



THE

Volume 63 Number 5 May 2003

IOWA LAWYER

**HOW SAFELY
TO DISPOSE OF
HARD DRIVES?**

ALSO IN THIS ISSUE

- Walker is Drake Dean; Hines retiring at UI
- Iowa Legal Research Guide available now!
- Young clerks brandishing "All Wood"

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Send your comments and Letters to the Editor to ccorcoran@iowabar.org. Please include your daytime phone number should we need to contact you with an answer or for verification. Executive Director Dwight Dinkla's electronic mail address is ddinkla@iowabar.org. Executive Assistant Judi Stout is at jstout@iowabar.org. Computer Service Director Harry Shipley's address is hshipley@iowabar.org.

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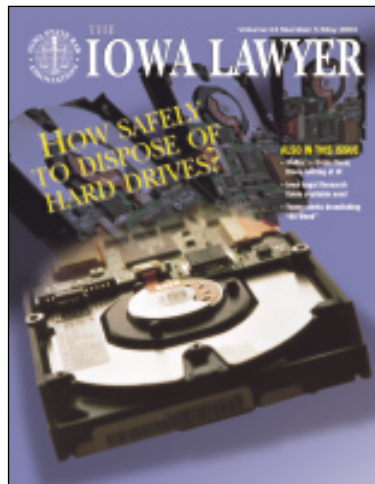
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Alan Fredregill

A law school, don't you understand?

Friend, either you're closing your eyes to a situation you do not wish to acknowledge, or you are not aware of the caliber of disaster indicated by the presence of a law school in your community.

Well, you got trouble my friend, right here, I say, trouble right here in River City. With a capital T...

This parodied opening is from the Music Man's famous lyrics about the perceived evils wrought by the presence of a pool table in River City, that fabled Iowa village. The lyrical warning seems appropriate these days if you've listened to any of the anti-lawyer rhetoric surrounding the battles in the 2003 Iowa Legislature. From what they're saying, you'd think that the only thing we need to do to secure economic growth in this state is simply close our law schools.

The main anti-lawyer theme has been sounded during the debate over Senate File 344, which is the antidote to the governor's efforts to pass a billion dollar state economic development fund. Legislative leaders have refused to enact the governor's measure without tying it to SF344, which has some sweeping provisions they euphemistically call "regulatory reforms."

In fact, those alleged regulatory reforms amount to significant changes in the Iowa tort system. Many have termed the bill "anti-lawyer," and those Legislators who supported it have been the subject of severe criticism in some legal circles. Many of those criticisms are justified.

The legislators claim we can't be competitive with surrounding states in attracting new economic development without this "tort reform." Speaking from the viewpoint of one perched in a tri-state area on the western Iowa

border, however, I can tell you that tort reform has nothing to do with losing business to Nebraska and South Dakota. The tort systems of Iowa, South Dakota and Nebraska are nearly indistinguishable. Yet western Iowa has repeatedly lost business development to both of those other states. So if it's not the tort system, what is the reason? To paraphrase a once-famous political campaign slogan, it's the taxes, stupid.

South Dakota has no state income tax. The Gateway computer company was founded in Sioux City in 1985 by an Iowa native, but soon after the company began to show signs of exponential earnings growth in the late 1980's, it quickly moved its headquarters a few miles to North Sioux City, South Dakota. They probably saved hundreds of millions in Iowa state income tax with that move.

IBP is another example. Iowa Beef Processors started out in Denison, Iowa, in the 1960's. Nebraska soon came calling with tax and other economic incentives, and within a few years, the IBP flagship plant and company headquarters were relocated within about a mile of Sioux City on the Missouri River, but on the Nebraska side. When the irresistible appeal of no state income tax in South Dakota became too strong in the 1990's, IBP moved its headquarters to within a mile of Sioux City, but this time across the Big Sioux River on the South Dakota side.

Sioux City has long been a three-state regional center for health care and the home to lots of doctors. But then a new Arnold Palmer-designed golf course and posh residential community were developed in an area called Dakota Dunes in South Dakota. Those wily physicians soon realized just how much

they could save in taxes by moving there, and the last 10 years have seen a significant migration of Sioux City physicians to South Dakota, both with their residences and their practices. Other high-income types have learned the same lesson. If you live and work in a state with no state income tax, you'll save tens-of-thousands of dollars every year.

So when the Iowa Legislature talks about the need for a change in our "legal climate" in order to encourage business development, don't buy it for one second. The U.S. Chamber of Commerce, perhaps the most vitriolic of all the nation's anti-lawyer groups, rates Iowa's court system and legal climate in the top five in the nation. Is there any products liability trouble? There were fewer than 100 products liability lawsuits filed in Iowa courts last year. Malpractice insurance crisis? Physicians and hospitals win two-thirds of all the malpractice cases filed against them in this state. Endless tide of litigation? There were only 282 civil jury trials last year in a 99-county state with a population of nearly three million. Big verdicts, like those stemming from airplane crashes, are a real scarcity, but they always make the news.

Lawyer-bashing is not new, and certainly not limited to Iowa. But sometimes the political drivel against our honorable profession is just too much. This whole publicity stunt about the alleged trouble with lawyers and tort reform is a smoke-screen. Don't let your legislator shrink from the responsibility of solving our real problems by spouting some blather like the Music Man.

Alan E. Fredregill

Protect yourself, clients with drive cleaning software

By Chuck Corcoran, Editor



Thinking of buying a faster computer for the office with a bigger hard drive and lightning fast processor? What are you going to do with the old one? Give it to the kids? Trade it in for whatever you can get? Trash it?

Beware and take care – that hard drive may have confidential data, lots of it, even though you told it to “delete” it and have even “reformatted” the thing. You must be sure the data is gone before you pass along that old hard drive since you observe confidentiality agreements with your clients to keep their dealings with you private.

Neither “deleting” nor “reformatting” are the options they seem to be. Computer manufacturers and people (like Bill Gates) who write the operating systems (primarily Windows) use words to describe operations performed by the machines that do not fit the strictest definitions for those words.

Delete, in common English usage, means to eliminate and purge. It does NOT mean that when it refers to your computer. In computer standard usage, delete means erase a letter from the File Allocation Table (FAT) so the file with that name cannot be found again by the operating system.

It doesn’t mean the file is gone; far

from it, and a knowledgeable user can “undelete” those files.

Reformatting might mean erase or otherwise make the drive clean of what was there, but nope, that’s not the case– and there are several levels of formatting, none of which actually gets rid of all parts of all files! That operation just makes the drive ready for another operating system or filing system, not eliminates all data.

Lots of computer users thought they had cleaned their drives when they disposed of them but a study by two MIT grad students said that was far from the case. They bought 158 drives, found 129 actually worked, 69 still had recoverable files on them and 49 contained “significant personal information,” the Associated Press reported.

“There was medical correspondence, love letters, pornography and 5,000 credit card numbers,” the AP said. “One even had a year’s worth of transactions with account numbers from an ATM in Illinois.”

There are ways to ensure the hard drive in your machine is “sterilized,” rendered clean of all data. You are assured no one can read private files – because they are no longer there.

Commercially, several programs are available and they range in price from \$20 to \$60. Cheapest of the lot is the brute strength “Perfect PC Cleaner & File Shredder” from Cosmi, known for its down and dirty bargain programs. It writes over your data seven times, a Department of Defense standard, to 200 times. It covers every sector of the drive’s space with zeros and miscellaneous characters. Nothing’s left of the original data.

It even suggests you encrypt your data and then write over it, two ways to insure protection. It provides for updates if they are issued through “Instant Net Auto Update.” Just go to a website and download any updates.

MacAfee, the anti virus folks, offers its “Quick Cleaner,” that has a file shredder to be rid of secure data. The manufacturer says it covers unwanted downloads, Active X controls, cookies, e-mails and attachments and other files that serve as a path back into the hard drive’s other files. You can selectively wipe out files, or clean the hard drive for \$30.

Business Logic offers its “WinCleaner Ultra” for \$60. It claims it will destroy all data. Period.

It suggests it can be used to guarantee clean hard drives before putting them in back into service.

It will protect users of machines declared surplus or machines on their way to a recycle center. You name it, they say they have you covered.

And finally there is Webroot’s “Windows Washer,” the ultimate secure file deletion product, it claims, all for \$30.

It can overwrite files up to 10 times with random numbers and characters which exceeds DoD standards, rendering files unrecognizable to programs that try to put files back together.

Files no longer respond to the “undelete” command. They become unreadable and cannot be reconstructed. The “unerase” command of some programs also is rendered useless. Its “state of the art” code rewrites FAT, FAT32 and NTFS (NT file system).

There is another ultimate that no one can argue with and because it changes the state of the drive, it is absolutely works. Todd Mundt of Public Broadcasting featured a chap in late April who was making that claim.

He removes the platters from a hard drive and with a 1,200+ degree propane torch-based oven, melts them into a blob of molten aluminum. A bit extreme, but that would do it all right!

Walker named Drake Law dean



David S. Walker

David S. Walker, the Dwight D. Opperman distinguished professor of law at Drake University Law School, has been named dean of the Law School, Drake Provost Ronald

Troyer has announced.

"I am delighted that David Walker is willing to assume leadership of Drake University Law School," said Troyer. "David brings a wealth of experience, has the respect of the Law School faculty, is well-known among alumni, understands the challenges of legal education, and has a deep commitment to Drake University. I am confident that under his leadership, Drake University Law School has a bright future. I look forward to working with David to accomplish our shared goals."

"It is deeply gratifying to have the opportunity to serve again as the dean of the Law School," said Walker. "This is a great law school, strong academically and equally distinguished by its tradition of professional and public service. I am really looking forward to working with President Maxwell and Provost Troyer, with our outstanding faculty, staff and students, and with our many and supportive alumni and friends to build on the Law School's accomplishments, fulfill our mission and aspirations, and enhance the University however I can."

Walker was selected through a national search and will begin in his new position July 1. He will succeed C. Peter Goplerud III, who stepped down as dean, but following a 12-month sabbatical, will return to the law school faculty.

Prior to coming to Drake in 1975 as an

associate professor of law, Walker was an assistant professor at the University of Akron School of Law from 1969 to 1971. He then worked as a staff attorney and as director of litigation at the Legal Services Organization of Indianapolis. Walker served as dean of Drake Law School from 1988 to 1996. He was named Professor of the Year in 1978, 1981 and 1986.

During his tenure as dean, the Law School completed a major accreditation self-study and two reports of Task Forces on the Law School that were part of Drake's National Commissions on the Future of the University. During those years, the Law School also undertook and completed the award-winning Dwight D. Opperman Hall and Law Library, a major addition to the Neal and Bea Smith Law Center, and improvements to and renovation of Cartwright Hall, the Law School's main classroom building. Support from alumni and friends more than doubled.

