



THE

Volume 72 Number 6 June 2012

# IOWA LAWYER

*ISBA's 126<sup>th</sup>  
president takes  
the reins later  
this month*

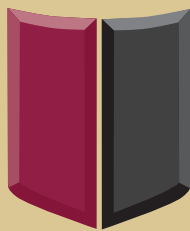
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- ABOTA college helps shape trial lawyers
- ADA notice on court-generated documents
- Lack of purpose can be cause of depression
- Outgoing YLD president describes value of rural practice

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### THE IOWA LAWYER

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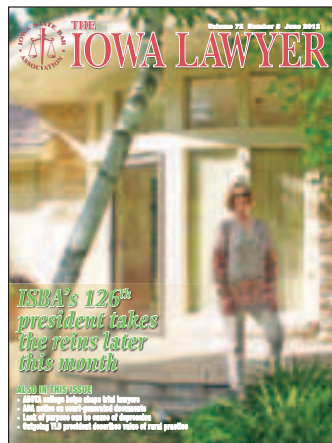
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## ABOUT THE COVER

Home and family are very important for the ISBA's incoming president, Cynthia Moser. Here she is in front of her home in The Heights in Sioux City. She and husband, Dan, purchased the contemporary-style home in 1992, and have remodeled and redecorated it over the years to create a relaxing, inviting haven from the stresses of her legal practice. Cindy takes the reins of the presidency on June 21 at the ISBA's 139th Annual Meeting. Her story starts on page 7.

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## The time has come to say adieu

*"The time has come," the Walrus said,  
"To talk of many things:  
Of shoes – and ships – and sealing-wax –  
Of cabbages – and kings –  
And why the sea is boiling hot –  
And whether pigs have wings."*

– *Through The Looking-Glass,  
by Lewis Carroll (1871)*

In my last letter as your 125th President "the time has come . . . to talk of many things" — but I'll try to reflect on just a few things that have been important to me as president and as an Iowa lawyer. I'm grateful to those who have made my tenure personally and professionally satisfying, namely so many of our loyal members, the Board of Governors, Administrative Committee and our hard-working and dedicated staff.

Additionally, it is often said that our sections and committees are the association, in that they are how the bar's work gets done. This is certainly true from what I have observed during my six years as a governor and three years "going through the chairs." The scope and scale of the work that gets accomplished by our sections and committees, year in and year out, is remarkable. Rest assured that this work will continue under the very capable leadership of President-Elect Cindy Moser and Vice President Guy Cook, each of whom I thank for their support, guidance and counsel throughout the past year.

Next, I want to share a few stories about growing up in a family of lawyers, my first jury trial second-chairing my dad and a seminar I attended. All of which highlight memories and lessons I've learned and carried with me, as an Iowa attorney.



What I recall most as a youngster about dad's practice were the times he was in trial. Dad and mom would be going out to dinner and I was in charge of reporting on the verdict if it came back while he was gone. I recall asking him each time "what is a plaintiff's or defendant's verdict and which one means you won?" Then when the bailiff would call, I would leave dad the message before going to bed.

Thinking back on those times before cell phones, etc., I find it hard to believe he would go out while a jury was deliberating (or that juries deliberated at night).

The other law-related family memories I have are the three major holidays we shared each year with our relatives when dad and his two brothers, who were also his law partners, would talk shop. They loved the law; they had a true passion for it.

My dad used to tell a story about car pooling with his brothers. It was a cold day. They were carpooling from work and after arriving at one of their homes, they remained in the car, engrossed in some discussion about the law. Eventually, the changing autumn leaves underneath the exhaust pipe caught fire, and none of them noticed until a sizable fire began!

Growing up with lawyers for a dad, uncles, and cousins, and having a grand and great-grandfather as lawyers, I never thought of being anything else. I was blessed in that way (and many others).

## Congratulations Cynthia

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Fast forward to my first trial with dad. In that case, dad was defending a local physician in a wrongful death case in Des Moines County. Plaintiff's counsel were Lex Hawkins and Tom Vilsack. My responsibility amounted to carrying brief bags, taking notes and watching these masters perform. It was a hard fight and by Thursday of the first week we were still in the middle of plaintiff's case.

After court that day I asked dad the plan for the evening. I was shocked when he said we were having dinner with Lex at the Burlington County Club. "How could this be?" I thought.

That evening was special. No talk of the trial, only stories about past trials and the joys of trial practice.

One non-trial story I recall Lex telling was a big game hunting trip he had taken to Alaska. In an effort to "expense" the trip he had brought along camera equipment to film the hunt for a "movie" he would produce. It turns out the IRS did not buy it, but Lex relished in telling the story.

