



THE

IOWA LAWYER

Volume 75 Number 4 May/June 2015

Meet the ISBA's 129th president

Bruce Walker

Championing engagement



**THE IOWA STATE
BAR ASSOCIATION**

ALSO IN THIS ISSUE

- Nebraska rule changes and how it affects Iowa bar applicants
- What a financial expert wants from legal counsel
- Iowa's garnishment statute receives update effective July 1
- Two community leader features: Koob, Pace
- Four disciplinary opinion summaries

Newly admitted ceremony April 23

Approximately 66 new attorneys from 28 law schools around the country were admitted to practice at the 126th Bar Admission Ceremony Thursday, April 23, at Hoyt Sherman Auditorium in Des Moines, Iowa. Iowa Supreme Court Justice Brent R. Appel gave the keynote address and administered the oath.

“Accuracy and diligence are much more necessary to a lawyer than great comprehension of mind or brilliancy of talent.” remarked Justice Appel, quoting Daniel Webster. Justice Appel also stressed the importance of seeking out and being open to mentor relationships.

Additional speakers included Board of Law Examiners Board Chair Cheryl Weber, ISBA President Joe Feller, YLD President Amos Hill and Iowa Legal Aid Executive Director Dennis Groenenboom.



Justice Brent R. Appel congratulates Assistant Iowa Attorney General Paxton Williams on his admission to the Iowa bar at a reception following the April 23 admission ceremony at Hoyt Sherman Auditorium in Des Moines, Iowa.

A letter from the Iowa State Bar Foundation president — Professionalism and philanthropy

Jan Freed is a leadership development consultant who frequently writes guest opinions for the Daily Record in Des Moines, Iowa. As an expert in leadership and change management, Jan makes it her business to see the big picture when it comes to helping both organizations and individuals reach their full potential. In a recent article, Jan wrote, “Leadership has an expiration date,” and it is important for those put in leadership positions to know when that is. I felt this was a significant thought. My “expiration date” has arrived as president of the Iowa State Bar Foundation, and it’s time for the foundation to pick up fresh leadership. Paul Tyler is the incoming president. Under his leadership, I am confident the foundation’s best years are ahead.

I was appointed to the foundation board in 2005, and I am proud to say I have had the privilege of serving with a remarkable group of people during that time. This experience applies to the board members and staff alike. Each has brought a unique perspective to the job. All share an extraordinary degree of professionalism and commitment to the foundation, the bar association and the lawyers in Iowa. Because of these people, I can honestly say with the foundation, the whole is truly greater than the sum of its parts. Every member of the bar and thousands of Iowa citizens have and will continue to benefit from their dedication.

I have always understood the three true professions are law, medicine and religion. In doing some research into professionalism, I came upon Ronald Regan’s quote challenging that understanding: “Politics is supposed to be the second oldest profession. I have come



to realize that it bears a very close resemblance to the first.” However, let us assume my rankings are correct. What single factor do law, medicine and religion have in common? It is the desire to help. I do not think a person can be a lawyer, doctor or religious leader, a professional, without putting people first. We see this every morning when each member of the bar looks in the mirror. Have you ever done anything in your practice as a lawyer that was not meant to help someone? Will you ever?

Professionalism and philanthropy are essentially indistinguishable. In their purest form, both have but one objective: to help. Not surprisingly, the philanthropic work of the Iowa State Bar Foundation mirrors the professionalism of the Iowa bar members. In my president’s message in the foundation’s 2013-2014 annual report, I referenced a Wall Street Journal article describing the relationship between money and happiness. The study found the thing that produced the most personal satisfaction and long-term happiness was not having more money but giving to others. Giving is what Iowa lawyers do. Through you, the foundation continues to directly and indirectly benefit thousands of deserving Iowans.

In the last 10 years, the foundation awarded grants to the American Judicature Society, Iowa Legal Aid, American Citizenship Awards, Know Your Constitution, We The People, Mock Trial, jury training videos, elder Iowan handbook, rural practice recruitment, retention election efforts and loan repayment programs for attorneys entering public service careers. These grants have totaled approximately \$77,000 annually. As impressive as this is, too many requests have gone unfunded. It is in our professional DNA to want to do more. It is within your means to do so.

Therefore, while my expiration date is here, the foundation will continue to work to serve both the profession and its philanthropy goals. As each of you reflect on your careers and the many benefits your legal profession has provided, please also take a moment to reflect on how a professional can best share those benefits.

William D. Scherle

Iowa State Bar Foundation President
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ABOUT THE COVER

ISBA President-elect Bruce Walker stands in front of The Iowa State Bar Association building May 6 after an Administrative Committee meeting held to discuss priorities for the upcoming year. Walker is partner at Phelan, Tucker, Mullen, Walker, L.L.P., in Iowa City, Iowa, and will take over as ISBA president during the 2015 Annual Meeting held June 15-18 at the Iowa Events Center in downtown Des Moines, Iowa.

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A presidential farewell

Thanks to all of you who helped us to make this a fabulous bar year! So much to do and so little time to do it! But together we advanced the administration of justice and the rule of law on many fronts.

We started the year going “Back to Basics,” renewing our mission to serve our members, support the

courts and recognize our commitment to the public. We emphasized the policy development process by reviewing and ratifying all of our standing legislative positions, and we encouraged our governors to debate several different issues where our sections had taken conflicting positions.

Most of our sections and committees answered the call and prepared their affirmative legislative proposals for approval at last year’s fall and winter ISBA Board of Governors meetings, well in advance of the legislative session.

We also engaged our membership, seeking their opinions on the proposed mandatory fee for civil indigent legal expense, statewide exemptions for lawyer abstracting with Iowa Title Guaranty and just recently on legal economics.

As lawyers, we are the greatest service profession. During the year, we featured members for recognizing their responsibility to serve as leaders in our communities. We truly are the “lawyers Iowa depends on.”

As you could tell during the year, family is very important to my wife Jane and me, and we sought to remind you that Back to Basics means taking care of yourself and your family first. Your career is important but there must be a proper balance between work and family time.

It was also important this year to define our relationship with the Iowa Supreme Court. We continue to communicate and collaborate with the court. Sometimes, there are no easy answers to the questions of the day and we, as a bar association, may have a different perspective than the court. Nonetheless, we are here to support full funding for the court and to protect the court from unwarranted attacks.

Of all the receptions and banquets I attended this year, the best were the reception we hosted to honor the current chair of the United State Senate Committee on the Judiciary, Chuck Grassley, and the reception sponsored by the ABA in the Supreme Court building in Washington, D.C., where I met Justice Samuel Alito. There were many other wonderful events that I attended on your behalf, and I was always proud to represent the ISBA.

Being bar president can be a lot of fun! I really enjoyed judging the finals for the junior high and high school mock trial competitions, speaking to the new law students at Iowa, the high school students at the Know Your Constitution luncheon and the new lawyers at both the fall and spring bar admission ceremonies.

I also enjoyed meeting many of you as I traveled to one event or another or seeing you in your offices where you work. I spent over 200 hours driving my old 2007 Buick back and forth from Sibley to Des Moines and other destinations in Iowa.

As my bar year comes to a close, I want to take this last opportunity to encourage all of you to become active in the bar association. Many of you from small offices in rural Iowa have much to offer and would be valuable leaders in our association. You are already leaders in your community and have a wealth of experience working with the public and your clients in your general practices.

I would encourage all members of this association to consider leadership roles, including officer positions at some point.

I also want to challenge our colleagues that are getting close to the end of their careers to bring in a new lawyer and introduce that new bar member to the community you live in and have enjoyed all these years. Thirty-seven years ago, I just wanted a place to start my career, and I know there are young lawyers out there looking for the same opportunity. Don’t wait too long to start the process to replace yourself!

You have given me a unique opportunity, serving as your bar president, to work with the most talented lawyers and judges in our state. You have placed me in what I consider the best leadership position in our profession, working for all our members in concert with the courts and the law schools. Thank you for placing your confidence in a county seat lawyer!



ISBA President Joe Feller stands with Assistant Executive Director Harry Shipley, ABA Delegate David L. Brown and Executive Director Dwight Dinkla after the 126th Bar Admission Ceremony April 23rd at Hoyt Sherman Place in downtown Des Moines, Iowa.

Many of the same issues we discussed this year will carry over to next year. Your new president, Bruce Walker from Iowa City, Iowa, and his administrative committee will continue to lead the charge with legal education and bar admission, court house security, access to justice, and increases in fees for our members that do criminal legal defense for indigents.

Unfortunately, next year the bar will need to resume our full court press to obtain full and fair funding for our courts, the third branch of government. We will need to remind everyone that justice delayed is no justice at all.

We must also continue to educate Iowans that the state-wide court system is not another administrative agency, but rather is the third branch of government which provides a structure to preserve and protect justice for all Iowans.

Any success we achieved this year could not have been accomplished without the help of our very able bar staff. Cumulatively, our 17-member staff has 230 years of experience, all of which is devoted to helping bar members.

Eric Turner, Chair of our Ways & Means Committee, Frank Feilmeyer, Chair of our Real Estate and Title Law Section, Lu Ann White, Chair of our Litigation Section and Tim Hill, Chair of our Federal Practice Section all did a lot of heavy lifting, and their efforts are certainly appreciated.

Both Jim Carney and David L. Brown were a great help to

me and were always willing to share the decades of institutional knowledge they possess. They have earned your respect and mine for a career of service to this association.

Many past presidents, especially Guy Cook, Cindy Moser and Dan Moore were always available for those moments that only a past-president can appreciate. And finally, thanks to all our governors, other section and committee chairs and the other members of my administrative committee for your help along the way.

My last request, join me in never turning down an opportunity to make things better for all people. Be free with your time and talent. You can really make a difference!

Thank you again for the opportunity and honor to serve as your president. I hope to see you at the annual meeting!



2014 - 2015:
Back to Basics

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ISBA President-elect Bruce Walker — championing engagement

By Virginia Sipes, J.D., Communications Dept.

ISBA President-elect Bruce Walker held a day-long retreat May 6 to set the priorities for his upcoming presidency in motion. Walker was joined in a Johnston, Iowa, conference room by current ISBA President Joe Feller and Vice President Skip Kenyon, Vice President-elect Steve Eckley, Young Lawyer's Division President-elect Joe Goedken, Scope and Correlation Committee Chair Jane Rosien Hardy, incoming Ways and Means Committee Chair Jay Eaton, Executive Director Dwight Dinkla and Assistant Executive Director Harry Shipley. Past YLD President Laura Parrish also attended.

Walker is now finalizing plans focused on the development and retention of young lawyers and to encourage member engagement at all levels.

Commitment to developing young lawyers

Some members of the administrative committee are just getting to know President-elect Walker today. Even so, his reputation is likely to proceed him.

"I knew that Bruce was an experienced and accomplished trial lawyer before I

had my first case with him as a relatively young attorney," said Cedar Rapids-based, former ISBA YLD President Tim Semelroth.

"When I had my first case with Bruce as opposing counsel," he recalled, "I was caught off guard when he called and offered to drive both of us to Pella, Iowa, to take an eye witness's deposition. No one had ever suggested such a thing. During the car ride, Bruce offered to send me a copy of a helpful CLE outline he used, suggested a good parking spot for Hawkeye football games and recommended a great bottle of wine."

Semelroth added, Walker is a role model for young lawyers who want to balance professional distinction and public service. Semelroth is only one of many new attorneys Walker has impressed with his professionalism, kindness and generosity.

"Bruce encourages new lawyers to give them confidence to do more and become better lawyers," says attorney and former Iowa Defense Counsel Association President James Craig.

Walker's ability to mentor young

lawyers is informed by his own experiences rising through the ranks as an attorney.

"Bruce truly can say that he worked his way up at Phelan Tucker," said Dedi Walker. During his second year of law school in 1969, Walker started his first job at the firm's former Bremer Building location.

"Bruce cleaned offices while I typed his law review papers," Dedi Walker recalls. After a semester working at Phelan Tucker, Bill Tucker asked Walker to help check depreciation schedules and tax returns. Walker continued working at the firm performing research until he graduated. In 1972, he joined the firm as an associate and made partner five years later.

Walker continued the tradition of creating opportunities for dedicated and talented young attorneys at his firm. He has been mentoring law students and new associates for years, teaching them how to research and write as practicing advocates for their clients. Walker also took the time to work closely with new litigators so that they could apply their knowledge from law school to trials in the courtroom.

"My first deposition as the newest associate at Phelan Tucker was especially lengthy. The out-of-state examining and defending attorneys became increasingly agitated as the deponent was testifying," Pope Yamada recounted. The attorneys' tempers flared, they raised their voices and proceeded to exchange barbs. Yamada said that when he looked over at Walker, he noticed that Walker seemed very calm and comfortable.

"He told the attorneys to 'settle down' in a very firm but relaxed and non-insulting fashion as if to say 'that is not how we do things in Iowa.' To my surprise, the attorneys listened and the rest of the deposition went smoothly



One of the photographs from President-elect Walker's office – his mother, Massimena Aldini, (first in second row from left) with his aunts and uncles in Des Moines, Iowa, in the 1960s. Mrs. Walker was known as "Maxine" or "Mickey" when she immigrated to the U.S. Walker's uncle Louis Aldini, Jr. is seated in the front row.

— Bruce displayed a kind of ‘country cool,’” said Yamada.

“Bruce maintains a collegial demeanor while still assertively defending his client’s interests. It is not always easy to do and that is a testament to Bruce’s skill as an attorney, mentor and leader,” said Yamada.

During his 43 years of practice devoted to plaintiff and defense civil litigation, Walker served hundreds of clients. If he is not in the courtroom, during trial he can most likely be found in his office surrounded by photographs of family and friends. There are numerous pictures of Walker with his children and grandchildren, with Dedi and his extended family in Italy, with the students he coached for 35 years and with international students his family hosted over two decades. Like the memory of scoring a layup against Larry Biittner in the 1963-64 Iowa High School Athletics Association Coaches’ Clinic at Des Moines Veterans Memorial Auditorium, an autograph from Muhammad Ali is tucked away for safekeeping on the shelf above his computer.

Serving the profession

Walker’s service and leadership is an ISBA presidency in the making when considering the magnitude of the impact that he has had throughout his career.

“The greatest thing about Bruce, more than the fact that he is a fantastic lawyer, is that he has a knack for collecting friends and making people feel included,” says Atlanta-based attorney Douglas Burrell, member of the Defense Research Institute Board of Directors and former DRI Diversity Steering Committee Chair. “He engages with you and makes you feel a part of what he is a part of — his friends are your friends.”

Walker encourages individual involvement by making young lawyers feel welcome and less intimidated, said Craig, who served with Walker in the IDCA.

“He looks for opportunities to promote people who display leadership skills,” said Craig. “For example, he encouraged me to start initiatives that would not come to fruition until he was no longer IDCA president. He could have coasted till the end of his term as immediate past president but instead he became a helpful advisor, accepted project assignments from me and was supportive of me as president.”



President-elect Walker in his office at Phelan Tucker in Iowa City, Iowa.

Walker’s dedication to the profession is demonstrated through his service to the ISBA as well.

“In January 2013, I asked Bruce to chair the Access to Justice Committee. He did an amazing job and worked diligently to meet the Iowa Supreme

Court’s deadline for the committee’s report,” remarked ISBA Past President Cindy Moser. The committee was created in response to substantial decreases in IOLTA and federal funding for programs that provide civil legal services to low-income Iowans.

PHELAN TUCKER MULLEN
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Priorities for his 2015-2016 ISBA Presidency

What ISBA President-elect Walker brings to his upcoming presidency is evident from his decades-long service to the legal profession. Together, with the members of the administrative committee, Walker formed two fast action teams – the first focuses on retaining young lawyers and the second focuses on member engagement.

At least five individuals will be appointed to each task force. Appointees will be announced in June at the ISBA's 2015 Annual Meeting.

The Relevancy Fast Action Team is gathering information about and working to understand the evolving needs of young attorneys. Lawyers, particularly young lawyers, said Walker, need to understand that in order to develop their practices they need to not only work hard, but they also need to network and make acquaintances and friends because no one can know everything about practicing law.

“The more people you know, the more people you can ask for input and advice,” he said. Even now, Walker consults other leaders for their input. For example, John Holschuh, Jr., president-elect from the Ohio State Bar Association, advised Walker about the findings of an OSBA study on the recruitment and retention of young attorneys in the OSBA.