Walker teaches principally in the areas of corporate, business, and securities law. He is active in The Iowa State Bar Association and serves as chair of the Association's Business Law Section. For the last two years, he chaired the Bar's For Profit Corporation Committee and led the recent and successful effort to revise and update the Iowa Business Corporation Act. Walker also serves as chair of the Iowa Commission on Uniform State Laws, is active in the National Conference of Commissioners on Uniform State Laws, and was recently asked to chair a Committee to Revise the Uniform Limited Liability Company Act. He is a member of the Polk County Bar Association, American Bar Association, Supreme Court Historical Society, American Bar Foundation, Iowa State Bar Foundation, the Rotary Club of

Des Moines, and the Board of Directors of Iowa Legal Aid, the statewide legal services corporation.

Walker received his bachelor's degree in English from Yale University, where he graduated *cum laude* in 1966, and his bachelor of laws degree from the University of Virginia School of Law in 1969.



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IOLTA constitutional says high court

In late March the Supreme Court of the United States confirmed that IOLTA is constitutional. (*Brown, et al. v. Legal foundation of Washington, et al.*)

ABA President A.P. Carlton said, "The real beneficiaries of this ruling are the tens of thousands of poor people who receive legal assistance because of IOLTA. The ruling vindicates all of the state bars and state supreme courts committed to IOLTA programs, as well as the American Bar Association's unwavering support of this vital program."

Bar welcomes new lawyers

The Iowa State Bar Association congratulates the 65 men and women who passed the bar examination in February and were eligible to be sworn in last month if all their other requirements were met. We welcome them to the practice of law in Iowa.

Anderson, Chad R.	University of Iowa	Johnson, Jacquelyn Sue	University of South Dakota
Anderson, Eric Haegg	Drake University	Kaminsky, Katherine Judith	University of Florida
Barker, Bryan Joy	Drake University	Keyte, Kerri Marie	Drake University
Baumann, Teresa K.	University of Iowa	Kirby, James Harrison Ulysses	Drake University
Baxter, Joel Christopher	Drake University	Kohlwes, Brian Robert	Drake University
Bier, Steven F.	Creighton University	Kuehner, David Alexander	Drake University
Booker, Trisha Lynn	University of Tennessee	Link, Jeffrey John	Drake University
Bowles, Clovis M'Joweta Masquat	University of Iowa	Locke, Cory Ross	University of Nebraska-Lincoln
Brady, Tonya Yvette	University of Dayton	Lynch, James John	Lewis & Clark
Brindle, Susan Elizabeth	Drake University	Mackel-Wiederanders, Michelle Rae	University of Iowa
Brooke, Scott Alan	University of Iowa	Mahmutagic, Adnan	Drake University
Brown, Stephanie Ellen	University of Nebraska-Lincoln	McAninch, Helen Marie	Drake University
Coldwell, David Aaron	University of Iowa	McLeish, Daria Lyrae	Drake University
Daiker, Brian Joseph	Creighton University	McLey, Deborah K.	University of Iowa
Daufeldt, John G.	University of Iowa	Mesich, Kathleen Ellen	Southern Illinois University
Davis, Wade Scott	University of Iowa	Meyer, Brian John	Drake University
Dorn, Shani A.	Drake University	Michael, Shane Christopher	Drake University
Egolf, Vincent Scott	Northern Illinois University	Mitchell, Ryan Joseph	Drake University
Elcock, Tara Michelle	Drake University	Mossman, John Michael	Drake University
Flowers, Hollie Michelle	Creighton University	O'Laughlin, Sheila Anne	University of Arkansas
Halberg, Cynthia Jean	University of Iowa	Parmelee, Erin Elizabeth	Drake University
Hamilton, Jeffrey David	Drake University	Roseberry, Carrie N.	Drake University
Hughbanks, Amy Jean	Creighton University	Salvner, Michael Alan	Drake University
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		Tabor, Ann Marie	University of South Dakota
		Tinnian, Raymond Michael	University of Iowa
		Tuftee, Brian Alexander	University of Iowa
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Statistically, 70 percent of those who took the exam passed. The statistical breakdown is as follows:

SUMMARY STATISTICS				
Name of School	Total Applied	Took Exam	Total Successful	Total Unsuccessful
Creighton University	10	9	5	4
Drake University	39	34	28	6
Golden Gate University	1	1	0	1
Lewis & Clark	1	1	1	0
Marquette University	1	0	0	0
Northern Illinois University	1	1	1	0
Southern Illinois University	1	1	1	0
Stetson University	1	1	0	1
Suffolk University	1	1	1	0
University of Arkansas	2	2	1	1
University of Dayton	1	1	1	0
University of Florida	2	2	1	1
University of Illinois	1	1	0	1
University of Iowa	29	26	17	9
University of Kansas	2	1	0	1
University of Missouri	1	1	1	0
University of Nebraska	4	3	2	1
University of Oregon	1	1	0	1
University of South Dakota	3	3	2	1
University of Tennessee	1	1	1	0
Valparaiso University	1	1	1	0
Wake Forest University	1	1	1	0
Totals	105	93	65	28
			70%	30%

REPEATERS			
	Took Exam	Successful	Unsuccessful
2nd Time	16	10	6
3rd Time	2	1	1
4th Time	3	1	2
5th Time	1	0	1
6th Time	2	1	1
TOTALS	24	13	11

UNSUCCESSFUL APPLICANTS		
School	Total	% of All Unsuccessful
Drake	6	21.4
U of Iowa	9	32.2
Out-of-State	13	46.4
TOTALS	28	100

- 65% (60) of those taking exam were from Drake or University of Iowa
- 35% (33) of those taking exam were from out-of-state law schools
- 82% (28) of those taking exam from Drake passed
- 65% (17) of those taking exam from University of Iowa passed
- 74% (69) of those taking the exam were first-timers
- 75% (52) of all first-timers passed the exam
- 62% (16) of those taking exam from University of Iowa were first-time takers
- 81% (13) University of Iowa first-time takers passed the exam
- 79% (27) of those taking exam from Drake were first-time takers
- 89% (24) Drake first-time takers passed the exam

Iowa Legal Research Guide

AVAILABLE NOW!

Practitioners can now consult the Iowa Legal Research Guide for guidance in more than 40 areas of Iowa law. The guide is the result of several years of work by more than 70 Iowa attorneys to provide the state's first comprehensive resource for conducting legal research in specific Iowa practice areas. One of the advantages this guide has over those in other jurisdictions is that the chapters were written by those who are most knowledgeable on the subjects – Iowa attorneys with practice expertise.

Detailed information in the guide highlights the sources for researching Iowa law generally as well as specific areas of law, including electronic and web resources. New lawyers in particular should benefit from the work as will lawyers who are involved in an unfamiliar area or one which they have not researched recently. Someone unfamiliar with juvenile law, for example, can review the section on that subject to learn exactly what resources should be consulted and the steps to follow for thorough research.

ISBA chairs and members who suggested authors, reviewed drafts, and provided other assistance were invaluable in bringing this work together as were faculty members at Drake University and the University of Iowa. Professor John Edwards at Drake University Law School served as the project editor (John.Edwards@drake.edu).

Information on obtaining copies of the book is available from publisher, William S. Hein & Co., at 1-800-828-7571 or <http://www.wshein.com> Each ISBA member should receive a mailing on the book (noting a 10% discount for members) and ads should appear in future issues of *The Iowa Lawyer*.

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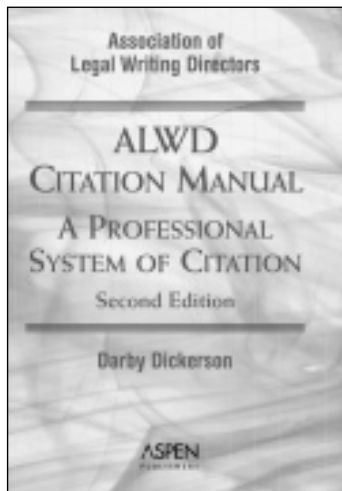
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Young law clerks heft their ALWD Citation Manuals!

Getting used to a superior resource for legal citation

By Melissa H. Weresh*



Summer is just around the corner and, for many law offices, this means an influx of able, enthusiastic and energetic young law clerks. What some attorneys might notice this summer, however, is that many clerks will arrive with a gray, as opposed to blue, citation manual. *The ALWD Citation Manual: A Professional System of Citation* (“ALWD Manual”) (shortened to “all wood” in conversation), has been taught as the citation resource at more than 90 law schools around the country for the past

two years. This need not alarm any of you veterans. In fact, it is highly unlikely that you will notice a difference in citation form. You may, however, notice that clerks using the *ALWD Manual* have a more sophisticated understanding of citation form. If you were to pick up a copy of the *ALWD Manual* you would notice that it looks quite similar to its well-known competitor, *The Bluebook: A Uniform System of Citation* (“Bluebook”). However, if you thumbed through the pages of the *ALWD Manual* you would likely notice that it is much easier to use and understand than the *Bluebook*. In fact, at summer’s end, you might even ask where you could purchase this invaluable resource.

First published in 2001, the *ALWD Manual* represents a collaboration between the Association of Legal Writing Directors (ALWD), an organization of more than 200 members representing approximately 150 law schools, and lead author Darby Dickerson, a leading scholar on legal citation form. The development of the *ALWD Manual* began as a result of dissatisfaction among legal writing professionals with regard to not only the form and content

of the *Bluebook* but also the manner in which the *Bluebook* had been revised. The *Bluebook* is published by student law review editors at four of the nation’s top law schools, Columbia, Harvard, the University of Pennsylvania and Yale. The *Bluebook* has long been the leading source of

“The development of the ALWD Manual began as a result of dissatisfaction among legal writing professionals with regard to not only the form and content of the Bluebook but also the manner in which the Bluebook had been revised.”

information regarding legal citation. What you might recall from your law school experience, however, is how complicated the *Bluebook* is and difficult it can be to use. Citation rules are rarely explained and illustrations are limited. Moreover, the majority of the *Bluebook* is devoted to illustrating how to cite authority in law review articles. There are a scant number of blue pages in the *Bluebook* devoted to how to cite authority in practice documents. The *Bluebook* is typically revised every five years, and the changes that are made to the rules are often ill-conceived and confusing.

Because the *Bluebook* has always been difficult to use, legal writing professionals charged with the task of teaching citation to law students were critical of the manual.

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Consequently, Dickerson launched a survey of legal writing professionals to determine whether there was sufficient interest in an alternative to the *Bluebook* to warrant the task of creating a new citation manual. The survey was also designed to determine common deviations from and criticisms of the *Bluebook*. Dickerson noted that ALWD did not intend to disregard current citation practice; rather the ALWD system was designed to codify existing, accepted citation rules – a restatement of citation. As a result of the input Dickerson received from academics and practitioners, the *ALWD Manual* is truly a better resource, not only for introducing students to citation concepts, but also as a resource manual for the busy practitioner. As a practitioner what you should first recognize is that most of the citation rules codified in the *ALWD Manual* are no different from the ones you have been using since law school. Additionally, the *ALWD Manual* attempts to incorporate local citation practices that differ from the *Bluebook* format. What truly sets the *ALWD Manual* apart is its accessibility – it is simply much easier to find and apply rules of citation. Various attributes of the *ALWD Manual* contribute to its superiority.