The next day it was business as usual. But what I learned was that lawyers could fight hard in court, but outside respect each other and enjoy sharing life's experiences. The way dad led by example helped me in not only learning how to act in court, but how to treat fellow lawyers, judges and courthouse staff, and take advantage of enjoying the company of even opposing counsel — during trial!

One such lawyer I have battled hard through six jury trials and always enjoyed our time inside and out of the courtroom is Jim Hayes. Jim is another example of the type of talented trial attorney that makes me proud to be a lawyer — always zealously representing his clients, but ethically and with civility to all fellow lawyers.

About ten years ago, I attended a bar seminar where Judge Mark Bennett delivered excellent remarks entitled, "A Quarter Century of Lessons Learned: Professionalism, Clients, On Taking Cases & Litigation." His words still resonate with me today and are particularly pertinent to my points here. (I continue to carry a copy of his seminar outline in my daily planner.)

First, "Be proud of yourself when you take the time to help another Iowa lawyer. Be prouder when you allow another Iowa lawyer to help you. The sharing of strengths is what distinguishes the Iowa bar."

Second, "Your most important asset to your client, opposing counsel, and the court is your word. Keep it at all costs." This advice is timeless — "your word is your bond" — and it is something I have always stressed to my sons, including my oldest, who is about to enter his last year of law school before becoming a member of our great profession.

Certainly my most memorable personal experience in the past year (plus) was sharing in the pride over brother Tom's appointment to our highest court. I will never forget the honor and privilege as president-elect speaking at his investiture in the House Chamber

of the State Capitol. Having three new justices appointed was an historic event that followed a shock to our system that should never be repeated.

During my year as president I have immensely enjoyed the opportunity to travel and speak with Justice Tom at several bar events. As Vice President Guy Cook put it, having a brother as a justice "turbo-charged" my presidency (at least at times it felt that way).

Your bar association is committed to supporting all judges and justices standing for retention in the fall. In addition to advocating for fully funding our courts, the bar's work in supporting our judiciary has included meetings throughout the year by the ISBA'S Fair Courts Committee. The next such meeting will include leadership from The Iowa Association for Justice, The Iowa

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Academy of Trial Lawyers, The Iowa Defense Counsel Association and The Iowa Board of Trial Advocates, so that all such groups can work together on this issue which is so critically important not only to the bench and bar, but all citizens of Iowa. Your BOG voted at its spring board meeting to rename and move up the plebiscite — nka Judicial Performance Review — to June so the ISBA can publicize the results and advocate for the support of all qualified members of our judiciary standing for retention beginning in July (not October when the results were published in 2010). Your bar also will continue educating the public on the high quality of all our judiciary, supporting our merit selection process, and supporting civics education in and outside Iowa classrooms. The ISBA looks forward to working together with all interested groups to ensure our system of justice is protected.

In conclusion, I will quote from one of my late dad's favorite poems by Robert

Frost: "Two roads diverged in a wood, and I — I took the one less traveled by, and that has made all the difference."

When I was trying to decide whether to pursue the "path" of being president of this association, I received conflicting advice. Many said words to the effect: "Why on earth would you want to do that?" But others encouraged me and remained supportive even when I was not elected after my first try.

David L. Brown was one such supporter and someone who epitomizes those in our profession who lead by example in giving selflessly for the betterment of our association — teaching, guiding and mentoring our own, and extending the ladder for others to climb. Past Presidents Marion Beatty's and Dan Moore's support and encouragement over several years leading up to my decision also led me to take this path. Finally, Greg Lederer was there at the right time and said what I needed to hear. So were my partners, including Past Presidents Bob Van Vooren and Tom Kamp.

But, as my wife Kim says, "Be careful when you start thanking individual people, you will leave out others who should be thanked." So thanks also to all who encouraged me to pursue this path.

To others thinking of serving our bar — do it — whether it is serving on one of the many sections or committees, the board of governors, or in a leadership position. That decision may, like it did for me, make all the difference to you!

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

Best wishes.



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TITLE GUARANTY COMMERCIAL

126th ISBA president takes the reins later this month —

## Cynthia (Cindy) Moser sees support for young attorneys entering the practice as high priority for her presidential term

By Steve Boeckman, Editor

The ISBA's 126th president had never seen the inside of a law office until her second year of law school.

Cynthia C. Moser (she prefers “Cindy” except for official business) says there were no lawyers in her family from whom she could receive guidance. Her father, Allan TerHark, managed an agricultural coop in Kanawha where she spent most of her growing-up years. Later he moved the family to Orange City, which she considers her hometown, when he took a sales job with Farmland Industries.

