



THE

Volume 69 Number 1 January 2009

# IOWA LAWYER

*Combining law  
and medicine –*

## How Iowa Legal Aid's Health and Law Project is working

### ALSO IN THIS ISSUE

- ERISA, part two
- Should blawging or blogging be in your future?
- Sioux City attorney doubles as mom, Army soldier
- Bar Foundation 2007-08 Annual Report

# Honoring those who have died

At its regular quarterly meeting in December, the ISBA Board of Governors unanimously passed the following resolution honoring those members who have died in the past year or so. (*Editor's Note: If you know of members who died in 2008 and are not listed here, please let us know. Contact Mary Hill, membership director, at [mhill@iowabar.org](mailto:mhill@iowabar.org), or 515-697-7870*)

## RESOLUTION

**WHEREAS:** The following individuals have served the legal profession with dignity and honor, and

**WHEREAS:** They have been faithful stewards in upholding the Constitutions of the United States and the State of Iowa, and

**WHEREAS:** They have been supportive members of The Iowa State Bar Association, and

**WHEREAS:** They have unselfishly responded to any requests made of them to further the cause of the legal profession in the State of Iowa, now

**THEREFORE BE IT RESOLVED:** That we pause for a moment of silence to honor their passing from this life into eternity.


Signed this 2nd day of December, 2008.

Dan A. Moore, President  
The Iowa State Bar Association

### 2008 Deceased Members

Charles R.S. Anderson, Centerville, 1/2/2008  
Leslie L. Boomhower, Mason City, 10/24/2008  
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Streetar Cameron, Urbandale, 11/22/2008  
Michael D. Carter, Des Moines, 7/27/2008  
Elliott Cooper, Forest City, 3/26/2008  
Robert J. Cowie, Jr., Decorah, 11/6/2008  
Carol G. Crissman, Bloomington, IL 2/1/2008  
Gordon K. Darling, Winterset, 11/28/2008  
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Jerry C. Estes, Fort Dodge, 7/16/2008  
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Ronald E. Fenton, Tucson, AZ 5/1/2008  
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John D. Galvin, Tucson, AZ 7/20/2008  
Lee Gaudineer, Jr., Des Moines, 7/16/2008  
John R. Glidden, Carthage, IL 9/10/2008  
William J. Hancock, Des Moines, 4/4/2008  
Oliver W. Hanes, West Des Moines, 4/8/2008  
Maurice Hart, Waukon, 4/14/2008  
H. Duane Hasting, Freeport, IL 2/13/2008  
John H. Holley, Shell Rock, 8/1/2007  
Walter F. Johnson, Ottumwa, 8/17/2008  
Lloyd E. Kellogg, Burbank, CA 7/1/2008  
Don Kliebenstein, Grundy Center, 4/16/2008  
Richard W. McCarthy, Rock Island, IL 4/26/2008  
John McClintock, Des Moines, 10/23/2008  
William B. McDonald, Mitchell, SD 11/1/2008  
John F. Pirog, Sioux City, 10/17/2008  
Martin S. Ramsey, Earlham, 11/18/2008  
Gene D. Reifsnider, Des Moines, 3/30/2008  
Lewis Armstrong Royal, Des Moines, 9/28/2008  
David L. Sayre, Cherokee, 3/7/2008  
Hon. Louis W. Schultz, Coralville, 2/19/2008  
Howard B. Scott, Logan, 3/17/2008  
Behnaz Soulati, Des Moines, 6/9/2008  
Raymond R. Stefani, Sr., Cedar Rapids, 3/9/2008  
William M. Tank, Marshalltown, 3/1/2008  
Ralph R. Throckmorton, Idaho Falls, ID 10/11/2008  
Paul E. Vos, Mitchellville, 10/26/2008  
Harold W. White, Estherville, 2/27/2008  
Thomas R. Wilson, Des Moines, 8/23/2008  
Melvin H. Wolf, Waterloo, 12/2/2007  
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George A. Wright, Fort Madison, 5/20/2008  
Michael Zenor, Spencer, 6/30/2008

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**ABOUT THE COVER**

Iowa Legal Aid staff attorney, Charles Hill, and Health and Law Project medical champion, Dr. Bery Engrebretson, discuss a patient's possible legal issues in the examining room of one of Des Moines' Primary Health Care facilities. Iowa Legal Aid's Health and Law Project seeks to bring together medicine and law to improve low-income Iowans' lives by addressing the legal problems that affect their health. Presently the project is working with medical facilities in four areas of the state — Council Bluffs, Des Moines, Ottumwa and Sioux City. Read more about the project on page 6.

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## The importance of volunteering

In a world in need of justice and peace, we are blessed to have the volunteer lawyers across the state who have contributed outstanding pro-bono services to low-income Iowans.

On Nov. 20, the Woodbury County Bar Association sponsored the Northwest Iowa Volunteer Lawyer Appreciation Night to celebrate those Iowa lawyers who ensure equal justice under law. Frank Cal Tenuta, managing attorney of the Northwest Regional Iowa Legal Aid office in Sioux City, annually organizes this event, in part, to motivate other lawyers. The honorees recognized were:

James Clarity III	James Pickner
Douglas Flom	Micah Schreurs
Judy Freking	Randall Sease
Jason Gann	Rodney Vellinga
John Moeller	Kendra Zirbel Olson
David Patton	

To **ALL** volunteer lawyers, thank you for your service to the citizens of our great state. Through your dedication and commitment, you have provided to many Iowans hope, dignity and justice.

Dennis Groenenboom, executive director, Central Administrative Office of Iowa Legal Aid, has worked tirelessly on behalf of low-income and elderly Iowans for their access to justice. Thank you, Dennis, for your commitment to the delivery of justice for all. And thank you for your contribution to this President's Letter.

### The need for legal assistance in civil problems is large

Poverty is a reality in Iowa. The demand for civil legal representation has outstripped the available legal resources. Federal- and state-funded Iowa Legal Aid — the principal provider of free legal assistance in Iowa — is unable to meet all of the legal needs of Iowa's low-income population

A 2005 study, "Documenting the Justice Gap in America – The Current Unmet Civil Legal Needs of Low-income Americans," by the Legal Services Corporation found that:

- For every client served by an LSC-funded program, at least one person who sought help was turned down because of insufficient resources.
- Only a very small percentage of the legal problems experienced by low-income people (one in five or less) are addressed with the assistance of a private attorney or a legal aid lawyer.

It is projected that there are approximately 400,000 people eligible for assistance from Iowa Legal Aid based on their low incomes and limited resources.

The case for Iowa Legal Aid, as stated in the Iowa Legal Aid Foundation materials, is made, in part, as follows:

"Every morning 100,000 children awake in poverty in this state. They awaken into a family whose income will deny them access to justice, and will deny their hope for a brighter future."

\* \* \*

"Legal services, while important to all in the community, are of particular importance to low-income and elderly Iowans who often need the assistance of a lawyer to secure their basic needs; the need to live in a safe and stable home free of violence, the need for protection from consumer fraud that steals a family's income, or the need for quality healthcare."

Staff and volunteer lawyers provided service for nearly 19,000 Iowa families last year, nearly 45,000 Iowans including 20,000 children.

### Iowa lawyers' role

You, the volunteer lawyers, are needed to provide representation to those who require protection the most. The Iowa Rules of Professional Conduct, Rule 32:6.1, states:



Natalia Blaskovich (from left), Hon. Richard Gleason, Daniel L. Bray and Roxann Ryan take part in a panel discussion "Ethical Issues Involving Domestic Violence" during a Volunteer Lawyers Project ICN CLE seminar

"A lawyer should aspire to render at least 50 hours of pro bono publico legal services per year. In fulfilling this responsibility, the lawyer should: (a) provide a substantial majority of the 50 hours of legal services without fee or expectation of fee to (1) persons of limited means or (2) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means."

Iowa's volunteer lawyers projects can help attorneys meet that aspiration while at the same time providing much needed representation to low-income clients in a variety of civil legal matters including consumer problems, landlord/tenant disputes, family law issues, civil rights and government benefit cases.

### Who can participate in the volunteer lawyers project?

All Iowa attorneys, recent admittees as well as experienced practitioners, are encouraged to participate in a volunteer lawyers project. Less experienced attorneys will gain valuable litigation experience through their contributions. Established members of the bar may benefit from the opportunity to explore new areas of practice and develop new insights into the problems of the poor.

### How the volunteer lawyers projects work

Iowa has three volunteer lawyers projects. They are the Iowa Legal Aid



Al Kerkhove (from left), Bruce Graves, Burns Mossman and James Monroe take part in a panel discussion during the CLE seminar "Anatomy of a Tax Court Case" for volunteer lawyers.

Volunteer Lawyers Project, placing cases with volunteer lawyers in 96 Iowa counties; the Polk County Bar Association Volunteer Lawyers Project, placing cases with volunteer lawyers in Polk County; and the Pro Bono Project of Scott/Clinton Counties which places cases with volunteer lawyers in Scott and Clinton Counties.

The volunteer lawyers projects are designed to give participating attorneys control over the number of pro bono referrals to be accepted and the decision as to whether to accept a given referral at a given time. Volunteer lawyers are initially contacted by a referral coordinator, rather than by the would-be client, and are given the opportunity to accept or decline each referral. In addition:

- Clients have been screened to determine financial eligibility and to ascertain the existence of a legal problem.
- Volunteer attorneys are referred cases only in those areas of law in which they have agreed to practice.
- Attorneys may decline any case and have full authority over the number of cases they will accept.
- A case fact memo and, when appropriate, a brief legal analysis is provided.
- Attorneys are contacted by telephone, fax or e-mail, prior to referral to ensure that they will be willing to accept a particular case.

Calendar Year	2005	2006	2007
# Cases Closed by Iowa's three volunteer lawyers projects	2,266	2,143	2,376
# Volunteer hours contributed	14,532.55	14,986.52	13,609.83
Value of donated service @ \$140/hour in 2007 and \$125/hour in earlier years	\$1,816,568.75	\$1,873,315.00	\$1,905,376.20
# Attorneys signed up with a volunteer lawyers project	2,911	2,895	2,753
# Attorneys who accepted a case	1,024	842	839

STATISTICAL DATA: I'll let the statistics speak for themselves.

We honor all volunteer lawyers; we honor your commitment and dedication to providing access to justice for low-income Iowans. You have made long lasting differences in the lives of low-income Iowans.

- Although clients referred through the project are charged no fee, volunteer attorneys are free to recover a fee from the opposing party or from public funds.

### Benefits for volunteer lawyers project participants:

- Attorneys can join [probono.net/iowa](http://probono.net/iowa) (a members only, but free site) and have access to a broad range of information to support their civil law practice, including a library of poverty law materials, a calendar of events and information on volunteer opportunities.
- Staff attorneys experienced in specific areas of poverty law are available to provide technical assistance, research and co-counseling.
- Participating attorneys are eligible to attend accredited project-sponsored continuing legal education seminars at a reduced rate.
- Malpractice coverage is provided to volunteer attorneys for all cases accepted.
- Iowa Legal Aid is your screening tool: when approached for free legal services, you can tell people to apply for Iowa Legal Aid and if they qualify, then a referral can be made.

A quote (in an LSC brochure) by a client evidences the impact you have had:

"You didn't win a case – you saved a life. That's a fact."

Won't you join these volunteer lawyers in fulfilling this worthwhile mission. Thank you again for your extraordinary contributions.

And, thank you for giving me the opportunity to serve as your 122nd President.

*Dan C. Moore*



Volunteer Lawyer Roxann M. Ryan presents a session on "Ethics for the Family Law Practitioner" during a VAWA continuing legal education seminar.



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# Cooperative venture between medicine and law shows promise of curing the body and mind

When Iowa Legal Aid's Health and Law Project was conceived several years ago, the authors had several goals in mind:

1. Improve the lives of low-income Iowans by addressing the underlying legal problems that are affecting their health status.
2. Establish cooperative working relationships through training and joint intake and case identification between medical personnel and social workers working with health care providers, and lawyers working in Iowa Legal Aid regional offices.
3. Reduce health care costs over the long-term by addressing the underlying legal problems of low-income Iowans that are causing them to seek medical care.

Now, nearly three years into the project, organizers are pleased at how well it is meeting its goals. Statistics presented to The Iowa State Bar Foundation, which has provided some of the funding for the project the last two years, show that during the first six months of 2008, 199 cases were closed through the project. The cases impacted 460 household members — 160 of whom were children.

Twenty nine percent of the closed cases involved family issues; 17% involved housing issues; 15% involved consumer issues; 13% involved income maintenance issues; 8% involved employment issues; 6% involved health issues; 1 % involved individual rights issues; and the remainder of the cases were miscellaneous in nature. Project staff opened 188 cases during that same six-month period.

Financial gain for clients whose cases

were closed was \$61,543.87.

Reducing healthcare costs by addressing underlying legal problems has been one of the more challenging goals to quantify, according to Dennis Groenenboom, Iowa Legal Aid's executive director. Financial support from the Bar Foundation and assistance from the ISBA's Health Law Section have enabled Iowa Legal Aid to work at some solutions.

For example, Iowa Legal Aid Project staff attended a national summit of the Medical Legal Partnerships. During that summit, much time was spent discussing how best to track information as it relates to the reduction of healthcare costs.

The Project Advisory Council was instrumental in assisting project leaders in identifying issues which would help establish cost savings to the community — resulting in a reduction of emergency room treatment for primary care problems. The council also assisted in honing a survey to investigate this premise.

As a result, project staff members have implemented a system as part of their case-closing procedures to help determine how their representation has impacted the health status of clients and to track the monetary reduction of healthcare costs. Project goals have been incorporated into Iowa Legal Aid's case management software and a box is checked by staff to indicate which of the three project goals were met. Iowa Legal Aid also tracks financial gain for any client who was provided assistance.

Another challenge was getting health care centers to refer patients to project

attorneys. Specific measures that have been implemented include a one-page self-referral form that patients can complete and place in a confidential box for follow-up by a project attorney, and legal "prescription" pads placed in all of the health centers participating in the project.


Presently, there are four health centers involved in the project — Council Bluffs Community Health Center, Council Bluffs; Primary Health Care, Des Moines; River Hills Community Health Center, Ottumwa; and Siouxland Community Health Center, Ottumwa.

Key to the success of the project is a medical champion who believes in the value of marrying health and law and the benefit it can have for patients. Dr. Bery Engebretson is the medical champion for the Health and Law Project. He is the part-time medical director at Primary Health Care in Des Moines, and recently accepted a medical director position with the Council Bluffs Community Health Center. Iowa Legal Aid hopes eventually to incorporate the medical champion's work into all project sites.

However, the real value of teaming lawyers with medical professionals is perhaps best illustrated with actual cases. One such case involved an HIV-positive man suffering from schizophrenia who was referred to the Health and Law Project for assistance. He had lived in federally subsidized housing for about four years and received notice that his tenancy was being terminated for criminal activity and a failed inspection.

During investigation it was learned that the criminal activity was a three-year-old simple assault that had been dismissed, and the failed inspection was due to clutter in his apartment. The project attorney obtained copies of his medical records and spoke with his primary physician, nurse and social worker. As it turned out, he was not medication compliant and was not receiving the kind of mental health case management he desperately needed.

The project attorney represented him in district court and was ultimately successful in negotiating a settlement with the housing agency. As a result, he continues to reside in his apartment, is medication compliant and is healthier — both mentally and physically.



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# Regis Catholic Middle School wins championship in Middle School Mock Trial competition

A team of eighth graders from Regis Catholic Middle School in Cedar Rapids walked away with the top honors in the 2008 Middle School Mock Trial State Tournament held in Des Moines Nov. 20-22.

The team, known as Regis Catholic Middle School Gold defeated another team from Regis Catholic to claim the championship. The final round of the two-day competition was held in the Iowa Supreme Court courtroom in the Judicial Branch Building.

This is the second time in three years that teams from Regis have faced each other in the championship round. In the 2005 state tournament final, two Regis teams also duked it out for the top spot.

