I pointed out that the American Heritage College Dictionary, Third Edition, defines "hero" as a person noted for feats of courage or nobility of purpose; a person noted for special achievement in a particular

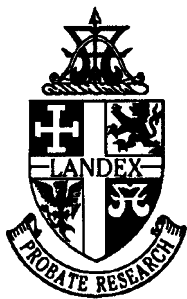
field. In the world of politics, Governor Ray was a hero of mine who demonstrated outstanding leadership skills for several years.

As Governor Ray's former chief of staff David Oman stated in an article which appeared in The Sioux City Journal: "Bob Ray defined the modern era governorship for Iowa and beyond ... More importantly, he touched the lives of three generations of Iowans, who respected, trusted and followed his leadership. He will be greatly missed by many; his legacy will extend for decades to come."

I couldn't agree more.

I'm proud to be an Iowa lawyer. Moreover, I'm proud to be in a room filled with Iowa lawyers.

Dan A. Moore,
ISBA President, 2008-2009
DMoore@MooreHeffernanLaw.com



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CLE Calendar

August 23

Those Affected by
Dementia: Understanding
Their Needs
(Live Webinar)

August 30

Avoiding Pitfalls: Often
Overlooked Contract Terms
(Live Webinar)

September 7

Embracing Legal Practice
Changes for the Digital Age
(In-person or Live Webinar)

September 12

Dealing with the 'A' Word:
How to Calculate
Spousal Support
(Live Webinar)

September 13-14

Bridge the Gap Seminar
West Des Moines

September 26

Preparing for
Mediation
(Live Webinar)

October 10

Parenting Coordination
(Live Webinar)

October 11

Bitcoin Trends and IP
(Live Webinar)

October 24

Probate Mediation
(Live Webinar)

October 25-26

Family Law Seminar
West Des Moines

November 14

Trademark Law Update
(Live Webinar)

CLASSIFIEDS

POSITIONS AVAILABLE

ASSOCIATE ATTORNEY - Fenchel, Doster, Buck & Ennen, P.L.C., Algona, IA – Seeking associate with 0-5 years of experience for a well-established county seat general practice with offices in Algona and Britt. Primary areas of the practice include estate and business planning, probate and trust administration, real estate, taxation, municipal and family law. Applicants should possess strong communication skills and be community-minded with the goal of becoming a partner in the law firm. Email letter of introduction and resume to bennen@lawfdb.com.

BUSINESS ATTORNEY – Goosmann Law Firm, Sioux City, IA – Seeking a business attorney to join its high-growth firm and deliver quality timely legal advice. Iowa bar license required. Ideal candidates are top performers with five or more years of legal experience. Salary and bonus structure are competitive and based on performance. To apply visit <http://careers.iowabar.org/jobs/11201620/business-attorney>

LITIGATION ATTORNEY – Crary Huff Law Firm, Sioux City, IA – Seeking an experienced litigation attorney for office located in Sioux City. Candidates should have at least two years of practice, primarily in civil litigation. Excellent research and writing skills are required, and trial experience is preferred. Iowa bar admission required. All applications will be handled confidentially. Send resume and cover letter to Crary Huff Law Firm, Attention Mick Connealy, Personnel Partner, PO Box 27, Sioux City, IA 51102 or mconnealy@craryhuff.com. Equal Opportunity Employer.

BUSINESS AND ESTATE PLANNING ATTORNEY – Crary Huff Law Firm, Sioux City, IA – Seeking an experienced business and estate planning attorney for office located in Sioux City. Candidates should have at least two years of legal practice. Experience with estate planning, corporate law and real estate transactions is preferred. Applicants

should have a strong work ethic and favor a collaborative team-oriented approach to the practice. Iowa bar admission required. All applications will be handled confidentially. Send resume and cover letter to Crary Huff Law Firm, Attention Mick Connealy, Personnel Partner, PO Box 27, Sioux City, IA 51102 or mconnealy@craryhuff.com. Equal Opportunity Employer.

DIRECTOR OF LEGAL AND STRATEGIC INITIATIVES – Animal Rescue League of Iowa, Des Moines, IA – Seeking a full-time Director of Legal and Strategic Initiatives. This position will have strategic and program development and direction of ARL programs in relation to execution of its mission. Working closely with the CEO, the Director of Legal and Strategic Initiatives will have and continue to develop a deep knowledge of field and core programs and operations of the shelter. The perfect candidate would have a law degree and/or strong and proven supervisory and/or human resources background. To apply, visit <https://www.arl-iowa.org/about/careers/>

ASSOCIATE ATTORNEY – Duncan, Green, Brown & Langeness, P.C., Des Moines, IA – Seeking an associate attorney. This position will be primarily business law, contracts, and general transaction work; it may also include estate planning and trust and estate administration work depending on interest and experience. Minimum 1+ years general transaction, business law experience. To apply, visit <http://careers.iowabar.org/jobs/11213107/associate-attorney>