If it hadn't been for two history professors at Northwestern College in Orange City where she received a liberal arts degree in history and political science, Cindy wouldn't be the successful partner at the Heidman Law Firm in Sioux City that she is today.

“I received a wonderful liberal arts education,” she recalls of her time at Northwestern in the early 1970s. “But it didn't prepare me with a specific set of job skills.”

One of the two history professors encouraged her to go to graduate school, get her PhD. and teach history. The other suggested law school.

She decided on the latter even though at the time there weren't a lot of women choosing law as a career. She took the LSAT and did “pretty well.” She applied to a number of law schools and ended up choosing Iowa. Her entering class in 1974 had 200 students, 20 of whom were women — quite a contrast with today's law school classes which are more on the order of 50 percent women, she says.

After being admitted to the Iowa bar in 1977, she clerked for two years for Judge William C. Stuart, at the time Chief Judge for the U.S. District Court, Southern District of Iowa. She was the first female law clerk in the federal building.

After her clerkship ended, she joined the Berenstein law firm in Sioux City where she practiced until 1998 when she left to join the Heidman firm.



Cindy stands just inside her living room, which is connected to the entrance to her home. The contemporary-style home was built in 1955 by a cattle buyer and commodities broker for the Sioux City Stockyards. Cindy and Dan have decorated the home with a mix of contemporary and traditional furnishings since purchasing it in 1992.

Cindy credits a number of people along her life path for influencing who she is and where she is today. She says she had great teachers, including a high school English teacher who helped her with writing. Of course there were also the two history professors at Northwestern.

Her maternal grandparents taught her about relationships. “They genuinely loved each other and it was evident to anyone who saw them,” she says.

Judge Stuart had a “huge influence” on the young attorney. He was demanding, she recalls, but he treated the judicial process — and really believed in the judicial process — “as a search for the truth.”

She also considers Dan, the man she married while a junior in college, as a major factor in her success. “He is my biggest cheerleader,” she says.

In addition, she had an ideal child-care situation while her two boys, Joe and Evan, were growing up. A widow came to the home to provide daycare. While she didn't live with the Mosers, her schedule was flexible enough that she was available if Cindy had to work late or be out of town.

It's these experiences and the changing demographics of the



Interior design and reading are two of Cindy's favorite pastimes. Here she combines the two in the living room of her home.

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Cindy works at her desk on the fourth floor of the Heidman Law Firm building. The cabinets behind her were custom made for the office by a local carpenter and are designed so she can pull the doors closed (as in the cabinet on the left) to hide files and other materials. A plant lover, Cindy tries to have fresh flowers or a plant, such as this orchid, in her office at all times.

law practice over the years since she was admitted to the bar that have helped her formulate her goals as president of the association. Her two primary goals are keeping the association relevant in the face of the many competing organizations that have cropped up in the 35 years since she became an attorney, and member retention.

"We are certainly started down the right path," she says about the initiatives the ISBA has put in place over the years. She cited specifically the Rural Practice Committee co-chaired by Phil Garland that has developed a summer clerkship program to introduce 1L and 2L students to rural practice. She also cited the Law Practice in a Box program that is being developed under the direction of the ISBA's Law Practice Management Committee.

"We need to recognize, whether it's a temporary blip or for a generation, that we have many more young lawyers coming into the profession who are not following the traditional path by joining an established firm," she says. "We need to provide support for them."

One idea she'd like to implement yet this summer is a conclave with the law schools in Iowa to talk about what the schools and

the bar association can do to give students some real world experiences and some insight into what it means to be a lawyer. "We all know — and it has been said over and over again — that law school doesn't teach you how to be a lawyer, it teaches you how to think like a lawyer," she says.

"If we can give students the rudimentary tools before they leave the law school environment so when they leave they know what a probate inventory looks like, they know how to take a pleading to the courthouse and file it, they know how to draft a simple will or a simple contract, they'll have real hands-on experiences. They are getting some of that now, but if we could provide 2L and 3L students an intersession class between Christmas and when they return to school, for example, and really focus on the nuts and bolts of practice, they would have a headstart when they leave law school. Then, as they transition out of school, we'll need to address their needs as fledgling lawyers," she adds.

That support has to take into account the different environment existing in society today, Cindy says. It may be a broad generalization but people seem less inclined to join and be active in



organizations than they were in the past. This is true for churches, civic groups and other organizations, not just the bar association.

Rapid advances in technology, the advent of social media, more of a reluctance to travel, more CLE seminars online or by phone, conference calls instead of face-to-face meetings all contribute to the decline in attendance at events.

“When I was a young lawyer, the ISBA’s annual meeting was the thing,” she recalls. “Not so true anymore.”