Format Differences:

First, the format of the *ALWD Manual* makes it much easier to use than the *Bluebook*. The *ALWD Manual* should look relatively familiar to *Bluebook* users. It is organized in the same fashion, with chapters relating to various sources, including cases, statutes, treatises, etc. The *ALWD Manual* uses a 12 point font and reasonable margins. It clearly shows required spacing with icons, and uses color variation to emphasize points and make distinctions clear. A teaching tool referred to as a “Sidebar” discusses key points which are extremely helpful to novice researchers. “Fast Formats” sections precede chapters covering a particular source and are valuable tools which illustrate application of the rules. Also, cross references in each section to applicable appendices facilitate use of the *ALWD Manual*. Finally, the *ALWD Manual* features a website which addresses frequently asked questions and material the authors felt were useful but too cumbersome to include in the text. It is worth noting that, since the publication of the *ALWD Manual*, the editors of the *Bluebook* now also maintain a website.

“Because the ALWD Manual is currently offered at a majority of law schools and has been adopted by many moot court competitions, law reviews, paralegal programs and even some courts, it stands a good chance of displacing the Bluebook.”

Rule Differences:

The primary difference between the *ALWD Manual* and the *Bluebook* is that the *ALWD Manual* has only one set of rules – it uses a single citation system for all types of documents, making no distinctions between citations for law review articles

and other types of legal writing. This feature greatly enhances its usefulness to the practitioner and scholar alike. With respect to typeface conventions, the *ALWD Manual* eliminates the use of small caps in citation. The *ALWD Manual* has only two type styles: italics and regular type. If the portion of the citation is not in italics, then it is to be in regular type. The *Bluebook* requires the use of different fonts depending upon the type of document and where the source is cited within the document. Practitioners who served on law journals prior to practice may have been surprised to note the minimum amount of material devoted to practitioners’ documents in the *Bluebook*. In fact, there are a scant number of blue pages at the beginning of the *Bluebook* devoted to practitioners’ notes followed by the bulk of the manual devoted to citation format for law review articles.

With regard to other rule distinctions, one notable distinction is that the *ALWD Manual* requires division and district information for state appellate courts. This addition reflects the common understanding in many states that information regarding the intermediate state appellate court decision is helpful in determining the weight to be given to a particular decision. In fact, many practitioners have included this information as a matter of course, notwithstanding the fact that the



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Bluebook does not require it. The signals rules under the *ALWD Manual* are now similar to the *Bluebook*, as the *Bluebook* elected to return to conventional understandings after the publication of the *ALWD Manual*. Another useful feature of the *ALWD Manual*, which is not currently found in the *Bluebook*, is Appendix 2, in which local court citation rules are noted.

All of the other rule changes are relatively minor. In fact, for most sources which appear in practice documents, citations would have to be highly scrutinized to note any format difference. Because the *ALWD Manual* is currently offered at a majority of law schools and has been adopted by many moot court competitions, law reviews, paralegal programs and even some courts, it stands a good chance of displacing the *Bluebook*. However, because the rules are so similar, it is easy to adapt to either system and to move between them, particularly for practice documents. So, for those of you citation mavens who once enjoyed

illustrious law journal careers, I have provided a test. See if you can determine which of the citations below, which all comply with the *ALWD Manual*, fail to comply with the *Bluebook*:

1. *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 256 (1964).
2. *Rogan v. State*, 203 So. 2d 24 (Fla. Dist. App. 1967).
3. *Sen. Res. 35*, 106th Cong. (1999).
4. 64 *Fed. Reg.* 12473 (Mar. 12, 1999).
5. Tara Burns Koch, *Student Author, Betting on Brownsfields—Does Florida's Redevelopment Act Transform Liability into Opportunity?*, 28 *Stetson L. Rev.* 171 (1998).
6. Marjorie A. Caner, *Validity, Construction, and Application of Stalking Statutes*, 29 *A.L.R.5th* 487, 489 (1995).

**Melissa H. Weresh is assistant professor and assistant director of Legal Writing at Drake University law school where she has taught courses in research and writing and environmental law. She is a 1992 graduate of the University of Iowa College of Law.*

- #1. Correct for both manuals.
- #2. The *ALWD Manual* eliminates the unnecessary parenthetical reference to the court. The *Bluebook* citation would be: *Rogan v. State*, 203 So. 2d 24 (Fla. Dist. Ct. App. 1967).
- #3. The *ALWD Manual* abbreviates "Senate" as "Sen." instead of "S." to avoid confusion with other abbreviations. The *Bluebook* citation would be: S. Res. 35, 106th Cong. (1999).
- #4. Correct for both manuals.
- #5. The *ALWD Manual* uses the single term "Student Author" to replace the terms Note, Comment, etc. The *Bluebook* citation would be: Tara Burns Koch, *Comment, Betting on Brownsfields—Does Florida's Redevelopment Act Transform Liability into Opportunity?*, 28 *Stetson L. Rev.* 171 (1998).
- #6. The *ALWD Manual* eliminates the term "Annotation" from an A.L.R. citation. The *Bluebook* citation would be: Marjorie A. Caner, *Annotation, Validity, Construction, and Application of Stalking Statutes*, 29 *A.L.R.5th* 487, 489 (1995).

Answer key:

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Fulbright program deadline nears

The Fulbright Scholar Program is offering a number of lecturing, research, and lecturing/research awards in Law for the 2004-2005 academic year.

Awards for both faculty and professionals range from two months to an academic year.

While many awards specify project and host institution, there are a 153 open "All Disciplines" awards that allow candidates to propose their own project and determine their host institution affiliation. Foreign language skills are needed in some countries, but most Fulbright lecturing assignments are in English.

Application deadline for 2004-2005 awards is August 1 for Fulbright traditional lecturing and research grants worldwide.

Complete information is available on the Web at www.cies.org (e-mail apprequest@cies.iie.org or contact: The Council for International Exchange of Scholars, 3007 Tilden Street, N.W.—Suite 5L, Washington, D.C. 20008. Phone: 202-686-7877.

Dear Editor:

I read with interest The President's Letter in the recent issue of *The Iowa Lawyer* (Vol. 63, No. 3, March 2003) in which you compare the hourly rates of your car mechanic with those paid by the State of Iowa for indigent defense services. As your piece well illustrates, it is interesting and often puzzling to try figuring out the relative societal values that support paying athletes and entertainers phenomenal sums while teachers, social workers, soldiers, health care workers, and others performing essential public services remain underpaid. As you know from prior discussions, you and I are in substantial agreement. However, I am concerned your article contains inaccurate information about my office's handling of indigent defense fee claims.

In discussing the hourly rates and per case fee caps, you state:

"Some say that the fee cap is 'soft,' and that applications for fees beyond the cap are routinely allowed. But those who do indigent criminal defense work will tell you that when they submit their claims for fees, they are routinely chopped, even when they haven't charged for all the time they put in."

This passage implies my office arbitrarily disapproves portions of fee claims in a large percentage of cases. Not true.

The last time I heard this allegation, I queried our automated Claims Review System to give me a percentage of indigent defense claims in the current fiscal year for which our office issued a "Notice of Action," that is, a letter informing the claimant that all or part of the claim had been disapproved. The answer was nine percent. That means out of more than 50,000 claims, only about 4,500 have any part disapproved, while more than 45,000 are approved as submitted. Hardly a "routine" practice.

Nor are these actions arbitrary. The Code of Iowa requires the State Public Defender to make administrative rules for the claims process. We publish these in the Iowa Administrative Code. The rules are also easily accessible on our website. Only one chapter of our rules deals with claims procedures. This

chapter has 10 rules covering six pages. With the addition of a brief chapter on "Definitions," these are all the rules we use to administer a program involving \$20 million-plus and more than 50,000 claims annually. More importantly, this handful of rules is all a provider of indigent defense services needs to know. However, a few have trouble reading and applying the rules.

Although I delegate claims review to staff members, I have from time to time personally audited batches of Notices of Action. In these Notices, 93 percent of reductions were for violations of published rules and other easily avoidable problems such as math errors, duplicate entries, and missing information like appointment orders, orders authorizing certain expenses (e.g., depositions, interpreters, experts), and orders permitting the attorney to exceed fee caps. My staff regularly fields phone calls from attorneys asking about Notices of Action. In a distressing number of instances, those questioning our actions simply haven't read the rules.

I have three concise bits of advice to any lawyer submitting indigent defense fee claims:

1. **Read the rules.** There are not many and they are straightforward. Nonetheless, if anyone wants clarification before submitting a claim, my staff is happy to help.
2. **Provide clear and complete descriptions of your work.** "Attention to file" doesn't get it done.
3. **Provide required documents.** Appointment orders, orders to exceed fee caps, etc.

Knowledge of legal rules, clarity and completeness in communication, and proper documentation will resolve nearly all claims issues. I don't think these are unreasonable things to ask of lawyers. In fact, more than 90 percent of our claimants have no trouble applying these skills.

I appreciate the opportunity to correct this small inaccuracy in an otherwise excellent piece. I appreciate the importance ISBA places on indigent defense, and I look forward to working with the Association to keep Iowa's indigent defense programs among the best in the nation.

Sincerely,
Thomas G. Becker
State Public Defender



JULY 14, 2003

Save Monday, July 14, for our

Seventh Annual Two-Person Best-Shot Golf Tournament

at Legacy Golf Club. Legacy, located a few miles south of the Des Moines International Airport, is a new course close to Des Moines in Norwalk.

It is a very nice, technologically advanced course and will be a great test for ISBA golfers. The \$85 entry fee includes golf, cart, range balls, lunch, prizes, trophies and one hour of ethics Continuing Legal Education – a real bargain!

Legacy carts feature Global Positioning System receivers that display color images of each hole with easy to read distances to the hole!

On course scoreboards allow players to see how other competitors are doing!

Registration forms will be available on our bar website, www.iowabar.org, and also will be sent out later this spring. Please plan on joining us for some CLE and a great day on the course.

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My golf partner is _____ or pair me with someone

Please check one of the choices below to aid in planning, the entry fee of \$85 is the same regardless of your choice:

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Registration deadline is July 1st

Agenda

Seminar (1 hour ethics CLE)
10:30 – 11:30 A.M.

Lunch
11:30 – 12:30 P.M.

Golf
12:30 P.M.