The Member Engagement Fast Action



Bruce and Dedi Walker in 2013 at a cooking class in northern Italy, making pasta.

Team is charged with determining what the ISBA needs to do to ensure that members are engaged. This team is also creating a plan of action to engage all members, regardless of their years of experience.

“I want attorneys to be actively involved in the work of the committees and sections that they serve,” says Walker.

One of Walker's goals is to give each ISBA governor a list of every young lawyer who is transitioning out of the ISBA Young Lawyer's Division in their

respective districts. The members of the board of governors will be called upon to help engage this valuable segment of the bar's membership.

Two additional priorities identified include the continued search for meaningful solutions to address access to the legal system for all Iowans and a more diverse and inclusive bar association.

In addition, there will be a continued focus on strengthening LawPAC and on coordinating efforts with the Iowa Supreme Court.

“The bar is relevant to all attorneys, especially new and young attorneys,” said Walker. “The administrative committee and the fast action teams cannot engage lawyers alone. I want attorneys to know that the bar is here to help them, and my hope is that they will be engaged and help us to meet their evolving needs.”

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Bruce and Dedi Walker in 2004 at Santuario di Oropa near Biella, Italy. The sanctuary is located in the foothills of the Alps near the home of Walker's cousins.

Nebraska rule change does not prevent most successful Iowa bar applicants from being admitted in Nebraska

There have been concerns by newly admitted attorneys that Nebraska is no longer granting reciprocity to those who've passed the Iowa bar exam. Neither Iowa nor Nebraska require reciprocity. However, both states have criteria that must be met from an applicant from any qualifying jurisdiction.

When Nebraska amended its admission rules in January, it changed the way that new Iowa attorneys could be admitted to that state. In light of the amendments, the Iowa Board of Law Examiners also modified its score-release policies in order to help bar applicants meet Nebraska's new rules. Now, depending on the applicant's score on the Iowa bar exam, he or she could be eligible for admission into the Nebraska bar.

Nebraska is a Uniform Bar Exam state that requires a combined, scaled score of at least 270 to pass the exam. Iowa is not a UBE state at this time, but it gives the same basic test. Iowa's combined, scaled passing score is a 266. An applicant who passes the Iowa bar exam and gets admitted in Iowa can get the bar exam score transferred to Nebraska if the score is 270 or above. The Iowa board has agreed to transmit the complete passing score directly to Nebraska, and Nebraska has agreed the score will not be revealed to the applicant. Most Iowa applicants who meet or exceed the minimum exam score required by Nebraska will be eligible for admission in that state provided they meet any other admission requirements. However, Nebraska has indicated it will not accept scores in the 270 and above range if they were not obtained in a single bar examination. This means Nebraska is interpreting its rules to not allow admission based on a score obtained through the use of a transferred or banked multistate bar examination score.

It's important to note that an applicant who passes the Iowa bar exam but scores between 266 and 269 will not qualify to have their scores transferred to Nebraska. The applicant will not be told their exact score, but they will be informed by the Iowa board that they are in the non-qualifying range. Applicants who are not immediately eligible for admission based on a non-qualifying score can still apply to take the Nebraska exam or seek admission on motion after five years of practice.

On a related note, the Iowa Board of Law

Examiners filed a report in March asking the court to adopt the UBE. If the UBE is adopted, the full score will have to be released to any UBE state, including Alabama, Alaska, Arizona, Colorado, Idaho, Kansas, Minnesota, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Utah, Washington and Wyoming.

For questions regarding the Iowa bar

exam, transfer of scores, and other Iowa admissions requirements, contact Dave Ewert in the Office of Professional Regulation at bar.admissions@iowacourts.gov. Questions as to an applicant's actual eligibility for admission to the Nebraska bar or about interpretation of the Nebraska admissions rules should be directed to Nebraska at nsc.attyadmissions@nebraska.gov.

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What a financial expert wants from legal counsel

By Baron J. Frankel, CPA/CFF, JD, CVA, CLU



Thank goodness for cavemen. They seem to be the one group that gets less respect from Hollywood than us “bean counters.” The world just doesn’t appreciate the excitement of our chosen field.

However, our real concern arises when our retaining attorneys and we are just not in sync. While it might not be a lack of respect in Rodney Dangerfield terms, it is a professional problem, none the less.

Forensic accounting (and other financial) experts are often key economic witnesses in a trial or arbitration. On account of our testimony, judges, juries, and arbitrators can change their findings about a case. We desperately want to be able to assist attorneys in presenting their clients’ cases, for both judicial and selfish reasons. However, we are often stymied by the very people we want to help.

Why? Perhaps, it is because we have not educated them as to what we want. So, here goes, counsel:

1. We want you to tell us the good, the bad and the ugly before we start.

Financial analysis is often tied to date-specific data. To do our job properly,

financial experts need to know as much as possible about the issues in a case and the claims of the parties. With that knowledge in hand:

- we can tell you if we agree with your need for our services (or if a different financial expert could better help you);
- we can suggest the proper date (or dates) around which we will perform our analyses; and
- we can let you know what we will need to perform the ensuing engagement.

To that end, having the complaint and answer in hand is a great way for us to start our work for you.

2. We want to be retained in a timely manner.

Counselor, we know you work under budgetary constraints set by your clients. We know those constraints can cause you to delay until the last possible moment the retention of financial experts, in the hope that a case will settle before the discovery period ends, so as to save client costs (a commendable goal). However, hear our pleas: financial analyses are not

cookie-cutter products that are generated by simply dropping numbers from tax returns or financial statements into a canned computer program. That might have been a possibility in the good old days; however, Daubert and the resulting federal and state rules of evidence, as well as our professional standards, hold the financial expert witness to standards of care not imagined 20-plus years ago.

Today, a forensic accounting expert has to live by the rules of evidence in addition to his or her credentialing organization’s standards. Just citing that the average public company trades at a certain price/earnings ratio (as I saw an opposing business valuation expert do in my first case 25 or so years ago) could have dire consequences for you, your client and the testifying expert.

Today, even in various state courts, we are required to essentially meet Federal Rule of Evidence 702’s guidelines of “... sufficient facts or data....reliable principles and methods...” and application of “...the principles and methods to the facts of the case...” (See FRE 702.) Clearly there are some nuances between the federal rules and the various state rules of evidence; however, our mutual burden (expert’s and counsel’s) are nearly the same.

That being said, financial experts need adequate time to properly perform our tasks, including document review, key party interviews, research on specific economic issues and trends, preparation of analyses and conclusions, and sometimes the requirement for preparation of a report of findings. A day is just not enough time. Two, three or even four days may not be enough time, much less two or three weeks.

How much is enough? Well, most forensic accounting experts want to get started to some extent with a case at the onset of discovery, when they can help you with the process of getting the proper documents and data. And that brings us to our third desire.



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3. We want your assistance with document gathering.

If asked, financial experts will gladly assist with a list of the items we feel are needed for an engagement. In a perfect world, we want to get those documents when we are starting our work. In any event, we want to see documents when we can still address questions of fact to the other side.

To that end, we want you to vigorously pursue the document gathering process, using every legal lever available to do so. The last thing we want to do is answer, “No, I did not consider that because the client and his counsel did not give me those documents...” when the documents could have been made available. We have a hard time accepting (from opposing counsel) that the production of a financial document is burdensome or not relevant. We have a hard time accepting that financial data is so confidential that an outside expert should not see it. We have no problem signing confidentiality and non-disclosure agreements. And, when you do get documents, we want you to provide them to us timely.

4. We want the assistance of your client.

Here it is, Friday. I have a rule 26 report due on Monday. And, I cannot get to the CFO or CIO of the company I am analyzing, and that company is your client for whom I was retained. And, I have been trying to speak to them for over a week.

We understand everyone has business priorities. We just want to be at the top of the list when it is our crunch time. And, we want you to make that happen.

5. We want you to thoroughly review our conclusions.

Financial experts want their opinions to carry the day. That outcome has a better expectation if you review our conclusions as soon as you get them, raise your concerns, and ask us your questions at that time. If you think we missed something, if we need to educate you on the vagaries of a business or its industry or an economic trend, let us know. We might not tell you what your client told you, but we will tell you what we believe to be the facts as we see them.

6. We want a sufficient opportunity to review the opposing expert's conclusions.

On occasion, some of the biggest names in our industry have made conclusions that the courts have found mistaken. Those might have resulted from faulty assumptions, bad data, etc. We want to be able to assist you in pointing out the possibility of opposing experts' mistakes. We want to help you prepare for their depositions. It is not unusual, as in my second case, for those mistakes to lead to a settlement.

7. We want adequate pre-trial preparation.

I learned in law school: “In an examination, don't ask a question to which you don't already know the answer.” How much more so does that apply to your own witness.

We also want to know how you want our charts and schedules presented at trial, before 5 p.m. the day before we are to testify. Moreover, we want to know what you think the other side will ask on cross.

8. We want assistance with client management.

In the end, you control your client's expectations. We want to assist you in educating the client as to what we can and cannot do. We want to work with you in educating the client on how to communicate with us, orally and in writing. And finally, we would not mind your help in educating your client on the very reasonable nature of our fees.

The bottom line: Counsel, we want to be retained as your consultants and/or experts; however, please get us involved early and timely, please keep us in the loop as the case progresses, and please let us help you concentrate on what you do best. Those...and a little respect...are not too much to ask, are they?

Baron J. Frankel, CPA/CFF, JD, CVA, CLU is a founding partner of Aletheia Financial Forensics, P.L.L.C., a CPA firm based in the Des Moines, Iowa, area. His practice focuses on forensic accounting, business valuation, and litigation support. His testifying experience includes cases concerning damages, fraud, lost profits, business valuation, marital dissolution, shareholder oppression and other financial matters. Frankel can be reached at 515-978-9220 or at bfrankel@AletheiaFF.com

ADMISSION ON MOTION

APPLIED

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

Timothy Lawrence Binetti, Dinsmore & Shohl, Chicago, Ill.;

Christopher A. Johnston, Johnston/Martineau, P.L.L.P., Roseville, Minn.;

Jennifer L. Klocke, Cambridge Investment Research, Inc., Fairfield, Iowa;

Renee Lynn Mathias, Schaefer Shapiro, L.L.P., Omaha, Neb.;

Derek Shawn Merman, Merman Law Firm, P.C., Houston, Texas;

Charles F. Speer, Speer Law Firm, Kansas City, Mo.;

Ashley R. Trankle, Omaha, Neb.;

Theresa Diane Wybrow-Albano, Hausmann-McNally, Rockford, Ill.

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

ADMITTED

The following individuals have recently been admitted to the Iowa Bar:

Summer Allchin, Columbus Junction, Iowa;

Joel Alan Arends, Arends Law, P.C., Sioux Falls, S.D.;

Martin Walter Arnott, Coralville, Iowa;

Bradley Michael Bakker, Armstrong Teasdale, L.L.P., St. Louis, Mo.;

Daniel Martin Barbieri, Rockwell Collins, Cedar Rapids, Iowa;

Laura Sue Carlson, Faegre Baker Daniels, L.L.P., Minneapolis, Minn.;

Kyle Andrew Hougham, Greenville, S.C.;

Torrence E.S. Lewis, Pittsburgh, Pa.;

Beth Ann Lori, Life Care Services, Des Moines, Iowa;

Diana M. McFarland, Omaha, Neb.;

Sally A. Rasmussen, Mattson Ricketts Law Firm, Lincoln, Neb.;

Kristen Marie Robinson, Wilmington, N.C.;

Lori Nichole Scardina Utsinger, Betty, Neuman & McMahon, Davenport, Iowa;

Michael Schaefer Greiveldinger, Alliant Energy Corporate Services, Inc., Madison, Wis.;

Rachel Jordan Scherle, Urbandale, Iowa;

Joshua J. Yambor, Woodke & Gibbons, Omaha, Neb.

Newly admitted attorneys can become Iowa State Bar Association members and could even qualify to receive their first year free of charge by going to <http://www.iowabar.org/newadmittee>.

Ag Law attorneys and others discuss needs, opportunities for family farm succession planning

By Steve Boeckman, ISBA Communications Dept.

A daylong workshop on succession planning for family farms held April 17 has sown the seeds for improved tools that agricultural law attorneys can use with farm clients.

The need for action on successful transfers of farmland from one generation to the next is becoming critical. Projections are that 56 percent of U.S. farmland — an amount roughly equal to the size of the Louisiana Purchase — will change hands in the next 10 years, according to Mary Swander, Iowa's Poet Laureate and author of the play "Map of My Kingdom," which addresses the issue of family farm transitions.

The workshop was the brainchild of Drake University Law School's Agricultural Law Center directed by Professor Neil Hamilton. The ISBA Ag Law Section partnered with Drake on the workshop.

"As the section chair, I am always interested in getting practical, ready-to-use materials to the members, and these types of workshops are the background work that make for good end product," said Pat Dillion, Ag Law section chair.

Approximately 30 individuals attended the event, which was held at the Drake Legal Clinic and Drake Law School. In addition to Iowa attorneys practicing in agricultural law, they included Drake law professors, Practical Farmers of Iowa, the Iowa State University Beginning Farmer

Center, the Iowa Natural Heritage Foundation and the United States Department of Agriculture.

Professor Hamilton facilitated the workshop. He devoted most of the morning session to extracting from the attendees their experiences working with family farm owners as they went through their succession planning processes.

Following lunch at the law school, he led the group in identifying what the legal community and legal educators can do to improve succession planning for family farms, and in unearthing ideas and issues that need further research. The attendees also watched the play "Map of My Kingdom," in which a fictitious lawyer/mediator discusses several examples of family farm succession.

As the workshop progressed, it became obvious that distinguishing between the family farm as a business and the farm as a way of life is a major obstacle in transition planning. Perhaps Greg Andrews from the USDA summed up the situation best: "Is the land the important thing here? Or is it the business? Are we talking about a way of life that benefits society? Or, are we talking about a business no different than an Exxon?"

Balance sheets, cashflow statements and other financial instruments can describe the farm as a business. Emotional issues, such as the desire by parents to keep the

farm in the family for generations to come and the desire by children to preserve the memories of growing up on the farm, describe it as a way of life. A succession plan must incorporate both viewpoints if it is to be successful.

Several needs/actions became clear during the workshop — the need to get the children and their parents to discuss what is to happen with the farm after dad and mom are gone, and to draft a solid estate plan that includes a good business plan.

"You cannot do a wonderful business plan with a lousy estate plan," said John Baker with the ISU Beginning Farmer Center. "One of the common questions we get at the center is: 'What is the separation between business and estate planning?'"

The key to a good estate plan is communication among all of the family members. Grundy Center attorney Seth Schroeder said he encourages family meetings after the parents have completed an estate plan so they can explain it to their children.

"That works better than having wills read after the parents are dead," he says.

The best approach "involves getting people together who love each other and learning what the parents want," said John Perkins, an attorney in Fort Dodge.

Attorney Matt Dummermuth, who practices in Cedar Rapids, said "clients can't afford not to plan. He agreed with others at the workshop that families can't wait to discuss their parents' wishes for the farm until after dad dies and mom gets dementia.

The majority of attendees agreed that it is difficult to get parents to create an estate plan and business plan before one dies and one, or both, develop dementia. In general, the parents don't want to alienate any of the children. In cases where the father has died, the mother often is reluctant to do any planning for fear of losing access to the grandchildren, said Jim McCarthy with the Iowa Farm Bureau.

He pointed out, however, that in support of the idea for planning early, "we are seeing more dementia" in society and it is like premature death. One of the side effects is that people lose insurability, which sometimes can be a useful tool in transferring assets to the next generation.

How to treat the off-farm heirs equally with those who stay on the farm is one of



Drake Law professor, Neil Hamilton, leads a discussion of ideas that the legal profession can do to improve the succession planning process for family farms. The discussion occurred during a daylong workshop sponsored by Drake Law School's Agricultural Law Center and the ISBA's Agricultural Law section.

the issues that frequently derails communication within families. Algona attorney Mike Gabor said “it seems everybody is willing to fight.”

Part of the problem is the uncertainty in the economy, said Howard Hagen, an attorney in Des Moines. Heirs want to make sure they get what is theirs while the getting is good.

To help dial down the litigiousness within the family, Gabor sends family members who are challenging a will a copy of an opinion piece that appeared in the March 26, 2011 issue of Iowa Farmer Today. The column was written by the founder of Farm Financial Strategies, Inc., an organization that works to protect the family farm by developing personalized succession strategies.