ASSOCIATE ATTORNEY – Hinshaw, Danielson & Marquess, P.C., Marshalltown, IA – Established central Iowa general practice law firm seeks associate attorney to join interesting practice with long-term goal of succeeding senior stakeholder. Although recent graduates with tax and real estate educational emphasis will be considered, the ideal candidate will possess some experience in family law and general litigation, and three years' experience in

income tax preparation, probate, estate planning, small business entities, wills and real estate, including abstract examinations. Interested candidates should send cover letter, resume and references in confidence to Brian L. Danielson, Hinshaw, Danielson & Marquess, P.C., 103 W. State Street, P.O. Box 556, Marshalltown, IA 50158, or email to danielson@marshallnet.com

IMMIGRATION ATTORNEY – McGrath North, Omaha, NE – Seeking an attorney to join its immigration practice. Candidates should work well independently and within a team environment. Experience in business-related immigration law is required, including preparing and filing petitions for non-immigrant employment, immigrant status, lawful permanent-resident status, and dependent-work authorization. The position also requires a working knowledge of Form I-9 and I-9 audit practices. To apply, visit <http://careers.iowabar.org/jobs/11244887/immigration-attorney>

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LATERAL ATTORNEY – Sullivan & Ward, P.C., West Des Moines, IA – Seeking a motivated established attorney to join our team to provide quality legal guidance to both existing and new clients. Our client services include real estate transactions, family law, estate and probate planning, environmental law and OSHA, employment law, public utility, and corporate and business law. We also welcome inquiries from candidates with experience and clients in other areas of the law. To apply, please submit your resume and cover letter including salary requirements. To learn more about Sullivan & Ward, P.C. please visit our website at www.sullivan-ward.com.

CONTRACT CLAIMS ATTORNEY –

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STAFF ATTORNEY – Iowa Legal Aid, Des Moines, IA – Iowa Legal Aid has staff attorney openings in its offices located in Cedar Rapids, Davenport, Des Moines and Waterloo. Staff Attorney positions in other Iowa Legal Aid regional offices may open as the year progresses. Staff attorneys provide free legal assistance and community legal education to low-income people. Visit <http://careers.iowabar.org/jobs/11301834/staff-attorney>

FELLOWSHIP: EQUAL JUSTICE WORKS AMERICORPS VETERANS PROJECT – Iowa Legal Aid, Des Moines, IA – Iowa Legal Aid seeks two attorneys for a fellowship sponsored by Equal Justice Works AmeriCorps to focus on serving Iowa's veteran population. The term of the fellowship is one year, and it may be renewed for a second year. The Fellows may be located in Cedar Rapids, Council Bluffs, Des Moines or Iowa City. The fellowship must begin by October 31, 2018, and the Fellows must serve a minimum of 1,700 hours during the one-year fellowship. To apply, visit <http://careers.iowabar.org/jobs/11301856/fellowship-equal-justice-works-ameri-corps-veterans-project>

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OFFICE SPACE AVAILABLE - Berger Law Firm, PC at 7109 Hickman Rd. in Urbandale has many options available for office space and potential referrals. For more information,

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OFFICE SPACE - For lease available September 1, 2018. Four offices available ranging from 125 square feet to approximately 200 square feet. Newly renovated building just north of airport on Fleur Drive. Amenities include: ample free parking; handicap-accessible building and dedicated bathrooms; kitchen; internet, phone and copying services; and use of conference room. Very reasonable rates and terms of lease. Building is in move-in condition. Email: GTenterprisesllc@yahoo.com to schedule a time to view the property.

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MEDIATION SERVICES - Former Justice Michael J. Streit has recently joined Sullivan & Ward, P.C. Streit who served for over 27 years on the bench with the District Court, Court of Appeals, and the Supreme Court is an AAA arbitrator offering mediation and arbitration services and is also consulting in litigation, appeals, professional liability, and contract law. For information and scheduling please call 515-244-3500 or 515-247-4708.

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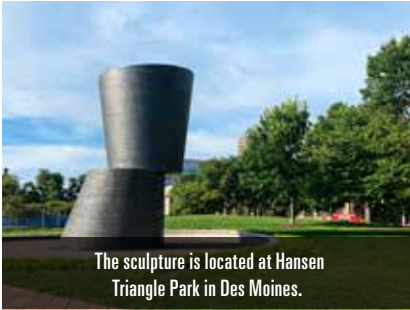


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NEW SCULPTURE EMBODIES MONUMENTAL JOURNEY OF AFRICAN-AMERICAN ATTORNEYS



The sculpture is located at Hansen Triangle Park in Des Moines.



The dedication ceremony held July 12 featured dignitaries from the NBA, the city of Des Moines and the Iowa court system.



The artist, Kerry James Marshall (left) pictured with Henry Hamilton, III, president of the Iowa Chapter of the National Bar Association.

Nestled in a small park above the banks of the Des Moines River in Downtown Des Moines, a new piece of public artwork does more than improve the aesthetic of the riverbank. It proudly represents the journey of African-American attorneys, of which Des Moines holds a special place in their history.