The changing demographics of the profession referred to earlier undoubtedly play a role, too. There are more two-earner families today so juggling logistical issues such as how to get the children where they need to be curtails the flexibility of being able to participate in activities.

Nonetheless, the middle daughter of three girls hopes networking with other lawyers face-to-face will continue and not be

replaced by Facebook or whatever other social media phenomenon comes down the pike. Meeting lawyers from across the state has been part of the reason she has enjoyed being involved with the bar association.

“We’ve always had an extraordinary bar in Iowa in terms of ethical, capable, competent attorneys,” she says. “And, a lot of that, I think, was the result of excellent mentoring from the generation before us.

“We owe that same attention to the people entering the profession today. We have to find ways to impart that same support, given that the environment has changed.”



One of Cindy’s hobbies is cooking. Here she preps vegetables and cheese for a salad in the kitchen of her home.



Another of Cindy’s interests is art. She served six years on the Sioux City Art Center Board of Trustees, and two separate stints on the Sioux City Art Center Association Board, a private non-profit fundraising arm of the Sioux City Art Center.

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# ABOTA college gives young attorneys trial experience

By Stephen E. Doohen\*

Young lawyers are often frustrated by their inability to experience the thrill of first-chairing a jury trial. Reports also indicate clients and senior partners may not be comfortable sending young lawyers to court to try a case to a jury on their own. Ample recent literature, in fact, describes the impending “death” of the art of conducting the jury trial.

Amidst this gloom and doom about the difficulty of getting jury trial experience, students and faculty alike who participated in a recent trial college are raving about the program held recently in Des Moines for the second straight year. The trial college is sponsored by the Iowa Chapter of the American Board of Trial Advocates (ABOTA).

ABOTA is a national bar organization with chapters throughout the United States, including a nearly 80-member

chapter in Iowa. Founded in 1958, the ABOTA organization is dedicated to defending and preserving the American civil justice system and the jury trial.

Membership in ABOTA requires significant jury trial experience. ABOTA membership, both nationally and in Iowa, consists of attorneys from the plaintiff and defense bar, along with a handful of judges.

For the last two years in October, the Iowa Chapter of ABOTA has held its trial college at the Legal Clinic on the Drake University Campus. The trial college involves 20 student “participants” who, while licensed to practice law, have a need for and interest in sharpening their trial practice skills. The participants are presented with a condensed set of problem materials for a fictitious civil lawsuit and conduct live day-long mock trials with the help of volunteer jurors and witnesses. The mock trials proceed under the watchful eyes of a faculty consisting of some of the leading lawyers and judges in Iowa.

The Iowa Chapter’s Trial College is designed to be realistic and interactive and is meant to bolster the confidence of budding young trial lawyers. The college is suited for lawyers with one-to-five-years of experience, but the participants need not have experienced a jury trial in order to be considered for the college. The 20 participants each pair with a teammate to represent either the plaintiff or defense in the mock civil litigation problem. The participants spend a day at facilities in the Drake University Legal Clinic trying their case to live juries.

Participants conduct voir dire, present opening arguments, perform direct and cross examinations of witnesses and make closing arguments. Local law students are recruited to play the role of witnesses and jurors during the college. Real-time feedback is provided by the trial college faculty during each segment of the day-long mock trial.

Last year’s faculty of 10, which included four judges from around the state, held

a combined 315 years of experience in private practice or on the bench. Judge

Mark Bennett of Sioux City served on the faculty for the trial college in October 2011. Following his involvement with the program, Judge Bennett remarked that “the ABOTA Trial College is a wonderful opportunity and venue to learn excellent trial skills which will skyrocket with this unique hands-on training. I was incredibly impressed by the lawyers attending the trial college and by dedicated faculty who were among Iowa’s outstanding trial lawyers. I wish I had been able to go through this program as a young lawyer!”

Judge Marsha Beckelman from the Sixth Judicial District in Cedar Rapids also served on the faculty for the most recent trial college. Judge Beckelman appreciated the ample mentoring opportunities the college afforded the young lawyer participants. She said, “ABOTA’S Trial College contributes, in a very direct way, to the education of young lawyers interested in pursuing trial work by enhancing participants’ skill development. The ABOTA Trial College offers young lawyers a golden opportunity to be mentored by experienced, top notch trial lawyers and to receive practical information and feedback from judges. I found the experience very enjoyable on multiple levels, from the opportunity to interact with talented young lawyers to interacting with the dedicated members of ABOTA who recognize the importance of such a program.”

A similar view was expressed by Judge Robert Blink from the Fifth Judicial District in Des Moines, who served on the faculty for the October 2010 and 2011 colleges. “Trial work is an art and a science,” he said. “The ABOTA Trial College exposes aspiring young trial lawyers to the wealth of experience of seasoned courtroom veterans.”