The bulk of the column is devoted to a letter from a father to his children outlining the estate plan he and his wife created. Included in the letter is a statement that: “In previous family meetings we discussed at length how your brother would be able to take over the land at a ‘family price.’”

The letter went on to say that he and his wife had offered all of the children an opportunity to divide the land. However, if dividing the land was the chosen option, each child would have to agree to continue the operation, maintain it, invest in its future and commit to passing it on to the next generation.

Gabor added that he believes the ag law bar needs to create something that gives clients the message that challenges to wills are not acceptable.

By the end of the workshop, attendees had developed several specific suggestions.

Leslie Miller with Iowa Savings Bank in Knoxville, requested that the legal profession develop some kind of lending guides for bankers that would be easy for heirs to fill out. The business side of the family farm has gotten very complex, she said, and some banks are unable or unwilling to wade through the process.

Dillon, who practices in Sumner, said law students, especially those who will be practicing in rural areas, need to know debt-to-asset ratios and other financial instruments necessary to evaluate the family farm as a business.

Tom Lawler, who practices in Parkersburg and Greene, believes that lawyers need to educate farm business owners about the three elements of business — capital, management and labor. Family members can be part of the farm business, even though not residing on the farm, by participating in capital and management.

He added that in his practice, “we don’t

deal with on-farm heirs and off-farm heirs. We deal with families.”

Attorneys need a repository of anecdotes about other people’s experiences to share with farm owners when they come seeking succession advice, another attendee added. He said people come to him with a goal in mind of what they want to do with the farm, but they don’t know how to articulate it. Being able to share stories of what others have done with them would help start the process.

Section chair, Dillon, said that the Ag Law section will be working with Drake to develop materials from the workshop

that will matter to rural lawyers and can be used in future CLE programs. The section also has partnerships with the Iowa State University Center for Ag Law and Taxation.

The partnerships between university faculty and the bar “provide an opportunity to bring quality relevant materials to our members,” he said.

Professor Hamilton added that he thought the workshop “was very successful and showed the value of bringing Iowa attorneys together to help identify what the bar can do to help Iowa farm families navigate these important issues.”



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Iowa's garnishment statute receives update effective July 1

By Kristina Stanger

On July 1, 2015, changes to Iowa's garnishment statute will go into effect. You may recall that in 2014, Iowa Code Section 642.14A was added to plug the holes identified in *Phil New v. Gemini*, 859 F.Supp.2d 990 (S.D. Iowa 2012), where Judge Harold Viotor found previous Section 642.14 unconstitutional because it violated the notice requirements of the Due Process Clause. The 2014 law, though a prophylactic measure to the problems identified in *Gemini*, has nonetheless grown soggy and created its own set of harms.

The case

In *Gemini*, a debtor raised a claim under 42 U.S.C. Section 1983 stating that the debt collector and its law firm violated the debtor's due process rights by not providing sufficient notice when garnishing the debtor's bank account. 859 F.Supp.2d at 992. Under the former Iowa Code Section 642.14, a debtor was only guaranteed 10 days written notice before the funds were

condemned, instead of notice at the time of the garnishment of a debtor's asset. This could be nearly four months after a debtor's account was frozen. Judge Viotor held that this "post-garnishment" notice was too late to satisfy due process requirements and stated "[t]o satisfy due process, notice must be 'reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.'" *Id.* at 996 (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). As such, Iowa Code Section 642.14 was found unconstitutional.



The 2014 amendment

In response to *Gemini*, Iowa Code Section 642.14A was assembled. The 2014 band-aid addressed the pre-garnishment notice need. Under the 2014 legislation, within seven days after the garnishee, typically a lending institution or employer, is served with the garnishment, the sheriff must send a notice of garnishment to the debtor informing them "that certain real and personal property . . . may be exempt from execution or garnishment" and that a hearing is available to them in order to claim these exemptions. Iowa Code § 642.14A (2014). The notice must be served either by personal service or restricted certified mail and first class mail to both the debtor and the debtor's attorney of record. This notice was in addition to what was typically known as the "pre-condemnation" notice at the end of the garnishment term.

2014 Legislation concerns

Although Iowa Code Section 642.14A offered a solution, it was quickly growing soft with its own issues. There were four main concerns:

First, the 2014 language, which required

the sheriff's office to notify the debtor within seven days after executing the garnishment, did not account for waiting until a garnishee (bank) responded. Thus, in practice, debtors were given advance notice about the process before many banks could check the account or implement the levy ("freeze"). Creditors were finding two situations: debtors were removing funds from the account before the levy was in place and/or creditors were paying for notices of garnishment even when a debtor's funds were not located at that institution.

The second concern related to the creditor's control of the process. Under *Gemini*, the creditor and creditor's attorney were exposed to independent liability under Section 1983, even though arguably they did not have much control over the notice process with the sheriff. Unfortunately, the 2014 legislation nursed this problem.

Third, the 2014 legislation led to inconsistent sheriff fees, procedures and unnecessary burdens as the sheriffs were required to serve both pre-garnishment and post-garnishment notices. When polling the sheriff's offices around the state, some departments were charging over \$100 for garnishment services, where another county may be charging \$30. This inconsistency was costly to creditors up front and debtors would suffer in the end as most creditors charged the fees back as costs adding to the underlying judgment debt.

Lastly, it was unclear as to whether Section 642.14A's notice procedure applied to wage garnishments or solely to bank and other nonparty garnishments.

The 2015 amendments were desperately needed to clarify these issues, create uniformity and ultimately reduce costs.

2015 Legislation (HF 569) is signed by the governor

In response, HF 569 was proposed, adopted and signed by the governor April 24. The 2015 legislation makes six main changes:

1. Requires only one notice of garnishment to the judgment debtor per garnishment and eliminates post-garnishment notice;



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2. Distinguishes the notice service requirements based on the type of debt—i.e. criminal debt, employer garnishments, and non-employer garnishments. With respect to employers, the 2015 amendments reaffirm the “old” rule where the employer is obligated to deliver the notice with debtor’s wages;
3. Shifts the burden of serving the notice away from the sheriff’s office and into the hands of the creditor or employer garnishee;
4. Requires the sheriff’s office to file the garnishee’s answers to sheriff examination questions within seven business days of receipt by the sheriff;
5. Requires the creditor to serve notice on the judgment debtor within seven business days of the sheriff’s filing of the garnishee’s answers. This service may be conducted by a private process server or the sheriff and may be performed by certified mail; and
6. Removes the redundancy of serving the notice on the “attorney of record.”

The way ahead

In addition to the 2015 legislation, a standard notice of garnishment form was drafted and will be proposed/circulated for uniform use. Stay tuned for the updates to IowaDocs.

Many seek an omnibus revision to Iowa’s garnishment and execution chapters. The Commercial and Bankruptcy Law Section Council is exploring these opportunities in its work with an ABA Committee on Model Garnishment statutes and invites you to contact the council if you have an interest in this subcommittee.

**Kristina M. Stanger is the Chair of the ISBA Commercial and Bankruptcy Law Section and a creditor’s rights attorney and shareholder at Nyemaster Goode, P.C. in Des Moines. Chris Jensen, a 2014 summer associate with Nyemaster Goode, P.C. and second-year law student at Drake University Law School assisted with the state-wide sheriff’s research.*

ATJ SPOTLIGHT

West Des Moines church hosts weekly Hispanic legal clinic

By Brett Toresdahl



One of the goals of the ATJ Spotlight is to showcase various access to justice efforts going on around Iowa. Recently, an interesting partnership developed in Polk County. This is a great example of how access to justice can be addressed outside of the traditional legal setting. In January 2015, the Polk County Bar Association Volunteer Lawyers Project began a partnership with Lutheran Church of Hope. It is a very large congregation located in West Des Moines, Iowa. The Lutheran Church of Hope has a large ministry targeting the homeless and other disadvantaged individuals and families. On Thursday evenings, the church provides meals and access to a food pantry and clothing closet. Additionally, there is Hispanic programming and a Celebrate Recovery program which provides assistance to those suffering from addictions and other life problems.

“An average of over 600 individuals are served each week on Thursday evenings,” says Carol Burdette, executive director of the PCBA VLP. Because of her years of experience working on delivery of legal services issues, Burdette saw an opportunity to provide an outreach program to a segment of the community in need. “Access to legal services is frequently a challenge for many of those participating in these programs,” she said. “Telephone access to traditional intake for the PCBA VLP and other programs may not be an option for these individuals.”

She met with the planning team at The Lutheran Church of Hope to discuss how the resources of the PCBA VLP could be utilized to reach individuals who have legal needs. The team was thrilled to add a legal outreach component to its ministry. Staff of the PCBA VLP and volunteer attorneys have been offering intake and advice every Thursday evening since the partnership developed. The legal issues have been varied including immigration, landlord/tenant, family law and a variety of consumer issues.

Attorney Nick Cooper of the Whitfield & Eddy law firm in Des Moines has been a key

volunteer in getting this outreach project established.

“The outreach on Thursday at Lutheran Church of Hope has been an extremely rewarding opportunity for me,” says Cooper. “With the leadership of Carol Burdette, I have seen a handful of Polk County lawyers demonstrate a commitment to providing pro bono service each week to individuals in genuine need.” Nick encourages all lawyers to get involved.

“The questions and issues have varied, but the consistent theme is the heartfelt appreciation from the people we meet. I assure you that it does not matter the type of law you practice, you can volunteer and provide assistance. There have been questions outside my area of expertise and, even so, I have been able to direct these people to programs and resources they would not otherwise have known about. The 90 minutes out of my week flies by, and I always leave feeling refreshed and proud of my profession.”

Burdette also pointed out that resolving legal issues frequently helps with the process of recovery and establishing a residence resulting in a more stable life. In the three months that this service has been provided, approximately 50 individuals have been assisted through this outreach program. There are times in which the client’s legal issues cannot be resolved through the initial interview. In these circumstances the PCBA VLP locates volunteer attorneys to represent the individual.

This outreach project is an example of how you can get involved in your community. Access to Justice is a societal issue to address. Creating partnerships outside of the legal community is a step in the right direction to help all Iowans with their legal issues.

** The ATJ Spotlight is a reoccurring column hosted by the ISBA Public Service Project. It highlights access to justice issues and topics of interest to the legal profession and the citizens of Iowa. For questions about the ATJ Spotlight, contact Brett Toresdahl, the ISBA Public Service Project executive director, at isbavlp@dwx.com or 515-697-7881.*

Trial notebooks using Microsoft OneNote

By H. Edwin Detlie

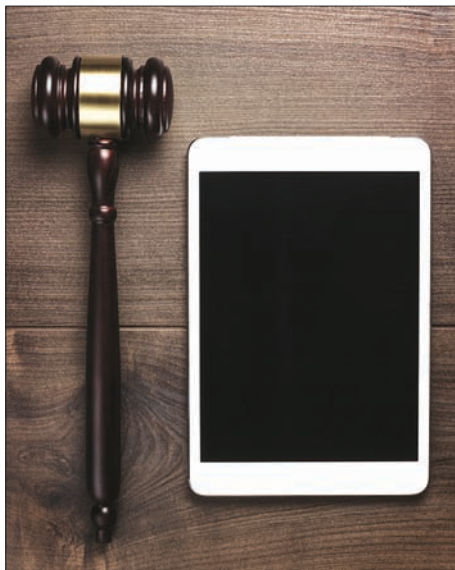
Most attorneys still use binders and legal pads at hearings and trials, even if they use electronic research and have their case files in digital format. With current technology, attorneys and paralegals should consider using electronic trial notebooks.

Microsoft OneNote works on PC, Mac, iPad and Android. What's more, most attorneys have a copy of Microsoft OneNote 2010 or 2013, as part of Microsoft Office. Office Mac doesn't include OneNote, but it's a free download for Mac. For most attorneys, there is no cost to the OneNote solution, other than a tablet or laptop to use it. I strongly prefer a laptop with a touch screen, but others may prefer a mouse. As a result, using a MacBook, including a MacBook Air, would not work for me, since it does not

have a touch screen. An Ultrabook, iPad or Android tablet would work since they have touch screens.

Killer features

You can work on multiple machines since the file is saved on Microsoft's OneDrive (formerly SkyDrive); you can set up templates that will save lots of work when starting a new trial notebook.



Microsoft OneNote began with a simple purpose: to allow users to take notes and organize them into "notebooks." With time, OneNote developed into a more robust and versatile application, which allows users to insert files, such as .pdf (Adobe Acrobat) files, word processing files, spreadsheets and emails onto pages, or to attach links to those files. Although WordPerfect files cannot be inserted in the same way as Microsoft Word files, they can be inserted just as easily. Word, Excel and Outlook files, as well as photos and other images can be inserted directly into the page where the user wants to save them. Any other file can be inserted by telling the application to "Print", then choosing, "Send to OneNote." At that point, the user is asked what page or section the "print job" should go, and it is saved there. That works for WordPerfect files or any other files that can be printed from an application.

OneDrive storage

Notebooks are normally stored on Microsoft OneDrive, formerly called SkyDrive. As long as you are working on a computer that is signed into that account, you can access

all your notebooks. However, when you open a notebook, it is downloaded to the computer that you are working on.

Any changes that you make to the notebook are then automatically saved to the file on OneDrive. You do not have to do anything to save changes. I have worked on a notebook at one office, made changes on a desktop at my other office, and the changes all appear in the OneNote notebook when I open it on my iPad, laptop or desktop computer. You can choose to store a notebook on a hard drive or server, in which case, access to that notebook is more limited.

Template notebooks

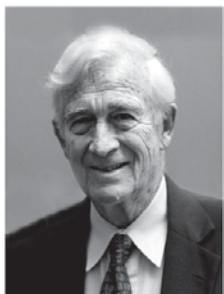
One of the strengths of OneNote is the ability to start from a specialized template for a page, a section or a notebook. A notebook template sets out the sections, each of which consists of a tab, much like a tab divider in a three ring binder, along with pages that are already assigned names within the section, if necessary. A "page" can consist of a 20-page medical record or pleading. As an example, in a trial notebook, the petition or complaint and answer could be included in a section, a medical section could include a medical summary and any important medical records, marked exhibits could be in a separate section, and a section entitled discovery might have a "page" for plaintiff answers to interrogatories and another for defendant's answers to interrogatories. With a .pdf attachment, a "page" can go for quite a few pages. A section entitled settlement negotiation might have a table, with two columns, "we" and "they," and copies of the settlement offers attached. In some cases, an inserted Excel spreadsheet could be most useful, either for calculating potential damages or for figuring interest on a judgment. I was able to insert a simple Excel spreadsheet to do quick calculations that I need to perform while settling most workers' compensation cases.

A corporation notebook could have a section entitled articles of incorporation, corporate bylaws, minutes, secretary of state filings and tax returns. Different types of corporations could have different templates, depending on the requirements for that



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Mr. Calkins has conducted his 40 hour course over 50 times throughout the Midwest. He has also trained law students throughout the nation, and internationally in Australia, United Kingdom and most recently in India.

The class includes mediator and advocacy training, with students doing two full mediations before being certified by the International Academy of Dispute Resolution.

For information, contact Susan Ewing at 515-283-0331 or amta@dwx.com.

particular type. The user can design the notebook template with page backgrounds, assign colors to section tabs, include instructions on what items to include in each particular section, and any other touches the user wants. When the user starts a new notebook that notebook template can be chosen, and the user will be asked to name the new notebook.

If an attorney wants to set up a Chapter 11 bankruptcy notebook, for instance, the attorney chooses the Chapter 11 template and assigns the client name to the newly created notebook. At that point, the attorney or a paralegal starts inserting notes, such as intake documents, inventories, names of the responsible parties and attorneys, and the filings that have been prepared and filed. They can then insert files, either as file attachments with links to the files, or as a "printout," which is a static image of the file.

Using OneNote at trial or hearing

An attorney can take a laptop or tablet with a OneNote notebook containing all the evidence, witness questionnaires, case and other legal authority and work from that information without referring to paper files. However, a prudent attorney will have the paper files along, in case of a problem.

At trial, when opposing counsel refers to a term or to an exhibit, the attorney can touch the tab on the screen referring to that portion of the record, open the relevant document in a matter of a second or two, or run a search on a page, a section, or the entire notebook where that term appears, and respond much more quickly than the time-honored legal pad, three-ring binder or Post-it note methods. The attorney or a paralegal can type notes concerning a particular witness in the appropriate page, and the free-form structure of OneNote allows for margin notes or Tags setting out cross-examination or follow-up points to ask the witness.