"It's difficult," acknowledged Jim Efting, an eighth grade history teacher at the school and a veteran mock trial coach, during a break midway through the competition. He, along with Cedar Rapids attorney Tim Semelroth, coach both teams plus a third Regis team of eighth graders that didn't make it into the final four. "I want both to do well. One team will be sad no matter what happens."

This is the first time in their three years of competing in the Middle School Mock Trial program that the members of the winning team have made it to the final four.

The state champion team defeated a team from Indian Hills Junior High School in Clive in the semifinal round to make it to the finals. The runner-up Regis team of seventh graders defeated a team from John F. Kennedy Catholic School in Davenport to make it into the final round.

This year 180 teams from 86 schools around the state competed in the Middle School Mock Trial program, which is sponsored by The Iowa State Bar Association. Thirty four of those teams made it to the state tournament based on their showings in 13 regional tournaments conducted around the state earlier in November. Each of the 34 teams competed in three rounds of competition, one on Thursday evening and two on Friday, with the final four teams advancing to the semi-finals on Saturday.

This year's case was a civil matter based loosely on the MacDonald's hot coffee case of a number of years ago.

Trophies were presented to the top 10 teams, excluding those in the semi-finals, at an awards ceremony Friday evening.

Medals were also given to the students who received outstanding attorney and outstanding witness marks during the preliminary competitions.

Other schools in the top 10 included: Garner-Hayfield Middle School, Garner, 5th; St. Theresa Catholic School, Des Moines, 6th; St. Francis of Assisi School, West Des Moines, 7th; John F. Kennedy Catholic School (green), Davenport, 8th; Urbandale Middle School, Urbandale, 9th; and Carroll Middle School, Carroll, 10th.

Receiving medals as outstanding attorneys were: Will Admussen, Urbandale Middle School, Urbandale; Luke Bishop, St. Theresa Catholic School, Des Moines; Reid Botkin, Regis Catholic Middle School, Cedar Rapids; Chloe Crain, Indianola Middle School, Indianola; Luke DeJong, Central Lyon Middle School, Rock Rapids; Riley Deutsch, Johnston Middle School, Johnston; Raj Mehta, Mazzuchelii Catholic Middle School, Dubuque; Peyton Rosencrants, Regis Catholic Middle School, Cedar Rapids; and Ben Weinberg, Indian Hills Junior High School, Clive.

Receiving medals as outstanding witnesses were: Carly Crist, Johnston Middle School (purple), Johnston; Nick Deckert, Johnston Middle School, Johnston; Aaron Gonner, Mazzuchelii Catholic Middle School, Dubuque; Brittany Holdsworth, Carroll Middle School, Carroll; Ellen Keyser, Indianola Middle School, Indianola; Kadia Lazenby, Sudlow Intermediate School (black), Davenport; Logan Natvig, Northwest Junior High School, Coralville; Cole Scheffler, Harlan Middle School,



Members of the state champion Middle School Mock Trial team congratulate each other upon being named the winner in the final round of tournament competition. In the background are (from left) Eric Bidwell, YLD secretary and one of the scoring judges for the round; John Wheeler, director of the ISBA's Center for Law and Civic Education; Jennifer Zradnik, presiding judge; and Dan Moore, ISBA president holding the trophy.



Grace Busse and Hannah Botkin compare notes at the attorney's table before the trial begins in the final round of the Middle School Mock Trial State Tournament. The two seventh graders from Regis Catholic Middle School in Cedar Rapids, represented the victim in the case of a hot coffee spill. Their team was the runner-up champion in the tournament.

Harlan; Allie Stroud, St. Francis of Assisi School, West Des Moines.

Krista Jolivet, Garner-Hayfield, Garner, received medals for both outstanding attorney and outstanding witness performances.



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## ERISA disability claims, part 2

# Structuring claimants' arguments to meet the court's standards of review

By Terrence D. Brown\*

The first part of this article discussed the processing of ERISA disability claims through the gathering of relevant information. Having gathered this information, the practitioner must then analyze it to determine which of three standards of review will be applied by the trial court and how best to structure an argument that a *de novo* or a sliding scale of review should be applied in your client's case, rather than an abuse of discretion standard of review.

### Review under a *De Novo* Standard

When construing the language of an ERISA plan under a *de novo* review standard, the court begins by examining the language of the plan documents. In

interpreting ERISA plans, the plainly stated terms "should be accorded their ordinary, and not specialized, meanings." In other words, the court is to give "the language its common and ordinary meaning as a reasonable person in the position of the [plan] participant, not the actual participant, would have understood the words. Each provision should be read consistently with the others and as part of an integrated whole." The plan should be construed so as to give effect to all its provisions.

Similarly, "if two clauses of a plan appear to be in conflict, the preferred interpretation is the one that gives a harmonious interpretation to the clauses in order to avoid rendering either one nugatory and to avoid illusory promises." A summary plan description is "intended to be a document easily interpreted by a layman; an employee

should not be required to adopt the skills of a lawyer and parse specific undefined words throughout the entire document to determine whether they are consistently used in the same context." Any disputed language is construed "without deferring to either party's interpretation" unless the plan language specifies otherwise.

If after applying these rules of construction the court finds that the plan provisions are ambiguous, "extrinsic evidence is admissible to determine the meaning of the contract." If after considering admissible extrinsic evidence, the ambiguities remain, then the court must construe the ambiguities against the drafter, but only as a last step.

### Review under an Abuse of Discretion Standard

Most plans contain a grant of discretionary authority similar to the following: The Plan Administrator has discretionary authority to construe and interpret the terms of the plan, including, but not limited to, deciding all questions of eligibility.

It is important to note that this sample grant of discretion extends to two functions. First, it gives the administrator the discretion to "interpret the terms of the plan" and second the discretion to determine "eligibility." Though the "abuse of discretion" review standard applies to both functions, the Eighth Circuit Court of Appeals, under which Iowa falls, uses different tests to conduct these reviews.


In order to determine whether or not the administrator's *interpretation* is reasonable, the court applies a five-part test: 1) whether the interpretation is consistent with the goals of the plan; 2) whether it renders any language in the plan meaningless or internally inconsistent; 3) whether it conflicts with the substantive or procedural requirements of the ERISA statute; 4) whether the administrator has interpreted the provisions at issue in a consistent fashion; and 5) whether the interpretation is contrary to the clear language of the plan. The court weighs the answers to these questions and then determines whether or not, in its opin-

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ion, the administrator abused its discretion in its interpretation.

In determining whether or not the administrator's interpretation is contrary to the plain language of the plan, the Eighth Circuit has indicated that "[r]ecourse to the ordinary, dictionary definition of words is not only reasonable, but may be necessary." "[W]ords are to be given their plain and ordinary meaning as understood by a reasonable, average person."

If the court finds that the administrator's interpretation of the disputed term is contrary to the plain language of the firm, then significant weight is placed on the misinterpretation and an abuse of discretion is more likely to be found. Furthermore, even if the plan administrator has consistently misinterpreted a term, the misinterpretation may still be an abuse of discretion.

In most cases, the interpretation of a plan term is not at issue. Rather, by far the most frequent issue is whether or not the claimant, based on the facts of the claim, is entitled to benefits. In these types of cases, "the plan administrator's decision to deny benefits will stand if a reasonable person could have reached a similar decision. In evaluating reasonableness, the court determines 'whether the decision is supported by substantial evidence, which is more than a scintilla but less than a preponderance.'"

"Substantial evidence 'means such relevant evidence as a reasonable person's mind might accept as adequate to support a conclusion.'" Therefore, the court must affirm the administrator's decision if "a reasonable person could have reached a similar decision, given the evidence before him, not that a reasonable person would have reached a similar decision." Further, the court considers only the evidence that "was before the administrator when the claim was denied." The court does not, however, substitute its "weighing of the evidence for that of the administrator."

#### Review under a Sliding Scale Standard of Review

In cases where the plan contains a grant of discretionary authority and the administrator's decision would normally be reviewed under an abuse of discretion standard, it is important to recognize when a less deferential standard of review may apply. The Eighth Circuit

has routinely held that the deferential standard of review applies unless the claimant comes forward with evidence establishing that the administrator acted under a conflict of interest, dishonestly, with an improper motive, or without using judgment. The Eighth Circuit has also held that in order to obtain a less deferential review, a claimant must present material probative evidence demonstrating that: 1) a palpable conflict of interest or serious procedural irregularity existed, which 2) caused a serious breach of the plan administrator's duty to the claimant. To satisfy the second part of this test, the claimant must show that the

conflict or procedural irregularity has "some connection to the substantive decision reached."

The U.S. Supreme Court's recent decision in *Metropolitan Life Ins. Co. et al. v. Glenn*, \_\_ U.S. \_\_, 128 S.Ct. 2343 (June 2008), calls into question the continued validity of Eighth Circuit cases which impose additional hurdles on the claimant seeking a sliding scale standard of review when a conflict of interest is demonstrated. In *Glenn*, the court held that when the "entity that administers the plan, such as an employer or an insurance company, both determines whether an employee is eligible



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for benefits and pays benefits out of its own pocket," that "this dual role creates a conflict of interest." If these facts are shown to exist, then a reviewing court "should consider that conflict as a factor in determining whether the plan administrator has abused its discretion in denying benefits; and that the significance of this factor will depend upon the circumstances of the particular case."

This language compels the conclusion that when a conflict exists because of the administrator's dual role (i.e. both the decider and the payor) it is no longer necessary to demonstrate that the conflict caused a serious breach of the plan administrator's duty to the claimant by demonstrating the conflict had "some connection to the substantive decision reached" before applying a sliding scale of review. It is unknown, however, whether a claimant who presents material probative evidence demonstrating that a serious procedural irregularity existed will have to continue to demonstrate the irregularity caused a serious breach of the plan administrator's duty to the claimant.

The U.S. Supreme Court's decision in *Glenn* discusses factors that are relevant in determining whether an abuse of discretion exists under the sliding scale standard of review. In *Glenn*, the Court approved of the lower court's reasoning when it (the lower court) found persuasive the following factors evidencing an abuse of discretion: 1) the dual role conflict of interest; 2) MetLife's failure to reconcile its own conclusion that Glenn could work in other jobs with the Social Security Administration's conclusion that she could not; 3) MetLife's focus upon one treating physician report suggesting that Glenn could work in other jobs at the expense of other, more detailed treating

physician reports indicating she could not; 4) MetLife's failure to provide all of the treating physician reports to its own hired experts; and 5) MetLife's failure to take account of evidence indicating that stress aggravated Glenn's condition.

In a pre-*Glenn* case, the Eighth Circuit applied a sliding scale when the administrator operated under a financial conflict and committed a serious procedural irregularity in not having an independent specialist review the claimant's medical record. In these circumstances, the court found the circumstances were sufficiently egregious so as to require that the record contain substantial evidence bordering on a preponderance to uphold the administrator's decision.

The Eighth Circuit has held that the lack of a thorough investigation by a fiduciary can result in a serious procedural irregularity requiring a less deferential standard of review. Similarly, failing to provide a written reply to an appeal has been held to be a serious procedural irregularity. As noted earlier, the mere presence of a procedural irregularity is not enough to strip a plan administrator of the deferential standard of review: a claimant must also present evidence that the irregularity raises serious doubts as to whether the result reached was the product of an arbitrary decision or the plan administrator's whim.

The Eighth Circuit has suggested serious doubts would be raised where "the . . . [administrator] does not inquire into the relevant circumstances at issue; where the . . . [administrator] never offers a written decision, so that the . . . [claimant] and the court cannot properly review the basis for the decision; or where procedural irregularities are so egregious that the court has a total lack of faith in the integrity of the decision-making process, a court may infer

that the trustee did not exercise judgment when rendering the decision." Additional matters the practitioner needs to always consider in these cases is whether or not discovery is allowed and what is the applicable statute of limitation? These issues are beyond the scope of this limited article though they are addressed in the Drake Law Review article.

## Summary

In summary, a multitude of private sector employees are covered by disability plans that are governed by ERISA. When an employee's claim for disability benefits is denied, it is critical that the attorney representing the claimant exercise diligence in obtaining all documents the administrator relied on to deny the claim. Having acquired this information, the attorney must determine what additional material is necessary to supplement the existing administrative record.

When writing an appeal for the claimant, the attorney must understand the body of Eighth Circuit case law applied to the review of ERISA disability claims and highlight that evidence which will support an argument for application of the most favorable standard of review under the facts of the case. If the attorney follows these recommendations, his client's chances of success at the administrative and court levels are significantly increased.

*\*Terrence D. Brown is a 1981 graduate of Washington University School of Law, St. Louis, Missouri. He practices with Hixson & Brown, P.C., in Clive. Hixson & Brown practices primarily in medical malpractice and personal injury law. This article is an abbreviated version of an article entitled ERISA Disability Claims in the Eighth Circuit, which was published in the Drake Law Review, Volume 57:1, in December of 2008. Due to word limitations of this article, it is impossible for the author to include citations to quoted material. The reader is referred to the Drake law review for supporting citations.*



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# Foundation board suspends grant approvals for balance of fiscal year

At their regular quarterly meeting Dec. 1, members of the Iowa State Bar Foundation's board approved a moratorium on any further grants for the fiscal year ending June 30, 2009. The moratorium on further grants in the fiscal year arose out of the need to keep expenditures in line with investment income.

Historically the foundation board has limited total funding of grants to five percent of its principal, with grant funds coming from income on the investment of that principal. As has been the case elsewhere, 2008's economic downturn has adversely impacted the Foundation's investment returns and has reduced the value of the invested principal. While the Foundation's invested principal stood at approximately \$1.5 million as of Oct. 31, the board agreed that funding of additional grants would be contrary to its long-standing policy.

The decision to suspend funding of grants came following much discussion and after the board had heard requests from three grant applicants whose applications had been approved by The Iowa State Bar Association. The grant applications included:

- \$8,902 to send a group of high

school students to Washington, D.C. to participate in the "We the People" national competition.

- \$885 to support the Citizen Lawyer Program at the University of Iowa College of Law. Under this program, law students assist pro se litigants in filling out and filing the appropriate forms and information under the supervision of volunteer attorneys.
- \$5,000 to support the Kids First program that provides interactive educational workshops for all school-age children of divorcing parents in Linn County.

Because approval of the grant applications would have required invasion of the Foundation's principal, the board passed a motion to table the three applications and to revisit them when the moratorium expires. Members also agreed to continue accepting grant applications with the understanding they too would be tabled until the moratorium is lifted and the applicants would be so advised.

In other business, the board members resumed talks started at the September meeting seeking to further refine the Foundation's role vis-a-vis the Association. Central to the discussion was whether the

ISBA should establish a committee of the Bar Association to review grant requests prior to the Foundation board's review. The purpose of such a review by an ISBA committee would be to ensure the grants further both the Bar Association's mission and the Foundation's role as a supporting organization for the Association. ISBA President Dan Moore indicated the reviewing committee would serve an administrative function, leaving it to the Foundation board to independently determine whether the applications meet its own criteria.


In action regarding the Fellows program, board members voted without dissent to approve and accept Bob Reynoldson as a new fellow.

Staff liaison Mary Hill also informed board members that material for the Foundation's annual report is compiled and being designed, and that a draft copy would soon be sent to them for review.

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Court of Appeals colleagues Judge Robert Mahan (left) and Chief Judge Rosemary Sackett (right) applaud retiring Judge Terry Huitink at the ceremony for his retirement on Dec. 5. The Ireton resident was appointed to the appellate court in February 1994 by Governor Terry Branstad. In his address to the assembled well wishers, Judge Larry Eisenhauer described his friend and colleague as "old five pager" referring to Judge Huitink's claim not to read anything longer than five pages. He also mentioned a few Huitinkisms including: "You overestimate my interest in (fill in name of case)." Judge Huitink, who will serve as a senior judge pending approval by the Iowa Supreme Court, cited his love of the law and being a lawyer, and stated that the "reservoir of goodwill that exists between the bar and judges is remarkable." Judge Huitink and his wife, Kathy, hosted a reception for 100 or so guests at the ISBA headquarters building following the ceremony.