Cash Bar and Awards
Immediately following golf

Dear Editor:

Francis Cudahy is a former president of the ISBA and, at 93, is still seeing after matters important to his life's work and his dedication to the bar

Dear Alan:

I have just finished your President's letter in the March 3, 2003, Iowa Lawyer. I always read the president's letter first each month. I then read the Disciplinary Decisions, mostly because I was deeply involved in Professional Conduct and Ethics when I was active in the bar. Of course I'm not finding any job offers to my liking, but at age 93, I don't expect much..

I started my practice in 1935, so am familiar with what we got paid for representing indigents: \$10 for all crimes, except those punishable by life Imprisonment. For the latter, it was \$25 per day. Of course, we were just coming out of the depression, and \$10 was real money and sometimes didn't seem bad at all. In fact, \$10 would buy a lot of beans, hominy or corn bread. So I took my turn, and used each assigned defense as an extension of the learning experience. I rarely got to pick a jury myself, to examine and cross examine witnesses, to make a final argument to the jury, and how to deal with judges. I once made a judge a friend for life when in a drunken driving case I requested an instruction to the jury:

You are instructed that he is not drunk who from the floor can rise again and drink once more.

My request was promptly overruled, but then the judge wanted a copy which I gave him, he showed it all over the district.

After reading your President's Letter, I want to tell you about Tim Johnson –

One afternoon I went to the Court House to see the judge about something. The judge that day was Judge Snell of Ida Grove. He was busy in the court room arraigning defendants, so I sat down to await my turn. A deputy came in with a Tim Johnson and the county attorney read the indictment charging Tim with stealing a washing machine. Then Judge Snell asked a few questions, the answers to which neither he or I were very much interested. Then he asked Tim if he had a lawyer. Of course, Tim said no, so the judge asked if he wanted a lawyer and, of course, Tim said yes. Then the judge asked if he had any choice of a lawyer and Tim said yes, he would like Mr. Cudahy!!!!

Tim was no friend of mine, but Judge Snell appointed me as Tim's lawyer at public expense. I was shocked, and asked for an immediate conference with Tim. The deputy wanted me to come down to the jail, but the judge directed that I could interview him right there in one of the available rooms. Tim stoutly denied any guilt, and was quite convincing. When the interview was over, I just knew I couldn't plead him guilty. Maybe the judge would let me withdraw. I found the judge was still in chambers so I told him my predicament, and he said to me: "You know your duty."

Tim and his wife stuck by their story, so for three long days I tried the case to a jury, which after a decent enough period of consideration, found Tim guilty.

But a funny thing happened. Judge Snell thought I had made a great defense, and was quite vocal about it. We got to be friends and he found time to visit with me every time he came to Jefferson. One thing he always brought into the conversation was the bar association Board of Governors, of which he was then a member. He told me that at that time several other judges were also members of the Board, and that things were going to change, in that the Judges Association was going to be allotted one member on the board, and that no longer would any judge be qualified to

represent their judicial district and he was going off the board.

Shortly thereafter, we had a district bar meeting, and Judge Snell made his report and told those present of the changes in the rules and that the district association would need to select his successor at that meeting. The President asked Judge Snell if he had any suggestions for a successor, and he replied that he did and he proceeded to tell those at the meeting that I was an excellent lawyer, and he thought I was eminently qualified and he asked permission to nominate me, and presto, I was elected. Four years later, June, 1968, I was elected and installed as President for the year 1968-69.

I consider my service as Bar President my highest professional achievement After my year as bar president, Chief Justice Ed Moore of the Iowa Supreme Court called and asked me to fill a vacancy on the Iowa State Board of Bar Examiners, and I served there 6 or 7 years, 3 or 4 years as chairman. That, too, was a most satisfying experience of service to my profession.

All this happened because I represented a no good crook all for a statutory fee of \$10, for beans, hominy and corn meal. I had never tried a three-day lawsuit before, all by myself, and even though I lost, I had gained a lot of confidence in myself. But my biggest gain was the wonderful friendship of Judge Snell.

I hope you are still reading this letter, because I now want to say "Thank You" for writing your March 3 President's Letter, and the flashback it gave me. As I look back, I've had a lot of good things happen to me over the past 93 years, for which I am truly grateful.

I believe you are fulfilling your job as our President credibly and well. Your President's letters are excellent, and I congratulate you for doing the job well. Soon your term will run out and it will all be behind behind you. But I do wish you memories of the quality of mine. I hope your year ends in a blaze of glory.

Sincerely,
Francis L. Cudahy

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Scott A. Brooke

Scott A. Brooke has joined Stanley, Lande & Hunter, P.C., as an associate.

Scott graduate with the bachelor's degree in economics in 1985 and received his juris doctorate with distinction from the University of Iowa College of Law in 2002.

He owned Brook Enterprises with his father and brother for 15 years before attending law school.

Kristi K. Johnson has been promoted to associate general counsel and assistant vice president of human resources at Employers Mutual Casualty Company.

Kristi is a graduate of Drake University Law School.

Jan D. Gibson, C.P.C.U., was appointed an assistant secretary. She is home office environmental claims specialist.

She is a graduate of University of Iowa and Drake University Law School.

Linda Hoffman also was appointed an assistant secretary. She is a graduate of UCLA undergraduate and law schools. She is the home office bond manager.

Michelle Hoyt Swanstrom is the new managing attorney for the Southeast Regional Office of Iowa Legal Aid in Ottumwa.

A graduate of the University of Kansas Law School, Michelle returns to Iowa Legal Aid after serving as a part-time judicial magistrate for the Eighth Judicial District and a time with the Iowa State Public Defender Office.

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 ccorcoran@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. Submissions by U.S. Mail to Editor, The Iowa Lawyer, 521 East Locust St., Flr. 3, Des Moines, Iowa 50309-1939, also are acceptable with the same requirement for a 30-day lead time. Questions? Call Chuck at 515-243-3179. Thank you for your assistance.

Mary Lynn Neuhaus, Loras College Communications Arts chair, has been named the 2003 recipient of the Congressman Neal Smith Award. It is presented in recognition of outstanding contributions on a national level to law related education and its mission to promote public understanding of law and the legal process.

Neuhaus is the first Iowa attorney to have received the award.

She serves as a Loras pre-law advisor, coaches both the nationally ranked Loras Mediation team and the award-winning Loras Mock Trial team. She is was a member of The Iowa State Bar Association Board of Governors, past director of the Iowa Trial Lawyers Board and Iowa Supreme Court Planning Commission.

She also serves on the board of the American Mock Trial Association. She will teach law-related education this summer at Johns Hopkins University in Baltimore and Bentley College in Boston.

J. Marc Ward, an attorney at Dickinson Mackaman Tyler & Hagen, P.C., Des Moines, was invited to be an observer on the Drafting Committee revising the Uniform Limited Liability Company Act of the National Conference of Commissioners on Uniform State Laws meeting this month in Atlanta, Georgia.

Observers are invited to participate fully in the discussion by the Drafting Committee. Marc is Chair of the ISBA Limited Liability Company Section.

He authored the two-volume *Limited Liability Company Guide* published in 1995 by CCH, Inc..

Michael D. Clark and **Melinda K. Clark** announce the opening of Clark Law Firm in Burlington, Iowa.

Michael is a 1995 graduate, with honors, of Drake University Law School. Prior to opening his own practice in Burlington, Michael was an associate at The Baudino Law Firm, P.C. and Grask Law Firm, P.C., in Des Moines and served as First Assistant County Attorney in Burlington.

Melinda also is a Drake Law School graduate, having earned her J.D. in May of 2002. Melinda was admitted to the Iowa Bar in October of 2002.

Brett T. Osborn, formerly of Patterson, Lorentzen, Duffield, Timmons, Irish, Becker & Ordway, L.L.P. has joined Wetsch & Abbott, P.L.C.

Brett graduated from Drake University with a Bachelor of Science in business administration in 1993 and Drake University Law School with the Juris Doctorate with highest honors in 2001.

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Jason T. Madden has been promoted to shareholder at Bradshaw, Fowler, Proctor & Fairgrave, P.C.

Jason earned his Juris Doctorate with honors from Drake University in 1997. He is in general practice including, but not limited to, product liability, construction law and insurance defense litigation.

Eighth Circuit Association

The newly formed Association of the Bar of the United States Court of Appeals for the Eighth Circuit is now accepting members.

To obtain a membership application, go to the organization's web page at www.riderlaw.com/eighth_circuit_bar.html

I.O.W.A. meets June 19

The Iowa Organization of Women Attorneys will meet in their annual meeting June 19 during the ISBA Annual Meeting.

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Lori A. Brandau has been promoted to shareholder at Bradshaw, Fowler, Proctor & Fairgrave, P.C.

Lori graduated from Wartburg College and earned her Juris Doctorate from the University of Iowa in 1997. She is in general practice including, workers' compensation.

Darin H. Luneckas and Chad W. Newhouse have established their own law firm, Luneckas & Newhouse, P.C., located at 3717 Center Point Road, NE, Suite 100 in Cedar Rapids.



Darin H. Luneckas

Luneckas is a 1996 *cum laude* graduate of Coe College where he was a member of Phi Beta Kappa.

In 1999, he received his Juris Doctorate with honors from the University of Iowa College of Law.



Chad W. Newhouse

Newhouse is a 1996 graduate of Mt. Mercy College. He received his Juris Doctorate from Drake University Law School in 1999.

Luneckas will concentrate his practice in the areas of personal injury, workers' compensation and family law. Newhouse will focus his practice in the areas of business, probate and family law.



Megan S. Fereday

Megan S. Fereday has joined Swisher & Cohrt, P.L.C. of Waterloo as an associate attorney. Megan received her Bachelor of Arts Degree from the University of Notre Dame in 1996, and her Juris Doctorate from Marquette University Law School in 2000.

She previously worked in the Wisconsin State Public Defender's Office in Milwaukee. She is licensed to practice law in both Wisconsin and Iowa.

Leif E. Gustafson has joined the Scudder Law Firm's Phoenix office as an associate.

Leif, a former associate of Snell & Wilmer L.L.P., is a graduate with highest distinction of the University of Iowa College of Law and Arizona State University, where he obtained a Bachelor of Science political science *summa cum laude*.

He is admitted to the Arizona Bar and expects to be admitted to the Nebraska Bar soon.

The firm has an office in Lincoln, Nebraska, as well as Huntington Beach, California.

Ryan J. Mitchell has joined the firm of Orsborn, Bauerle, Milani & Grothe, L.L.P. of Ottumwa and Centerville as an associate attorney.

Ryan graduated from Wartburg College in 2000 and from Drake Law School in 2002.