How does the trial notebook work out in real practice? It takes some getting used to, to become familiar with setting up the notebook, save the important files, to use the search to find documents in the notebook, and to jump to the correct section and page with a minimum of thought or delay. Opposing counsel may start asking how they can do the same thing.

H. Edwin Dettie is an attorney in Iowa, whose practice is limited to workers' compensation and Social Security Disability. He has been chair of the Law Practice Management Committee of the Iowa State Bar Association since 2009. www.dettielawfirm.com

IN MEMORIAM

Edward J. Gallagher, Jr., 89, died April 5 in Iowa City, Iowa.

He was born in Waterloo, Iowa. He earned his B.A. degree from Loras College in 1948. Gallagher served in World War II on the aircraft carrier U.S.S. Chenango. He received his J.D. in 1950 from Georgetown University in Washington, D.C. Gallagher returned to Waterloo, Iowa, where he founded a law practice. He later served as city attorney for Waterloo and Evansdale, Iowa. Gallagher also served as President of the Amvets National Service Foundation and was an Amvets local post commander and state commander.

William B. Garten, 86, passed away March 26 in Des Moines, Iowa.

He received his J.D. in 1952 from the University of Iowa College of Law. He later began practicing law at the Garten Law Firm, now Garten & Wanek in Des Moines, Iowa.

Michael Houchins, 55, passed away April 21 in Spencer, Iowa.

Houchins was born in Iowa City, Iowa. He received a B.A. from the University of Northern Iowa in 1984. He obtained his J.D. in 1987 from Drake University. He served the Clay County Attorney's Office as an attorney for 22 years. Houchins also maintained a private practice during his career. He became Clay County Attorney in 2006 and held the office for nine years.

Thomas K. Killion, 73, passed away March 13 in Indianapolis, Ind.

Killion was born in Indianapolis, Ind. He attended Grinnell College and earned his J.D. in 1965 from Drake University Law School. Killion was a bank trust officer in Iowa, Illinois, New Mexico and Texas and retired in 2009. He was an enrolled Financial Industry Regulatory Authority arbitrator.

Robert Haas Roseberry, 93, passed away March 17 in Spirit Lake, Iowa.

Roseberry was born in LeMars, Iowa. He graduated from Westmar College and the University of Iowa College of Law. He served in the U.S. Army Air Corps during World War II and flew a P-51 Mustang. Roseberry was awarded the Distinguished Flying Cross, Air Medal with three Oak Leaf Clusters, the Purple Heart and three campaign medals. He retired from the Air Force Reserve with the rank of major. Roseberry practiced law in Le Mars for 30 years and served as city attorney for Le Mars and Merrill, Iowa, before his retirement in 1976.

Don Wilson, 89, passed away Feb. 13 in La Crosse, Wis.

Wilson was born in Greene, Iowa. He received his J.D. from the University of Iowa College of Law. Wilson served in the U.S. Army Air Corps during World War II and completed 35 combat missions as a ball turret gunner. He practiced law for 61 years in Eldora, Iowa.

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Mike Mesch
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Partner

Workplace privacy law in Iowa

By V. John Ella

Advancements in technology have greatly complicated privacy issues for employers and their lawyers in recent years. Computers have created many more ways to store, access and share information than anyone could have imagined back in the days of paper records. Concerns about privacy rights and technology, combined with gridlock in Congress, have led to the enactment of laws and regulations governing privacy in states around the country. Thus far, Iowa has not been as aggressive as some states in passing new workplace privacy laws, but this could change.

Common law

Iowa first recognized a common law tort for invasion of privacy in the case of *Bremmer v. Journal-Tribune Publishing Co.*, 76 N.W.2d 762, 764-65 (Iowa 1956). Since *Bremmer*, the Iowa Supreme Court has adopted and applied the invasion of privacy principles articulated in the Restatement (Second) of Torts. Iowa law recognizes all four types of common law invasion of privacy claims:

- Intrusion upon solitude or seclusion;
- Public disclosure of private facts;
- False light privacy; and
- Appropriation of one's name or likeness.

In 2011, the Iowa Supreme Court upheld a decision allowing an invasion of privacy claim based on intrusion upon seclusion by an employee against her employer for placing video cameras in the company bathroom, even though the evidence showed that the cameras were not functional. *Koepfel v. Speirs*, 808 N.W.2d 177 (Iowa 2011). In *Koepfel*, the Court noted that, “[w]hile a physical intrusion is easily understood to violate the right to privacy, the tort has obviously expanded into a variety of nonphysical intrusions largely brought on by voyeuristic desires facilitated by changing technology.”

Id. at 181, n. 1. Smartphones, among other devices, have made it easier than ever to unlawfully capture photographs and video of another. In 2014, the Court of Appeals affirmed a criminal conviction for invasion of privacy — nudity under Iowa Code § 709.21 where the defendant took video of the victim while naked and intoxicated and sent the video to her boyfriend. *State v. Lakeith McCaffee*, 847 N.W.2d 612 (Iowa Ct. App. 2014). See also *State v. Hansen*, No. 14-1006 (Iowa Ct. App. April 22, 2015) (affirming conviction for invasion of privacy where defendant held cell phone up to gap in wall at tanning salon but did not actually take any pictures or video).

Iowa statutes regarding workplace privacy law

Drug and alcohol testing. Drug and alcohol testing of employees and applicants in Iowa is governed by Iowa Code § 730.5. Employers must have a written policy and may only test as set forth in the statute.

Polygraphs. The use of polygraph or “lie detector” tests by employers is restricted by both federal and Iowa law. Under federal law, employers may not, directly or indirectly, request or require an applicant or current employee to take a polygraph, voice stress analysis or any other test purporting to test the honesty of the applicant or employee. See 29 U.S.C. § 2002 et seq. (The Employee Polygraph Protection Act or “EPPA”). Under Iowa law, an employer may not require an applicant or employee to take a polygraph test as a condition of employment, except for applicants for law enforcement jobs. Iowa Code § 730.4.

Social media. Starting in 2012, over a dozen states have enacted laws prohibiting employers from requiring current or prospective employees to disclose a user name or

password for a personal social media account (like Facebook). In Iowa in 2013, a bill (H.F. 272) was discussed in committee that would have prohibited an employer from requesting or requiring that an employee or applicant disclose the user name or password for accessing a personal account or service through an electronic communications device. The measure did not become law, but similar proposed legislation may resurface in the future.

HIV or genetic information. Iowa law limits testing for the HIV virus as a condition of employment. Iowa Code § 216.6. Employers also may not solicit, require, or administer genetic tests as a condition of employment.

GPS and RFID. Some employers have experimented with Global Positioning Systems (GPS) trackers in company vehicles, or even smart phones, to monitor their employees, leading to some complaints about the intrusion into employee privacy. Radio Frequency Identification Devices (RFID) are a similar technology. Some states, including Missouri, North Dakota and Wisconsin, have passed laws prohibiting employers from requiring that an employee have a microchip containing an RFID device planted in the employee's body. Iowa has not yet addressed this concern in legislation.

Data breaches. As of yet, there is no federal data breach statute, but Iowa and 46 other states have data breach laws (all except Alabama, New Mexico, and South Dakota) requiring notification of potentially affected individuals. Iowa Code § 715C.1 (enacted into law in 2008 and amended in 2014).



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IN BRIEF

Iowa Association of Administrative Law Judges elects officers

The following individuals were elected as officers of the Iowa Association of Administrative Law Judges April 27:

President – **Lynette Donner**, Iowa Workforce Development

Vice President – **Amy Christensen**, Iowa Utilities Board

Secretary – **Miki McGovern**, Iowa Division of Workers' Compensation

Treasurer – **Christie Scase**, Iowa Department of Inspections and Appeals, Administrative Hearings Division

The IAALJ is an affiliate of the National Association of Administrative Law Judiciary. Lynette Donner is the current NAALJ President.

The IAALJ membership includes administrative law judges who serve the state of Iowa by presiding over administrative hearings for several state agencies.

Companies must comply with notification requirements of each state where potential victims reside.

Monitoring of employees

There are several motives for monitoring employees on the job, such as the desire to increase productivity and to detect and deter improper conduct, including theft. Especially for employees who use a computer at work, there are now more ways than ever to monitor activity, ranging from occasional email audits to sophisticated software that enables employers to record keystrokes, time and activities online. Software also can restrict access to certain internet sites and track social media usage.

By now, it is fairly well established that whatever an employee sends or receives on a company email account is the property of the employer and can be accessed or viewed by the company without notice. Few employees have an expectation of privacy on employer emails. Many employees are discovering, however, that messages sent on private accounts can also be accessed under certain circumstances if they use a company-issued computer, smart phone or tablet. Former CIA Director David Patraeus even had his Gmail account accessed by the FBI.

Employers who obtain user name and password information from work computers without permission and use the information to access an employee's personal account, such as a Gmail account, Facebook account, or other cloud-based information may be subject to liability. Connecticut and Delaware require employers to give notice to employees prior to monitoring their email communications or Internet access. Connecticut Gen. Stat. § 31-48d, Del. Code § 19-7-705. Iowa has not enacted such a requirement.

The federal Stored Communications Act ("SCA") 18 U.S.C §§ 2701–2712, however,

which governs employers in Iowa and everywhere else in the country, prohibits unauthorized intrusions on electronically stored communications. In *Rene v. G.F. Fishers, Inc.*, 817 F. Supp.2d 1090 (S.D. Ind.

2011), the employer installed key-logger software on a company store computer. The key-logger software recorded all keystrokes made on the store's computer keyboard. It then periodically emailed the information to company managers who used the information to learn the plaintiff's password to her personal email account and personal checking account and to access them. After the plaintiff discovered that defendants were accessing her personal accounts, she confronted them and her employment was terminated. The court held that plaintiff's claims under the SCA survived defendants' motion to dismiss.

Conclusion

Every employer these days should consider implementing a policy regarding the expectation of privacy in the workplace, employee monitoring, drug testing, electronic communications, social media, and use of smartphones, among other issues. Workplace privacy is a more challenging area of the law than ever before. Employers and their attorneys need to develop sound policies and procedures to adapt and comply with evolving regulations, laws and technology.

V. John Ella is a shareholder at the Minneapolis, Minn., office of Jackson Lewis, PC, a workplace law firm. He is admitted in Iowa and is a Certified Information Privacy Professional (CIPP).

IN BRIEF

ISBA International Law Section hosts peer-to-peer dialogue

The ISBA International Law Section hosted a group of students from the University of Iowa College of Law and the Higher School of Economics in Russia April 8 for "Peer-to-Peer Dialogues." The dialogues are part of a series funded by a grant from the U.S. State Department.

"The dialogues today highlight changes in the legal profession both in the US and globally," said Jim Sheets, attorney and 2015-2016 International Law Section chair. "It shows that other societies, previously outside the rule of law, are producing high-quality lawyers of comparable grade to the U.S. It also highlights the global dynamic now underlying even the local practice of law."

Teams composed of one Iowa and one Russian student each drafted joint statements regarding the chief similarities and differences in Russian and U.S. law with respect to 11 topics. The April 8 ISBA event provided the teams with an opportunity to include more professionals in their dialogues and, in doing so, share their main findings with a wider audience.



Professor Alexander Domrin, who teaches the "Peer-to-Peer Dialogues" course at the Higher School of Economics in Moscow, Russia, and ISBA member, attorney Natalia Lazareva, discuss students' joint statements in the Iowa State Bar Foundation Continuing Legal Education Center at ISBA Headquarters.

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Thoughts for the young lawyer on community service

By Lori T. Chesser

Earlier this spring, I was surprised and honored to learn that I would be presented with the Willie Stevenson Glanton award from the Polk County Women Attorneys for my community service. Ms. Glanton is an Iowa lawyer whose life has been focused on community service, political activism, and human rights. She is an inspiring example to all lawyers who came after her, and her legacy illustrates the positive influence we have on our clients and communities.

As young lawyers, we are encouraged to do community service, and many young lawyers take on the task. Reflecting on my own experience, and guided by Willie Glanton, I offer the following advice:

Surround yourself with support — at home and at work

First, I advise you to marry well. Share your life with someone that cares as much about your career as his or her own. I was blessed to do that, and without my husband, John, I would certainly not be where I am today.

Second, I advise you to work somewhere in which you can be the person you are meant to be. That choice is different for everyone. I am a person that likes a lot of independence, but not so much that I am out on a limb. Davis Brown Law Firm has been a great place for me because I had the freedom to develop an immigration practice, have a family and be involved in the community — which

is a priority for many in our firm. Without the security and support of my Davis Brown colleagues, I would not be where I am today.

Focus on others

Next, you might expect that I will advise you to follow your heart. But, that was not my experience. When I was a young attorney, I didn't dream about practicing immigration law. I did not even know it existed. Although I was interested in people from other cultures — at least the few I met growing up in a college town in western Illinois and at law school in Athens, Ga. — I had no inkling that I could help them.

What I was interested in was making a difference. I did not know how I was going to do that, but when making life decisions such as where to live or where to practice, I was thinking about how I could make a difference.

However, I am hesitant to advise you to “make a difference.” The statement is vague and does not capture what was actually motivating me as a young lawyer, even though at the time I could not articulate what was.

Later, I recognized in the words of Willie Glanton what I could not articulate then. She had this idea of “freeing people up.”

“Freeing people up” focuses on others, not ourselves, which



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prevents doing community service for the wrong reasons. If you are focused on your contribution, leaving your mark or creating your legacy, you are unlikely to accomplish anything of value. But even more nuanced is recognizing when you are doing it for the pleasure it can provide — such as meeting people with similar interests, the good feeling of helping someone in need — rather than the benefit to the community. Focusing on “freeing people up” can help you to make that distinction.

Also, the idea of “freeing people up” assumes that people know what is in their best interest and what they can accomplish, but that they are prevented from doing so because of some barrier. It respects the dignity of the people you are serving and puts you in the correct place as a helper rather than a benefactor.

Finally, this idea of “freeing people up” is especially appropriate for lawyers. We have so many ways we can free people up in our daily work. Immigration is an obvious example, and I am fortunate to have the opportunity to help our clients be free to unite with family members, escape abuse or persecution and make their contribution to America.

Many areas of law practice can be viewed in this light. A corporate or intellectual property lawyer may be freeing people to make an idea into a business. A family lawyer may be freeing people from a dysfunctional or abusive relationship. A criminal defense lawyer obviously frees people up, but a prosecutor can help free crime victims to rebuild their lives when justice is done. Thinking about your work in this way can help you find meaning in your professional life and make you a better lawyer.

But no matter how remote you think this idea is from your practice, the broader point is that lawyers know how to break down, climb over, or navigate around barriers. If you only use that ability for your paying clients, you run the risk of becoming a mercenary. If you use it in a way that serves your community, you become a citizen in the classical sense of the term.

Community service and sacrifice

Community service is not easy. As a lawyer, you become acutely aware that you have only so many hours in a day. And perhaps you might not realize it as much when you are young, but you have only so much mental and physical energy to spend. Choosing to do community service will involve sacrifice.

Perhaps you will give up a certain amount of income, or time with family, or time to exercise or enjoy a hobby. You also may encounter criticism or judgment by others about how you spend your time. You probably will encounter people that disagree with you or do not want the change you are trying to make.

This is when I advise you to follow your heart — or your conscience or the voice of the Holy Spirit — whatever you consider to be at the core of your being. Only if the community service you choose is something that you believe in will it be worth the sacrifice you will make. Your wonderful spouse, children, friends, colleagues, pastor or spiritual leader all can help you discern if it is something worth doing.

If it is, then try to welcome the sacrifice when it comes, because it is only through sacrifice that we make any real difference. For me, this is best captured in a passage from the Gospel according to John, “Unless a grain of wheat falls on the ground and dies it will remain just a grain of wheat; but if it dies, it produces much fruit.”

This truth can be hard to accept and easy to forget. For me, it is a constant struggle to keep it in mind, recognize and embrace, but I urge you to take this struggle and find ways to “free people up” in your community. If you do, your community service will be effective and become a privilege rather than a burden.

Lori Chesser is a Davis Brown Law Firm Shareholder and Immigration Chair

IN BRIEF

YLD collecting books for children

The Young Lawyers Division of the Iowa State Bar Association recently announced its 2014-15 public service project of collecting books to benefit the Ashcraft Library Project. By collecting books for the project, the YLD hopes to foster positive interactions and relationships between the children and their families, while also improving children’s educational skills.