The massive geometric sculpture, the Greater Des Moines Public Art Foundation's latest installation at Hansen Triangle Park, was created by the acclaimed artist Kerry James Marshall. It honors the legacy of the 12 African-American lawyers who,

in 1925, founded the National Bar Association ("NBA") in Des Moines.

The piece, which was officially dedicated during a ceremony on July 12 attended by the artist and several dignitaries from the National Bar Association, is inspired by the shape of African talking drums: two truncated cones, one sitting off center on top of the other. As the artist explained during a lecture also held July 12 at Drake University, this represents the notion of communication among diverse people and our legal system, and reminds us that the quest for equality and perfect balance is not yet achieved.

The National Bar Association was founded at a time when the American Bar Association and other legal associations denied membership to African-American lawyers because of their race. The 12 pioneering attorneys (11 men and one woman) who formed the NBA in Des Moines were dedicated to fighting segregation and legal racism, and their work has had a profound impact. Today, the NBA is the nation's oldest and largest national association of predominately African-American lawyers and judges.

(Photos courtesy Greater Des Moines Public Art Foundation)

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- Unbundled Legal Services: Not Just a Trend
- Emerging Trends for eDiscovery
- Changing Roles of Law Schools in the Digital Age



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SPOTLIGHT on SERVICE



The ISBA Public Relations Committee honors an Iowa attorney or group of attorneys each month in this special feature in The Iowa Lawyer. If you would like to nominate someone to be recognized for his or her work in the community, please contact Melissa Higgins, mhiggins@iowabar.org.

Matt Berry, a member of the ISBA Board of Governors, has been a sole practitioner in Clear Lake since 1981, doing transactional work with an emphasis on real estate, tax and estate planning, corporate law and probate. For the last 24 years, he has also served as an ordained

other Saturday in Waterloo, through the diaconate formation program for the Archdiocese of Dubuque. In April of 1994, he was ordained. Since ordination, Berry has given homilies at mass, conducted baptisms, taken vows at weddings outside of mass, brought communion to nursing home residents and the homebound, done graveside burials and scriptural wake services. Additionally, he has served on a number of Archdiocese of Dubuque boards.

"I have oftentimes found a continuity in serving as both an attorney and deacon," explains Berry. "A client comes to me and tells of being critically ill and needing their estate planning updated. After gathering the information to meet their legal needs, I will ask them if we can pray for their health. Later I may see that client at the hospital or hospice. When they pass away, I have often been asked by their family to conduct a scriptural wake service at the funeral home. Afterwards I will work with the family on probate matters."

Berry says he is not unique in being a practicing attorney and deacon. In



"The most fun I have had as a deacon was receiving the vows of our daughter Katie and her husband Josh Jones at their wedding," Berry said, pictured during that service.

District 2A, where he lives, there are two other attorneys who are Catholic deacons. And he knows of several others in other parts of the state.

Berry has also volunteered with the Clear Lake Economic Development Corporation; assisted in bringing Community Kitchen of North Iowa, a soup kitchen, to Clear Lake; and is on the Board of One Vision and its foundation that serves mentally challenged adults.

"WE ARE ALL CALLED TO BE STEWARDS TO SERVE GOD AND EACH OTHER. EACH OF US ARE CALLED TO USE OUR TIME, TALENTS AND TREASURES TO SERVE. AS ATTORNEYS, WE ARE IN A SERVICE PROFESSION. WE ASSIST OUR CLIENTS IN MEETING THEIR NEEDS FOR LEGAL SERVICES AND ADVICE BY OUR TRAINING AND PRACTICING AS ATTORNEYS. WE OFTEN SEE THEM WHEN THEY ARE GOING THROUGH THE GREATEST CHALLENGES IN THEIR LIVES." —Matt Berry

permanent deacon in the Roman Catholic Church. He is assigned to Epiphany Parish in Mason City and Sacred Heart Parish in Manly.

Berry and his wife, Jean, attended classes for three and a half years every

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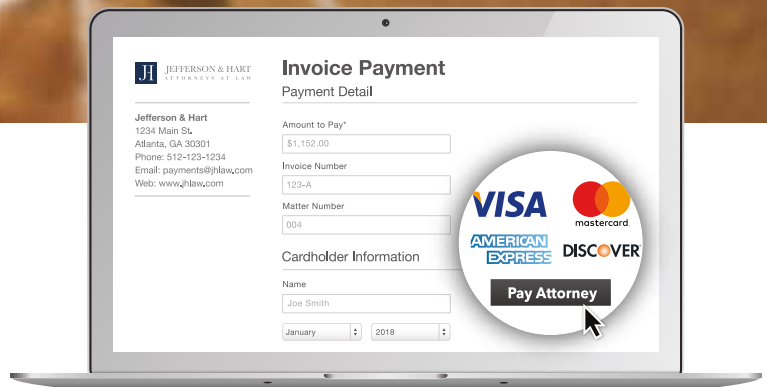
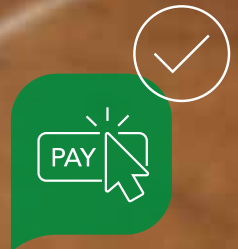
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