IN MEMORIAM

Recording the deaths of members of The Iowa State Bar Association

Former U.S. Olympic President Robert Helmick, 66, died in Des Moines April 15 at Iowa Methodist Medical Center of cardiac failure. Helmick's law partner, David Claypool, said Helmick suffered a stroke earlier. Helmick served as U.S.O.C. president from 1985 to 1991. He became the first International Olympic Committee member to resign under pressure, in 1991, after he was accused of using the position for personal gain. A U.S.O.C. investigation into allegations of influence peddling by Helmick found no wrongdoing. Helmick resigned, saying the controversy was disruptive to the committee.

Robert V.P. Waterman, 75, died February 28 in a Naples, Florida, hospital from injuries received in a bicycling accident suffered the day before. Daily, the self-styled "pseudo-retired" senior partner in the Quad-Cities' biggest law firm, rode his bike at the family winter home in Naples. "I am devastated by Bob's death," said Gov. Tom Vilsack, a close friend. "We have worked together on many efforts. I have been in court with him any number of times and always, he was the gentleman." He was a Quad Cities' booster with involvements ranging from leading the merger of St. Luke's and Mercy hospitals to chairing a debate as a Salvation Army board member.

The Challenge of Self-Regulation

Professor Sherman L. Cohn*

One of the hallmarks of a profession is the ability to regulate itself, to set standards, to promulgate a code of ethics, and to enforce those ethical standards. The legal profession largely carried out those functions on its own until recently. True, the admission and discipline functions were administered under the authority of courts, usually the highest court of the state, particularly after the adoption of the Code of Professional Responsibility in the early 1970s. But, while separate in some senses, the courts were and are really a significant part of the profession itself.

“...if we, the legal profession, do not act as a profession-in-Dean Pound’s words, ‘in the spirit of a public service’-political branches of government will....”

But then the situation began to change. California, for example, began to legislate some ethical standards concerning lawyers. Other state legislatures have tried to follow, although often the state supreme court has ruled that the legislation tramples upon the exclusive domain of the judicial branch under the constitutional separation of powers in that state. The Supreme Courts of Ohio and of Pennsylvania recently had such cases before them. While the legislation did not survive state judicial review, it is significant that the legislature in each state felt compelled to act, not being satisfied with the profession’s willingness to police itself in what the legislature perceived as the public interest. If the level of frustration

builds far enough, we can anticipate constitutional amendments to reduce the courts’ claim of exclusive rights over the governance of our profession.

In 1983, we had the rewriting of Rule 11, and its discovery companion, Rule 26(g), of the Federal Rules of Civil Procedure by which federal judges were instructed to watch more closely over the behavior of trial advocates when it comes to pleadings, motions, and other papers, including discovery papers, filed in court. This was followed by the rewriting of Rule 30(d) in 1993 to impose by rule a level of civility in depositions that was found to be needed.

The federal Congress has intervened as well. In 1989, Congress enacted the Financial Institutions Reform, Recovery, and Enforcement Act, which imposed ethical duties upon attorneys who represent financial institutions. This act, and specifically the provision applicable to attorneys was a reaction to the savings and loan scandals of the 1980s and the role of law firms in those scandals.

More recently, in July of this year, Congress again spoke to legislate in the area of lawyers ethics. In Section 307 of the Sarbanes-Oxley Act, Congress directed the Securities & Exchange Commission to issue rules “in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of issuers.” Section 307 dictates that one of those rules must “requir[e] an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof, to the chief legal counsel or the chief executive officer” and if the counsel or CEO “does not appropriately respond to the evidence,” the SEC shall “requir[e] the attorney to report the evidence to the audit committee of the board of directors...or to the board of directors” itself.

It is not the point of this article to debate the wisdom of either FIRREA or of Section 307 of the Sarbanes-Oxley Act. Rather it is to point out that we are finding the political branches of the federal

government beginning to regulate the conduct of lawyers. FIRREA was a direct result of the conduct of Kaye Scholer, Jones Day, and other law firms in (knowingly or unknowingly) assisting owners of savings and loan in their fleecing of the public. Section 307 of Sarbanes-Oxley is a direct result of the role of various law firms in (knowingly or unknowingly) assisting ENRON, Worldcom, Global Crossing, and other corporations in fleecing the investing public.

True, both of these statutes also created federal regulation of the accounting profession. But the federal regulation of both the legal and the accounting professions resulted from the same problem: the perceived failure of the profession to regulate itself in the public interest, requiring government to step in to do the job in which the profession failed. I suggest that Rules 11, 26(g), and 30(d) of the Federal Rules of Civil Procedure, and their state analogs, stem

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from the same failure. Indeed, I respectfully suggest that the profession should be profoundly ashamed that it was deemed necessary for the courts to promulgate those rules.

This takes me to the oft-quoted Dean Roscoe Pound definition of a profession as “a common calling in the spirit of a public service – no less a public service because it may incidentally be a means of livelihood.” True, the concept of “public service” includes the representation of and loyalty to a client. But just as true are the limits on that “loyalty.” Loyalty to a client clearly does not mean knowingly assisting the client in a criminal or fraudulent act. As Model Rule of Professional Conduct 1.3(d) makes clear, “a lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent...” The vice of both lawyers and accountants that appears from the savings and loan scandals and the recent corporate scandals is that lawyers and accountants too easily closed their

eyes to what must have been apparent if they had been willing to see: their loyalty to their clients – and their interest in the fees from those clients – led them to act in a way inimical to the public interest.

Thus, the legislature had to react, and Congress did. Similarly, when the California bar failed voluntarily to see the vice in a lawyer sleeping with his (or her) client, the California legislature forced action. It was not until this past year that the ABA found the wisdom to write that prohibition into newly proposed Model Rule of Professional Conduct 1.8(j).

The point of this short essay is that if we, the legal profession, do not act as a profession – in Dean Pound’s words, “in the spirit of a public service” – political branches of government will do it for us. With each of these steps, we become less of a profession and more of a trade, ultimately to be highly regulated by the political branches of government in their perception of the public interest. Thus, if we wish to preserve our profession, we

must realize that ethically we cannot take “loyalty” to a client to the limits of where the client would like to go. We cannot close our eyes to what the client is doing and how the client is using our services. We must retain that independence from the client so that we can truly act “in the spirit of a public service.” If we do not, the handwriting is clear: others will do it for us, and our legitimate loyalty to client will ultimately be washed away.

**Professor Sherman L. Cohn, one of the founders of the American Inns of Court movement, is a professor of law at the Georgetown Law Center in Washington, DC. Professor Cohn was the first president of the American Inns of Court Foundation and served on the Board of Trustees from 1985 until 1996.*

This article, reprinted with permission from the American Inns of Court and Sherman L. Cohn, was originally published in the November/December 2002 issue of The Benchler, a bi-monthly publication of the American Inns of Court.

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8th Circuit Conference features big names

This summer’s Eighth Circuit Judicial Conference July 15-18 in Minneapolis promises to be one of the most important and interesting in several years.

“Legal Issues in a New World” will feature some of the most controversial cases and attorneys to have hit the headlines: Michael Tigar, attorney for Terry Nichols, Lynne Stewart, counsel to Sheik Omar Abdul Rahman, charged with conspiracy to support terrorism; William Webster, former director of the FBI and the CIA; and the Hon. Michael J. Davis, judge of the Foreign Intelligence Surveillance Court.

Several other sessions are slated throughout the event. All Eighth Circuit attorneys and invited, and women and minorities are encouraged to attend

A panel discussion Friday, “Litigation Challenges in the 21st Century,” will feature Judge James E. Gritzner and David E. Funkhouser among its nine panelists.

Attorney General John Ashcroft also has been invited to speak.

Reservation information is available at 314-244-2600 or by writing Chief Executive’s Office, 111 South Tenth St., Room 26.325, St. Louis, Missouri 63102.

Online registration is available at www.ce8.uscourts.gov/judconfpub/



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Business law update hits a moving target, almost

By David S. Walker

It is an understatement to say that Enron and other corporate and securities scandals during the past couple of years have led to significant statutory, regulatory, and judicial developments. Litigation, or the threat of it, must surely seem omnipresent for directors and officers and those who counsel them. The issues are serious and complex, and the consequences for business clients and their lawyers are significant. A relatively new, annual publication comprehensively updates lawyers and judges on developments in these areas.

The **Annual Review of Developments in Business and Corporate Litigation** (available from ABA Publications for \$120) is a publication of the ABA Business Law Section's Committee on Business and Corporate Litigation (BCL Committee). The BCL Committee states on its web page, www.abanet.org/buslaw/catalog/pubs.html, that the committee "focuses on the principal substantive areas of litigation affecting business enterprises and promotes the establishment of business courts and other effective means of resolving business disputes." Among other activities and purposes, it "monitors important litigation developments affecting business . . . and serves as a 'litigation education' resource both to [its] membership and to the entire [Business Law] section." The BCL Committee has 20 subcommittees addressing various areas of business and corporate litigation. The BCL Committee has apparently enjoyed substantial growth in membership during the last three years. The Annual Review is comprised of materials developed by its subcommittees for the Spring Meeting of the Business Law Section and, in particular, a popular program sponsored by the Committee that reviews business and corporate litigation during the previous year.

The 2002 Edition is the Committee's second publication. It consists of nineteen (19) chapters and, at 904 pages, represents a comprehensive text reviewing significant developments. Chapters focus on Alternative Dispute Resolution; Antitrust Litigation; Bankruptcy Litigation; Business Torts Litigation; Class Action Law; Corporate Law; Criminal and Enforcement

Litigation; Derivative Litigation; Director Liability and Indemnification; Directors' and Officers' Liability Insurance; ERISA; Employment Law; Environmental Law; Financial Institution Litigation; General Partnerships, Joint Ventures, Limited Partnerships, and LLCs; Intellectual Property Law; Labor Law; Securities Arbitration Law; and Securities Litigation. Some chapters have been added since the 2001 edition, namely, the chapters on Criminal and Enforcement Litigation and Securities Arbitration Law. These additions come as no surprise, given the events of 2001, and evidence the Committee's commitment to providing readers material of current significance.

Even for the active and speedy reader, keeping current in corporate and business issues and related litigation and statutory developments is daunting, and for the rest of us it is a matter of hope on the run. This kind of continuing education is

valuable, and good materials on recent statutory, regulatory and case law developments are certainly worth the price of admission. As the title suggests, the **Annual Review** is aimed at updating the reader and providing continuing education. It does so in a style that is readable, and it generally makes efficient use of the reader's time. Some areas will be of obvious interest-materials on Corporate Law or Director Liability, Indemnification and Insurance issues-while other areas may be less so or more specialized than needed, and these can be read at a later time or as need arises. For example, the Chapter reviewing Intellectual Property Law covers every Circuit and runs for 144 pages. The more that protection of intellectual property becomes a part of directors' duty of care and the more that IP figures into due diligence in any number of transactions, the coverage provides a valuable reference and is

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understandable. Similarly, the Chapter on Securities Litigation runs for 164 pages; it provides a quantitative overview of private securities litigation filings, provides an overview of significant SEC Releases, and briefs significant securities fraud cases in 2001 as well as cases interpreting the Securities Litigation Uniform Standards Act (SLUSA). The book is designed and will function well as a desk reference. It serves the generalist, addressing a wide range of areas; and it is also useful to the specialist with a particular case or client, suggesting current legislative or case law developments and focusing attention on significant cases in the area.