Anyone can help contribute to the YLD’s initiative in any the following ways:

- **Online Book Drive:** Purchase and donate new books online through Usborne Books & More at: <http://tinyurl.com/YLDProject>. Select books from the wish list and simply choose “ship with organization” in order for the books to be sent directly to the Ashcraft Library Project. Shipping is free on all donated books. Purchasing books for individual use will still benefit the project. Purchase books online through the same link and enter the preferred shipping address. Through online purchases, the Ashcraft Library Project receives 50 percent of sales worth of free books. For questions about purchasing books through Usborne Books & More, contact Joy Wehmas at 515-971-1323 or joy@usbormiles.com.
- **ISBA’s Annual Meeting:** The YLD will be collecting new and used book donations at the ISBA’s Annual Meeting, June 15-18, at the Iowa Events Center in Des Moines, Iowa.
- **Cash Donations:** Book will be purchased with cash donations accepted by mailing cash or a check (payable to Ashcraft Library Project) to Ashcraft Library Project, 7624 Hickory Lane, Urbandale, IA 50322.

The Ashcraft Library Project is a non-profit 501(c)(3) charitable organization that supports Forever Books for Kids and the 2-4-2 program. Forever Books for Kids, which was launched by the Honorable Judge Celeste F. Bremer, Two Rivers Story Spinners and the Drake School of Education Organizational Leadership students in 2010, provides new and used books for children to read and take home when they visit a loved one in a county jail. The program currently provides books to six county jails in Dallas, Marshall, Pottawattamie, Polk, Scott, and Story counties. The 2-4-2 program, which was started by the now-retired, Honorable Judge Constance Cohen in 2010, provides a new set of books so a parent can read to his or her child over the phone while the child reads along with a copy of the same book.

For more information about the YLD’s service project, please contact Katheryn Thorson with the BrownWinick Law Firm in Des Moines at 515-242-2484 or thorson@brownwinick.com.

Mentoring leads to years of civic involvement

There is no doubt in Rosalynd Koob's mind that she would not be where she is today without the help of mentors along the way. Their help left such an impression on her that she stays active in multiple civic organizations, particularly focusing on mentorship. She realized the importance of mentoring early and got involved in civic organizations in college.

"I wanted to get to know people and figure out ways that I could help," she said of her college experience. "So many people helped me get through college and law school. Many of them had no idea the impact they made."

The mentors who had the biggest impact on Koob were those she described as "silent mentors," who led by example. They were the Sisters of St. Francis who taught at Briar Cliff University in Sioux City, Iowa, where she attended college. From then on, she set out to be a positive role model for others.

The Sioux City-based attorney, who is a partner at the Heidman Law Firm in the practice areas of family law, tribal law and civil litigation, said her most memorable time of community involvement was when she served as Board President for the Big Brothers Big Sisters of the Siouxland. She started out as a mentor and later became a board member.

"Big Brothers Big Sisters was the first organization I joined when I returned to Sioux City after law school," Koob explained. "It was an eye opening experience for me. I did not realize how many youth in the Siouxland area were in need of a Big Brother, Big Sister or Big Family."

She and her husband volunteered to become a "Big Family" and mentored a

child together. The young boy was a great kid who just needed a little extra attention from a positive male role model, she said.

"I just remember how excited he would get when we would pull up to his house and pick him up. For us, we were only giving a few hours, but for him, it was a huge deal."

As all things do, the mentor relationship had to come to an end. The boy and his family moved away. However, before he moved, he gave his "Big Family" a Christmas decoration that the Koob's still hang up every year. The experience left a lasting impression.

Koob has been a part of numerous civic organizations. Besides her time with Big Brothers Big Sisters of Siouxland, she currently serves as a trustee on BCU's Board of Trustees, her family is a Friend Family to two international students who attend BCU, and she is on the steering committee and scholarship committee for the IWLC. In the past, Koob has also served as a youth volunteer volleyball coach, as the Chair for the Bishop Heelan Catholic Schools Strategic Planning Committee, as a member of the Tribal/State Court Collaboration Committee on Children in the Courts, as a founding member of the Native American Advisory Committee with Big Brothers Big Sisters, as a member of Briar Cliff University's Sister Muriel Ford Circle of Mentors and as a member of Briar Cliff University's Alumni Board.

While giving of her time is very important to Koob, she also recognizes that for some, providing financial support is equally important. Koob is most proud of the Rob and Roz Koob Scholarship started by her and her husband at BCU over 10 years ago. Koob met

her husband while attending BCU. BCU made such an impression on both former students that they wanted to ensure other students could experience BCU as well. So they started an annual scholarship awarded to a graduate of their high schools; Carroll High School and Spalding Catholic High School (now Gehlen Catholic High School).

The scholarship will become endowed in the near future, further confirming her and her husband's commitment to BCU, their high schools and most importantly, their commitment to investing in the future of others.

"Even though my goal is to help others however I can," she said of her civic involvement, "I am always amazed by how much others end up helping me grow and better myself. My largest joy comes from seeing or hearing someone accomplish something that they did not think they could."

The best part of the job? She said when her mentees want to celebrate a victory with her first, no matter how big or small. "It just melts my heart," she says. "It doesn't matter what the accomplishment. I am just honored when they want to tell me about their successes."

Motivated by mentoring, Koob plans to continue to seek organizations and opportunities that afford her the opportunity to interact with students and young professionals.

"As attorneys, I think we have unique opportunities to help others and I hope attorneys are willing to seize those opportunities," Koob said. "I believe being an attorney is a privilege that comes with a lot of responsibilities, including being good stewards within your community. We need to invest in our communities for the future."

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Rosalynd Koob, attorney with the Heidman Law Firm in Sioux City, Iowa, poses with Mitchell Flack, a Rob and Roz Koob Scholarship recipient. The Koob family established the scholarship over 10 years ago in order to give back to their high schools, their college, and to invest in the future for others.

Community leader feature —

History of community service and pride in it should keep lawyers volunteering

Lawyers, as a group, have a history of service. “We should be proud of that and continue it,” says Steve Pace.

A senior vice president at Shuttleworth & Ingersoll in Cedar Rapids, Pace has been active in community service for years. He currently serves as chair of the board of trustees for Horizons, a non-profit agency in Cedar Rapids that provides help to families and individuals, and as a board member of two theater groups – Theatre Cedar Rapids and SPT Theatre Company. He also is immediate past president of the Linn County Bar Association, and regularly travels to Haiti for 10 days every two years with a group from his church.

In addition, he routinely provides pro bono services through Iowa Legal Aid’s Volunteer Lawyers Project, reaching or exceeding the 50 hours per year that is the aspirational goal called for in the Iowa Rules of Professional Conduct. His pro bono work includes free legal work for the community organizations he volunteers with by helping with contracts, leases, risk identification and policies to avoid problems as well as defense of potential claims, etc.

“There are many needs in our community and in all communities,” Pace says. “It is a way to give back to the community and those who need it. I believe we have a responsibility to do what we can.”

He, as with other attorneys who are involved in community service, believes that attorneys are well-suited to community volunteerism. He says attorneys are “trained to analyze facts and situations, cut through the irrelevant surrounding items and the emotion and come up with solutions to problems.

“That is really what we all do,” he says. “We can therefore help solve problems in a way others can’t.”

Besides, he continues, “community members who work with us and get to know us in this context may have a better and more positive view of lawyers as a group— which I think is beneficial for our profession and for the community overall.”

The 1977 University of Iowa College of Law graduate goes beyond just serving on boards, however. He’s also involved in fundraising, as a financial contributor and as a word-of-mouth marketer for the organizations he believes in. Last year, he

received an Outstanding Fundraiser Award at the 2014 Philanthropy Awards luncheon hosted by the Association of Fundraising Professionals Eastern Iowa Chapter.

He has a long history of fundraising for various community organizations. He served on the fundraising and building committee for the new downtown YMCA, for example. In fact, he spent several terms on the board of the YMCA, including as president for a time.

He also was involved for about 20 years on the board of the Hawkeye Area Council of Boy Scouts, and served as president of the Leadership for Five Seasons Board of Advisors and as a board member for 12 years.

Pace, who practices primarily in energy law, environmental law and environmental litigation, says he keeps track of some of his volunteer time, but not all, specifically his church work. He estimates he spends three to 3.5 hours a week on community service.

“At times community service takes quite a bit of time -- particularly if there is a crisis situation that needs to be dealt with,” he explains. “At those times, the service work needs to be done and the legal work done too. I am fortunate because I can adjust my schedule to make this work. Sometimes this means spending time at nights and on weekends, but we all do that anyway.”

He feels fortunate that Shuttleworth and Ingersoll has a history of significant community involvement by its lawyers. In fact, the firm encourages it. All new lawyers joining the firm are encouraged to become involved in both the community and the bar association.

As for the particular community activities he is involved with, Horizons runs the meals on wheels program in the Cedar Rapids area. It does mental health counseling and credit counseling for people in debt. It also cooperates with other non-profit organizations in the area to provide services for those in need.

His theater involvement stems from a long-time interest he and his wife have had in local theater. Both were involved in theater in high school, and he also worked some in theater during college.

Theatre Cedar Rapids does a lot in the way of education for kids, and provides adult classes, scholarships for classes and tickets for kids who can’t afford to attend

the theater, he says. The SPT Theatre Company gives local writers, poets, musicians and actors an opportunity to show off their talents.

“These groups enhance the quality of life in our community in many ways,” he says.



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IOWA STATE BAR ASSOCIATION — 2015 Affirmative Legislative Program

| Bill No. | Bill Subject | Bill Description | Bill Status |
|----------|---|---|---|
| HF 172 | Revised Iowa Nonprofit Corporation Act Update Amendments (Code Chapter 504) | Based upon the ABA Model Nonprofit Corporation Act, Third Edition, amends sections in Code Chapter 504 pertaining to: Filing requirements; Definitions of “electronic” and “signature to permit electronic signatures”; nonprofit corporations serving as trustee of a trust where the corporation is the beneficiary of a charitable trust; Directors quorum and voting; Annual meetings of delegates; Simplification of the rules for member voting; Clarification of the rules re: terms of directors; Duties of directors to disclose information; Loans to directors and officers; and Articles of merger. | Passed by the legislature and signed by the governor April 14, 2015. Effective date July 1, 2015. |
| HF 661 | Probate & Trust Law Updates | Amends Iowa Probate Code Section 633.238 to provide that a surviving spouse’s elective share includes 1/3 of the value of property held in deceased spouse’s revocable trust unless the trust was created during the spouses’ marriage and transfer of the property into the trust included a statutory waiver signed by the surviving spouse. Amends Probate Code Section 633D.8 and Code Section 524.805 to allow personal representatives, surviving spouses, children, or creditors to assert liability for debts, taxes, and estate-administration expenses against pay-on-death or transfer-on-death beneficiaries. Amends Probate Code Section 633.78 to give conservators and personal representatives authority to gather information and property for the estates they are administering. Amends Code Section 422.7 to permit full deduction of administrative expenses on the IA fiduciary income tax return. Amends Code Section 450.9 to exempt descendants of stepchildren from liability for IA inheritance tax. | Approved by House Judiciary Committee and Feb. 20, 2015. Approved by House Ways & Means Committee April 29, 2015. Placed on House calendar. |
| HF 569 | Amendments to Garnishment Statute | Amends Code Chapter 642 to provide for the following: <ol style="list-style-type: none"> 1. Requires garnishors (in lieu of sheriff’s office) to serve due process notice. 2. Allows creditors to serve notices as an alternative for due process purposes. 3. Requires sheriff’s office to provide timely filings of answers from garnishees. 4. Changes references in statute to distinguish between employers and non-employers vs. earnings and non-earnings. 5. Removes redundancy of serving the same notices at the time of condemnation. 6. Provides a mechanism for claiming exemptions to the sheriff’s office in addition to the judicial process. 7. Removes requirement of service on “attorney of record.” | Passed by the legislature and signed by the governor April 24, 2015. Effective date July 1, 2015. |
| SF 376 | Calculation of Probate Costs | Relates to how the clerk of probate court determines and collects charges in connection with services provided in probate matters. Excludes from the determination of court costs property over which the court lacks probate jurisdiction and for which the clerk renders no services. Specifies that for purposes of calculating the costs for other services performed by the court in the settlement of the estate of any decedent, minor, person with mental illness, or other persons laboring under legal disability, the value of such a person’s personal property and real estate is equal to the gross assets of the estate listed in the probate inventory minus, unless the proceeds of the gross assets are payable to the estate, joint tenancy property, transfers made during such person’s lifetime such as to a revocable trust, and assets payable to beneficiaries. | Approved by Senate Judiciary Committee. Referred to Senate Ways & Means Committee, March 16, 2015. |
| SF 223 | Code Chapter 252 (“Support of the Poor”) Update | Updates Chapter 252 to clarify that after enactment of Medicaid and Medicare, counties can no longer seek support for a poor person from family members. | Passed by the legislature and signed by the governor March 31, 2015. Effective date July 1, 2015. |
| SF 220 | Expert Witness Fees | Amends Code Section 622.72 to remove the \$150 per day cap on expert witness fees and to permit the district court to tax as costs a fair and reasonable expert witness fee in an amount not to exceed \$2,500 for the expert’s time testifying at trial or in depositions used at trial. | Senate passed March 10, 2015, 48-2. Referred to House Judiciary Committee. |
| HSB 192 | Redemption from Tax Sale of Property Owned by Persons with Disabilities | Remedies issues arising from Iowa Court of Appeals decision <i>Firestone v. FT13</i> (Filed 4-30-14) relating to redemption issues arising from ownership of property by minors or persons of unsound mind. | Introduced, but not advancing this session. |
| HSB 192 | Requirements for Timely Filing & Effective Releases or Satisfactions of Mortgages | Remedies ambiguities and inconsistencies in existing statutes & provides remedies for failure of mortgagees to issue releases of mortgages. | Introduced, but not advancing this session. |
| SSB 1238 | Uniform Fiduciary Access to Digital Assets Act (UFADAA) | Adopted by the Uniform Law Commissioners in July 2014, the Act ensures that legally appointed fiduciaries can access, delete, preserve, and pass along a person’s digital assets (i.e., documents, photographs, e-mail, and social media accounts) as appropriate. | Introduced, but not advancing this session. |
| SF 451 | Chapter 232 “Bridge Orders” Amendment | Amends Code Chapter 232, “Juvenile Justice” to allow for Bridge Orders, which would facilitate the closure of certain cases under Code Chapter 232 by transferring jurisdiction to the district court upon the occurrence of certain criteria. | Passed by the legislature and signed by the governor April 17, 2015. Effective date July 1, 2015. |
| SSB 1229 | Post-Secondary Education Subsidy | Amends Code Section 598.21F(5) to provide for the termination of a post-secondary education subsidy upon the completion of the first calendar year of course instruction if the child fails to maintain a cumulative GPA in the median range or above during that first calendar year. | Introduced, but not advancing this session to allow for further drafting work. |
| HF 572 | Appointment of Guardian Ad Litem in Adoption Proceedings | Amends Code Section 600.5 to require the Court, at the time of the filing of an adoption petition, to make a determination as to whether a guardian ad litem will be appointed. | Approved by House Judiciary Committee and placed on House Calendar. Re-referred to House Judiciary Committee April 3, 2015. |
| | Appeal Deadline for Private Termination of Parental Rights Actions | Amends Code Section 600A.9(2) to reduce the 30-day appeal deadline for private termination of parental rights (TPR) actions to a 15-day appeal deadline to be consistent with Chapter 232, which governs TPR actions initiated by the State. | In drafting. |
| | Proceedings to Establish Paternity | Amends Code Section 600B.8 to allow fathers to initiate actions to establish paternity consistent with the Iowa Supreme Court’s decision in <i>Callender v. Skiles</i> , 591 N.W.2d 182 (Iowa 1999). | In drafting. |

Updated 5/12/15

In addition to the legislative proposals above, The Iowa State Bar Association supports the following positions as a part of its 2015 Affirmative Legislative Program:

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

The ISBA congratulates the following individuals and organizations for the awards and recognition they have received:



Caldwell

Randal B. Caldwell for being inducted into the American College of Trust and Estate Counsel.

Caldwell became one of only 46 ACTEC fellows in the state of Iowa.