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In fact, so keen is the interest in the program that many of the previous faculty members have already expressed an interest in again being involved in the event in the future.

The trial college takes place on an October Friday on the Drake campus. It is held in conjunction with the Iowa Chapter of ABOTA's annual dinner and meeting, which occurs on Thursday evening immediately prior to the college. As such, the participants in the trial college can join ABOTA members from around the state for dinner and fellowship the evening before their trial. Given that another mission of the ABOTA organization is to foster civility between the plaintiff and defense bar, participants in the trial college have the opportunity to meet and interact with members of both sides of the Iowa bar.

The cost of the college is minimal and provides seven hours of continuing education credit as an additional benefit of the two-day event.

The ultimate goal of the trial college is to provide young lawyers an opportunity to learn by doing. With the real-time feedback from the faculty, participants can combine their own approaches to a jury trial with the tried and true approaches of the faculty members.

William Scales, a second-year associate at the Whitfield & Eddy law firm in Des Moines, participated in the college in 2011. "The ABOTA Trial College is a wonderful opportunity for young lawyers to receive guidance and tips of the trade from seasoned trial lawyers and judges in an intimate and informal setting," Scales said. "As a younger lawyer, I appreciate ABOTA's diligent efforts to cultivate the next generation of Iowa trial lawyers, and I truly believe that the instruction I received during the ABOTA Trial College has made, and will continue to make me, a better lawyer."

It is not just the faculty who want to repeat their involvement with the college. Carrie Thompson, from Simmons, Perrine, Moyer & Bergman in Cedar Rapids, has participated in the college in both of its first two years. Thompson said "the ABOTA Trial College was a valuable opportunity to obtain individualized feedback from Iowa judges and experienced trial attorneys

in a relaxed environment. Participating in the trial college the last two years was a unique experience that allowed me to continue to develop my trial skills as I became more confident in my practice."

Additional trial colleges are already in the works, with the next scheduled event to be held in Des Moines on Oct. 17-18, 2013. Even though there will not be a college in October 2012, participation in the 2013 event is limited to the first 20 eligible applicants.

Whether a young associate interested in trial work, or a senior partner mentor-

ing young associates, due consideration should be given to attending the trial college. More information about the program will be circulated as the date draws nearer. In the meantime, contact the author at [Doohen@whitfieldlaw.com](mailto:Doohen@whitfieldlaw.com) with any questions. General information about the ABOTA organization can be found on its website ([www.ABOTA.org](http://www.ABOTA.org)).

*\*Stephen E. Doohen is a member of Whitfield & Eddy, P.L.C. in Des Moines. His practice focuses on trial work and primarily includes representation of insurance carriers in defense of claims and matters of disputed coverage.*



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# Understanding the Supreme Court's recent supervisory order regarding ADA notice on court-generated documents

By John Goerdts\* and Timothy Eckley\*

The Americans with Disabilities Act (ADA), which became law in 1991, has dramatically improved the lives of persons with disabilities by expanding and enhancing access to buildings, streets, facilities, employment and services for persons with physical and mental impairments. As required by the ADA, courts must provide reasonable assistance to persons with disabilities so they can access court services, and the courts must take reasonable steps to inform persons with disabilities that these services are available.

In compliance with the ADA, the Iowa Supreme Court issued a Supervisory Order in 1995 that required the following ADA notice on several types of court-generated documents:

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at: \_\_\_\_\_.  
(If you are hearing impaired, call Relay Iowa TTY at: 1-800-735-2842.)

Attorneys are very familiar with this notice, which appears on original notices,

notices of hearings and trials, subpoenas for court proceedings, juror summonses and other documents.

## *The need for a new ADA notice*

During a recent conference call involving the judicial districts' ADA coordinators, district court administrators and state court administration staff, the ADA coordinators discussed issues and concerns related to the ADA notice. For example, many people who do not have a disability may not know what the acronym "ADA" means, and the term "ADA coordinator" would mean little or nothing to them. It is also very likely that many people do not know the meaning of the word "auxiliary."

According to the judicial district ADA coordinators, however, their greatest concern is that 80 percent of the calls they receive at the phone number listed on the ADA notice are from callers who do not have any type of disability. They call the number because it is the only phone number on the original notice or other document, and they want to know what they are supposed to do. In other words, they call to ask for legal advice.

This discussion led to a recommendation to revise the ADA notice to achieve two goals:

- 1) Simplify and clarify the language.
- 2) Revise it in a way that discourages people without a disability from calling the "ADA coordinator."