Winners of the prizes awarded at the end of the 2008 ISBA Tax School included (from left) H. Elvin Erdahl, Monticello, who won a set of tax books from Lexis Nexis; A.J. Flickinger, Independence, who received suite passes to an Iowa Chops hockey game from LWB Financial; John Greve, Northland, who won a digital photo frame from Legal Technology Services, Inc.; Kathleen Kohorst, Harlan, who received a 32-inch LCD television from The Iowa State Bar Association; John Baush, Traer, who won Omaha steaks from Kubik's Voice Technology Solutions; and Ronald Besch, Bellevue, who received a wine basket from Wahitek.

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# A Bold New Frontier – To blog where no lawyer has blogged before

Melissa H. Weresh\*

Communication in today's legal world has taken on a new dimension — the blog. A blog, short for "web log," is a website where the blogger posts commentary, or materials like graphics and video. There is also typically a comment feature, allowing readers to post material to the blog as well.

The term "blawg" refers to a law-related blog. The American Bar Association website provides a comprehensive directory of blawgs at [www.abajournal.org/blawgs/](http://www.abajournal.org/blawgs/). There are 111 categories ranging from the traditional — consumer law with 67 entries, and law practice management with 268 entries — to the more obscure, such as law and popular culture, with a single entry. Clicking on a category will take you to a listing of the blawgs related to that category, with a brief description of each.

It is clear that lawyers are writing blogs, both law- and non-law related. Blogs are relatively easy to create. Some libraries feature Internet access and free blogging services.

Further, communication on a blog is rarely one-sided. A blog's comment feature allows readers to post comments to which the blogger may respond. In this way blogs provide a resource to share and exchange information.

Blogs are therefore a beneficial means of communication between lawyers, and between lawyers and potential clients. As with other forms of relatively new technological means of communication, however, the ethical and professional considerations associated with such communication are still being developed.

## Ethical concerns

Notwithstanding, there are three relatively clear ethical concerns. The first relates to the unauthorized practice of law, particularly insofar as Internet communication spans jurisdictions. The second is the inadvertent creation of an attorney-client relationship between blogger and reader. The final concern relates to the ability of a blog to run afoul of state-specific advertising restrictions on attorneys.

### 1. *The unauthorized practice of law*

Bloggers who post on the Internet have

the ability to communicate with people — and potential clients — worldwide. This raises the potential of violating the ethical restrictions on practicing law in a jurisdiction in which the attorney is not admitted. The "practice of law" is typically defined on a state-by-state basis, but some jurisdictions have extremely liberal definitions. For example, some jurisdictions do not require that an attorney-client relationship be formed, nor a fee paid, before finding that an attorney has engaged in the practice of law. In addition to the potential for an ethics violation, the unauthorized practice of law is a crime in several states.

The two primary concerns related to blogging and the unauthorized practice of law are dispensing legal advice and holding oneself out as an attorney.

With regard to dispensing legal advice, a distinction is typically made between general legal advice, which is permitted, and specific legal advice, which is prohibited in jurisdictions where the attorney is not admitted. The information on blogs is typically that of a general nature, but problems may arise when readers post queries to a blog using the comment feature and the blogger attempts to respond. Because the blogger rarely knows where the questioning individual resides, specific feedback on a query posted on a blog could give rise to an ethical violation relating to the unauthorized practice of law.

Similarly, most states restrict non-licensed lawyers from holding themselves out as an attorney. Blogs that generally advertise the blogger as a licensed attorney without a reference to the applicable jurisdiction may violate this prohibition

because readers of the blog are located nationwide.

### 2. *The unintended creation of an attorney-client relationship*

Distinct from the issue of unauthorized law practice is the concern that a blogger unintentionally create an attorney-client relationship. As noted, an attorney-client relationship is not always necessary for a finding that an attorney has engaged in the practice of law. However, the consequences of inadvertently forming an attorney-client relationship may be more severe for a blogger, because the formation of an attorney-client relationship gives rise to a host of obligations, and the failure to uphold those can provide the basis for a malpractice claim.

Under the Restatement (Third) of the Law Governing Lawyers, an attorney-client relationship is formed when:


(1) A person manifests to a lawyer the person's intent that the lawyer provide legal services for the person; and either

(a) the lawyer manifests to the person consent to do so; or

(b) the lawyer fails to manifest lack of consent to do so, and the lawyer knows, or reasonably should know, that the person reasonably relies on the lawyer to provide the services . . .


Thus, an initial consideration in evaluating whether an attorney-client relationship has been formed is whether there has been some form of consultation between the





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client and the attorney. This could be satisfied by client requests for advice on the comments section of a legal blog.

Whether the attorney has given or promised to give legal advice is a question of fact. Where the attorney blogger has posted a response to a comment or question on a blog, or contacted the individual directly, there may be a finding of implied consent to give legal advice and evidence supporting the finding of an attorney-client relationship.

### 3. *The Violation of Restrictions on Attorney Advertising*

Blogs have the potential to implicate restrictions on attorney advertising on a variety of levels. Attorney bloggers may intentionally use blogs to build their reputation within the legal community, so that the blog functions as an advertising device for the attorney. Blogs may link to law firm sites or other legal service providers, or they may employ banner ads that promote other business. In this way the blog may function as an indirect marketing tool for those entities and/or services. Thus, blogs may violate restrictions on attorney advertisements relating to deception and accuracy.

Blog postings may also run afoul of state-specific prohibitions on the solicitation of clients. The ABA Model Rules address electronic solicitation of clients and distinguish between electronic communication such as e-mail and “real time” electronic communication such as instant messaging. The latter is likened to direct consumer solicitation, which has the capacity to overreach. In *Ohralik v. Ohio State Bar Ass’n*, 436 U.S. 447, 456 (1978), the U.S. Supreme Court articulated concerns regarding the direct, in-person

solicitation of clients, noting, “Unlike a public advertisement, which simply provides information and leaves the recipient free to act upon it or not, in-person solicitation may exert pressure and often demands an immediate response, without providing an opportunity for comparison or reflection.”

The comment feature of a blog correspondence provides time for reflection and is therefore more likely to be equated with e-mail correspondence rather than real-time communication. However, attorney bloggers should be cognizant of the potential to violate the anti-solicitation provisions of most jurisdictions.

There have been several attempts in the past few years to radically regulate attorney advertising. Most recently, the Louisiana Supreme Court proposed rules which would be the most restrictive in the country, prohibiting lawyers from using slogans, descriptions of quality, references to past successes, actor portrayals of clients, and well-known spokespersons. The rules were challenged in two federal lawsuits filed in the fall of 2008. The suits challenge the proposed rules on First Amendment grounds. While the relationship between lawyer advertising restrictions, commercial speech and the First Amendment have not been effectively addressed as they relate to blogs (in addition to being far beyond the scope of this humble essay), there are issues related to attorney advertising on blogs that lawyers should be aware of.

### **A Possible Solution? The Disclaimer**

Clearly, an attorney blogger should be familiar with rules pertaining to Internet communication in his/her own jurisdiction. However, it is likely impossible to

comply with rules applicable in all jurisdictions in which readers reside. Therefore, the prudent course of action for the would-be blogger is a clear, comprehensive disclaimer.

The disclaimer should communicate to readers that the information on the blog should not be construed, or relied upon, as legal advice and that readers should consult competent representation in their own states. Bloggers should also include an explanation notifying readers that attorneys can only represent clients in jurisdictions where the attorney is licensed and, if appropriate, should identify the jurisdiction where the attorney is licensed. Further, the disclaimer should note that the content of the blog is not an advertisement for legal services, nor an invitation to form an attorney-client relationship.

Below is a sample disclaimer noted on a law firm website blog:

“This Blog/Web Site is made available by the lawyer or law firm publisher for educational purposes only as well as to give you general information and a general understanding of the law, not to provide specific legal advice. By using this blog site you understand that there is no attorney-client relationship between you and the Blog/Web Site publisher. The Blog/Web Site should not be used as a substitute for competent legal advice from a licensed professional attorney in your state. Finally, statements made in this Blog/Web Site are the viewpoints of the individual authors, and do not necessarily reflect the views of XYZ Law Firm or any of its clients.

In addition to the disclaimer, the blogger should be aware of the impact of responding to posts and comments on the blog, and the danger of creating a perception that an attorney-client relationship has been formed.

### **Conclusion**

So, readers, there are a few ethical rules you should be aware of as you enter the electronic world of blogs. Blogs can be entertaining, enlightening, and informative. I therefore invite you to blog on!

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*\*Melissa Weresh is professor of law and director of legal writing at Drake University Law School. This series of essays explores professionalism, communication, and interpersonal dynamics in law practice. The author welcomes suggestions as to content, and can be reached at [Melissa.weresh@drake.edu](mailto:Melissa.weresh@drake.edu).*

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15	YLD Iowa Justice For All Golf Event	1	0	1	Norwalk	52761
<b>SEPTEMBER</b>						
10	Law Over Lunch: Supreme Court's Decision in Reigel v. Medtronic Inc. Telephone CLE	1	1	0	Telephone CLE	51325
12	Trade Regulation/Corporate Counsel	6	4	1	ISBA, Des Moines	53358
16	Government Practice: Incompatibility and Conflict	1	0	1	Telephone CLE	53184
23	Fall Traveling: Sioux City	6.5	0	1	Sioux City	53352
24	Fall Traveling: Mason City	6.5	0	1	Mason City	53356
25	Fall Traveling: Des Moines	6.5	0	1	ISBA, Des Moines	53357
<b>OCTOBER</b>						
6	Fall Traveling: Davenport	6.5	0	1	Davenport	53355
7	Fall Traveling: Dubuque	6.5	0	1	Dubuque	53351
8	Fall Traveling: Cedar Rapids	6.5	0	1	Cedar Rapids	53354
9	Fall Traveling: Ottumwa	6.5	0	1	Ottumwa	53353
10	Ethical Dilemmas: How to Know it When You See it: Ex Parte Communications and Civility in the Profession	2	0	2	ISBA, Des Moines	54131
16	YLD Nuts & Bolts (Des Moines)	6.25	0	1	ISBA, Des Moines	53168
17	Environmental Law	6.25	1	1	ISBA, Des Moines	53170
20	YLD Nuts & Bolts (Coralville)	6.25	0	1	Coralville	53167
24	Probate Live Site	3.5	0	0	Perry	53169
30-31	Family Law (need to correct)	14	2.25	*	West Des Moines Marriott	53180

\*Ethics Dinner: 1 hour of state and includes 1 hour of ethics (if you attended the dinner)



# The Iowa State Bar Foundation



..... 2007 - 2008 .....

## Annual Report

# President's Message



Thank you for your support of the Iowa State Bar Foundation. In just the last year, the Iowa State Bar Foundation has awarded over \$280,000.00 in grants to applicants. What a tremendous opportunity to promote projects important to lawyers!

Here are just a few of the projects we have worked on in the most recent past: As a Foundation, we have been fortunate to support students who traveled from East High School in Des Moines, Iowa, to the national "We the People: The Citizen and the Constitution" competition in Washington, D.C.

We have had the honor to recognize attorneys practicing in the public sector with grants through the Loan Repayment Assistance program, which supplements some expenses when income alone is insufficient.

We have also had the unrivaled pleasure of watching The Iowa State Bar Association's CLE Center open and host hundreds of meetings and legal education programs for thousands of Iowa attorneys.

Additionally, we have been one of the initial funding sources for the Legal Aid and State Bar Association's Health Law Section Legal Health and Law Project which has attempted to provide legal services and information to patients as they make initial hospital visits.

And once again, The Iowa State Bar Association's Lawyer Referral Service has also been awarded a grant for its relentless work in guaranteeing that Iowans who need and qualify for an attorney, will have access to legal representation.

In the last year, we have worried and worked with the Bar leadership to provide technical support for those attorneys who have suffered from the natural disasters that rocked our state. The stories of tornado and flood damage are heart-wrenching. We still cannot fathom the impact that these events have had on so many people, but we will continue to encourage donations to the Bar Association's Fund for Disaster Relief which goes directly to attorneys who have suffered during these disasters.

We have welcomed new Fellows to the Foundation. They include Iowa lawyers Max E. Kirk, Joseph C. Lauterbach, Dan A. Moore and Rosemary S. Sackett. The Fellows have offered economic support and well-reasoned advice on countless occasions to the Foundation. We are nothing without them. We will again solicit nominations of other Iowa attorneys for membership in the Fellows.

Charitable giving in honor of and/or memory of an Iowa attorney continues to be one of the Foundation's greatest passions. Members should expect to see further Planned Giving campaigns in the months to come. What a fine way to recognize someone's service to the community and the practice of law with a contribution to the IOWA STATE BAR FOUNDATION.

Finally, it is with a sad heart, that as we close the year 2008, I must report a moratorium on any further grant requests. The economy has impacted our investments in a depressing way. The Foundation stands ready to support future grant applications once our financial fortunes change.

Each member on the Board of Directors for the Foundation is a vigilant steward of our investments and the Bar Association's mission to support projects important to lawyers. I am humbled to work with such tremendous talent!

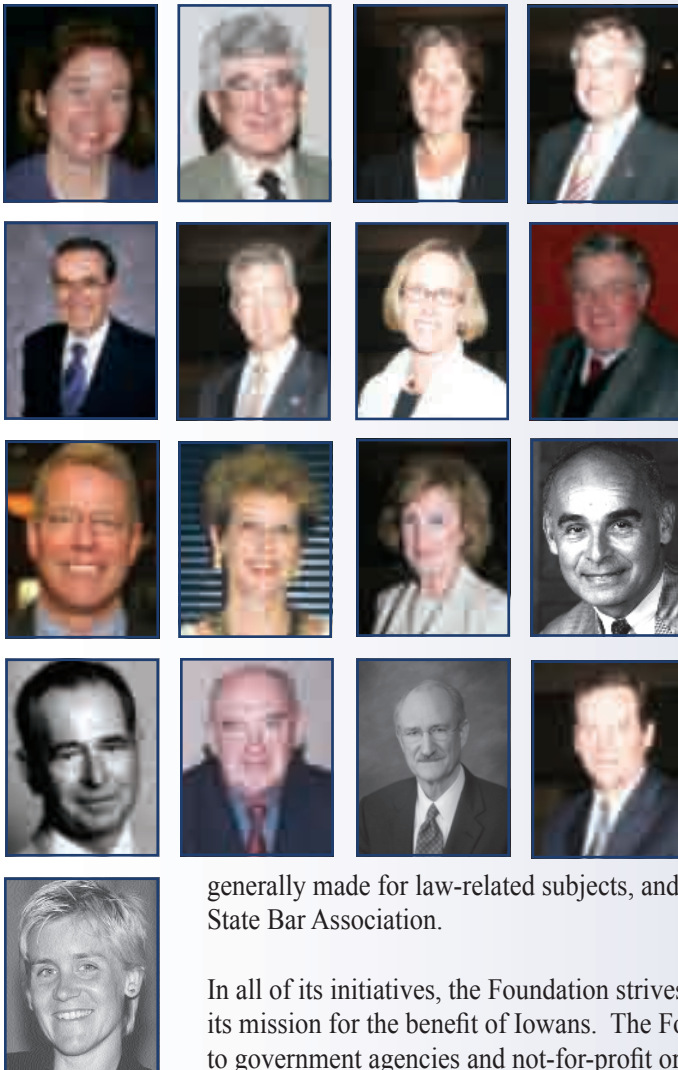
On behalf of the Board of Directors, thank you for this opportunity to work for you - our colleagues and friends. We can think of nothing better.

With warm regards,

A handwritten signature in black ink, appearing to read "N. M. Horvat". The signature is written in a cursive style and is positioned above the printed name.