The ACTEC is a nonprofit association of lawyers established in 1949. It is the nation's leading organization of peer-elected trust and estate lawyers. Its members are elected to the college by demonstrating the highest level of integrity, commitment to the profession, competence and experience as trust and estate counselors. Caldwell was nominated for membership by Fellows of the College and subjected to careful review by both state and national membership selection committees prior to consideration by the regents of the college. All successful nominees have made substantial contributions to the field of trusts and estates law through writing, teaching and bar leadership activities.

Caldwell is a member of Caldwell, Brierly, Chalupa & Nuzum, P.L.L.C., in Newton, Iowa. He has practiced in the areas of estates and trusts and real estate since 1979 and is former chair of the ISBA Probate Section Council and is a member of the Iowa Academy of Trust and Estate Counsel.



Howie

Andrew B. Howie for being named an American Association of Matrimonial Attorneys Fellow. Howie is one of 10 attorneys in Iowa admitted to the AAML.

The AAML, founded in 1962, has almost 1,600 fellows in all 50 states. The purpose of the organization is "to provide leadership

that promotes the highest degree of professionalism and excellence in the practice of family law." Academy fellows are recognized after completing a rigorous admission process and examination.

Howie is a partner with Hudson, Mallaney, Shindler & Anderson, P.C., in West Des Moines, Iowa. His primary practice focuses on family law and appellate work. He earned his B.A. from Wartburg College and his J.D. from the University of Iowa College of Law in 1996.

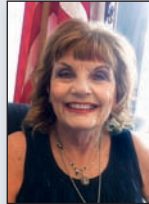


Hupy and Abraham for being honored for Best Website: Law at the 19th Annual Webby Awards.

"Honorees like Hupy and Abraham, S.C., are setting the standard for innovation and creativity on the Internet," said David-Michel Davies, executive director of the Webby Awards. "It is an incredible achievement to be selected among the best from the nearly 13,000 entries we received this year." The Webby Awards are presented by the International Academy of Digital Arts and Sciences and have been acclaimed as the "Internet's Highest Honor" by the

New York Times.

"The firm is proud to set the standard of excellence in internet marketing and web development. We pride ourselves on providing the most cutting-edge, effective, user-friendly website for our clients," states Vice President Jason Abraham. "This is just a part of our top-notch service package and a reason why we are 'voted best' and 'rated best' year after year — an outstanding achievement."



McGovern

Michelle "Miki"

McGovern for being inducted as a College of Workers' Compensation Lawyers Fellow March 21.

The CWCL was established to honor attorneys who have distinguished themselves in the practice field of workers' compensation.

Individuals are nominated for the traits they have developed in the practice of workers' compensation for twenty years or longer, representing claimants, defendants, serving as judges, or acting for the benefit of all in education, overseeing agencies and developing legislation.

McGovern served as an Iowa Workers' Compensation Deputy Commissioner for over 26 years and has been very involved in the ISBA both in the Workers Compensation Section and as a member of the Board of Governors. Gov. Terry Branstad named McGovern the acting Workers' Compensation Commissioner Sept. 8, 2014, a position she held for approximately four months.

Fredrikson & Byron for ranking third among the "Top 100 Firms for Female Attorneys," for being among the top 10 firms listed for being a 2015 Ceiling Smasher by Law360 and for receiving the 2015 Leadership Award from Minnesota Women Lawyers.

In its inaugural report, Law360 ranked the 100 best U.S. law firms for women, based on the firm's female representation at the partner and non-partner levels and its total number of female attorneys. Fredrikson was the only Minnesota-headquartered firm to rank within the top 15 and was the highest ranked full-service firm.



Penick

"I am so proud to work at the third best law firm in the U.S. for women lawyers," said Bridget Penick, co-head of Fredrikson & Byron's Des Moines, Iowa, office. "I felt it when I first talked with the firm and discovered a woman was chair of the board of directors and another was one of the three members of the executive committee. I am excited to build my practice here."

In a separate ranking by Law360, Fredrikson was among the top 10 firms listed for being a 2015 Ceiling Smasher. This year's Ceiling Smashers are the 25 U.S.-based law firms out of more than 300 surveyed that have the highest percentage of female partners. This ranking recognizes firms that have made significant strides toward gender equality.

The MWL is an association of more than 1,300 attorneys, judges, law students and legal employers dedicated to advancing the success of women

KUDOS

lawyers. Fredrikson & Byron will be honored with the recognition at the MWL 3rd Annual Meeting on May 8.



Helen Miller for being recognized by the Hoover Presidential Foundation for "Uncom-

mon Public Service" to the people of Iowa. The foundation established the award to be presented annually to one member of the Iowa House and the Iowa Senate who exemplifies Herbert Hoover's humanitarian efforts and commitment with uncommon service. The nominees are judged solely on their public service and humanitarian projects.

"Like President Hoover, Iowa Rep. Miller understands the importance of leadership and a commitment to provide a greater understanding of art and culture to Iowans. She understands the value of generosity, honor, passion, compassion and integrity," said Iowa Rep. Bobby Kaufmann, who presented the award to Miller.

The Hoover Presidential Foundation is a private nonprofit organization for the support of the Herbert Hoover Presidential Library-Museum and Hoover National Historic Site in West Branch, Iowa. The foundation fosters the collection, interpretation and preservation of historical resources relating to the life, ideas, values and times of Herbert Hoover, 31st President of the United States.

Miller serves the 9th District and is the ranking member of the House Agricultural Committee. She also serves on the House Economic Growth and Natural Resources Committees as well as the Agricultural and Natural Resources Appropriations Subcommittee.

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TRANSITIONS



Aeilts

Andrew Aeilts joined Kreykes Law Office, in Pella, Iowa. He is a graduate of the University of Iowa College of Business and obtained his J.D. from Drake University Law School. Aeilts practices in estate planning, probate, business law, civil litigation and real estate.



Bates

Leonard Bates became a shareholder at Newkirk Zwagermann, P.L.C., in Des Moines, Iowa. Bates earned his B.A. from Drake University in 2005 and received his J.D. from Drake University Law School in 2008. After law school, he practiced in New York City and joined the Newkirk Law Firm in 2011. He practices in the areas of employment law and civil litigation.



Clarke

Steven E. Clarke joined U.S. Bank as a relationship manager with the private client group in Des Moines, Iowa. He earned his B.A. from California Lutheran University in 1988 and his J.D. from the University of Iowa College of Law in 1999. He advises clients in the areas of personal trusts, investment management and financial planning.



Heithoff

Lee Heithoff was promoted to a deputy director position with Iowa Legal Aid's Central Administrative Office in Des Moines, Iowa. Prior to his promotion, Heithoff served as an attorney in Iowa Legal Aid's Southwest Regional Office where he served as managing attorney since 2006. Heithoff earned his J.D. from Creighton University School of Law in 2001.

Thomas J. Viner founded and **Dana A. Judas** and **Daniel G. Clouse** have recently become associates of Viner Law Firm, P.C., in Cedar Rapids, Iowa.



Viner

Viner founded the firm in Cedar Rapids, Iowa, in August 2014. He received his B.A. from Knox College in 2002 and his J.D. from Drake University Law School in 2004. He has been in private practice for 10 years with a trial practice focused on criminal defense and family law.



Judas

Judas joined the firm as an associate in September 2014. She received her B.A. from the University of Iowa in 2010 and her J.D. from the University of Iowa College of Law in 2014. Her practice includes criminal defense, family law, juvenile and probate.



Clouse

Clouse joined the firm as an associate in November 2014. He received his B.A. from Mount Mercy University in 2011 and his J.D. from Drake University Law School in 2014. His practice includes criminal defense, family law, juvenile and probate.



Petersen

Nick Petersen joined Simmons Perrine Moyer Bergman, P.L.C., in Cedar Rapids, Iowa. He earned his B.A. and B.S. degrees from the University of Iowa in 2009 and his J.D. from the University of California, Berkeley, in 2012. His practice is centered on intellectual property litigation, including federal criminal trade secret litigation, civil trade secret litigation and matters related to patent litigation.



Del Van

Erin Del Van joined the product liability litigation group and national food and agriculture industry team at Faegre Baker Daniels, L.L.P., in Des Moines, Iowa, as an associate. She earned her B.A. from Marquette University and her J.D. from the University of San Diego School of Law in 2007. Del Van litigates on behalf of food and agribusiness companies in product liability, commer-

cial, environmental and nuisance, toxic tort, personal injury and other matters.



Westercamp

Kara Westercamp joined the civil division, commercial litigation branch of the U.S. Department of Justice as a trial attorney in Washington, D.C. She received her B.B.A. from the University of Iowa College of Business in 2005. Westercamp earned her J.D. and M.B.A. from the University of Iowa

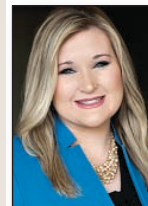
College of Law and the University of Iowa Tippie School of Management, respectively, in 2009. She clerked for the Hon. John A. Jarvey in the U.S. District Court for the Southern District of Iowa. Westercamp practices before the U.S. Court of Appeals for the Federal Circuit, the U.S. Court of International Trade and the U.S. Court of Federal Claims.



McAfee

Eldon McAfee, Erin Herbold-Swalwell and Julie Vyskocil became shareholders and Sarah Wendler became an associate of the law firm of Brick Gentry, P.C., West Des Moines, Iowa.

McAfee joined the firm as a shareholder. He earned his J.D. from Drake University Law School. McAfee practices primarily in agricultural law.



Herbold-Swalwell

Herbold-Swalwell joined the firm as a shareholder. She earned her J.D. from the University of Iowa College of Law. She practices primarily in agricultural law and estate planning.



Vyskocil

Vyskocil joined the firm as a shareholder. She earned her J.D. and Food and Agricultural Law Certificate from Drake University Law School. Vyskocil primarily practices in agricultural law and estate planning.



Wendler

Wendler joined the firm as an associate. She earned her J.D. and Food and Agricultural Law Certificate from Drake University Law School. She focuses her practice primarily in the areas of healthcare, corporate and business and agricultural law.

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Please include a high-resolution (300 dpi) color photo of the individual in the ".jpg" format and the announcement as plain text or as a Microsoft Word ".doc."

E-mail submissions to communications@iowabar.org. Include office phone number and name of person furnishing the copy. Questions? Please call 515-697-7898.

Thanks to speakers

March 26, 2015

Elder Care Mediation (Live Webinar)

Sponsored by the ADR Committee

Kristen Hall, Attorney and Certified Mediator, *KH Mediation*

March 27, 2015

Government Practice Seminar

Sponsored by the Government

Practice Section

Scott D. Brown, *Assistant Attorney General*

Tim Hill, *Bradley & Riley, P.C.*

Charlie Smithson, *IPIB Executive Director*

Hugh Cain & Brent Hinders,

Hopkins & Huebner, P.C.

Jack Ewing, *Iowa Legislative Services Agency*

Emily Chafa, *Administrative Law Judge,*

Department of Inspections and Appeals

Miki McGovern, *Administrative Law*

Judge, Deputy Workers' Compensation

Commissioner

Devon Lewis, *Administrative Law Judge,*

Iowa Workforce Development (Ethics CLE)

March 30, 2015

Reviewing the New Expedited Trial

Rule and the New Discovery Rules

(Live Webinar)

Sponsored by the Litigation Section

Patrick Madigan, *Iowa Attorney General's*

Office

Jessica Whitney, *Iowa Attorney General's*

Office

April 17, 2015

Criminal Law Seminar (In-Person or Live Webinar)

Sponsored by the Criminal Law Section

Joseph McEniry, *Legislative Service Agency*

Hugh Grady, *Director, Iowa Lawyers*

Assistance Program

Norah Rudin Ph.D., *Forensic DNA*

Justin Allen, *Assistant Polk County Attorney/*

Drug Court Representative

Dean Olson, *Black Hawk County Drug*

Court Representative

Hon. Eliza Ovrom, *District Court Judge,*

District 5C

Pamela Summers, *Drug Court Attorney*

Hon. Mary Tabor, *Iowa Court of Appeals*

Prof. Laurie Dore, *Drake Law School*

Sue Flander, *Chief Public Defender*

Gerald Feuerhelm, *Feuerhelm Law*

Office PC

Jason Dunn, *Office of the State Public*

Defender

Mike Rehberg

April 24, 2015

Workplace Violence and Crime Prevention Through Environmental Design

(Live Webinar)

Sponsored by the Government Practice Section

Sergeant Robert J. Greenlee III, *Waterloo*

Police Department

Remembering their legacy

One of the best ways to remember a deceased lawyer is through a memorial gift to the profession to which he or she devoted an entire life. Surviving family members can point with pride to the accomplishments memorialized in a tangible form.

The Iowa State Bar Foundation is a fitting place for contributions made in the honor of a deceased member. There the gift will be used to support the Foundation's charitable purposes for the advancement of the law and justice.

To memorialize a respected colleague, a spouse, a parent, a grandparent, or just a friend, send contributions to: The Iowa State Bar Foundation, 625 East Court, Des Moines, IA 50309. A representative of the Foundation will contact the family, acknowledge the gift, and a permanent record will be made.

For more information, contact The Iowa State Bar Foundation at the address above, or via phone at 515-697-7870, or e-mail at mhill@iowabar.org.



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ISBA CLE Calendar

Visit www.iowabar.org/calendar to register for any of our upcoming CLE opportunities.

May 28

Establishing an LLC (Live Webinar)
12:00 - 1:00 p.m.

May 29

Commercial and Bankruptcy Law Seminar
ISBA Headquarters
Des Moines

June 11

Justice Fore All Golf (Eastern)
Saddleback Ridge Golf Course
Solon

June 15 - 16

Basic Skills Course
Community Choice Credit Union
Convention Center
Des Moines

June 15 - 18

Annual Meeting
Community Choice Credit Union
Convention Center
Des Moines

July 23 - 24

Summer Seminar
The Inn at Okoboji
Okoboji

July 24

Two Person Best Shot Golf Tournament
Tournament Club of Iowa
Polk City

August 19 - 21

**8th Circuit Social Security
Disability Conference**
ISBA Headquarters
Des Moines



Basic Skills Course

June 15 - 16 (Held during the ISBA Annual Meeting)
Community Choice Credit Union Convention Center
833 5th Ave., Des Moines, IA 50309

SCHEDULE - MONDAY, JUNE 15

8:30 - Registration
1:00 - 2:00 - Iowa Criminal Law and Criminal Procedure
2:00 - 2:10 - Break
2:10 - 3:10 - Contracts
3:10 - 3:20 - Break
3:30 - 4:30 - Guardianships, Conservatorships and Powers of Attorney
4:30 - 4:40 - Break
4:40 - 5:40 - Probate and Estate Administration

SCHEDULE - TUESDAY, JUNE 16

7:00 - Registration
8:00 - 9:00 - Iowa Civil Procedure
9:00 - 9:20 - Break
9:20 - 10:20 - Business Entities
10:20 - 10:45 - Break
10:45 - 11:45 - Family Law Update
12:00 - 1:30 - Law School Luncheons (complimentary to attendees)
1:30 - 2:30 - Ethics Law for New Iowa Lawyers
2:30 - 2:40 - Break
2:40 - 3:40 - Iowa Law of Torts
3:40 - 4:00 - Break
4:00 - 5:00 - Iowa Real Estate Law

2015 Annual Meeting

Held in conjunction with the Iowa Judges Annual Conference and the Iowa Court Reporters Association

June 15-18

Community Choice Credit Union Convention Center
833 5th Avenue ▶ Des Moines, IA 50309

MONDAY, JUNE 15

Registration

8:30 a.m.

Court of Appeals Oral Arguments

Time TBD

Annual Meeting CLE Program

1:00 - 5:10 p.m.

Basic Skills Course

1:00 - 5:40 p.m.

Iowa Judges Annual Conference Program

1:00 - 5:10 p.m.

TUESDAY, JUNE 16

Registration

7:00 a.m.

Annual Meeting CLE Program

8:00 a.m. - 5:00 p.m.

Court Reporters Association Program

8:00 a.m. - 5:00 p.m.

Iowa Judges Annual Conference Program

8:00 a.m. - 5:00 p.m.

Basic Skills Course

8:00 a.m. - 5:00 p.m.

Court Reporters Association Blood Drive

8:00 a.m. - 5:00 p.m.

Probate Track Luncheon

12:00 - 1:30 p.m.

Court Reporters Luncheon

12:00 - 1:30 p.m.

Law School Luncheons

12:00 - 1:30 p.m.

YLD Quarterly Meeting

1:30 - 5:00 p.m.

Joint Presidents Reception

5:00 - 6:30 p.m.