## *The new "ADA Notice"*

On May 1, the supreme court issued a supervisory order, "In the Matter of the Notice on Court-Generated Documents in Compliance with the Americans with Disabilities Act," to address the concerns about the ADA notice. The first paragraph of the order establishes the revised ADA notice:

If you need assistance to participate in court due to a disability, contact the disability coordinator at: \_\_\_\_\_ . Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). Disability coordinators cannot provide legal advice.

The revised notice replaces the phrase "auxiliary aids or services" with "assistance," and it replaces "ADA coordinator" with "disability coordinator." It also includes the statement: "Disability coordinators cannot provide legal advice." Although these revisions will not eliminate phone calls from people who do not have a disability, the changes should reduce the number of such phone

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calls, which impose a burden on district court administration staff.

### ***Documents that must include the new ADA notice***

The second paragraph of the recent supervisory order includes a list of the court-generated documents on which the ADA notice shall appear. The list is based on the list of documents in the 1995 supervisory order on the same topic, but includes a few minor changes shown as additions (underlined text) and ~~deletions~~ (strikethrough text) below:

1. Jury summons or notices (the last sentence of the ADA notice may be omitted).
2. Forms related to initial appearances in all criminal cases.
3. Original notices in all civil and small claims actions.
4. Notices of hearings and trials.
5. Subpoenas for court proceedings only.
6. Supreme court and court of appeals letters and orders setting cases for oral argument.

Shortly after the distribution of the supreme court's recent supervisory order on May 1, the state court administrator's office received some questions from judges and attorneys about the revisions to the list of documents that require the ADA notice. Here are the responses to those questions:

*Question 1: Why did the recent supervisory order on the ADA notice include original notices in "all civil cases" on the list of court-generated documents that require the ADA notice? Original notices in civil cases are produced by the attorneys, not by the court.*

First, the meaning of "court-generated document" is not as clear as it seems, especially as it applies to original notices in civil cases. IRCP 1.901 establishes the forms to be used for original notices in civil cases. The format and wording contained in those forms (except where an attorney fills in the blanks) are promulgated by the supreme court. Each of the notice forms under this rule also includes the existing ADA notice, which was prescribed in the supreme court's 1995 supervisory order.

In addition, IRCP 1.302(2) says: "The original notice shall be signed by the clerk and be under the seal of the court." Given the nature of these forms and rule 1.302(2), a reasonable argument could be made that the original notices in civil cases are "court-generated" forms on which attorneys merely fill in the blanks.

Second, adding "all civil cases" to the list of case types for which original notices must include the ADA notice does not impose a new burden on attorneys. IRCP 1.302(1)(d) specifically requires the ADA notice to appear on all original notices in civil cases. Adding "all civil cases" to the list simply emphasizes the need to include the ADA notice on all original notices — regardless of who "generates" the original notice.

*Question 2: Will attorneys have to change the original notice documents they currently use?*

Attorneys should be using original notice forms or templates that comply with the forms in IRCP 1.1901, which include the current (old) ADA notice language. The forms in IRCP 1.1901 will need to be revised to include the new ADA notice. Ideally, the revisions will be adopted by the end of this year.

Until the forms in IRCP 1.1901 are officially updated by the supreme court, attorneys may continue to use the current ADA notice included in the forms in IRCP 1.1901 until the end of 2012 (see the last section below). Because the revised ADA notice is clearer and might (we hope) reduce the number of phone calls to the ADA coordinators, it would be a helpful gesture by attorneys to amend their original notice templates sooner, rather than waiting to the end of 2012.

*Question 3: There are many other official court forms besides those in IRCP 1.901, including forms for divorce, child support modification and small claims. Do parties who use those forms have to use the new ADA notice?*

The new ADA notice has already been included on all the notice-related forms in the recently revised set of small claims forms. State court administration staff will review the other sets of forms in the next few months to identify notice-related forms that require the new ADA notice and will make the required changes. Until then, parties may continue to use the existing forms with the ADA notice that is on those forms.

*Question 4: Is a judge's order setting a hearing or trial considered a "notice of hearing or trial" pursuant to paragraph 2, item 4 of the recent supervisory order?*

Based on the exchange of emails among judges and staff in the Fifth Judicial District, it appears that the typical court practice on this issue is that a judge signs an order setting a hearing or trial date and — based on that order — the clerk sends a notice of the hearing or trial to the parties. Pursuant to the recent supervisory order, the ADA notice would have to appear on the "notice" of hearing or trial; it would not have to appear on the judge's order setting the hearing/trial.

However, if the clerk sends only a copy of the judge's order setting the hearing or trial to the parties, the order itself becomes the "notice" that a hearing or trial has been set. In that situation, the ADA notice should appear on the judge's order.