Nan M. Horvat

# Directors & Advisors



**OFFICERS:** Nan Horvat, President, Des Moines • John D. Lloyd, Vice-President, Osceola • Diane Kutzko, Secretary, Cedar Rapids • William D. Scherle, Treasurer, Des Moines  
**DIRECTORS:** Bruce Graves, Des Moines • Joseph C. Lauterbach, Harlan • Cynthia Moser, Sioux City • Paul Tyler, Des Moines • Robert VP Waterman, Jr., Davenport  
**ADVISORY MEMBERS:** Lu Ann Barnes, Ankeny • Jean Bartley, Iowa City • Marvin Berenstein, Sioux City • Russell Buchanan, Algona • Thomas Cahill, Nevada • Edgar Hansell, Des Moines • Joseph D. Thornton, Council Bluffs  
**FELLOWS PRESIDENT:** Elisabeth Reynoldson, Osceola

## THE IOWA STATE BAR FOUNDATION

The Iowa State Bar Foundation was established in 1944 to support the efforts of The Iowa State Bar Association to advance jurisprudence and the administration of justice through education and research. Since its inception, the investments of the Foundation funds have been directed by a finance committee which makes its recommendations to the Board of Directors for final action. The finance committee has always dealt with the trust property with the greatest of care and through the years has had a great deal of success. The Board of Directors has always believed that they should limit grants to the income from the funds of the Foundation and not invade the principal. Grants are

generally made for law-related subjects, and to a great extent, to projects which carry the approval of The Iowa State Bar Association.

In all of its initiatives, the Foundation strives to be a catalyst, convener and collaborator for change that furthers its mission for the benefit of Iowans. The Foundation strives to accomplish this mission through financial grants to government agencies and not-for-profit organizations for projects furthering its mission; through publications that further public understanding of the law; through ongoing efforts to bring courts and communities together to improve the access and experience of the public with local courts and to address the role of courts as a community's institution of last resort.



The Board of Directors consists of nine regular members and any retired president who serves as a member ex officio, without power to vote. The term of office of each elected Director is three years, and until their successors are duly elected and qualified, and not more than one of the three Directors selected annually shall be a voting member of the Board of Governors of The Iowa State Bar Association.

The officers of this Corporation consist of a President, one or more Vice Presidents, a Secretary and a Treasurer. The offices of Secretary and Treasurer may be held by the same person. These officers are selected by the Board of Directors and hold office with the term of two years or until their successors are elected.

# Grants 07-08

The Iowa Bar Foundation Board of Directors awarded \$910,215 to nine not-for-profit organizations throughout the State of Iowa. The details of those grant awards follow:

## **\$680,000 for The Iowa State Bar Association - CLE Center**

This request is made in furtherance of the ISBA's Continuing Legal Education program, through which it conducts numerous programs every year to educate Iowa lawyers on changes in the civil and criminal laws and administration of justice, thus enabling them to better serve the public. Many such programs will be conducted in a new 2,430 square foot facility being constructed and equipped exclusively for that purpose. Through this grant request, ISBA is requesting that the Foundation commit to endow the costs of such CLE Center when ISBA is scheduled to become the owner in January, 2008. Distribution of these funds will be made annually over five years.

It is anticipated that each year over 1,000 lawyers will attend continuing legal education events at the center. In addition, another 80 lawyers will attend each of four quarterly meetings of the ISBA Probate Section in the CLE Center, 40 more will attend each of two meetings of the Young Lawyers Division, and 80 members of the ISBA's Board of Governors will attend at least one meeting there.

This grant submits that conduct of continuing legal education programs for lawyers is an educational activity that falls within the express terms of the Foundation's purposes.



## **\$5,000 for the American Judicature Society**

This request was for supporting funds of a special program in the 2007-2008 *American Judicature Society/Drake Law School Justice System Series* entitled "The Justice System in American Politics." Use of the funds will support travel expenses for speakers, printing and distribution costs for program materials, and expanded public relations efforts to ensure a well-attended program.

As a nationally recognized resource and clearinghouse for justice related issues for nearly 95 years, the American Judicature Society brings to the Series substantial programming experience and wide-ranging expertise in areas relevant to maintaining and promoting fair and impartial courts, as well as building public trust and confidence in the justice system. Through the Series, AJS partners with Drake University and Drake Law School to leverage resources and faculty expertise in order to provide unique, Iowa-based, non-partisan and multi-disciplinary justice system learning opportunities while promoting a better understanding and appreciation of the justice system among judges, lawyers, students, and non-lawyer citizens.

"The Justice System in American Politics" will be held in March or April of 2008. The program will be designed to take advantage of the election year cycle, primarily to raise awareness among the voters of Iowa about important justice system issues that receive limited attention from mainstream media and major political candidates during campaigns. Other than a focus on litmus-test issues that have at most slight impact on the daily lives of voters or on the strength of the justice system, very little substantive discussion of issues relating to the third branch occurs in the context of major federal elections.

The program will explore ways in which the executive and legislative branches shape the judiciary and impact the justice system from the perspective of the two major parties and their candidates.

Iowa State Bar Foundation funding for "The Justice System in American Politics" will help to enhance the profession and the practice of law in Iowa, while serving the public through education about the legal system, the courts, and important political decisions that impact the daily lives of all Iowans. As a collaborative partner and funder of this program, the Foundation will serve as a catalyst, convener, and collaborator for change in furtherance of its efforts to benefit Iowans.

## **\$12,715 for the University of Iowa We the People: The Citizen and the Constitution**

This request was for partial funding for sending an Iowa team of secondary students to participate in the national We the People competition in Washington, DC.

The We the People curriculum is unique and offers schools in every Iowa congressional district a free set of texts on teaching the United States Constitution and provides professional development workshops for teachers of United States government and history. The program includes an option for each teacher to develop a student team that simulates a congressional hearing on six constitutional topics. These teams compete within each Iowa congressional district for the honor of representing their district at the state finals held each year in Des Moines. The team chosen to represent Iowa travels to Washington, DC for the national competition.

We the People is the most extensive program in the country designed to educate young people about the history and principles of the United States Constitution and the Bill of Rights. The program promotes understanding of the rights and responsibilities of citizens in the American version of constitutional democracy. The We the People curriculum does this by enhancing students' understanding of the institutions of American constitutional democracy and helping them to identify the contemporary relevance of the Constitution and Bill of Rights. Critical thinking exercises, problem-solving activities, and cooperative learning techniques help develop participatory skills necessary for students to become active, responsible citizens.

The ISBA is committed to the personal growth and achievement of secondary students along with the enhancement of citizenship education. We the People: The Citizen and the Constitution provides a unique opportunity for students to utilize, in a national arena, their knowledge of the history and principles of the United States Constitution. Provision of a grant award will promote the growth, achievement, and citizenship of Iowa high school students, thus complying with the purposes of the ISBA.





# Grants 07-08



## **\$112,000 for The Iowa State Bar Association - The Center for Law & Civic Education**

This request is to further the mission of the ISBA's Center for Law & Civic Education: serving attorneys, educators, students, and the public as a permanent state resource on law and civic education. The programs of the Center challenge students to develop critical thinking skills, and enhance their commitment to problem solving and dispute resolution.

Funds will support several of the LCE Center's educational programs which serve junior and senior high school youth statewide. Last year's Iowa Mock Trial Program involved 4,000 students on 226 teams in 122 Iowa high Schools. In addition to these excellent programs, the LCE Center also provides teacher education, conferences, technical resources, curriculum, and community networks. ISBA members also participate in these worthwhile endeavors. Funding will be in the amount of \$112,000 for five years with annual increases of three percent.



This grant is exemplary of the organization's mission and vision. It provides multiple avenues for collegial civic involvement in addition to educating youth and teachers through exciting hands-on programs, such as Mock Trial and Mock Elections. Such opportunities give youth and adults greater understanding of the legal process. Through these and other Center initiatives, the profession's standing within the communities where lawyers live and work can be greatly enhanced.

## **\$34,000 for The Iowa State Bar Association - Lawyer Referral Service**

This request will allow the ISBA Lawyer Referral Service to continue providing service to Iowan's throughout the state. This important service provides Iowans with the name or names of lawyers in 32 areas of the law who are willing to consult and advise them at a discounted rate.

Approximately 15,000 Iowans contacted LRS in 2006 and 7,505 clients were referred. LRS focuses on finding a lawyer in the area of the law and the geographical area requested by the client. It offers clients statewide toll-free and email access or website service 24 hours a day, seven days a week. Approximately 287 lawyers participate in this service.

Funding for this program is fully consistent with the Foundation's purposes. The ISBA LRS program provides the public with convenient and fairly-priced lawyer referrals for resolution of legal problems, educates those seeking referrals on the importance of consulting lawyers for legal concerns, and involves participating lawyers in civic service. Funding will be in the amount of \$34,000 for five years with a three percent increase each year.

**LET CLIENTS FIND YOU!**



**ISBA STATEWIDE LAWYER REFERRAL SERVICE**

## **\$25,000 for the Loan Repayment Assistance Program of The Iowa State Bar Association**

This request was for continued support of The Iowa State Bar Association Loan Repayment Assistance Program ("ISBA-LRAP") which exists to support law school graduates in choosing employment in the public interest field and in retaining such employment. To fulfill this mission, the ISBA-LRAP provides assistance to help repay their educational loan expenses. This assistance is designed to support participants who would otherwise be precluded from accepting qualifying employment or who would be unable to continue to work in qualifying employment because of salaries that do not support their student loan burden.

An applicant must be licensed to practice law in the state of Iowa. They must be employed at a qualifying public interest organization providing legal services to the poor, enhancing the administration of justice, or providing law related education to the public.

Part-time attorneys are eligible but the assistance shall be pro-rated. An applicant's annual salary from qualifying employment may not exceed \$50,000. Undergraduate, graduate and law school loans will be considered in determining the amount of assistance. An assistance amount of \$5,000 per year may be awarded to each approved participant. The intent of the award is to assist applicants with making loan payments and not to simply reduce the principal amount.

One primary purpose of the bar association is to advance the science of jurisprudence. The ISBA needs to do everything it can to encourage attorneys to enter the public service field. Access to justice for all is dependent upon attorneys who are committed to serving the public.

## **\$10,000 for the ISBA Public Service Project on behalf of The Iowa State Bar Association**

This request was for continued support for The Iowa State Bar Association to once again sponsor a booth at the Varied Industries building during the 2008 Iowa State Fair. The Iowa State Bar Association will have members present to provide education regarding various topics of law, not legal advice. Fifteen different informational brochures will be made available for handouts. The booth will be double size and part of the space will be used so that the public can see information about the ISBA Foundation. It is expected that approximately 1 million people will visit the Iowa State Fair.

This event will educate the public in Iowa and give them a better understanding of how the legal system works. The event will also help improve the image of the legal profession.





# Grants 07-08



## **\$30,000 for the Iowa Legal Aid and ISBA Health Law Section for Iowa Legal Aid Health and Law Project**

This request was for continued funding towards providing legal services to persons being seen at community health centers. This project involves collaborative work between Iowa Legal Aid, Community Health Centers who are part of the Iowa/Nebraska Primary Care Association and attorneys involved in the Health Law Section of The Iowa State Bar Association. The purpose of the project is to help low-income clients resolve legal problems that are impacting their health. By addressing these underlying legal problems, health care costs can be reduced while improving the quality of life for low-income Iowans.



The Iowa Legal Aid Health and Law Project is a major effort to establish in a rural area the benefits linking doctors and lawyers in serving low-income Iowans. The project has full-time attorneys in Des Moines, Ottumwa and Sioux City, with the Sioux City attorney also providing some services in Council Bluffs. In addition to working with the Iowa/Nebraska Primary Care Association, the umbrella group working with the Community Health Centers in Iowa and Nebraska, there are Health and Law Project attorneys working with Community Health Centers located in Sioux City/Council Bluffs, Des Moines and Ottumwa.

Low-income individuals seeking help through the health care system often face legal problems that impede their course of medical treatment. Through screening of patients seeking medical assistance, legal problems can be detected and early intervention may prevent further health and legal problems. The Health and Law Project will provide assistance to patients with legal problems that are impacting their health. The Project will provide assistance to patients who need help with domestic violence, disability programs; medical assistance programs; housing issues; end-of-life planning issues; rights of people with disabilities; and consumer protection issues, among other issues.

This Project is consistent with the goal of the Bar to portray lawyers in a favorable light in the media and to make worthwhile contributions to Iowa's most vulnerable communities. The Project will help Iowa lawyers meet their goal of 50 hours of pro bono service contained in the ethic rules.

## **\$1,500 for the International Law Section Council of The Iowa State Bar Association**

This request will help support the funds needed for The Iowa Council for International Understanding's forum on Human Trafficking that will be held October 9 and 10, 2007.

The International Law Section Council of The Iowa State Bar Association provides assistance to Iowa Lawyers who have a question involving international law, as well as lawyers routinely practicing in the area. The general heading "International Law" encompasses public or government law, such as dual citizenship issues, passport and visa inquiries, the effects of treaties, as well as private law, such as law applicable to international transactions, business regulation, payments, and dispute resolution. The Section exists to provide a forum for exchange of information for attorney's expert in the area, and to provide a resource for all attorneys in Iowa who may be confronted with a question in the area of international law and who need assistance with finding the correct answers. The Section also is willing to assist the Association with all matters regarding visiting international legal scholars, judges, lawyers and government officials.

The Human Trafficking public forum will take place Tuesday evening, October 9, 2007 at Hoyt Sherman Place in Des Moines, IA. The following day, there will be a workshop with invited participants from law enforcement, human services, advocates, etc. so that they can go into more depth on how to identify trafficked persons and then develop a plan of action for Iowa. "Human Trafficking" or "trafficking in persons" encompasses both the sex trade and forced labor. Persons (primarily from other countries, although there is some domestic trafficking) are kidnapped and smuggled into the United States, or lured with a promise of a paying job. Once in the U.S., they are held captive through force, threats, and (often) inability to speak English. Law enforcement and the general public often do not know the signs that human trafficking is occurring. Even when trafficking is prosecuted, the victims are often deported rather than provided the services to which they are entitled by law (including visa status in the U.S.) In 2006, Iowa passed a law specifically addressing human trafficking. The next step is education and implementation, which is the goal of this two day event.

This grant award will help fund the forum and will help show the awareness of this emerging issue and concern for the community – a particular vulnerable group – and a commitment to justice. The Bar is in a unique position to bring members of the law enforcement community together with service providers and the general public to promote understanding of the existence and nature of human trafficking and to implement the current law in Iowa.

## **HOW TO APPLY FOR A GRANT**

### **APPLICATIONS**

Grant applications are available online at [www.iowabar.org](http://www.iowabar.org) or by calling Mary Hill, Foundation Liaison, at The Iowa State Bar Association (515) 697-7870 or (800) 457-3729. Email request to [foundationinfo@iowabar.org](mailto:foundationinfo@iowabar.org).

### **APPLICATION REVIEW**

Grant applications must be received in the office of The Iowa State Bar Association by May 15 to be considered at the June meeting and by November 1 to be considered at the December meeting of the Bar Foundation. Late applications will not be considered. You will be notified of the Foundation's decision in writing following its respective meeting.

# Memorial Contributions

## REMEMBERING THEIR LEGACY - MEMORIAL CONTRIBUTIONS

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, or a parent, send your contribution to: The Iowa State Bar Foundation, 625 East Court Avenue, Des Moines, IA 50309. A representative of the Foundation will acknowledge the gift and a permanent record will be made.

## OTHER WAYS YOU CAN SUPPORT THE FOUNDATION

**CHARITABLE GIVING** - The Iowa State Bar Foundation is a 501(c) (3) not-for-profit charitable organization. Contributions to the Foundation are an excellent way of reducing your tax liability and providing funds for the many worthwhile programs the Foundation supports. Celebrating, Recognizing, Commemorating, Honoring, Appreciating, Sympathizing, Acknowledging, Memorializing, Congratulating. Whenever you have cause for celebration, need a special way to say "thank you," or want to convey your sympathies with a personal touch, The Iowa State Bar Foundation welcomes gifts year-round as expressions of remembrance to family and friends.

**ISBA MEMBERSHIP DUES** - The Iowa State Bar Foundation is grateful to those members of The Iowa State Bar Association who participate in the voluntary check-off donation to the Foundation. All members of the ISBA are encouraged to participate when ISBA membership dues are mailed in May of each year.

**ANNUAL GIVING** - Hundreds of Iowa attorneys give each year by way of general contributions. These gifts, of all sizes, provide unrestricted funds – a pool of resources that can be easily directed by the Foundation board.

**STOCK GIFTS** - Gifts of marketable stocks or mutual fund shares that have appreciated (increased in value) can have an immediate impact on your favorite program and also create an immediate income tax deduction for you based on the asset's current value.