Inherent in an annual review that one can simultaneously lift and read are some limitations. Even at 904 pages, some material that Iowa lawyers would find of interest and want to know is not covered. The 68 page Chapter on Corporate Law, for example, only covers cases decided by Delaware courts or applying Delaware law. Even recognizing the significance of

Delaware law, one is reminded of the famous New Yorker cover by Steinberg, depicting a map of the U.S.A. from the Hudson River, dwarfing America west of the Appalachians. For the nearly 25 jurisdictions that follow the ABA's Model Business Corporation Act, like Iowa, attention to MBCA amendments and significant decisions interpreting and applying the MBCA would be useful and appropriate to include. Similarly, in light of the dramatic increase in the formation and use of limited liability companies in the last decade, the treatment of LLCs seems unusually and unfortunately slim. It consists of barely of two pages briefing four cases in a 35 page chapter on unincorporated business associations. In addition, as is to be expected in a

program with many speakers or volume with multiple authors, readers will find some chapters more reader-friendly and useful in providing context and analysis than others.

The 2002 Annual Review, however, will serve as a valuable reference for the lawyer advising businesses or handling business litigation and wanting to learn quickly about significant developments in a particular area. The Annual Review is just what it says, namely, annual, so like any coverage of a moving target, it doesn't take long to become obsolescent. The program that will generate the 2003 Annual Review was held in April of this year, and the new edition should be out by summer. This author, for one, will be looking for it.

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President-elect Kevin Collins (third from left) joined Christine Connor (right) and Angela Shutts (left) at the American Bar Association's Bar Leadership Institute in early March. The women represented the Iowa Organization of Women Attorneys, of which Connor is president and Shutts is president-elect. Also pictured are ABA president Alfred P. Carlton, Jr., (far right) and ABA President-elect Dennis W. Archer (far left). Bar Executive Director Dwight Dinkla is third from the right.

ADMISSION ON MOTION

These attorneys have applied for admission on motion to the Iowa Bar: Jason R. Yungtum of Engles, Ketcham, Olson & Keith, P.C., Omaha, Nebraska; Kent Hyde of Hyde & Allred of Aberdeen, South Dakota; Thomas Joseph Loftus who is employed by Principal Financial Group of Des Moines; and Todd Anthony Becker of Coyne, Niess, Schultz, Becker & Bauer, Madison, Wisconsin.

Also Jon Eric Blumenthal of Baird, Holm, Omaha, Nebraska; Walter Allen Lain of Dallinger & Lain, Bloomington, Illinois; Paul Salabert, Jr., of Hopkins & Huebner, Des Moines, Iowa and Mary Leiter Swick of Baird, Holm, Omaha, Nebraska.

Persons with questions or comments should contact Keith Richardson, clerk of the Supreme Court, at 515-281-5911, or write to the office of Iowa Supreme Court Clerk, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa 50319

ISBA Annual Meeting, "Law and Life in the Balance," Set for June 18-20 at the Marriott Hotel in Downtown Des Moines



Highlights Include ABA President Carlton, Litigation Expert McElhaney, and Humorist Franken

The ISBA's Annual Meeting is set for June 18-20, 2003, at the Marriott Hotel in downtown Des Moines. Highlights of this year's CLE and social line-up include ABA President Alfred Carlton, national litigation expert Professor James W. McElhaney, and comedian and humorist Al Franken. What an opportunity to see such national figures, get all your CLE hours, and see some friends and have fun, too!

James W. McElhaney, Trial and Litigation Expert, To Present "The Keys to Effective Trial Advocacy"



One of the nation's most popular speakers and writers on trial advocacy and litigation, James W. McElhaney, will present a day's worth of CLE programming on the keys to effective trial advocacy

and trial techniques. He is author of the award-winning column, "Litigation," in the ABA Journal, and of the popular and educational "Trial Notebook" column in the ABA *Litigation Journal*. McElhaney has also published three widely acclaimed books on litigation: *Effective Litigation* (West Publishing Company course book), *McElhaney's Trial Notebook* (ABA 3rd ed.), and *McElhaney's Litigation* (ABA).

McElhaney's presentation, "The Keys to Effective Trial Advocacy," will cover all the major parts of the trial. It is a program that

appeals to both younger lawyers and to more experienced practitioners, as it presents a number of innovative and challenging techniques, and practical, how-to information that will make any attendee a better attorney. What a great CLE for associates and younger attorneys to attend as well as seasoned trial practitioners.

ABA President Alfred Carlton



ABA President Alfred Carlton is missing part of his home state of North Carolina's annual meeting to join us at the traditional Wednesday night banquet. He will also

speak Thursday morning with an ethics presentation, and will also speak on the state of the American Bar Association.

A. P. Carlton is a partner in Kilpatrick Stockton, LLP in Raleigh, North Carolina. He has a long career in general corporate law with an emphasis on regulated industries, corporate and public finance, and financial and nonprofit institutions. He is former chair of the ABA's policy making House of Delegates, and the Association's second-highest office, from 1996-1998. He was first elected a member of the House in 1982, and chaired the House Committee on Rules and Calendar, the Select Committee of the House and the Standing Committee on Continuing Education of the Bar. He has been active in several ABA entities, including the Section of Legal

Education and Admissions to the Bar, the General Practice Section, and the Young Lawyers Division Continuing Legal Education Board. Carlton is listed in *Who's Who in American Law* as well as *Who's Who in America*.

Al Franken To Perform At Annual Meeting



Another highlight of the Annual Meeting will be award-winning comedian, humorist, and political satirist Al Franken providing the entertainment following the President's Dinner on Wednesday, June 18,

2003. This special social event and entertainment will include a reception, dinner and entertainment for \$40 per person. Reservation information for the evening is in the **Annual Meeting brochure**.

Franken is a five-time Emmy winner for his work on Saturday Night Live, the 1997 Grammy winner for Best Comedy Album, and author of two best-selling books. His latest book, *Why Not Me?* chronicles his bid for the Presidency and his subsequent disastrous administration. Franken was part of the original writing staff that created *Saturday Night Live* in 1975. Four of his Emmy awards are for writing, and the fifth is for producing. He also won recognition for his on-camera work for such characterizations as the new age cable host Stuart Smalley. Smalley was the subject of Franken's 1992 book, *I'm Good Enough, I'm Smart Enough and Duggone It*,

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People Like Me.” This book served as the basis for a movie that Franken wrote and in which he starred, *Stuart Saves His Family*. Franken also co-wrote the 1994 hit movie *When a Man Loves a Woman*,” starring Andy Garcia and Meg Ryan.

The only comedian to perform twice at the White House Correspondents Dinners, Franken has established himself as one of the nation’s top after-dinner speakers and lecturers.

THE FOUR AL’S

In addition to Al Carlton and Al Franken, we of course have ISBA President, Alan Fredregill, welcoming everyone to the Annual Meeting and passing the gavel. We also are lucky to have the ABA Young Lawyers Division President, Alan Olson, as a presenter on negotiations and as a host of ABA President Carlton. Alan is past president of the ISBA Young Lawyers Division.



CLE OFFERS 15 HOURS, SEVERAL TRACKS, AND FEDERAL AND ETHICS HOURS, TOO

Again this year the CLE portion of the Annual Meeting will offer several tracks with many choices of topics from which to choose, and offering all 15 hours of state CLE requirements, as well as ethics and federal hours. The CLE starts off Wednesday afternoon with McElhaney’s “The Keys to Trial Advocacy” in the Litigation Track. The General Practice Track will include a panel on the rule against perpetuities and a discussion of tele-justice/videoconferencing in the 21st century, among other topics. Thursday morning the Litigation Track will continue with McElhaney’s presentation opposite the Agricultural Law and Elder Law Tracks.

Thursday afternoon several tracks offer many topics from which to choose. The Special Issues Track, presented in conjunction with the Iowa Organization of Women Attorneys, offers several topics of interest to all attorneys and related to the annual meeting theme – Law and Life in the

Balance—including an ethics presentation, “Stress Management and Ethics for Attorneys,” and “Retaining Quality Attorneys in Iowa,” Diversity in the Practice,” and the “Adoption Process from Different Perspectives.” Also offered Thursday afternoon are a General Practice Track and a General Practice/Litigation Track, offering several topics, including a fun-way to learn ethics with Justice Michael Streit moderating “Ethics Jeopardy,” presentations on power point and litigation, oral argument tips by Justice Marsha Ternus, and updates in civil, criminal, and employment law, among others.

Friday morning offers a Family Law Track, Probate Track, Business Law and General Practice Track, and Litigation and General Practice Track. These tracks include updates in several areas as well as several ethics topics from which to choose, including Judge Alan Pearson on “Ethics: Law and Life in the Balance,” and “Ethics: The Proposed Model Rules and the Business Lawyer,” “Marketing Your Practice and Profession,” and “Manage Your Trust Accounts – Stay Out of Jail and Keep Your License.” Orville Bloethe, Brian Kane, and Bruce Rehmke will present the updated **Fiduciary Tax Manual**, which will be available for purchase at the meeting.

There are many more topics than those mentioned here! **Check out the CLE schedule in the brochure or on the web!**

SOCIAL EVENTS

Wednesday, June 18, 2003

General Assembly & Awards of Merit Luncheon

11:30 a.m.-1:15 p.m.

Come be a part of this General Assembly Luncheon which is open to registrants and their spouses or guests. This event will feature presentations of the senior bar Award of Merit, the YLD Award of Merit, and the passing of the gavels of the senior bar and YLD officers. *Cost: \$12.50 per person*

President’s Dinner with Comedian/Satirist Al Franken

6:30 p.m. Reception, 7:00 p.m. Dinner

ISBA President Alan Fredregill will preside over an evening welcoming all lawyers, judges and their guests to the 2003 Annual Meeting. The evening’s activities will begin with a reception at 6:30 p.m., followed by dinner at 7:00 p.m.

Highlighting the evening will be entertainment by Al Franken.

Cost: \$40 per person

Thursday, June 19, 2003

ISBA Foundation Fellows Breakfast (By Invitation Only)

7:00 a.m.

President’s Luncheon Honoring the Iowa Supreme Court, Community Service Award Recipients & ISBA-VLP Pro Bono Award Recipients

12:00-1:30 p.m.

Join us as we honor distinguished Chief Justice Lavorato and the Justices of the Iowa Supreme Court, and as we recognize the President’s Community Service Award Recipients, and recognize Iowa lawyers for their outstanding Pro Bono services.