*Question 5: Given the recent supervisory order, would Juvenile Court Services be required to include the ADA notice on letters to parents informing them of a meeting with a juvenile court officer regarding the parents' child?*

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## Drake keeps Dean's Cup trophy



Drake University took the honors for the seventh consecutive year in the 2012 Dean's Cup competition that pits the law school alumni from Drake against those from the University of Iowa.

Iowa Legal Aid was the ultimate winner, however. All proceeds from the eight-year-old rivalry, including a portion of the registration fee, sponsorship funds and silent auction purchases, are given to Iowa Legal Aid.

A final tally was still being figured at press-time, but all parties involved were optimistic that this year's proceeds might be the best in recent years. For one thing, a record number of 120 golfers participated this year, according to Greg Kenyon, one of the organizers of the annual event.

The final score was 52-46 in favor of Drake. Drake captain Chief Justice Mark Cady and his team won the match play portion of the contest 49-39. U of I captain Judge Eliza Ovrom and her team won the scramble 7-3.

## LawPAC Committee approves \$28,000 in contributions

The Iowa LawPAC Committee approved contributions of \$28,350 to political candidates running for seats in the Iowa Legislature at its meeting May 14. Contributions were approved for 29 candidates for the Iowa House of Representatives and 18 candidates for the Iowa Senate.

Iowa LawPAC, which is governed by a 10-member board equally divided between Democrats and Republicans, provides funds to legislative candidates who are supportive of the ISBA's legislative objectives without regard to political party affiliation. Preference is given to lawyer-legislator candidates.

The committee also discussed the need to raise more funds for future contributions. While contributions for the current fiscal year (July 1, 2011 – June 30, 2012) are larger than for the previous fiscal year, the need is greater in part because of redistricting. At one time, Iowa LawPAC was one of the largest PACs in the state. Today it barely ranks in the top 25, and is one of the smallest professional PACs.

More information about Iowa LawPAC is available on the ISBA website ([www.iowabar.org](http://www.iowabar.org)) by clicking on "Committees" under the "Member Groups" tab, then scrolling down to "Iowa LawPAC." An option for making a contribution is available on the dues renewal form currently being mailed out, or by printing the form available at this address on the ISBA website: <http://www.iowabar.org/associations/4664/files/LAWPAC%20CONTRIBUTION%20Form.pdf>.

No. A meeting with a juvenile court officer is not a hearing or trial, so a letter informing parents about such a meeting does not require the ADA notice.

Although an ADA notice is not required in this situation, it might be a good idea to include the notice anyway. However, if a JCS office decides to include the ADA notice in such correspondence, the notice should include a local or district JCS office phone number as the "disability coordinator" number in the ADA notice — not the phone number shown on other notices in the district, which is usually a phone number in the district court administrator's office.

### *Effective date for implementation of the new ADA notice*

The last paragraph of the recent supervisory order says the new ADA notice is effective immediately (May 1), though court-generated forms and documents may contain the previous (1995) version of the ADA notice through the end of 2012. This provides a seven-month period to use any pre-printed forms or templates that attorneys and the courts already have on hand. However, according to the supervisory order, beginning Jan. 2, 2013, the new ADA notice shall be used exclusively.

As suggested earlier, attorneys could help reduce the number of calls to the judicial district coordinators from people without a disability by using the new ADA notice on their original notices as soon as possible, rather than waiting until Jan. 2. In light of the austere court staffing levels throughout the state, such help will be appreciated.

---

*\*John Goerdts is deputy state court administrator. He can be reached at [john.goerdts@iowacourts.gov](mailto:john.goerdts@iowacourts.gov). Timothy Eckley is assistant counsel to the Iowa Supreme Court. He can be reached at [timothy.eckley@iowacourts.gov](mailto:timothy.eckley@iowacourts.gov).*



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# 139th Annual Meeting

June 19 - 21

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CLE Credit (pending): 15 state hours

(actual number of federal & ethics hours will be based on sessions attended)

## Registration Form

(Judges, please look online at [www.iowabar.org](http://www.iowabar.org) for a registration form)

**The complete agenda for the 139th Annual Meeting can be found at [www.iowabar.org](http://www.iowabar.org)**

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

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

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Yes, I would like to save **\$25** by receiving my Annual Meeting materials electronically on a USB flash drive and foregoing a hard copy of the materials. Please select appropriate option below. (USB flash drive prices are marked in gray)

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\_\_\_ Admitted to practice prior to July 1, 2008 \$295 (\$270)  
\_\_\_ Admitted to practice July 1, 2008 - May, 2011 \$245 (\$220)  
\_\_\_ Admitted to practice after May, 2011 \$150 (\$125)

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### Non-ISBA Member Options

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\_\_\_ Para Professional (Legal Assistants & Office Employees) \$150 (\$125)