**MATCHING GIFTS** - Many contributors multiply their support for the Foundation each year by making use of their employer's matching gift programs. The Foundation is grateful to these companies and foundations for their generosity. To find out if your company participates in such a program, ask your HR department.

**PLANNED GIVING** - One of the most effective means of giving to the Foundation is a planned gift. Gift planning is the process of carefully selecting the best methods and assets for making a gift, such as cash, stocks, bonds, real estate, life insurance, trusts, and bequests. A planned gift can enable you to assist the Foundation in its mission of education, research, and service while also reducing your burden of income, capital gains, or estate taxes.

## In Memory of:

### *Lawrence L. Marcucci*

American Mock Trial Association  
George & Linda Arvidson  
Robert & Kimberly Blink

James W. Carney  
Hazel Conger  
John C. Conger

John & Barbara Cortesio  
Michael & Kris Dee  
Elmhurst Collge  
Alan E. Fredregill

Robert & Joan Gonnella  
Monica A. Green  
Charles E. Gribble  
Roger Hudson

Joseph & Julie Husak  
Joann Huss  
Cindi Huston

Carol M. Ihrke  
Gerald M. Kirke

Robert & Connie Klemm  
Michael & Vicky Korf  
Susan A. Low

John & Jill Manning  
Tom & Lori Mitton  
Neven J. Mulholland

Gerald & Mary Louise Neugent  
John & Joyce Perkins  
G. Brian & Kathryn Pingel

Innovative Process Administration, LLC  
Polk County Bar Association  
Dale & Victoria Pray

Thomas Press & Donna Paulsen  
John L. Riccolo  
Scott D. Rosenberg

Rebecca A. Shivvers  
Wendy W. Skinner

Ryan Slattery & Ashleigh Espenhove  
Brian Thielges, Exchange State Bank  
Total Quality, Inc.

Eric F. Turner  
Peter & Sandra Urso  
Whitfield & Eddy  
William J. Wimmer

### *Wiley E. Mayne*

Russell & Virginia Buchanan

### *Richard Zellhoefer*

James W. Carney

### *Burns Mossman*

James W. Carney  
Joel & Sharon Greer

### *L. Call Dickinson*

James W. Carney

### *Oliver Wendell Hanes*

Thomas Henderson & Nan Horvat

### *Joseph Bitter*

Dubuque County Bar Association

### *Thomas J. Clarke, Jr.*

James W. Carney

### *Lyle Middleton*

James W. Carney

### *Raymond Stefani, Sr.*

James W. Carney  
Betty, Neuman & McMahon  
Thomas Henderson & Nan Horvat

### *Elliott E. Cooper, Sr.*

Mr. & Mrs. Steven Bakke

### *Don Kliebenstein*

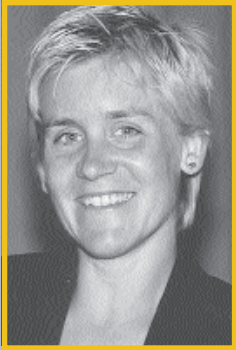
James W. Carney

### *George E. Wright*

James W. Carney  
Shuttleworth & Ingersoll



# Fellows President



Dear Fellows of the Iowa State Bar Foundation:

With great pleasure and honor I write my first letter as President of the Foundation Fellows. Thank you to Cynthia Moser for her years of service as President. Cynthia will continue her commitment to the Foundation as a member of the Foundation Board of Directors.

The Iowa State Bar Foundation was formed in 1944 under the guiding light of The Iowa State Bar Association Past President Burt J. Thompson of Forest City. The Foundation was originally conceived to provide an avenue for raising funds to build a structure to house The Iowa State Bar Association. As for many things in life, the Foundation has come full circle and your contributions have allowed the Foundation to make significant contributions to the beautiful home of The Iowa State Bar Association. If

you have not had the opportunity to tour and use your building, please make a point of stopping in the next time you are in the area.

Membership in the fellows is by nomination and invitation only and is limited to those members of The Iowa State Bar Association who have demonstrated adherence to the highest principles and traditions of the legal profession as well as service to the public and to the community in which they live. Fellows membership is limited in number to 250, whereas there is no limit in the Life Fellows membership. Currently we have 50 Fellows and 224 Life Fellows. As you can see, there is plenty of opportunity to add to our membership. The financial commitment is manageable, with the nominee given the option of completing the \$1,000.00 contribution through eight annual payments of \$125.00. Please consider nominating a worthy lawyer, judge or professor to become a Fellow. Nomination forms are available on The Iowa State Bar Association's website under the Foundation link or by contacting Mary Hill at the Bar Association office.

Thank you for your commitment to the Iowa State Bar Foundation. Through your contributions, the Foundation remains a force in serving the public and the legal profession in Iowa.



Sincerely,

Elisabeth S. Reynoldson

## THE FELLOWS

### Supporting the Foundation's Objectives

A Fellow of the Iowa State Bar Foundation is a member of The Iowa State Bar Association who has been recognized for outstanding professional achievement, for dedication to the legal profession and to the objectives of The Iowa State Bar Association as set out in its Articles of Incorporation.

Fellow membership should be broad-based, and to that end, consideration can be given to one or more of the following selection criteria:

- ◆ **Leadership roles exercised at the state bar level.**
- ◆ **Exemplary leadership provided to local and district bars.**
- ◆ **Exemplary leadership provided to the national bar.**
- ◆ **Outstanding public service and leadership demonstrated.**

Each Fellow makes a financial commitment to The Iowa State Bar Foundation to help achieve its goals and objectives in serving the public and profession in matters relating to the law.

There are two (2) classes of Fellows: (1) Fellows, limited in number to 250; and (2) Life Fellows, unlimited in number.





# Fellows



## LIFE FELLOWS

Ivan J. Ackerman, Waverly  
 Angela T. Althoff, Des Moines  
 Alan J. Anderson, Logan  
 Joan U. Axel, Muscatine  
 L. Minor Barnes, Cedar Rapids  
 Lu Ann L. Barnes, Ankeny  
 Barbara G. Barrett, New York  
 William D. Bartine II, Des Moines  
 V. Jean Bartley, Iowa City  
 Marion L. Beatty, Decorah  
 Francis H. Becker, Bellingham  
 David D. Beckman, Burlington  
 Harold T. Beckman, Council Bluffs  
 W. Louis Beecher, Waterloo  
 Marvin S. Berenstein, Sioux City  
 Roger A. Berkland, Emmetsburg  
 John M. Bickel, Cedar Rapids  
 Edgar H. Bittle, Des Moines  
 Edward M. Blando, Cedar Rapids  
 Orville W. Bloethe, Victor  
 Boyd W. Boehlje, Pella  
 F. James Bradley, Cedar Rapids  
 Robert W. Braun, Waterloo  
 Allen E. Brennecke, Clemons  
 David L. Brown, Des Moines  
 Donald J. Brown, Des Moines  
 Russell G. Buchanan, Algona  
 Claus H. Bunz, Clive  
 Thomas J. Cahill, Nevada  
 Bonnie J. Campbell, Des Moines  
 Claire F. Carlson, Fort Dodge  
 James W. Carney, Des Moines  
 Thomas W. Carpenter, Des Moines  
 Richard R. Chabot, West Des Moines  
 Antonio Colacino, Des Moines  
 Kevin H. Collins, Cedar Rapids  
 Thomas M. Collins, Tucson  
 Roxanne B. Conlin, Des Moines  
 Lance A. Coppock, Des Moines  
 John C. Cortesio Jr., Des Moines  
 Charles R. Coulter, Coralville  
 Lylea D. Critelli, Des Moines  
 Nick V. Critelli Jr., Des Moines  
 Francis L. Cudahy, Jefferson  
 John G. DeKoster, Hull  
 J. Terrence Deneffe, Ottumwa  
 David A. Dettmann, Davenport  
 Mark C. Dickinson, Des Moines  
 Dwight L. Dinkla, Des Moines  
 Philip J. Dorweiler, West Des Moines  
 Robert N. Downer, Iowa City  
 Raymond P. Drew, Hampton  
 David J. Dutton, Waterloo  
 Jay Eaton, Des Moines  
 David M. Elderkin, Cedar Rapids  
 James C. Ellefson, Marshalltown  
 James A. Erb, Charles City  
 Daniel P. Ernst, Dubuque  
 Thomas A. Finley, Des Moines  
 Joseph L. Fitzgibbons, Estherville  
 Thomas L. Flynn, Des Moines  
 Robert E. Ford, Cedar Rapids  
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Dale B. Smith, Sloan  
Darin D. Smith, Cedar Rapids  
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H. Richard Smith, Des Moines  
James F. Smith, Charles City  
Jay M. Smith, Sioux City  
Jennifer M. Smith, West Des Moines  
LeGrande W. Smith, Des Moines  
Leslie D. Smith, Marion  
MacDonald Smith, Sioux City  
Max W. Smith, Liberty  
Neal E. Smith, Des Moines  
Paul M. Smith, Omaha  
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John G. Steckel, Rock Island  
Donald T. Steege, The Villages  
Michael J. Stapp, Kansas City  
Vincent E. Starzinger, Hanover  
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Daniel L. Stockdale, Iowa Falls  
Ned A. Stockdale, Estherville  
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Bruce H. Stoltze, West Des Moines  
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Wilford H. Stone, Cedar Rapids  
William K. Stoops, Sioux City  
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Robert H. Story, Cresco  
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David S. Strutt, Des Moines  
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Hilary A. Stubben, Dubuque  
David J. Stubstad, Omaha  
H. Allan Sturgeon, Sioux City  
Clyde W. Sturges, Carmel  
Sandra E. Suarez Quilty, Clive  
William F. Sueppel, Iowa City  
William J. Sueppel, Iowa City  
Charles J. Suk, Rochester  
Jon P. Sullivan, Des Moines  
Mark J. Sullivan, Dubuque  
Mary G. Sullivan, Belleville  
Melanie S. Summers, Estherville  
Robert M. Sundberg, Jefferson  
Thomas G. Sundvold, Lincoln  
Kendall R. Surfass, Park City  
Deborah K. Svec-Carstens, Ankeny  
H. J. Swailes, Belle Plaine  
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Justin K. Swaim, Bloomfield  
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Amy K. Swanson, Parkersburg  
Benjamin D. Swanson, Des Moines  
Bruce E. Swanson, Red Oak  
John E. Swanson, Des Moines  
Mark D. Swanson, Red Oak  
Robert A. Swartzendruber, Ankeny  
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Andrew L. Symons, Bellevue  
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Phillip J. Tabor, Maquoketa  
David L. Takes, Cedar Falls  
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James R. Talcott, Omaha  
Paul Tanaka, Ames  
Tonya S. Tappa-Marx, Bettendorf  
Holly A. Tapper, Minneapolis  
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David L. Thomas, Fairfax  
James A. Thomas, Glenwood  
Jeffrey D. Thomas, Mount Pleasant  
John F. Thomas, Omaha  
Mark W. Thomas, Des Moines  
William D. Thomas, Pocahontas  
Robert W. Thompson, Reinbeck  
Sarah J. Thomsen, Mason City  
James E. Thomson, Waukon  
Kenneth B. Thomson, Maitland  
Robert C. Thomson, Des Moines  
William K. Thomson, Mount Pleasant  
F. R. Thornton, Des Moines  
James W. Thornton, Ames  
Catherine H. Thune, West Des Moines

Paul C. Thune, West Des Moines  
Robert D. Tiefenthaler, Sioux City  
Sandra J. Timmerman, Davenport  
William E. Timmons, Des Moines  
James M. Tinker, Audubon  
Christopher J. Tinley, Council Bluffs  
Raymond M. Tinnian, Kalona  
Sheila K. Tipton, Des Moines  
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Terrence M. Tobin, Des Moines  
Bruce J. Toenjes, Shell Rock  
Joseph L. Tofilon, Chicago  
Edmund J. Tormey, Indianola  
Rachel L. Totel, Des Moines  
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Stephie N. Tran, Des Moines  
Kelly L. Traw, Silver Spring  
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Tito W. Trevino, Fort Dodge  
Michael G. Trier, Unionville  
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Timothy N. Tripp, Pella  
Jeffrey R. Tronvold, Cedar Rapids  
Robert E. Tucker, Des Moines  
Rob G. Tully, West Des Moines  
Michael D. Tungesvik, Boone  
Samuel J. Turco, Omaha  
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Sanford A. Turner, Clarinda  
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Murray S. Underwood, Spencer  
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David L. Updegraff, Sioux City  
Eric M. Updegraff, Norwalk  
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Ronald L. Van Veldhuizen, Oelwein  
James E. Van Werden, Adel  
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Mary W. Vavroch, Jewell  
Amanda Velazquez, Miami  
Matthew D. Veldey, Des Moines  
Loren J. Veldhuizen, Alton  
Maria Vera, Omaha  
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William S. Vernon, Cedar Rapids  
Michael S. Vervaecke, Mason City  
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Kimberly J. Walker, Des Moines  
Lee M. Walker, Newton  
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Brenda K. Wallrichs, Cedar Rapids  
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G. Stephen Walters, Winterset  
James P. Walters, Iowa Falls  
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Steven K. Warbasse, Cedar Rapids  
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Kathleen A. Ward, Omaha  
Rebecca D. Ward, Redmond  
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Maria A. Waterman, Pleasant Valley  
D. Samuel Waters, West Des Moines  
Michele Smith Watkins, Iowa City  
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Justin T. Wayne, Omaha  
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Jennifer J. Weaver, Fort Dodge  
Nhxy-Selene Webb, Des Moines  
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Colleen D. Weiland, Mason City  
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Mark E. Weinhardt, Des Moines  
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Sally A. Weyer, Iowa City  
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Jonathan Willier, Centerville  
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Elizabeth Willis, West Des Moines  
Emily M. Willits, Minneapolis  
Alan M. Wilson, Corydon  
Andrew J. Wilson, Omaha  
Dawn R. Wilson, Cedar Rapids  
Denny R. Wilson, Independence  
Elizabeth Wilson, Coralville  
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*The Board of Directors and staff of The Iowa State Bar Foundation gratefully acknowledges the generous contributions received between July 1, 2007 and June 30, 2008. Great effort has been taken to ensure the accuracy of the names listed. Should you find an error or an omission, please accept our apologies and contact the Iowa State Bar Foundation at (515) 697-7870.*

# Financial Statements



## THE IOWA STATE BAR FOUNDATION STATEMENTS OF ACTIVITIES AND CHANGES IN NET ASSETS YEARS ENDED JUNE 30, 2008 AND 2007

<b>REVENUES</b>	<b>2008</b>	<b>2007</b>
Contributions	\$48,105	\$79,609
“Raising the Bar” Contributions	628,427	793,324
Fellows Income	125	4,850
<b>Total Revenues:</b>	<u>676,657</u>	<u>877,783</u>
 <b>EXPENSES</b>		
Program Services:		
Grants:		
The Iowa State Bar Association	899,332	54,824
Others	110,430	40,000
Total Program Services Expenses	<u>1,009,762</u>	<u>94,824</u>
General and Administrative Services:		
Fellows Expense	2,050	1,342
Professional Fees	25,686	32,301
Miscellaneous	7,103	11,068
Total General and Administrative Services	<u>34,839</u>	<u>44,711</u>
Fundraising Expenses	<u>55,690</u>	<u>73,265</u>
<b>Total Expenses</b>	<u>1,100,291</u>	<u>212,800</u>
<b>Increase (Decrease) in Net Assets Before Investment Income</b>	(423,634)	664,983
<b>Investment Income (loss)</b>	<u>(98,351)</u>	<u>244,063</u>
<b>Increase (Decrease) in Net Assets</b>	(521,985)	909,046
Net Assets - unrestricted, beginning of year	<u>2,674,433</u>	<u>1,765,387</u>
Net Assets - unrestricted, end of year	<u><u>\$2,152,448</u></u>	<u><u>\$2,674,433</u></u>

**The Iowa State Bar Foundation**  
**Mary Hill, Foundation Liaison**  
**625 East Court Avenue**  
**Des Moines, IA 50309-1904**  
**Phone: (515) 697-7870**  
**Fax: (515) 243-2511**  
**[www.iowabar.org](http://www.iowabar.org)**