Cost: \$12.50 per person

Reception & Tour: ISBA Conference Center and Iowa Judicial Branch Building

6:00-8:00 p.m.

This is your opportunity to view the newly remodeled Ed Jones Conference Center located at The Iowa State Bar Association office followed by a tour of the new Iowa Judicial Branch Building. The event is open to all registrants, judges and guests and is free of charge. The reception will begin at the ISBA Conference Center, 521 E. Locust at 6 p.m. followed by a tour of the Judicial Building. Transportation will be provided. *Cost: No Charge*



Friday, June 20, 2003

President’s Luncheon Honoring the 50-Year Members and Outstanding Law Student Award Recipients

12:00-1:30 p.m.

Join us as we pay tribute to our colleagues as they observe 50 years as Iowa lawyers and Iowa State Bar members and as we recognize the two Outstanding Law Student Award recipients from Drake Law School and from the University of Iowa

College of Law. All judges and Annual Meeting attendees and guests are invited to attend. *Cost: \$12.50 per person*

Other Activities/Events

Adventureland Amusement Park
Discounted Tickets

Looking for something to do in the Des Moines area for the entire family? Why not go to the Adventureland Amusement Park? The park contains over 100 rides, shows and attractions. Special admission price for ISBA members from June 17-20, 2003 is \$16 per ticket which

includes tax. Ticket prices are for four years and over, under four is free. Sign up on the registration form for tickets. You can pick up your tickets along with your Annual Meeting materials at the ISBA registration desk during the Annual Meeting. For more information on Adventureland, check out their website at www.adventureland-usa.com. You are responsible for your own transportation.

For other things to do in Des Moines, see the special flyers/brochures at the Des Moines Information Booth in the Exhibit Hall. The brochures include maps, discount coupons for shopping, restaurants, etc.

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Plans to continue teaching fulltime

Dean Hines announces his 2004 retirement

N. William Hines, dean of the University of Iowa College of Law and the longest-serving current law school dean in the country, has announced he will retire as dean following the 2003-04 academic year.

A search committee to seek a new dean has been appointed and will launch a nationwide search for a replacement this summer.

Bill Hines became dean of the law school in 1976 and his 28-year tenure will be the longest in the school's nearly 140-year history. A graduate of the University of Kansas Law School, Hines came to Iowa as assistant professor of law and director of the Agricultural Law Center in 1962. He was appointed Joseph F. Rosenfeld Professor of Law in 1973.

"It has been an enormous pleasure to serve the University of Iowa as its law dean since 1976, and I owe a great debt of gratitude to all the faculty, students, alumni, fellow administrators and bar leaders who have made my long tenure as dean so interesting, gratifying and enjoyable," said Hines, who will continue to teach as a full-time faculty member following his retirement as dean.

"The University of Iowa College of Law has earned a national reputation for excellence, and much of that can be attributed directly to Dean Hines' vision, leadership and hard work," said UI President David Skorton. "It will be a great challenge for us to find a new

leader to fill the dean's shoes, but our search will be made much easier because he's helped the College of Law attain such prominence."

Willard "Sandy" Boyd, a professor of law, director of the law school's Iowa Nonprofit Resource Center and former UI president, said the law school will be losing a dynamic leader and forceful advocate.

"He has been articulate about the vision and mission of the law school, supportive of the faculty, and open as a leader," said Boyd, who was on the law school faculty that recommended Hines' appointment in 1962 and was UI president when he was named dean in 1976. "On top of that, he's been a great and wonderful friend."

During Hines' tenure as dean, the law school's faculty doubled to more than 50, and the number of women and minorities represented increased significantly. The number of minority faculty members increased from zero to seven, while the number of women increased from two to 18. Similarly, the number of women and minorities represented in the student body increased dramatically.

Other improvements include an increase in the college's endowment from \$1 million to \$50 million and the publication of three new student-edited law journals, bringing the total to four. The law library also grew to more than 1 million volumes, becoming the

largest public university law library in the country,

In addition, the College of Law moved from its former home in what is now the International Center to the Boyd Law Building, for which Hines led the planning, lobbying and fundraising efforts. Planning for the new building began in 1980; the Iowa legislature funded the project in 1983; and the first classes were held in 1986.

Hines also was instrumental in the successful completion of the college's first endowment campaign in 30 years. The Iowa Law School Endowment Campaign for the 21st Century ended in 2002 after raising \$32.8 million for the college.

Among the school's notable graduates during Hines' deanship have been Norm Coleman, now a U.S. Senator from Minnesota; Colleen Rowley, an FBI agent who was named Time magazine's Person of the Year in 2002; Michael Sandler, co-manager of the highly regarded Clipper Fund mutual fund; and Carroll Reasoner, the first and only woman president of The Iowa State Bar Association.

Hines is an active senior athletic competitor playing tennis and basketball, an avid fisherman, and a long-time fan of Hawkeye sports teams. His legal expertise is focused on agricultural law, real estate, environmental law and natural resources management.

Event relies heavily on Iowa lawyer participation

By Tricia Hoffman-Simanek*

The National Championship Intercollegiate Mock Trial Tournament's nineteenth year in Des Moines saw 650 students from across the country compete and the University of Iowa emerge victorious.

Hosted by the American Mock Trial Association (AMTA) in early April, the tournament saw the Iowa team coached by Kristofer Lyons and Beau Brindley take the national championship over Howard University of Washington, D.C.

"...the Young Lawyer's Division Mock Trial Committee is making an early plea for next year's tournament."

This year's contest success depended – and this cannot be stressed too much – on the volunteer participation of a lot of attorneys who acted as judges.

While there was a much better turnout for attorneys who judged this year, the tournament has had difficulty filling the judging slots.

So this year the Young Lawyer's Division Mock Trial Committee is making an early plea for next year's tournament.

The committee stresses that attorney-judges need not be litigation-oriented to donate their time.

Young Lawyers Division President Timothy Semelroth explained, "I look forward to judging at National Championships each April. The chance to see the 64 best college mock trial teams in the country is a real privilege for any lawyer who appreciates the art of trial advocacy.

"I cannot think of a college mock trial that I have judged in the last five years where at least one student's performance did not impress or entertain me."

Iowa State Bar Association President Alan Fredregill, who was a tournament judge added, "If lawyers did it once and had opportunity to sit as a judge and get that perspective, they would look at their next trial a whole lot differently."

Many tournament judges believe that judging gives them the opportunity to pick up new trial techniques. It gives lawyers a chance to be in the other seat and say to themselves, "I didn't like that much, I wonder if I do the same thing."

"The civics lesson is phenomenal," Fredregill said. "We complain so often that people do not understand the judicial process. I don't know of a better way for students to understand what goes on than to have to have them go through mock trial-to go through the critical thinking process and to think like lawyers."

With family and friends in tow, teams participating in the competition bring around 800-1,000 people for the three-day



Mock trial teammates, who were both attorneys and a witness, from the Furman contingent.

weekend in Des Moines. This one weekend in April spurs Des Moines' economy as much, if not more, than many of the conventions the city hosts.

"It would be a tragedy if they took the tournament away from Iowa because of lack of judges," Fredregill concluded.

Every year 384 judging slots must be filled for the tournament to be a success. This year, 70 attorneys from outside Polk County donated time to the college tournament.

Fredregill encourages firms to sponsor lawyers and send them to Des Moines because "you learn about trial practice like you've never learned about it any other way."

** Tricia Hoffman-Simanek is an attorney with Shuttleworth & Ingersoll, P.L.C., Cedar Rapids. She is a member of the Young Lawyers Division Mock Trial Committee. This is her second year judging the College Tournament.*

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2. University of California– Los Angeles
3. University of Chicago
4. Furman University
5. Florida A & M University

Heytens Division

1. University of Iowa
2. Miami University of Ohio
3. University of Wisconsin– Madison
4. University of Notre Dame (Team 925)
5. University of Notre Dame (Team 924)

April 2003

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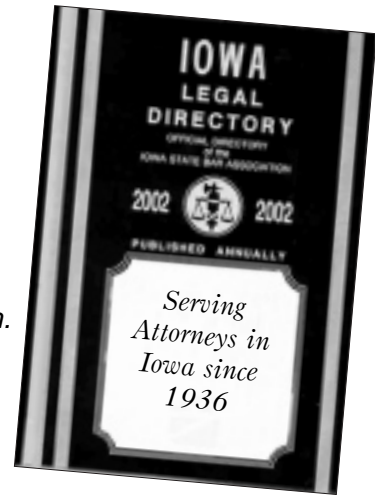
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Iowa Practice – Business Organizations (2003)

Matthew G. Doré, author

By Frank J. Carroll*



Many Iowa practitioners represent business organizations and their constituents. Two recently published volumes in West Group's Iowa Practice Series, entitled *Business Organizations*,¹ provide a research and form guide that will help Iowa lawyers resolve the varied legal issues that arise in that practice.

The author, Drake Law Professor Matthew Doré, is a former transactional lawyer who has taught partnership, corporations, and related courses at Drake on a full-time basis for the past 10 years. In addition to his teaching and research on corporate and commercial law issues of national import, Professor Doré regularly publishes and lectures on business law topics from the Iowa perspective.² The new

West Business Organization volumes, a product of four years' research and writing on Professor Doré's part, fill a void in published legal scholarship, which generally devotes little attention to Iowa business law.

Drake Emeritus Professor Ed Hayes wrote the original *Business Organizations* volumes in the Iowa Practice Series in 1969 and last updated them with new permanent volumes in 1984. Since that time, Iowa's statutory laws governing business organizations have changed dramatically. A new Iowa Business Corporation Act took effect in 1989 and was substantially revised only last year. Iowa law now recognizes limited liability companies and limited liability partnerships, both of which were unheard of in 1984. In addition, the Legislature replaced or amended both Iowa's Uniform Partnership Law and Uniform Limited Partnership Law in the late 1990s. The Iowa courts have decided very few cases under any of these statutes, leaving practitioners with little guidance. Professor Doré's new Business Organization volumes substantially bridge this gap, for the novice and experienced practitioner alike.

Like Professor Hayes' prior editions of this work, Professor Doré's new edition covers both the statutory framework and common law rules that govern Iowa business associations. He has

made substantial changes in emphasis, organization, and coverage, however. For example, prior editions were derived from treatises that focused on business association laws nationally, with a discussion of Iowa statutes and cases appended where relevant. Professor Doré's edition shifts the primary focus to Iowa laws, adding coverage of other laws where helpful to an interpretation of the Iowa rules. He has reorganized chapters within the volumes to provide a more user-friendly interface, including chapters devoted exclusively to forms.

Professor Doré's coverage is both comprehensive and of considerable depth. For example, his analysis and explanation of the Iowa Uniform Partnership Act and the Iowa Business Corporation Act draw extensively on commentary interpreting the uniform or model acts on which these statutes are based,³ as well as published legal scholarship. By pulling such resources together for the practitioner, Professor Doré is able to both analyze and explain these statutes, both from a mechanical and policy perspective, despite the dearth of pertinent Iowa case law.