Luau in the Lot Hosted by the YLD

(ISBA Headquarters)

6:00 - 9:00 p.m.

WEDNESDAY, JUNE 17

Registration

7:00 a.m.

ISBA Foundation Fellows Breakfast

7:30 - 8:45 a.m.

Access to Justice Symposium

8:00 - 11:30 a.m.

Annual Meeting CLE Program

8:00 a.m. - 5:00 p.m.

Iowa Judges Annual Conference Program

8:00 a.m. - 2:30 p.m.

Court Reporters Association Program

8:00 a.m. - 1:30 p.m.

Probate Section Meeting

9:00 a.m. - 12:00 p.m.

ISBA Foundation Board Meeting

9:00 a.m. - 12:00 p.m.

ISBA Board of Governors Orientation

10:00 a.m. - 12:00 p.m.

Luncheon Honoring the Iowa Supreme Court

12:00 - 1:30 p.m.

ISBA Board of Governors Meeting

1:30 - 5:00 p.m.

ISBA Annual Awards Gala

6:30 - 9:30 p.m.

THURSDAY, JUNE 18

Registration

7:30 a.m.

ISBA Annual Meeting CLE Program

8:00 - 11:35 a.m.

Board of Governors Meeting

8:00 a.m. - 12:00 p.m.

50-Year Member Luncheon

12:00 - 1:30 p.m.

ISBA Public Service Project

Annual Meeting

12:00 - 1:30 p.m.

CLE Tracks

- Appellate Practice Track
- Solo & Small Firm Track
- Commercial & Bankruptcy Law Track
- Federal/Litigation Track
- Juvenile Law Track
- Real Estate Track
- Family Law Track
- Probate Track
- Litigation Track
- Elder Law Track
- Ag Law Track
- Case Law Track
- Ethics Track
- Mixed Bag Track

Registration Form: 2015 Annual Meeting

Judges, law clerks and judicial branch staff attorneys will receive registration information from the Judges Association

Name: _____ Member # _____ Phone # _____

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EARLY-BIRD REGISTRATION FEES:

Prices below reflect the early-bird registration fees. Registering after June 11 will result in a \$50 late fee being added on to your registration fee amount.

- ISBA Members - Admitted to practice prior to July 2011 (Full Seminar) - \$325
- ISBA Members - YLD Members (Years 4 - 5) (Full Seminar) - \$275
- ISBA Members - YLD Members (Years 1 - 3) (Full Seminar) - \$125
- Non-ISBA Members (Full Seminar) - \$425
- Only Monday (ISBA Members) - \$100
- Only Monday (Non-ISBA Members) - \$150
- Only Tuesday (ISBA Members) - \$175
- Only Tuesday (Non-ISBA Members) - \$225
- Only Wednesday (ISBA Members) - \$175
- Only Wednesday (Non-ISBA Members) - \$225
- Only Thursday (ISBA Members) - \$100
- Only Thursday (Non-ISBA Members) - \$150
- Para Professional (Legal Assistants & Office Employees) - \$150

Reminder:

This year's Annual Meeting is going paperless. No hard copy materials will be available for this event. A link to the materials will be sent to attendees a few days prior to the event so attendees may download/print off materials of their choosing. It is strongly suggested attendees download the materials in advance of the event.

SOCIAL EVENTS (If only attending complimentary events, you must register above for Annual Meeting):

- | | | |
|--|---|----------|
| <input type="checkbox"/> Probate Track Luncheon (Tuesday, June 16) | \$25 each | \$ _____ |
| <input type="checkbox"/> Creighton University Law School Luncheon (Tuesday, June 16) | \$25 each | \$ _____ |
| <input type="checkbox"/> Drake University Law School Luncheon (Tuesday, June 16) | \$25 each | \$ _____ |
| <input type="checkbox"/> University of Iowa College of Law Luncheon (Tuesday, June 16) | \$25 each | \$ _____ |
| <input type="checkbox"/> Joint Presidents Reception (Tuesday, June 16) | Complimentary to Annual Meeting attendees | |
| <input type="checkbox"/> Luau in the Lot Hosted by the YLD (Tuesday, June 16) | Complimentary to Annual Meeting attendees | |
| <input type="checkbox"/> Probate Section Luncheon (Wednesday, June 17) | \$25 each | \$ _____ |
| <input type="checkbox"/> Luncheon Honoring the Iowa Supreme Court (Wednesday, June 17) | \$25 each | \$ _____ |
| <input type="checkbox"/> ISBA Annual Awards Gala (Wednesday, June 17) | \$60 each | \$ _____ |
| <input type="checkbox"/> 50-Year Member Luncheon (Thursday, June 18) | \$25 each | \$ _____ |

TOTAL (registration fee and social event expenses): \$ _____

Method of Payment: ___ Check enclosed Check Number _____
 ___ Master Card ___ Visa ___ American Express ___ CLE Season Pass (registration fees only)

Credit Card #: _____ Exp. Date: _____

Cardholder Signature: _____

Special Considerations (dietary, hearing, vision, etc.): _____

Return registration form to: ISBA CLE, 625 E. Court Avenue, Des Moines, Iowa 50309 or fax (515) 243-2511

For questions: phone (515) 697-7874 or e-mail cle@iowabar.org

Cancellation policy/Walk-in registration fee: Registration refunds will be issued only if written notification is received by the bar office by June 8, 2015. Written notification can be mailed, faxed, or e-mailed to the bar office. Walk-in registration fee will be an additional \$50 (fee will begin after June 11, 2015).

Hotel Information

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700 Grand Avenue, Des Moines, IA 50309



JUSTICE FORE ALL GOLF (EASTERN)

THURSDAY, JUNE 11

SADDLEBACK RIDGE GOLF COURSE • 4646 E. 180TH ST. • SOLON, IA 52333
12:30 - 5:30 P.M.

The YLD Justice Fore All Golf (Eastern) event is a four-person best ball format golf outing with “shotgun” start including 2 beverage tickets for each participant, hole prizes, prizes for top three teams and plenty of all around good fun. Profits earned through player fees and hole sponsorships goes directly to the ISBA Public Service Project for programming and activity expenses.

You can sign up as a single or as a pair or even three and we’ll try to fill the rest of the team with players who do not have a team of four. Teams or individual participants must be signed up to play in this tournament no later than June 5th.

SCHEDULE

Registration: 12:30 p.m.

Golf: 1:15 p.m.

Catered BBQ dinner to follow the tournament at around 5:30 or 6:00 p.m.

Summer Seminar

July 23 - 24

The Inn at Okoboji • 3301 Lakeshore Dr. • Okoboji, IA 51355

Topics include:

- Social Security Disability Practice Pointers for the General Practice Attorney
- Boundary Dispute and Adverse Possession
- Effective Closing Statements
- Criminal Case Law
- Pitfalls and Best Practices
- Civil Law Case Update
- Immigration Law 101
- Judgement Collection Practice Pointers

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SCHEDULE OF EVENTS

Registration: 9:00 - 10:30 a.m.
Ethics Presentation: 10:30 - 11:30 a.m.
Lunch: 11:30 a.m. - 12:30 p.m.
Golf Tournament: 12:30 p.m. (shotgun start)
Cash Bar & Awards: Immediately following golf

REGISTRATION FEE

\$80 per player
(Includes ethics presentation, lunch, green fees, cart rental, driving range, prizes and trophies)
Entry fee increases to \$90 if registering after July 1.



8TH CIRCUIT SOCIAL SECURITY DISABILITY CONFERENCE

AUGUST 19-21

ISBA HEADQUARTERS ▶ 625 E. COURT AVE. ▶ DES MOINES, IA 50309

Topics include:

- ▶ Sensory Impairments (Hearing, Meniere's, etc)
- ▶ Same Sex Marriage and Disability Benefits
- ▶ Brain Injuries
- ▶ Overpayments
- ▶ Pain Medications
- ▶ Ethics/Attorney Fee Issues
- ▶ Legislative and Administrative Update/Agency Trends and Public Relations and Perceptions
- ▶ Children's SSI
- ▶ Continuing Disability Reviews
- ▶ Hearing Strategies in an Age of Declining Allowances
- ▶ Working with Your Hearing Office
- ▶ Vocational Issues (e.g., cross-examination, software)

Registration for ISBA CLE events can be found at

32 ^{THE} IOWA LAWYER *May/June 2015* www.iowabar.org/calendar

PUBLISHER'S NOTE: To submit an ad to the CLASSIFIED ADVERTISING, please follow the style of the ads appearing here, indicate the classification where you want your ad to appear and state how long the ad is to run. Each ISBA-member receives two free entries annually, except for "Positions Available" ads. Those ads must be posted in the ISBA's Career Center to qualify for publication in the magazine. Once posted in the Career Center, they will be published in the magazine one time for each posting. Corporate and government attorney members of the association receive the same free privileges for their business, non-employer-related ads. If you have questions, call the Communications Dept. at 515-697-7898. E-mail your copy to communications@iowabar.org. The number appearing in parentheses after each ad indicates the volume and the number of the issue when the ad will be pulled from the magazine. (AL) refers to paid ads. (TF) indicates internal or "house" ads that run indefinitely.

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PARTNER OR ASSOCIATE — Holland & Anderson, L.L.P., Iowa City, Iowa – Single lawyer firm looking for partner or associate interested in opportunity for growth. I am working toward retirement in the next five to ten years and am planning for transition. The practice has a stable client base in transactional law – real estate, general business, commercial litigation, estate planning and school law. I am seeking an attorney with five to ten years of related experience. If you have a desire to practice in Iowa City, Iowa, and to own your own firm in the future, please send your resume to jholland@icialaw.com. (75-5)

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Human Resources Dept., 6700 Pioneer Parkway, Johnston, Iowa 50131, or submit an application online at <http://bit.ly/1GN0LRC>.

(75-5)

STAFF ATTORNEY — ACT, Inc., Iowa City, Iowa – ACT is seeking a staff attorney to join its in-house legal department. The position will serve as a corporate generalist, providing legal advice to team members at all levels of the organization regarding a wide range of legal matters. A primary responsibility of this position will be to draft, review and negotiate complex commercial agreements. The staff attorney will be a member of the legal department and will report to the general counsel. To apply, please complete your application online at <http://bit.ly/1KBfron>. (75-5)

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ASSOCIATE — I am interested in joining an established Des Moines area firm. My current book of business/practice areas include: construction, real estate, general business, commercial litigation, estate planning and probate. I am licensed in both Iowa and Mo. If interested, please call (818) 813-1441 or email sullivan.justinL@gmail.com. All replies will be kept confidential. (75-5)

TRAINING AVAILABLE

MEDIATOR TRAINING COURSE — Crilley Mediation Services, Hiawatha, Iowa – Forty hour family mediator training course (which includes basic mediation training) will be offered by Crilley Mediation Services on August 31 – September 4. Please visit our website at www.CrilleyMediation.com for more information and to download the registration form for this training. The training is nationally approved and does qualify the mediator for roster mediation. If you have questions, please call Chris Crilley at (319) 363-5606. (75-5)

Disciplinary ACTIONS

Gerald Anthony Lyman Moothart
Ames, Iowa

Supreme Court Decision, March 6, 2015
License Suspension – Thirty Months

The respondent, Moothart, is a licensed Iowa attorney since 1996. He has largely been in private practice in Ames, Iowa, primarily in criminal defense and family law.

March 18, 2011, the state charged Moothart in Story County with assault with intent to commit sexual abuse on “Jane Doe #1” in violation of section 709.11 of the Iowa Code. Three days after being charged, Moothart filed a report with the Office of Professional Regulation, which included a copy of the complaint. Following a trial in June of 2011, Moothart was acquitted of the criminal charge. After the filing of the criminal charge against Moothart, Jane Does #2, #3, #4, and #5 filed complaints with the Ames police department and later with the Iowa Supreme Court Attorney Disciplinary Board. All of these complaints alleged that Moothart engaged in various acts of sexual misconduct.

The Iowa Supreme Court Disciplinary Board charged Moothart with multiple violations of disciplinary rules in connection with interactions and relationships with five women between 2006 and 2011. These charges include allegations of sexual harassment in the practice of law with each of the five women, sexual relations with a client with two of the women, and an allegation of a concurrent conflict of interest arising as a result of his relationship with one woman. After a hearing, a division of the Grievance Commission of the Supreme Court of Iowa concluded that Moothart committed each of the alleged violations and recommended a thirty-month suspension. In this case, as in all disciplinary cases, the board bears the burden of proof of showing a violation of disciplinary rules by a convincing preponderance of the evidence.

Iowa Rule of Professional Conduct 32:8.4(g) provides: “It is professional misconduct for a lawyer to . . . engage in sexual harassment . . . in the practice of law” This case presents several legal questions regarding the scope and meaning of the phrase “sexual harassment . . . in the practice of law” as used in the rule. The court here finds that the language makes it clear that the rule may be violated even if there is no attorney-client relationship between the lawyer and the person subject to sexual harassment, as long as the attorney is engaged in the practice of law. The court additionally finds that “sexual harassment can include any physical or verbal act of a sexual nature that has no legitimate place in a legal setting.” The court goes on to further define sexual harassment as used in the rule includes “sexual advances, requests for sexual favors, and other verbal [or] physical conduct of a sexual nature.” Additionally, the court notes that they have generally rejected the notion that “consent is a defense to acts of sexual harassment, at least in the context of an attorney-client relationship.”

Iowa Rule of Professional Conduct 32:1.8(j) provides in relevant part: “A lawyer shall not have sexual relations with a client . . . unless the person is the spouse of the

lawyer or the sexual relationship predates the initiation of the client-lawyer relationship.” As with sexual harassment, consent is not a defense.

Jane Doe #1 was a 22-year-old college student who was arrested and charged with operating while intoxicated, first offense in August 2010. With Moothart as her lawyer, Jane Doe #1 pled guilty, received a deferred judgment, and was put on probation. During attorney-client meetings with Jane Doe #1 in Moothart’s office, Moothart made explicit and crude sexual comments about her body that made Jane Doe #1 feel “really uncomfortable.” Moothart had sent Jane Doe #1 a letter after her sentencing advising Jane Doe #1 that his representation had terminated. Moothart instructed her to contact him upon her return to school so that he could write a letter advocating her early discharge from probation. Jane Doe #1 telephoned Moothart as instructed and a meeting was scheduled for January 20, 2011. At the subsequent meeting, Jane Doe #1 and Moothart sat in a conference room at his office after hours and discussed matters related to her successful completion of the terms of her probation for about 45 minutes. After this part of the evening concluded, Moothart mixed and served her three or four vodka lemonade drinks, and she became intoxicated. Moothart did not consume alcohol, but drank soda. The court found that Moothart admitted to many, though not all, of the facts recited by Jane Doe #1, including that he provided alcohol to her that night, that she exposed her breasts, that they sat together on the couch in sexually suggestive positions, and that he took Jane Doe #1 home at that point. He recognized that serving alcohol to someone on probation for an alcohol offense was “the dumbest thing anybody could do, especially an attorney.” He further testified the evening was not appropriate for a married man with a daughter, stating, “There was nothing right about that night.” The court found that an attorney-client relationship existed, and Moothart was in violation of both sexual harassment and sexual relations with a client.

Jane Doe #2 was the victim and primary witness in a domestic assault case and pending criminal probation violation case against “D.A.,” Moothart’s client (and Jane Doe #2’s – significant other). Jane Doe #2 met twice with Moothart. During the first meeting in Moothart’s office, Moothart complimented Jane Doe #2 on her physical appearance, with a specific comment about her breasts, which he asked to see. Jane Doe #2 also discussed her relationship with D.A. with Moothart, telling him D.A. was abusive towards her. Thereafter, on the day of D.A.’s probation revocation hearing, Moothart met with Jane Doe #2 alone in a conference room at the courthouse. At this second meeting, Moothart started kissing her “and stuff” while they were alone together. Jane Doe #2 did not object because she “was going to do anything to help [D.A.]” She stated, “I really didn’t want to do it but I did it so [Moothart] would do his best to get my boyfriend out.” Thereafter Moothart began an attorney-client relationship with Jane Doe #2 by helping her retain driving privileges again. During this time

period Moothart met with Jane Doe #2 and received a notarized affidavit of consent from her (relating to her driver’s license issues), thereafter they traveled to a hotel where Moothart provided wine which Jane Doe #2 consumed the entire bottle of and the two proceeded to have sex. Following this night, Jane Doe #2 had several phone conversations with Moothart about her driver’s license. Two months after the first hotel tryst, Jane Doe #2 and Moothart met at another hotel outside of Ames. They discussed her driver’s license and the steps Moothart was taking in resolving the matter. Moothart brought beer for Jane Doe #2 to drink and they had sex. Moothart again paid for the hotel room. Moothart admits he and Jane Doe #2 had sex on the two occasions described above. Moothart insists, however, that Jane Doe #2 was not his client. The court did not agree and found that an attorney-client relationship existed and Moothart

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was in violation of both sexual harassment and sexual relations with a client. Finally, on the question of conflict of interest, the court also agreed with the commission that Moothart violated rule 32:1.7(a)(2). Moothart represented D.A. in a domestic abuse charge while at the same time he sought to establish or engaged in a personal relationship with the purported victim of the domestic abuse.