DATE	PROGRAM	# OF HOURS			LOCATION	ID#
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State	Federal	Ethics
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**NOVEMBER**

7	Law Over Lunch: Good Interpreting - How to Know it When You See (or Hear) it	1	0	0	Telephone CLE	53181
11	The New Iowa Limited Liability Company Act	3	0	0	ISBA, Des Moines	54748
12	Law Over Lunch: Basics of Appellate Advocacy	1	0	0	Telephone CLE	53182
12	Rules of Advertising Webinar Criminal Law	1	0	1	Webinar	54761
21	2nd Annual Alternative Dispute Resolution	7.25	0	1.75	ISBA, Des Moines	55050

**DECEMBER**

3-5	Tax School	15	8.83	1	Downtown Marriott, Des Moines	55051
10	Law Over Lunch: Ethics	1	0	1	Telephone CLE	55053
12	eCommerce Seminar	7.5	1.25	0.5	ISBA, Des Moines	55054
16	Global Warming and the International Perspective - Potential Impacts on Iowa Industry and Agriculture *federal credit pending	3.5	*	0	ISBA, Des Moines	55549
17	Government Practice Telephone CLE	1	0	0	Telephone CLE	55055
19	Federal Practice	7	7	1	Hotel Ft. Des Moines	55052

**# OF HOURS**

**ON-DEMAND SEMINARS**

State	Federal	Ethics
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**ID#**

Prisoner Civil Rights Litigation	3	0	0	54792
Fourth Amendment Focus: A Search and Seizure Primer	0.75	0.75	0	54790
ERISA Section 502(a)(2)	1.5	1.5	0	54810
Claims after LaRue Deluge or Drizzle				
Adoption Practice Today Part 1: International And Federal Adoption Issues	3.75	3.67	0	55547
2008 Family Law Conference: Reading and Reviewing Tax Returns	2.25	2.38	0	55550
A Practical Approach to Premarital	4	0	0	55557
How to Avoid Being the Target of a Government Investigation	3	0	0	54806
Senior Executive Agreements	1.75	0	0	54811
Federal Crimes and Defenses	2	0	0	54791



Register for a CLE event today at [www.iowabar.org](http://www.iowabar.org)

## Appellate Practice Seminar

February 20, 2009 \*

3.5 State CLE Hours

The Iowa State Bar Association Building  
625 East Court Avenue, Des Moines, Iowa

\*Please note date change

12:30 - 1:00

### Registration

1:00 - 2:15

### Inside the Court

Panel moderated by William J. Miller, Dorsey & Whitney  
Panel Members: Justice David L. Baker, Iowa Supreme Court,  
Judge Richard Doyle, Iowa Court of Appeals,  
Donna Humpal, Clerk of the Supreme Court (effective February 2009) and  
Christine Mayberry, Deputy Clerk of Court

2:15 - 2:30

### Break

2:30 - 3:45

### Introduction to the New Rules of Appellate Procedure

Justice Daryl L. Hecht, Iowa Supreme Court and  
Kevin Cmelik, Assistant Attorney General, Criminal Appeals Division

3:45 - 4:45

### Appellate Practice Tips

Justice David S. Wiggins, Iowa Supreme Court and  
Theresa Wilson, Assistant Appellate Defender

## Registration Form: Appellate Practice Seminar

Name : \_\_\_\_\_ Member # \_\_\_\_\_ Phone # \_\_\_\_\_

Address: \_\_\_\_\_ City, State, Zip: \_\_\_\_\_

E-mail: \_\_\_\_\_

Registration:  \$85 ISBA Member  \$130 Non-ISBA Member

Method of Payment:  Check enclosed Check Number \_\_\_\_\_

Master Card  Visa  American Express  CLE Season Pass

Credit Card #: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Cardholder Signature: \_\_\_\_\_

Return Registration form to: ISBA CLE, 625 E. Court Avenue, Des Moines, IA 50309. For questions call:  
(515) 697-7874 or fax (515) 243-2511

Cancellation Policy/Walk-in Registration Fee: Registration refunds will be issued only if written notification is received by the Bar Office by February 13, 2009. Written notification can be mailed, faxed, or e-mailed to the Bar Office. Walk-in registration fee will be an additional \$50 (fee will begin on February 19).

Deadline is Feb. 20 –

## Apply now for 2009-10 ISBA committees, section councils

### We want you on a team!

As president-elect, it is both a privilege and a responsibility to appoint members to serve on The Iowa State Bar Association's committees and section councils, and to assist the Supreme Court in appointing members to its boards and commissions, for 2009-10. Members of these bodies are the lifeblood of the association since it is through teamwork that many of the recommendations of the 2003 strategic plan and ISBA's other goals are accomplished.

I invite you to nominate someone, or yourself, for one or more of the committees and section councils or Supreme Court boards and commissions listed on page 20. An application form is included here if you wish to copy and mail it in. You also can apply online by going to the ISBA website ([www.iowabar.org](http://www.iowabar.org)) and clicking on the committee/section link on the home page. For your convenience, a description of each committee and section with vacancies can be found on pages 21-23. You can also read the descriptions by clicking on the "Committees" or "Sections" link in the left (blue) navigator bar on the home page.

As a member of a team, you'll find that you make new friendships with lawyers across the state, many of whom have interests similar to yours. These friendships will benefit you personally and professionally for many years to come.

**Committee appointments** are not for a specific term and the membership of each committee is **determined annually**. Even if you are now serving on a committee, please re-apply. We need to know if you are still interested in serving.

**Section council appointments** are for a term of three years with a maximum of two terms. Retiring council members are not eligible for reappointment until they have been off the council for one year. However, if you are a retiring council member, you may apply for another council of which you are a section member, or for any committee or commission.

**Board and Commission appointments** have specific terms, and vacancies are filled accordingly.

To ensure that the ISBA receives maximum benefit from your talents and abilities, we ask that you attend all meetings, and

that you be an active participant in the agenda and activities.

You will note on the application form that the requested information regarding gender, age and ethnic background is optional. The ISBA bylaws provide that appointments should be made after taking these factors into consideration, as well as geographic location and the nature of your practice. My goal is to make the membership of each body as nearly representative of the membership of the association as possible based upon these factors. **To that end, I urge you to provide the optional information.**

In some cases, the number of interested applicants is greater than the number of positions to be filled. Your chances of being appointed are greater if you indicate several choices on the application form. In addition, if you have applied in the past, but have not been appointed, please apply again. **Every year is a new opportunity**

Now is the time and opportunity for you to join the team as we together fulfill the mission of the ISBA. Please submit your application by Feb. 20. And, thank you in advance for your leadership and efforts in helping to make your association a vibrant and progressive organization.



Jane Lorentzen, President-Elect

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## 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](mailto:mhill@iowabar.org).



# Application

## Committees, Section Councils, Boards, Commissions Fiscal Year July 1, 2009-June 30, 2010

Name \_\_\_\_\_ Judicial Election District # \_\_\_\_\_ ISBA Member # \_\_\_\_\_

Optional Information (to assist in the appointment of diverse committees and commissions):

Gender \_\_\_\_\_ Age \_\_\_\_\_ Ethnic Minority \_\_\_\_\_

Type of practice:  Solo  2-10 lawyers  11-25 lawyers  25+ lawyers  Government Attorney

In-house Corporate Counsel  Judge  Legal Aid  Other \_\_\_\_\_

Primary areas of practice (i.e. Business Law, Criminal Law, Family Law, Probate, Real Estate, etc.):  
\_\_\_\_\_

### **Please indicate desired appointments**

I would like to be considered for appointment to the following committees (If multiple choices, please indicate order of preference):

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> American Citizenship    | <input type="checkbox"/> Annual Meeting             | <input type="checkbox"/> Appellate Practice      |
| <input type="checkbox"/> Federal Practice        | <input type="checkbox"/> Iowa Jury Instructions (3) | <input type="checkbox"/> Judicial Administration |
| <input type="checkbox"/> Law Practice Management | <input type="checkbox"/> Legal Aid                  | <input type="checkbox"/> Legal Forms             |
| <input type="checkbox"/> Legal Heritage          | <input type="checkbox"/> Membership                 | <input type="checkbox"/> Professionalism         |
| <input type="checkbox"/> Public Relations        | <input type="checkbox"/> Women and Minorities       |  |

I would like to be considered for appointment to the following section councils (must be a current dues-paid section member; number of potential vacancies in parenthesis) (If multiple choices, please indicate order of preference):

- |  |  |  |
|--|--|--|
| <input type="checkbox"/> Administrative Law (3)      | <input type="checkbox"/> Agricultural Law (2)            | <input type="checkbox"/> Alternative Dispute Resolution (4)    |
| <input type="checkbox"/> Business Law (2)            | <input type="checkbox"/> Commercial & Bankruptcy Law (3) | <input type="checkbox"/> Corporate Counsel (3)                 |
| <input type="checkbox"/> Criminal Law (2)            | <input type="checkbox"/> eCommerce (4)                   | <input type="checkbox"/> Environmental & Natural Resources (2) |
| <input type="checkbox"/> Family & Juvenile Law (3)   | <input type="checkbox"/> General Practice (3)            | <input type="checkbox"/> Government Practice (1)               |
| <input type="checkbox"/> Health Law (2)              | <input type="checkbox"/> Intellectual Property Law (6)   | <input type="checkbox"/> International Law (8)                 |
| <input type="checkbox"/> Labor & Employment Law (4)  | <input type="checkbox"/> Litigation (3)                  | <input type="checkbox"/> Probate & Trust Law (3)               |
| <input type="checkbox"/> Real Estate & Title Law (3) | <input type="checkbox"/> Taxation (3)                    | <input type="checkbox"/> Trade Regulations (5)                 |
| <input type="checkbox"/> Workers' Compensation (6)   |  |  |

I would like to be considered for appointment to the following Supreme Court boards and commissions (Numbers in parenthesis indicate openings available):

- Board of Law Examiners (1)
- Grievance Commission: 3B (1), 4 (1), 5B (1), 5C (1), 6 (1), 7 (2), 8A (2)
- Supreme Court Iowa Attorney Disciplinary Board (3)

Please return application by Feb. 20 to:

E-mail: [mlehman@iowabar.org](mailto:mlehman@iowabar.org)

Fax: 866-798-7097

Mail: The Iowa State Bar Association

625 East Court Avenue

Des Moines, IA 50309-1904

# Duties and responsibilities of committees and sections

## Committees

### American Citizenship Committee

Has jurisdiction of all questions in the field of American citizenship and of the American form of government with respect to education and understanding of both the privileges and responsibilities thereof. It may make awards to students and others, recognizing excellence in American citizenship.

### Annual Meeting Committee

With the advice and consent of the President, and with the assistance of the headquarters staff, makes arrangements for the annual meeting of the association, including the programs and entertainment to be presented in connection therewith.

### Appellate Practice Committee

Works to improve the appellate practice and interface with the restructuring efforts of the Supreme Court.

### Federal Practice Committee

Deals with matters of concern to lawyers practicing in the Federal Court system. Sponsors continuing legal education events satisfying the federal continuing legal education requirements, and updates from time to time the Federal Practice Manual.

### Iowa Jury Instructions

Studies and produces drafts of recommended uniform jury instructions for the approval of the Board of Governors. Monitors published instructions and modifies them from time to time as required.

### Judicial Administration

Studies and reports from time to time on ways and means to improve the administration of justice.

### Law Practice Management

Provides an organization available to lawyers who are concerned with the improvement of the means and methods by which the practice of law is conducted and studies developments in legal systems, equipment, procedures and such other areas as the committee may select. Recommendations are disseminated through seminars, publications, and by such other means as the committee may select.

### Legal Aid Committee

Concerns itself with the means and methods by which members of the association provide legal aid to indigent persons. Coordinates activities with other pro bono groups when possible and reports to the Board of Governors its recommendations.

### Legal Forms Committee

Prepares and submits for distribution to members of the association such legal forms as it deems proper, subject to the approval of the Board of Governors; studies ways and means of bringing about the use by District Court Clerks in Iowa standardized uniform legal forms in legal proceedings.

### Legal Heritage Committee

Collects all data obtainable touching upon the past history of the Bar of Iowa and the members thereof, receives all papers and data referred to it and, subject to the approval of the Board of Governors, arranges such matter for publication.

### Membership Committee

Responsible for soliciting for membership in the association, all eligible persons as stated in the Policy of the Association contained in Section 2 of Article III of the by-laws. Works with the secretary and the headquarters staff, when requested, in the collection of delinquent dues.

### Professionalism Committee

Studies and reports to the Board of Governors on problems relating to the perceived decline in professionalism; recommends methods and means by which lawyers will be encouraged to strive for higher goals of professionalism and will develop a greater appreciation for its importance in the practice of law.

### Public Relations Committee

Works closely with the Director of Communications and the Secretary to improve the relationships between the association and the public, the media, other professional groups, and government officials and agencies. The objective of this committee shall be to create and maintain a good public image of the legal profession and of this association.

### Women and Minorities Committee

Continues the work of the study committee which preceded it and assists the Board of Governors in assuring fair treatment and opportunities for all attorneys practicing in the state.

## Sections

### Administrative Law Section

Provides an organization in which members who have an interest in administrative law and procedure, both federal and state, can meet for discussion and exchange of ideas to better enable members to

practice effectively in this field; reviews proposed legislation.

### Agricultural Law Section

Provides an organization in which members who have an interest in agricultural law can meet for discussion and exchange of ideas; reviews legislation affecting this area of the practice and proposes new legislation or the repeal of undesirable laws; keeps its members informed of new developments and enables them to practice effectively in this field.

### Alternative Dispute Resolution Section

Studies and reports to the Board of Governors from time to time its recommendations for implementing alternative methods of dispute resolution, recognizing the problems caused by the increasing delays and rising costs of the conventional resolution of disputes through the court system.

### Business Law Section

Provides an organization in which members who have an interest in corporation, banking and business law can meet for discussion and exchange of ideas; monitors

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Civil Litigation  
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**Thomas D. Waterman**

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developments in legal fields having particular application to corporations, banks, and other business entities; informs the membership of changes made or needed in legislation and regulations of these fields; conducts CLE and other events enabling its members to more effectively practice in these fields.

#### **Commercial and Bankruptcy Law Section**

Provides an organization in which members who have an interest in commercial and bankruptcy law can meet for discussion and exchange of ideas; studies ongoing developments in the areas of the UCC and the Bankruptcy Code and reviews and researches desired changes; keeps its members advised through periodic reports and newsletters; provides assistance at CLE events in these fields.

#### **Corporate Law Section**

Provides an organization in which members who have an interest in corporate counsel can meet for discussion and exchange of ideas; informs attorneys in corporate law departments of current developments in corporate law department practice and procedure; makes available practical information on the function, organization and operation of corporate law departments for attorneys practicing or contemplating practice in corporate law departments in the state of Iowa; and provides an opportunity for Iowa attorneys to exchange views on corporate law practice and procedure and on those areas of substantive law having a bearing on the activities of corporations or the functions of a corporate law department.

#### **Criminal Law Section**

Provides an organization in which members who have an interest in criminal law can meet for discussion and exchange of ideas; provides a forum for prosecutors, defense lawyers, judges and other interested persons to meet and consider the operation of the criminal justice system; reviews legislation; encourages a high standard of ethical

conduct on the part of members of the profession participating in the criminal justice system.

#### **eCommerce Section**

Provides an organization in which members who have an interest in activities leading to and constituting commerce using electronic means can meet for discussion and exchange of ideas; reports to the ISBA members on matters that would concern the legal profession concerning commerce using electronic means.

#### **Environmental and Natural Resource Law**

Provide an organization in which members who have an interest in environmental and natural resources law can meet for discussion and exchange of ideas; provides educational materials and programs leading to increased knowledge and understanding of environmental and natural resources law by members of the association in the areas of air and water pollution, hazardous and toxic wastes, and other similar topics.

#### **Family and Juvenile Law Section**

Provides an organization in which members who have an interest in family and juvenile law can meet for discussion and exchange of ideas; studies existing and emerging problems in the fields of family and juvenile law; makes recommendations regarding legislation when appropriate; assists its members in dealing more effectively with their practices in these areas.