Consistent with recent trends in business law practice, Professor Doré's new edition greatly expands the coverage devoted to unincorporated business associations. He extensively discusses the new Iowa partnership and limited partnership laws, as well as Iowa statutes authorizing limited liability companies and limited liability partnerships. Many of Professor Doré's forms in this area were drafted by leading national experts (for example, the general partnership forms in Chapter 10) or by prominent Iowa law firms (for example, the limited liability company forms in Chapter 14).

Professor Doré's new volumes are no panacea for Iowa business practice. He focuses on Iowa business association laws and does not intend his work as a substitute for research or expert counsel in related specialized areas, like tax or securities. As Professor Doré notes in his preface, these issues are best covered and analyzed in specialized treatises to which most attorneys have ready access.

One of the best features of Professor Doré's work is its currency. He has made every effort to make his coverage current as of summer 2002. His volumes also cover, where applicable, the many changes the Legislature made to the Iowa Business Corporation Act that took effect January 1, 2003. Given the scope of these

changes, and changes in other laws that will inevitably follow, some of the discussion will undoubtedly require further revision.

These books are softcover products and provide no space for pocket parts. I understand that Professor Doré and West Group plan to publish replacement editions each year. The goal is to both update and expand their coverage in the process. Plans for the next edition, for example, include not only 2003 developments, but also a series of chapters devoted to intellectual property issues for the business practitioner, and, perhaps, coverage of Iowa's corporate farming regulations. All in all, this is a set of books that any Iowa business practitioner should consider adding to the firm library.⁴



Frank J. Carroll

*Frank J. Carroll is a shareholder of the Des Moines law firm of Davis, Brown, Koehn, Shors & Roberts, P.C. He has served as the chair of the Business Law Section and the Corporate Counsel Section of the Iowa State Bar Association. He has been an Adjunct Professor at Drake University School of Law teaching Business Planning and as been an Adjunct Professor at the College of Business teaching Corporate Tax.

¹ Matthew G. Doré, Vols. 5 & 6 IOWA PRACTICE-BUSINESS ORGANIZATIONS (West Group 2003). Other volumes in the West Group Iowa Practice Series cover topics such as Evidence, Criminal Law, and Criminal Procedure.

² See Matthew G. Doré, *The Duties and Liabilities of the Iowa Corporate Director*, 50 DRAKE L. REV. 207 (2002); Matthew G. Doré, *Partnership Law and Practice Under the New Iowa Uniform Partnership Act*, 47 DRAKE L. REV. 497 (1999). Professor Doré also lectures on Iowa business law topics at CLEs each year and for the Iowa State Bar Review School.

³ For example, the Iowa Business Corporation Act is drawn substantially verbatim from the ABA's Model Business Corporation Act (1984, as amended through 1999). Professor Doré's analysis of the Iowa Act quotes or summarizes much of the pertinent commentary and authority collected in the ABA's 4-volume Model Business Corporation Act Annotated, a resource that few Iowa lawyers have available in their firm libraries.

⁴ Price \$96 for 2-volume set. Contact information for West Group sales: 1-800-328-9352 or www.westgroup.com.

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INCUMBENT MAGISTRATE JUDGE –

The current term of office of United States Judge John A. Jarvey is due to expire on October 4, 2003. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of the magistrate judge to a new 8-year term. A full public notice for the magistrate judge position is posted in the office of the clerk of the district court at U.S. Courthouse & Federal Building, 101 1st Street SE, Room 313, Cedar Rapids, Iowa 52401. The notice is also available on the court's Internet website at www.iand.uscourts.gov Comments from members of the bar and the public are invited as to whether the incumbent magistrate judge should be recommended by the panel for reappointment by the court and should be directed to James D. Hodges, Jr., Clerk, U.S. District Court, Northern District of Iowa, U.S. Courthouse & Federal Building, 101 1st Street SE, Room 313, Cedar Rapids, Iowa 52401. Comments must be received by June 15, 2003. (07/03)

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Date	Program	Number of Hours			Location	Activity ID#	
		State	Federal	Ethics			
May	1-2	Bridge the Gap Seminar	15	6.25	2	Des Moines, Downtown Marriott	17137
	5	Marsh/Seabury Spring Ethics Seminar	2	-	2	Council Bluffs, Harrah's Hotel	
	5	Marsh/Seabury Spring Ethics Seminar	2	-	2	Sioux City, Convention Center	
	6	Marsh/Seabury Spring Ethics Seminar (a.m.)	2	-	2	Des Moines, University Park Holiday Inn	
	6	Marsh/Seabury Spring Ethics Seminar (p.m.)	2	-	2	Des Moines, University Park Holiday Inn	
	7	Marsh/Seabury Spring Ethics Seminar	2	-	2	Cedar Rapids, Collins Plaza	
	8	Marsh/Seabury Spring Ethics Seminar	2	-	2	Davenport, Radisson Hotel	
	9	Commercial & Bankruptcy Seminar	6.5	5	1	Des Moines, Embassy Suites Hotel	17141
	9	International Law Section Seminar	1.5	-	-	Des Moines, ISBA Conference Room	17621
	15-17	Bench/Bar Conference (Off-year)	8	-	-	Amana, Amana Barn	17138
June	18-20	Annual Meeting	15	12	5	Des Moines, Downtown Marriott	
July	14	General Practice CLE/Golf	1	-	1	Norwalk, Legacy Golf Course	
August	1-2	YLD Summer Seminar				Okoboji, The Inn Hotel	
October	6	Traveling Seminar				Sioux City, Convention Center	
	7	Traveling Seminar				Council Bluffs, Harrah's Hotel	
	8	Traveling Seminar				Mason City, Holiday Inn	
	9	Traveling Seminar				Cedar Rapids, Clarion Hotel	
	10	Traveling Seminar				Bettendorf, Jumer's Lodge	
	13	Traveling Seminar				West Des Moines, Marriott	
December	17	Environmental Law Seminar				Des Moines, Sheraton (Airport)	
	3-5	Tax School				Des Moines, Downtown Marriott	
	12	Federal Practice Seminar				Des Moines, Downtown Marriott	

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Ten Common Ways Financial Statements are Manipulated	1 State	15689
Environmental Law		
New Federal Brownfields Law	.75 State	16812
Toxic Mold Litigation-A Preview	1 State	16813
Family Law		
Domestic Violence Basics	1 State	17319
Intellectual Property		
Basic Information Concerning Patent Protection Worldwide	1 State	17318
Intellectual Property Basics-A Primer on Patent, Trademark & Copyright Law	2.75 State	17320
Law Practice Management		
Cybersleuthing on the Internet	1.25 State	15692
Document Retention: General Counsel's Perspective/30 Websites in 30 Minutes	1 State	15693
Probate		
Wills & Will Substitutes: Revocable Trusts (Overview & Practical Applications)	1 State	16811
Cutting Edge Estate Planning Techniques in Response to 2001 Tax Act	4 State	15687

	# of CLE Hours	Activity ID#
Trial & Litigation		
Effective Direct Cross Examination	4 State	15690
Jury Selection, Opening Statement & Final Argument Techniques for the Plaintiff	1 State	15691
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TITLE INSURANCE

President Alan Fredgregill and Legislative Counsel Jim Carney have sent this note and the accompanying letter to members of the legislature and thought that ISBA members also would appreciate seeing it –

“At this stage of the session you are probably not thinking about the old, tired subject of title insurance and The Iowa State Bar Association’s strong opposition to title insurance. However, we thought that it would be helpful for you to see a response we just received from the Minnesota Department of Commerce. We are in the process of communicating with insurance commissioners throughout the country and are finding virtually unanimous support in Iowa’s opposition to title insurance. We have previously provided to you correspondence from the Department of Insurance of the State of Nebraska being very critical of the title insurance industry. As you can see, the State of Minnesota believes ‘Iowa has the right idea.’

“For all of you who have opposed the legalization of title insurance, we are grateful of your support and wanted you to see the attached communication. For those of you who had not been supportive of the Bar Association’s opposition to title insurance, we hope that you will consider the attached material if the subject comes up next year.”

My name is Jaki Gardner, Assistant Commissioner, Financial Examinations – Insurance/Actuarial for the Minnesota Department of Commerce. Today, your letter dated April 3, 2003, to states requesting information regarding the regulation of title insurance landed on my desk, I fully support your efforts to continue the prohibition of title insurance sales. Interestingly, I have asked my staff to collect some information from Iowa how that state deals with this coverage absent the sale of the product by title companies. Your article went a long way towards clearing this up for me.

Anyway, the point of my collecting this information was to begin a crusade to control the sales in (Minnesota) and other alternatives. I believe Iowa has the right idea. Title companies have a captive market, where regulators know very little about the product or its pricing methodology. It is a product that is ‘sold’ rather than ‘bought’ which concerns me from a consumer aspect.

I intend to respond to your list of questions, and would also like to get more information about the Iowa Title Guaranty Fund. Can you assist me with that?”

Thank you for your article.

Regards,

Jaki Gardner

Assistant Commissioner

Financial Examinations – Insurance/Actuarial”

2003 Justice For All (Golf) Ball

Golf Tournament Fund Raiser for the ISBA Volunteer Lawyer’s Project

Four Person Best Ball with a Shotgun Start

Thursday, August 21, 2003, 1:00 p.m. at Waveland Golf Course

4908 University Avenue, Des Moines, Iowa 50311

Two ways to get involved!!

GOLF!!!

Only \$65 buys you eighteen holes of golf, cart rental, dinner at the prize banquet following the tournament, your chance at tons of great prizes and an afternoon of fun in the sun with fellow attorneys and judges.

SPONSORSHIP!!!

Your firm can sponsor one of the holes as follows:

GOLD	(Sole sponsorship of a hole plus 4 free golfers)	\$750
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Sponsors will be recognized at their hole with prominent and tasteful signage, on the scorecard, in the Iowa Lawyer and anywhere else we can thank you.

YES!! Sign me (us) up as a sponsor. Gold Sponsor (\$750) (includes 4 free golfers)

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Name: _____ Phone: _____

Name: _____ Phone: _____

Name: _____ Phone: _____

Name: _____ Phone: _____

My (our) check is enclosed in the amount of \$ _____

This is an event of the Young Lawyers Division of the ISBA. All proceeds will go to support the ISBA Volunteer Lawyers Project.

IF YOU HAVE ANY QUESTIONS, PLEASE CALL CATHERINE COWNIE AT 515-282-1010.

Please return your entry form and check to:

Catherine C. Cownie

Baudino Law Group, PLC

1200 Liberty Building, 418 Sixth Avenue

Des Moines, Iowa 50309



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