Jane Doe #3 received appointment of Moothart as her attorney in three misdemeanor cases and a child in need of assistance case. During their attorney-client relationship, Moothart made crude comments and had requested, paid for and received oral sex from Jane Doe #3. Moothart violated rule 32:8.4(g) when he made several crude sexual comments to Jane Doe #3, including asking her to flash him. Moothart violated rule 32:1.8(j) by giving Jane Doe #3 \$100 in exchange for oral sex.

Jane Doe #4 - In October 2010, Moothart was court appointed to represent 18-year-old Jane Doe #4 on a probation violation matter stemming from an OWI, first offense charge. Further, when Jane Doe #4 asked how much Moothart would charge for his legal services, his response was "it depends on how much cleavage you show me." Jane Doe #4 was uncomfortably compliant with this request, which also happened on another occasion later at the courthouse. Moothart's behavior clearly constitutes sexual harassment under this rule.

Jane Doe #5 was a legal secretary for Moothart beginning in April of 2006. Over the duration of her employment Moothart would make several sexual comments about her outfits and her body. He also asked her to perform lap dances and taped a \$20 bill to the back of a cabinet door, and said she was free to take it if she danced naked on the conference room table. At the beginning of her employment, Moothart's driving privileges had been revoked as the result of his second conviction for OWI and Jane Doe #5 drove him to his appointments. On one occasion, while Jane Doe #5 was driving him to court, Moothart reached over and grabbed one of her breasts. Once while asking her about sex toys, Moothart pulled up a picture on his computer and asked if he should order one so they could use it while having sex. He looked up her skirt and commented on her underwear on a separate occasion. She quit her job in January of 2007 due to this atmosphere, only to later have Moothart appointed as her attorney in April of 2009 where Moothart's comments concerning her body and specifically her breasts continued. Moothart violated rule 32:8.4(g) by injecting sexual commentary into the workplace and during the period of time when Jane Doe #5 was his client.

Upon de novo review of the record and the commission's findings of fact, conclusions of law, and recommendations, the court agreed that Moothart committed all the violations found by the commission. Giving particular consideration to the vulnerability of each woman with whom Moothart interacted, the court also agreed with the commission's recommended sanction and ordered Moothart's license suspended for thirty months. Additionally, before he is reinstated, Moothart is required to provide the court with an evaluation by a licensed health care professional, including proof of participation in a counseling program specific to sexual harassment, verifying his fitness to practice law.

**Michael J. Cross
Hampton, Iowa
Supreme Court Decision,
March 20, 2015
One year suspension with special condition**

This action arose from Cross being audited by the Client Security Commission in 2012. During the audit the commission discovered that Cross had improperly managed his client trust account and had failed to pay payroll taxes as well as failing to file his own income tax return from 2009-2011.

On May 22, 2012 an auditor with the Client Security Commission called to schedule an appointment with Cross for May 30, 2012. During that phone call Cross admitted that his records were not up-to-date but that he would spend the weekend getting them up-to-date. On May 30 when the audit took place, Cross informed the auditor he had not performed any trust account reconciliations since November 2009. Though Cross attempted to reconstruct some client ledgers, he was unable to have a full accounting. This lack of a complete accounting resulted in the auditor finding that "Cross completely lost control and accountability for client funds deposited in his trust account." The auditor further concluded that "Cross...committed nearly every wrong possible in handling client funds and managing an attorney's trust account." The auditor then enumerated the list of issues deficiencies Cross had with his trust accounting. In addition to the client trust account issues, the audit revealed that Cross failed to pay employee payroll tax and file his own income tax return between 2009 and 2011. Lastly, the court noted that Cross had filled out his client security questionnaire indicating that he had complied with the rules regarding the client trust accounts.

The commission ruled the Cross committed numerous violations of the ethics rules mostly related to client trust

accounts and proper maintenance of those accounts and the funds contained within. The court agreed with the board that Cross violated all of the rules related to client trust accounts Iowa Rules of Professional Conduct Rules 32:1.15(a), (c), and (f) and Iowa Court Rules 45.1(1), 45.2(3), 45.7(3) and (4). Cross violated these rules by comingling client funds with personal and business funds, by not maintaining ledgers for the six year period after representation had ended, by withdrawing fees before they were earned and by failing to deposit advance expenses into the trust account. The court found that Cross also failed to notify clients in writing and provide contemporaneous written accountings when withdrawing funds for fees and expenses from the trust account.

The court found that Cross violated rule 32:8.4(c) by submitting a client security questionnaire certifying that for the preceding calendar year he complied with all the rules and accounting practices required of Iowa lawyers in the handling of client funds and trust accounts. The court found that Cross intended to mislead the Client Security Commission with these statements and thus violated rule 32:8.4(c) by engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

The court reviewed the board's allegations that Cross violated rules 32:8.4(b), (c), and (d). These allegations were related to the tax issues presented through the audit. The court agreed with the board that Cross violated 32:8.4(b) by failing to file and pay both the employee payroll taxes and his own federal and state income tax returns from 2009 to 2011. The court did not find violations of rules 32:8.4(c) and (d). The court found with respect to rule 32:8.4(c) that the acts were not willful, nor done with an intent to defraud, nor otherwise deceitful. In considering rule 32:8.4(d) the court did not find a violation because the record did not show any of Cross's actions affected any particular court proceeding or any ancillary system supportive of any court proceeding. The court also found a violation of rule 32:8.1(b) when Cross failed to provide the information requested by the board. Lastly, the court found that the board did not produce sufficient evidence that Cross violated rule 32:7.5(e) because Cross never held himself out to the public or any clients as "practicing" under the name MJC and there was no evidence that Cross used the name MJC in connection with his law practice.

The court suspended Cross's license for one year with a special condition that he enter into a repayment plan with the appropriate taxing authorities and that he is current with his payment plans at the time of any application for reinstatement. The court found aggravating factors were Cross's length of practice and the nature of the violations with the only mitigating factors being that no clients suffered harm and he did take responsibility for his actions and admitted to his violations.

**Anthony Zane Blessum
West Des Moines, Iowa
Supreme Court Decision,
March 27, 2015
License suspended indefinitely**

Blessum, an Iowa attorney, was retained by a female client to provide legal services in October 2008 in connection with the client's divorce, and also in March of 2011 to prepare her will. Shortly after a meeting on March 22, 2011 wherein they discussed the finalization of her qualified domestic relations order and preparation



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of her will, Blessum entered into an intimate relationship with the client. By early June 2012, they were experiencing problems, the relationship deteriorated, and Blessum then assaulted the client in the face and elsewhere multiple times, resulting in lacerations to her mouth, a black eye, a torn piercing, swelling on her left eye, cheek and mouth, and bruises to her arm, abdomen, face, and neck. She was taken away by ambulance and treated at an emergency room for her injuries. Blessum pled guilty to assault causing bodily injury, a serious misdemeanor. See Iowa Code §§ 708.1(1), -2(2) (2011). As it relates to his legal work for the client, Blessum did not finalize the qualified domestic relations order in the client's divorce case for two years, and also withdrew the client's fee from his trust account eight days after it was received, before doing the work and without notifying the client.

The Board filed a complaint alleging Blessum violated Iowa Rules of Professional Conduct 32:1.8(j) (sexual relationship with a client), 32:8.4(b) (criminal act adversely reflecting on the attorney's fitness as a lawyer), 32:1.15(c) (improper handling of client funds), and 32:1.3 (lack of diligence). A grievance commission panel found that these alleged violations had occurred, and recommended Blessum be suspended indefinitely with no possibility of reinstatement for four years. Blessum appealed the commission's recommendation to the Iowa Supreme Court.

In conducting its de novo review, the court concluded that Blessum violated rule 32:1.8(j) (sexual relationship with a client). The sexual relationship did not predate the initiation of the client-lawyer relationship and the two were not married (the stated exceptions to the rule), and the rule is clear that in the absence of a stated exception any such relationship is prohibited regardless of the circumstances, so a prima facie violation was found to have existed. The court also cited to prior authority for the notion that "the unequal nature of the relationship between an attorney and his or her client 'renders it impossible for the vulnerable layperson to be considered consenting to the sexual relationship.'"

The court concluded he also violated rule 32:8.4(b) (criminal act adversely reflecting on the attorney's fitness as a lawyer). In so ruling, the court noted that although a conviction for assault might not violate rule 32:8.4(b) if it were merely a private dispute and did not otherwise reflect on the attorney's fitness, in this matter the court had "no difficulty concluding that Blessum's conviction for assault causing bodily injury reflects adversely on his fitness as a lawyer," for four primary reasons: (1) Blessum's conscious decision to act on hostility and assault his client rather than walk away, his forcible prevention of the client from leaving while dragging and striking her repeatedly; (2) Blessum's disrespect shown for law enforcement demonstrated by attempting to falsely take credit for summoning the police; (3) Client's physical and emotional injuries were serious; and (4) Blessum assaulted a client, specifically.

The court summarily concluded that Blessum also violated rule 32:1.15(c) (improper handling of client funds), because he withdrew the \$1,000 advance from the client from his trust before the fee was earned, and did not provide an accounting to the client for the withdrawal.

The court determined that Blessum did not, however, violate rule 32:1.3 (lack of diligence). Although a significant period of time elapsed from the time Blessum

received a fax with revised instructions regarding to QDRO from the client's ex-husband, the court noted that the client failed to directly respond to correspondence and at one point even told Blessum's office to stop working on the QDRO. Because there was also no prejudice to the client caused by the inactivity, the court did not find that rule violation had occurred.

As to aggravating factors, the court noted that Blessum downplayed his actions, indicating that he basically struck the client only to knock the pills out of her hand and prevent her from committing suicide, and also that he played on the client's emotions to try and dissuade her from pressing charges, including providing instruction on how to call the courthouse and have the charges dropped, altogether reflecting considerable disrespect for the law and the legal system. As mitigating factors, Blessum had no history of violence or domestic abuse and no record of public discipline.

Rather than the indefinite suspension with no possibility of reinstatement for four years which had been recommended by the grievance commission, and after reviewing and comparing prior disciplinary cases addressing the central issues, the Iowa Supreme Court ultimately ordered that the appropriate sanction was for Blessum's license to be suspended indefinitely with no possibility of reinstatement for eighteen months.

Machelle Lee Crum Newton, Iowa Supreme Court Decision, March 27, 2015 License Revocation

This disciplinary action arose from an uncontested action of the Iowa Attorney Disciplinary Board against Crum, based upon neglect of clients, lack of communication with clients, lack of regard for administration of justice, dishonest statements, and theft by misappropriation of client funds.

Count I concerned Crum's court-appointed representation of Jerome Cook, who was seeking post-conviction relief. Cook told the court Crum did not communicate with him and eventually filed a motion for ineffective assistance of counsel. Crum also failed to appear for scheduling conferences.

Count II concerned Crum's representation of Amy Graham in a custody and estate-planning matter. Graham paid a \$2,000 retainer and received no response to her communications to Crum for several months. Crum prepared a will for \$300 of the retainer, but never handled the custody issue and never returned the unearned portion of the retainer.

Count III concerned Crum's representation of Megan Feagins for marriage dissolution. Crum failed to appear or answer Feagins's spouse's petition multiple times, and eventually attended a mediation and settled the case without Feagins's knowledge, attendance or consent. Crum was nonresponsive to Feagins's attempts to contact her, and Crum never returned personal property obtained in the settlement or the unearned portion of Feagins's retainer.

Count IV concerned Crum's representation of Sandra Heck for a marriage dissolution. Heck paid Crum a \$1,000 retainer, and they communicated regarding whether a petition would be filed by Heck's spouse. Eventually, Crum stopped responding entirely to Heck. Crum did not handle the dissolution action and did not

return Heck's retainer.

Count V concerned Crum's representation of Christie Elliot for modification of a dissolution decree. After handling initial hearings and temporary visitation issues, Crum stopped communicating with Elliot. The court set a trial, and Crum did not inform Elliot of the trial or appear. A decree was entered without Elliot's participation and she later sought to set aside the decree.

Count VI concerned Crum's representation of Joshua Steil for a divorce action. After an initial meeting in which Steil paid Crum a \$1,000 retainer, he did not hear from her again.

The Iowa Supreme Court found the record to be "replete with examples" of Crum's unethical behavior, but that it only needed to consider her theft by misappropriation of client funds under Iowa Code § 602.10119. The court found Crum did not provide a colorable future claim to funds received, and that she knowingly retained client funds she had not earned from Graham, Feagins, Heck and Steil. The court also noted Crum provided no accountings, did not respond to client demands for returns of their retainers, and the clients had to hire new attorneys to do the work she was paid to perform.

In considering a sanction, the court found Crum's theft by misappropriation to be the dispositive violation and ordered Crum's license to be revoked.

Disciplinary opinions are summarized by members of the Young Lawyers Division's Ad Hoc Disciplinary Committee.

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Iowa State Bar Foundation Fellows Focus — “Raise the Bar” campaign made headquarters ownership dream a reality

By Lisa Hanson, ISBA Meetings Planner

Drive through Des Moines’ East Village, and you’ll notice a mixture of old and new, traditional and trendy. One great example is the ISBA headquarters. In 2006, The Iowa State Bar Association Board of Governors approved the purchase and renovation of an old building in the heart of this re-emerging neighborhood. Ideally located close to the both the Iowa State Capitol and the judicial branch building, it presented a perfect opportunity for the association to purchase its “home.”

Home came in the form of a 100-year-old former railroad freight house, located at 625 East Court Avenue. The building has served as many things throughout its storied history. It has seen days as a railroad depot and many nights as various restaurants and nightclubs. When the renovations began, it had been sitting vacant for nearly 11 years.

Once the decision to purchase was made, the next step was the financing. That’s where the Iowa State Bar Foundation stepped in. Working together, ISBA and the Iowa State Bar Foundation leadership decided a capital campaign was the best avenue for securing the money needed to complete the project, and so began the “Raise the Bar” fundraising campaign. Over the course of the next 18 months, \$2.9 million was raised for the purchase and renovations necessary to ready the

building for occupation. Due to the efforts and cooperation of the Foundation, donations were able to be received in a tax-deductible fashion, and hundreds of members contributed to the cause.

As the ISBA reached its seven-year anniversary of being in its new home last December, many different events have been hosted there. From retirement to investiture parties; wedding receptions to graduation open houses; formal galas to welcoming RAGBRAI riders; and countless mediations, depositions and meetings, the ISBA headquarters building has seen thousands of members and members of the public come and go.

With its spacious layout, the ISBA Headquarters is ideal for the various needs of its members. The second floor is home to the Iowa State Bar Foundation Continuing Legal Education Center. This 1,500-square-foot space is ideal for CLE seminars, firm meetings and social gatherings. The first floor sports two conference rooms, one with conference

style seating for 12 and another with seating for eight. These spaces are perfect for mediations, depositions or meeting with clients. There are also two private attorney offices available for reservation.

It’s hard to imagine a more tangible outcome of The ISBA Foundation’s enthusiastic and ongoing support of the ISBA’s mission to serve its members and further the legal understanding of the general public than the ISBA headquarters building.

If you would like to schedule your next event at the building, please let me know. You can contact me by emailing lhanson@iowabar.org or by calling 515-679-7876.



The front of the completed ISBA building from 6th Street and Court Ave., downtown Des Moines, Iowa.



The completed south conference room of the ISBA building. The room seats eight and offers teleconferencing, WiFi and monitor hook ups.



The completed southeast corner of the main floor of the ISBA building. The lounge area with fireplace is a great place for casual meetings, client waiting area and social activities.

*Working as Co-counsel with Iowa Lawyers on Personal Injury
and Workers' Compensation cases for over 25 years.*



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