#### **General Practice Section**

Provides an organization in which members who have an interest in general practice can meet for discussion and exchange of ideas; promotes professional excellence among those engaged in the general practice of law by formulating projects to enhance professional competence; acts as a medium through which ideas, relative to general practice, may be facilitated and provides a means for implementing those ideas.

#### **Government Practice Section**

Provides an organization in which lawyers representing municipal, county, state or federal governments, or agencies thereof, in civil or criminal matters, can meet for discussion and exchange of ideas; encourages and promotes seminars and publications providing current information of interest to its members.

#### **Health Law Section**

Provides an organization in which members who have an interest in health law can meet for discussion and exchange of ideas; studies and reports to the membership developments in the area of health law and recommends legislation or the repeal of existing legislation when appropriate; engages in such other programs and activities as will enhance the practice in this field of the law.

#### **Intellectual Property Law Section**

Provides an organization in which members who have an interest in patent, trademark and copyright law can meet for discussion and exchange of ideas; enhances the professional capabilities of Iowa lawyers who devote their time especially to the practice of patent, trademark and copyright law and associated areas; disseminates information about these areas of law to other lawyers and to interested business persons, authors and inventors, particularly as such information may affect their practices and the manner in which they conduct their affairs in Iowa, nationally or internationally; promotes improvement in the applicability of the principles pertaining to these areas of law, especially through legislative efforts; and facilitates communication among Iowa lawyers concerned with these areas of law.

#### **International Law Section**

Provides assistance to Iowa lawyers who have a question involving international law, as well as lawyers routinely practicing in the area. "International law" encompasses public or governmental law, such as dual citizenship issues, passport and visa inquiries, the effects of treaties, as well as private law, such as law applicable to international transactions, business regulation, payments, and dispute resolution. Provides a forum for exchange of information for attorneys expert in the area, and serves as a resource for all Iowa attorneys who may be confronted with a question in the area of international law and who need assistance with finding the correct answers. Assists the association with all matters regarding visiting international legal scholars, judges, lawyers and government officials.

#### **Labor & Employment Law Section**

Provides an organization in which members who have an interest in labor and

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Former Director Appellate Screening

Supreme Court of Iowa '85-'92

employment law can meet for discussion and exchange of ideas; studies developments in the areas of interest, and reports to its members on matters of assistance in improving their practices.

#### **Litigation Section**

Provides an organization in which members who have an interest in litigation can meet for discussion and exchange of ideas; focuses on the interests and problems of trial lawyers promoting training and reform where needed through seminars and publications to provide current information to its members.

#### **Probate & Trust Law Section**

Provides an organization in which members who have an interest in probate and trust law can meet for discussion and exchange of ideas; maintains responsibility for activities relating to the education of probate, estate planning and trust law practitioners; promotes and works for the development, modernization and improvement of legislation relating to the estate planning, probate and trust areas of the law; reviews relevant matters and issues; studies and recommends solutions to various problems involving the public, the courts, and attorneys, insofar as the areas of concern of the section are involved.

#### **Real Estate & Title Law Section**

Provides an organization in which members who have an interest in real estate and title law can meet for discussion and exchange of ideas; maintains committees dealing with the subject of Iowa Title Standards and Iowa Title Guaranty, which shall function in the same manner as their predecessor committees; studies and reports

on developments in the real estate and title area and facilitates the practice of real estate law in the state.

#### **Taxation Section**

Provide an organization in which members who have an interest in taxation can meet for discussion and exchange of ideas; makes such studies and recommendations in the field of taxation and presents such program or programs with relation thereto as it deems necessary or proper, subject to the approval of the Board of Governors.

#### **Trade Regulation Section**

Provides an organization in which members who have an interest in trade regulations can meet for discussion and exchange of ideas; considers and discusses developments in both federal and state legislation; reports and informs its members through seminars, publications and otherwise, so that they may practice more efficiently in this field.

#### **Workers' Compensation Section**

Provide an organization in which members who have an interest in workers' compensation can meet for discussion and exchange of ideas; provides an opportunity for discussion and exchange of ideas leading to improvement of the abilities of its members to practice in this field; assists the Worker's Compensation Commissioner in establishing rules and procedures for the more certain and expeditious disposition of matters coming before the commissioner.

#### **Supreme Court Boards & Commissions Board of Law Examiners**

Reviews the qualifications of law school

graduates seeking admission to practice law in Iowa, administers the Iowa Bar Examination, tests the legal knowledge and skills of bar applicants, supervises the grading of the examination and recommends to the Supreme Court all applicants who pass the examination and who meet the character and fitness requirements. Members are appointed by the Iowa Supreme Court.

#### **Attorney Disciplinary Board**

Consists of nine lawyers and three lay persons appointed by the Supreme Court. The Board is responsible for reviewing complaints of alleged unethical conduct by Iowa lawyers. After investigation and review, the Board may dismiss the complaint, privately admonish the attorney, propose that the lawyer received a public reprimand, or in the more serious cases, file and prosecute the complaint before the Grievance Commission.

#### **Grievance Commission**

Consists of 10 lawyers from judicial election district 5C and five lawyers from each of the other 13 judicial election districts (a total of 75) and up to 28 laypersons, all appointed by the Supreme Court. A panel consisting of four lawyers and one lay person is appointed from the Commission members to hear each complaint filed by the Attorney Disciplinary Board. Following hearing, the panel of the Commission may dismiss the complaint, issue a private admonishment to the lawyer, or recommend to the Supreme Court that more serious discipline be imposed, such as public reprimand, suspension or revocation of the lawyer's license.

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## **Real Estate Transactions**

**March 6, 2009**

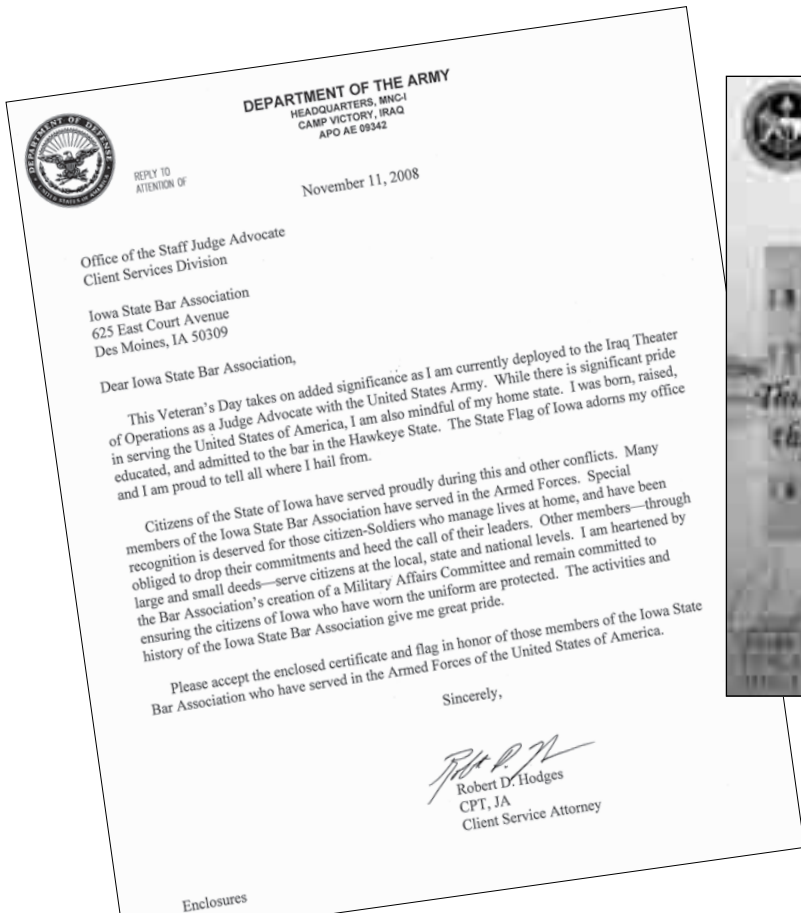
Neal and Bea Smith Legal Clinic, 24th Street & University, Des Moines, IA 50311

# Reflections from an Iowa lawyer-soldier on Veteran's Day

*(Editor's Note: Captain Robert D. Hodges recently sent this letter, certificate and a United States flag to The Iowa State Bar Association of which he is*

*a member. Executive Director Dwight Dinkla read the letter and showed the certificate and flag to members of the Board of Governors at the board's*

*Dec. 2 meeting. The letter and certificate are being printed here so that all members may share CPT. Hodges' words and bask in the praise contained therein.)*



ISBA Executive Director Dwight Dinkla presents President Dan Moore the United States flag which flew over the Headquarters of the Multi-National Corps Iraq in honor of The Iowa State Bar Association. Dinkla read a letter from CPT Robert Hodges, an ISBA member currently stationed in Iraq, that accompanied the flag during the Board of Governors quarterly meeting in December.





## TRANSITIONS



Karla C. Steele

**Karla C. Steele** has become a shareholder at Califf & Harper, P.C., in Moline, Ill. She received her B.A. in 1997 from San Diego State University, her J.D. in 2002 from the University of Iowa College of Law, and her M.B.A. in 2002 from the Henry B. Tippie School of Management at the University of Iowa. Her practice areas include estate planning and administration, real estate law, business law and immigration law.

The former Law Firm of **Cambridge, Feilmeyer, Landsness & Chase, P.L.C.** in Atlantic has changed its name to **Cambridge Law Firm, P.L.C.** The attorneys at the Firm are David W. Chase, Brian J. Daiker, Richard J. Hanson and Jennifer L. Plumb. Its offices remain at 707 Poplar Street in Atlantic.



## Iowa Academy elects new officers

The Iowa Academy of Trial Lawyers recently elected the following officers:  
**President**, Greg A. Egbers, Davenport  
**Vice-President**, Marion L. Beatty, Decorah  
**Immediate Past President**, Joseph L. Fitzgibbons, Estherville  
**Secretary-Treasurer**, David L. Brown, Des Moines



## Nyemaster Goode opens eastern Iowa office

Nyemaster, Goode, West, Hansell & O'Brien, P.C. has opened an eastern Iowa branch, its third office in the state. Five attorneys will initially constitute what the firm plans to build into a full-service office in the Cedar Rapids-Iowa City corridor.

The five attorneys who have joined the firm include: Glenn L. Johnson, Robert W. Hoke, Kevin H. Collins, Sarah J. Gayer and Ryan Carter. Three of the five are registered patent attorneys. The addition of the five gives the firm more than 90 attorneys.

Nyemaster Goode has leased office space near the Cedar Rapids Airport. The new address is: 805 Wright Brothers Blvd SW --Suite 1, Cedar Rapids, IA 52404.

Founded in 1918. Nyemaster Goode serves companies ranging from emerging start-ups to Fortune 500 organizations, as well as individuals.

## KUDOS

### Boyd selected for American Law Institute

**Willard L. Boyd III**, of Nyemaster, Goode, West, Hansell & O'Brien, P.C., in Des Moines has been elected into The American Law Institute. **Willard** is a shareholder in the Business, Finance, and Real Estate Department of the firm.

The American Law Institute was founded in 1923. Members consist of judges, practicing lawyers and legal scholars from all areas of the United States as well as some foreign countries, and are selected on the basis of professional achievement and demonstrated interest in the improvement of the law.

### Powell inducted into ACTL



Stephen J. Powell

**Stephen J. Powell**, a partner at Swisher & Cohrt, PLC, Waterloo, has been inducted as a fellow into the American College of Trial Lawyers. **Stephen** has practiced law with Swisher & Cohrt, PLC since he received his J.D. from Drake University Law School in 1974. His primary practice involves the representation of physicians, specialty clinics and hospitals in medical malpractice cases and labor and employment cases.

The American College of Trial Lawyers was founded in 1950 and is composed of the best of the trial bar from the United States and Canada. Fellowship is extended by invitation only and is limited to one percent of the total lawyer population of any state or province.

## ADMISSION ON MOTION

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

**Christopher Leon Nuss**, Principal Financial Group, Des Moines; **Larry Michel Baer**, self employed, No. Dak.

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

### TRANSITIONS SUBMISSIONS ONLY BY E-MAIL

*Copy deadline for Transitions is 30 days before the month of publication. Please follow the same style published here and keep submissions short and to the point. For new hires and promotions, the name of the law firm is not as important as the individual involved, so mention the lawyer first. Always submit a photo of the subject. If it is to be digital, please use the ".jpg" format only. Make all submissions in plain text or Microsoft Word ".doc" format via e-mail to [cfriz@iowabar.org](mailto:cfriz@iowabar.org) and please do not expect late submissions to be published immediately. We need at least a 30-day interval before publication. Include office phone number and name of the person furnishing the copy. Questions? Call Chris Fritz at 515-697-7873. Thank you for your assistance.*



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**COMMERCIAL ADVERTISERS:** Contact Shannon Espenscheid, 641-474-2280 or David Larson, 515-440-2810.

## Positions Available

**U.S. BANKRUPTCY JUDGE** — The United States Court of Appeals for the Eighth Circuit seeks applications from highly qualified candidates for a fourteen-year appointment as United States Bankruptcy Judge for the Southern District of Iowa. The position is headquartered in Des Moines, Iowa. In addition to handling cases in that district, the successful applicant will be expected to handle a percentage of cases in the Northern District of Iowa should a vacancy occur in that district and should the Eighth Circuit Judicial Council decide not to fill that vacancy. A Merit Selection Panel will review all applications and recommend to the United States Court of Appeals for the Eighth Circuit, in confidence, persons considered to be best qualified. Appointment follows an FBI and IRS investigation of the candidate chosen by the Court of Appeals. The current annual salary is \$155,756. Applicants shall be considered without regard to race, color, age, gender, religion, national origin or disability. Application forms may be obtained on line or in hard copy from the Clerks of the U.S. District Courts in Iowa; the Clerks of the U.S. Bankruptcy Court in Iowa; and from the Circuit Executive's Office in St. Louis, Missouri by e-mail at [CE8employment@ca8.uscourts.gov](mailto:CE8employment@ca8.uscourts.gov) or by phone 314-244-2600. Applications should be submitted only by the applicant personally and should indicate the applicant's willingness to serve if selected. Applications should be submitted to Ms. Millie B. Adams, Circuit

Executive, 111 South 10th Street, Suite 26.325, St. Louis, Missouri 63102-1116, and must be received by **January 30, 2009**. The U.S. Courts are equal opportunity employers. (2-09)

**LEGAL ASSISTANT** — Mid-sized West Des Moines litigation law firm seeks legal assistant/administrative assistant to add to its growing team. Litigation experience is desired. Must be professional, motivated and detail oriented. Excellent benefits are offered. Salary is commensurate with experience. Please send resumes to: Iowa Lawyer, Code 110508, 625 East Court, Des Moines, IA 50309 or by email to [isba@iowabar.org](mailto:isba@iowabar.org). Please include code number on envelope if replying by mail, and in subject line if replying by e-mail. (2-09)

**ASSOCIATE** — Growing, busy personal injury law firm seeks experienced full-time associate attorney who is people oriented. Extensive personal injury and workers compensation practice. Job requires strong knowledge and understanding of personal injury and insurance, organizational skills and ability to work with clients and insurance claim representatives. One to three years of personal injury and workers' compensation experience preferred. Litigation and prior experience working with medical records and bills also preferred. Must be computer literate in Word. Requires excellent communication skills and the ability to work with others. Salary is DOQ. Benefits include: health insurance, retirement, life insurance, dental insurance, vacation & sick leave.

Please send cover letter, resume and references to Alvine & King, L.L.P. Attn: David J. King, 809 West 10th Street, Suite A, Sioux Falls, SD 57104, or e-mail [David@AlvineandKingLaw.com](mailto:David@AlvineandKingLaw.com). No telephone calls please. (2-09)

**ASSOCIATE** — Kennedy Childs and Fogg, P.C.'s Delta office seeks an associate with 3+ years' experience in insurance defense, medical malpractice preferred. This is a unique opportunity to do high level litigation at a Denver salary and live in the mountains. Needs 2-3 years courtroom experience, excellent research and writing skills, ability to take direction and work independently, and depositions experience. Competitive salary and excellent benefits. Please send cover letter with salary requirements, resume, references and writing sample by fax to Melinda Strickland, HR Director, 303-825-0434 or by email to [mstrickland@kcfpc.com](mailto:mstrickland@kcfpc.com). To learn more about our firm, visit our website at [www.kcfpc.com](http://www.kcfpc.com). (SE)

## Career Center

**ARE YOU SEARCHING** for a new associate or law partner? Are you looking for a different full- or part-time position? Go to [www.iowabar.org](http://www.iowabar.org) and click on the ISBA Career Center. (TF)

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Uniform Building Codes (UBC, UMC, UPC, UEC, UFC) – Americans with Disabilities Act (ADA) – OSHA – International Building Code (IBC) – Life Safety Code (NFPA 101) – Council of American Building Officials (CABO)

**• Industry Standards**

American Institute of Architects (AIA) – Associated General Contractors (AGC) – National Fire Protection Association (NFPA) – American National Standards Institute (ANSI) – American Society of Testing Materials (ASTM) – Underwriters Laboratories (UL Standards) – American Society of Refrigeration Engineers Association (ASREA)

**• Usual and Customary practices**

Safety – Owner – Contractor relations  
Undocumented agreements / Change orders / Cost overruns  
Workmanlike craftsmanship – Construction methods

**Licenses, Affiliations and Memberships:**

Architectural Licenses: Iowa, Nevada, Indiana – National Council of Architectural Registration Boards (NCARB) – International Conference of Building Officials (ICBO) – Iowa Association of Building Officials (IABO) – National Safety Council (NSC) – Iowa/Illinois Safety Council (IILSC) – National Fire Protection Association (NFPA)  
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**Miscellaneous**

**NOTICE: — MEDICAID RECOVERY PROGRAMS: Casualty Lien Recovery** – Iowa Code 249A.6 provides that the Iowa Department of Human Services has a lien against the recovery recipients obtain from third party tortfeasors. An attorney representing an applicant for, or recipient of, assistance on a claim upon which the department has a lien under this section shall notify the department of the claim. For further information, contact Michelle Greethurst, 515/725-1007.

**Estate Recovery** — Iowa Code 249A.5(2) provides that the provision of medical assistance creates a debt due the department from the individual's estate for all medical assistance provided on the individual's behalf for those recipients 55 years of age or older or a resident of a facility. The personal representative or executor may be held personally liable for the amount of medical assistance paid on behalf of the recipient if a distribution is made without having executed the obligations pursuant to section 633.425. For further information, contact: Ben Chatman, 877/463-7887, 515/725-1005, [www.iowa-estates.com](http://www.iowa-estates.com). (SE)

**NOTICE CRIME VICTIM SUBROGATION.** Do you represent a client who has received medical benefits, lost wages, loss of support, counseling or funeral and burial assistance from the Crime Victim Compensation Program of the attorney general's office? When your client applied for compensation benefits, a subroga-

tion agreement was signed pursuant to Iowa Code section 912.12 (1995). The attorney who is suing on behalf of a crime victim should give notice to the Crime Victim Compensation Program upon filing a claim on behalf of the recipient. The Crime Victim Compensation Program will pay a prorated share of the expenses incurred in obtaining a judgment or verdict. Questions? Contact Rob Wheeler, Program Administrator, Crime Victim Assistance Division, 515-281-5044. (SE)

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# It takes a village to support a soldier

*Jill Finken turned to her husband, her mother and sisters, her friends, her firm and her fellow service members to make it through flood deployment*

By Jill Finken\*

*I had been at work about an hour when my cell phone rang at 8:30 a.m. on June 10, 2008.*

*"Hello?" I answered.*

*The voice came back at me, "ILT Finken?"*

*"Yes, speaking," I replied.*

*"This is the 2nd BCT in Boone. We have been activated for flood duty."*

*Despite the fact that I knew the answer, I heard myself asking, "So do I have to report?"*

*"As soon as you can get here," was the reply.*

*"How long should I anticipate being activated?" I queried.*

*"We are being told 3-5 days."*

*I hung up the phone and immediately began worrying.*

My name is Jill Finken, and in addition to being an associate at the Heidman Law Firm in Sioux City, I am a member of the Iowa National Guard. I have been orchestrating the balancing act between citizen and soldier for the last 10 years. This was not the first time I had been called away from work, but it was the first time I had

been asked to assist with a statewide disaster relief effort.

Although there is never a convenient time to leave your law practice for an unknown period, it seemed particularly overwhelming on June 10. To begin with, I had just been transferred to the Boone unit and had never physically reported to the unit. As a result, I knew only one or two soldiers and had very little information.

Making matters worse, however, was the fact that I had just returned to work from maternity leave one week earlier. My son, Trevor John, was eight weeks old and we were still breastfeeding.

I decided that, unlike wine and cheese, time would do nothing to improve the taste of my situation. My first step was to call my husband so that we could discuss child care issues. John owns his own taekwondo academy and works long hours. Consequently, we decided that it would be best for Trevor to stay with my mom in Denison.

Denison is closer to Boone than Sioux City so if there was a possibility for me to see Trevor in the evenings, it would, in theory, be somewhat closer for me. My husband wasn't entirely enthusiastic about not seeing his son for an uncertain amount of time, but he agreed to support my needs. Grandma Alesch and my 15-year-old sister, Kristen, were both more than willing to help us with Trevor.

With that issue taken care of, I turned my attention to resolving my work issues. At the time of the floods, I had only been with The Heidman Law Firm, L.L.P. as an associate for one year. Although the firm was aware of my guard obligations and the risk that such a commitment brings, this was the first time that the firm's support of me would be tested.

I was pleasantly surprised as I began telling the partners, associates and employees of my situation. Everyone was more than supportive and came together to help me cover my cases and upcoming deadlines. Emails were coming in from every partner letting me know their support and their pride in what I was doing.

The attorney in the office next to me volunteered to handle an issue that had to be addressed that day so that I could get home and begin packing. By noon, the firm had covered everything on my calendar for the

next week, and I was out the door on my way to get my gear packed. I felt lucky and privileged to have finally found a place to work where my service was appreciated and not looked upon as inconvenience.

The next day, I awoke at 4:30 a.m. so that I could arrive in Boone at around 7 a.m. to report in. As I left my son at Grandma's house, I kissed him good-bye and wondered when I would see him again and if he would be all right without his mom. Teary-eyed, I walked out the door in my ACU (Army Combat Uniform) and began traveling to Boone. While I was driving I kept wondering if I was doing the right thing. I knew my son was in good hands, but at the same time, I was his mother and babies need their moms. The guilt was overwhelming, but I also felt allegiance to my state and country and this sense of duty allowed me to keep driving.

Once I arrived in Boone, I was pleasantly surprised to find out that one of my good friends from a military school I had attended back in 2004 was a full-timer at the unit. As we greeted each other, we embraced and my insecurities about the new unit dissipated.

This is part of the reason I remain a member of the National Guard — the camaraderie. There aren't too many organizations where you would not hesitate to meet a fellow coworker in an embrace after four years.

After I met the other soldiers at the unit, we turned to the task at hand. The situation was grim. Cedar Rapids had turned into a complete disaster. Iowa City, Burlington and other eastern cities were also concerns. The Guard units in those areas were completely overwhelmed and needed additional help. Consequently, I was going to be sent along with others to Cedar Rapids to provide assistance.

When we arrived in Cedar Rapids, it was quite a sight. The armory was crammed with soldiers and military vehicles from all over the state. Cots crowded the armory drill floor as it had been turned into a temporary home. Some soldiers were sleeping, some were playing cards, others still were out on missions.

It was incredible to see all different ages, races, nationalities and ranks working together toward a common goal. I immedi-



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ately spotted an old friend who I used to drill with in Newton and got the “unofficial” report on how things were going. Things were pretty grim. The water was still quite high and the damage could not even be estimated accurately. However, it was likely that 25,000 homes and businesses were destroyed. It was also likely we would be in Cedar Rapids for seven to 10 days — much longer than the three to five days for which I had initially planned and more than likely including Father’s Day. That sense of guilt overwhelmed again as I realized I would more than likely miss my husband’s first Father’s Day.

While we were in Cedar Rapids, our mission was to help with security. We ran 12-hour shifts, with the day shift being from 6 a.m. to 6 p.m. and the night shift lasting from 6 p.m. to 6 a.m.

During our mission, what struck me the most was the absolute devastation that had been caused by the high waters. People’s

homes were completely under water. What used to be streets now looked like rivers and the tops of cars that were left in the street just visible over the water.

Once the water began receding, the damage became more obvious. Left in the water’s place was six to 12 inches of muck, made up of raw sewage, mud and farm run-off. As the sun began to bake, a horrible stench permeated the city. Most of the days began to run together, but there were moments that stuck out.

For the first couple of days, no one was allowed back into his or her home. I recall talking to a lady who was forced to leave her eight cats in her home when she evacuated because the water rose so quickly. Despite her pleas, we were not permitted to let anyone into his/her home until the home had been cleared and inspected by the City. The woman was absolutely devastated and left wondering whether her cats had survived the flood.

Despite the uncertainties associated with the flood and its aftermath, however, most people were understanding and supportive. For example, one woman brought us a home-cooked meal out of a picnic basket every evening.

Others were understandably not. I was personally cursed at and called a name I cannot repeat in this article. One man tried to run over a state trooper with his car. Another man put on a military uniform and was impersonating a soldier, trying to tell our troops how to act and what to do. It was a difficult time for everyone involved and frustration ran high, particularly because there was little we could do to assist the citizens.

Finally, people were slowly allowed back into their homes. The City of Cedar Rapids, along with FEMA, performed a detailed inspection of each house that had taken on water in the flood. Each house was marked according to a color-coded

system. A purple or red tag indicated the house was condemned as the strong waters had washed away or completely destroyed the foundation of the home. A yellow or green tag meant the house had sustained damage, but was safe to enter.

Initially, people were joyous to see those yellow and green tags affixed to their doors. However, the joy quickly faded as no one could have imagined the amount of damage that the dark flood waters inflicted on the homes. In some homes, mold had already grown halfway up the walls. As the water had infiltrated the homes, so had the mud and muck. Floors were covered in a thick slime. Most furniture was a total loss, sometimes even furniture that had been moved to the second story.

During the time I was away and even after I returned, I was repeatedly asked the same question, “How did you manage it all?” And the truth is, “I” did not make it work. My support system did. The key to making things work when you are a service member — is not only the support of others soldiers, but also family and friends. And I could not serve my country without the support of the following wonderful people.

For starters, my husband, family and friends. My husband, John, knew I was in the National Guard before we married. After he proposed to me, I remember I told him I was not going to quit serving my country and I asked him if he could



handle a military wife who possibly might get called to duty. John pledged to be supportive and, without falter and to his credit, he has held true to his word. We have had our ups and downs — that is for sure. For example, we had only been married five months when I left for six months of training in Virginia. We saw each other three times during that six months and we definitely had to give ourselves time to reconnect when it was all said and done, but we managed.

This time, John was no different. For example, when I realized I would miss my

husband's first Father's Day, he simply accepted it and said we could celebrate when I got back home. I am truly thankful to have such a strong supporter in my husband.

Then, there are the other members of my family and my close friends. My mom and sisters watch Trevor for me when I am at drill once a month, and were more than willing to help me with Trevor this time around as well despite the fact it was short notice. When I go to Des Moines, my friends provide me with comfortable places to stay and companionship. It is the little

things that truly make a big difference.

Next, there is the support of other service members. There were a few days when I drove from Cedar Rapids to Denison to see my son after my shift was over at 6 p.m. I would then get up at 2:30 a.m. to make it back to Cedar Rapids. It wasn't easy. I got so tired that I locked my keys in my car with my lights on. By the time I realized what I had done, my battery was dead. It wasn't the best day, obviously, but the other service members pitched in and helped me get the car open and started. And we had a good laugh about it in the process.

As another example, the support of other service members allowed me to continue breastfeeding my son while I was performing duty. If you have an aversion to breastfeeding, I suggest you skip to the next section, but I feel it is important to talk about — not only for other working mothers, but also to illustrate how supportive the military is of its women soldiers. I had made the decision that breastfeeding was what I wanted to do for my son. When I was called up for flood duty, I brought my breast pump and cooler with me everywhere I went.

Before I left for Cedar Rapids, I left several bags of pumped milk in the freezer at the armory in Boone. My mom volunteered to drive to the armory to pick up the milk for me. I made arrangements with the on-call sergeant to let my mom in to get the milk. He was not bothered in the least by the concept. He said his wife had breast fed all three of their children.

Once I was in Cedar Rapids, I continued to take my pump and cooler out with me every day. I pumped whenever and wherever I could. It wasn't ideal all the time. I found myself sitting in the back of a High Mobility Multipurpose Wheeled Vehicle (HMMWV or Humvee) on numerous occasions pumping milk.

I woke up in the middle of the night to pump at the armory in an office that was made available especially for me. I stored the milk in the armory freezer. The mess sergeant carved out a special place in the freezer for me and guarded that milk as if it were his only job. He said his wife also had breastfed and that he knew how much work it was to breast feed. He admonished the other soldiers to watch out for the milk if they had to get into the freezer. If the freezer got too full, he rearranged things so that the milk would be kept safe.

I think by the time it was said and done, every soldier in Cedar Rapids had assisted my plight without even thinking twice about it. Even the 21-year-old soldier who rode along in the Humvee with me was not



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bothered when I had to ask him to get out of the vehicle so I could take care of business. Instead of being disgusted, he made sure the rest of the soldiers stayed away. I was surprised by the fact that all of these men were so comfortable with the concept.

But I guess my point is, you don't know until you try. It would have been easier to quit breastfeeding and to accept the stereotype that no one would be cooperative. But if I had done that, I never would have experienced the overwhelming support of the service men and women and my family.

So my advice to other women is this: Don't be embarrassed about breastfeeding if it is what you decide you want for your family. You may be pleasantly surprised to find support in the oddest places.

In addition, there was the support of my employer. I have worked for employers who pay lip service to supporting the military, but when push comes to shove, they get angry and annoyed when the call to duty is made. Some employers I have worked for tell you in the interview they support the military, and they probably do until it affects their operations.

Although USERRA is supposed to protect military personnel from this type of conduct — and to some degree it does — there is a fear that filing a complaint under USERRA will only further deteriorate the relationship a service member has with his or her boss. Often times, if a service member wants to keep her job, she might just overlook the hostility in the hopes that it will all be forgotten until the next time duty calls.

Because of past experiences, it is an understatement to say that I was worried about how the firm would react. My fears were unwarranted at the Heidman Law Firm. Their support of what I was doing never wavered, even when I was gone beyond the initial 3-5 days. Instead, the firm rallied to ensure my deadlines were covered and that our clients were taken care of.

And finally, there is the support of the Army for the past 10 years. The Army National Guard has done so much for me and my family. The National Guard helped pay for my undergraduate degree. The Guard employed me full-time during the summers of my college career so that I could afford to live. After college, the Guard gave me a full-time job with federal benefits. When I decided to go to law school, the Guard helped me pay for that, too.

But most important, I have met wonderful people and had wonderful memories over the past 10 years. Not many lawyers can say they have driven a Humvee from Iowa to Minnesota, or fired an M-60 Machine Gun and a Grenade Launcher or rappelled out of a UH-60 Blackhawk Helicopter with a 25-pound rucksack and an M-16A2 rifle from 90 feet up in the air.

Keeping all of these priceless benefits in the back of my mind helped me stay calm after the call to activation came in. Looking back, serving the citizens during the Iowa floods seemed to be the least I could do in exchange.

I have long since returned to work and become accustomed once again to "normal" life, and going to drill once a month. But I will not forget the summer of 2008 — not only because of what I experienced in Cedar Rapids, but also because I was reminded of the very important mission the National Guard performs and how lucky and fortunate I am to finally have found the people, friends and co-workers who allow me to be able to perform that mission. God Bless these people, the State of Iowa and the United States of America!

*\*Jill Finken is an associate at the Heidman Law Firm, LLP, and a 10-year member of the Iowa National Guard.*

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