\_\_\_ Law Students \$45 (\$20)

Electronic Document Management System (EDMS) Lab: \_\_\_ Tuesday \_\_\_ Wednesday \_\_\_ Thursday

### Social Activities/Events:

\_\_\_ Creighton Law School Alumni Luncheon (Tuesday, June 19) \$20 each \$ \_\_\_\_\_  
\_\_\_ Drake Law School Alumni Luncheon (Tuesday, June 19) \$20 each \$ \_\_\_\_\_  
\_\_\_ Iowa Law School Alumni Luncheon (Tuesday, June 19) \$20 each \$ \_\_\_\_\_  
\_\_\_ Joint President's Reception (Tuesday, June 19) (Complimentary)  
\_\_\_ Supreme Court Luncheon (Wednesday, June 20) \$20 each \$ \_\_\_\_\_  
\_\_\_ President's Reception & Awards Dinner (Wednesday, June 20) \$45 each \$ \_\_\_\_\_  
\_\_\_ 50-Year Members Luncheon (Thursday, June 21) \$20 each \$ \_\_\_\_\_

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**Walk-in Registration Fee:** Walk-in registration fee will be an additional \$50 (fee will begin on Tuesday, June 19, 2012).

# Summer Seminar

August 3 - 4

Arrowwood Resort & Conference Center • 1405 Highway 71 • Okoboji, IA • 51355



## SCHEDULE - AUGUST 3

- 1:00 - 1:45**      **Law Firm Technology Tips**  
Speaker: Dawn Gibson, Simmons Perrine Moyer and Bergman
- 1:45 - 2:45**      **Mortgage Foreclosure Defense for the General Practice**  
Speaker: Corey Luedeman, Iowa Legal Aid
- 2:45 - 3:00**      **Break**
- 3:00 - 4:00**      **Municipal Law**  
Speaker: Dan Rockhold, Law Office of Verle W.
- 4:00 - 5:00**      **Effective Mediation Preparation and Strategy**  
Speaker: David Baker

## SCHEDULE - AUGUST 4

- 8:00 - 8:45**      **Children in Litigation: Effectively Communicating with Children of All Ages**  
Speaker: Jenny Shultz, Kids First Law Center
- 8:45 - 9:45**      **Writing Effectively for the Trial and Appellate Courts**  
Speaker: Kent Simmons, Law Offices of Kent Simmons
- 9:45 - 10:00**      **Break**
- 10:00 - 10:45**      **Criminal Law Update**  
Speaker: Kent Simmons, Law Offices of Kent Simmons
- 10:45 - 11:45**      **Ethics**
- 11:45 - 12:00**      **Drawing for door prices**

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

Cancellation Policy/Walk-in Registration Fee: Registration refunds will be issued only if written notification is received by the Bar Office by July 27, 2012. Written notification can be mailed, faxed, or e-mailed to the Bar Office. Walk-in registration fee will be an additional \$50 (fee will begin on August 2, 2012).



# Eighth Circuit Social Security Disability Conference

August 8 - 10

Prairie Meadows Racetrack & Casino • 1 Prairie Meadows Drive • Altoona, IA 50009

## SCHEDULE - AUGUST 8

12:30	<b>Registration</b>
1:00 - 2:30	<b>Vocational Experts</b> Speakers: Niki Fisher, Schott Mauss & Associates and Thomas Krause, Thomas A. Krause, P.C.
2:30 - 2:45	<b>Break</b>
2:45 - 3:45	<b>New Social Security Rulings</b> Speaker: Joe Basque, Iowa Legal Aid
3:45 - 4:45	<b>Words of Wisdom</b> Speakers: Kirby Mouser, the Baim Law Firm; Dennis Fox, Dennis W. Fox & Associates; and Tim Cuddigan, Cuddigan Law
5:00 - 6:30	<b>Welcome Reception</b>

## SCHEDULE - AUGUST 9

8:30	<b>Registration</b>
9:00 - 10:00	<b>Eighth Circuit Case Law Survey</b> Speaker: Gregory Wallace, Campbell University School of Law
10:00 - 11:00	<b>Local Hearing Office Procedures and Best Practices for Representatives</b> Speakers: Des Moines Administrative Law Judges
11:00 - 11:15	<b>Break</b>
11:15 - 12:15	<b>The Ten Eighth Circuit Cases that Every Practitioner Should Know</b> Speaker: Hon. Robert Pratt, U.S. District Court, Southern Iowa
12:15 - 1:30	<b>Lunch (on your own)</b>
1:30 - 2:30	<b>Practical Aspects of Litigation</b> Speaker: Eric Schnauffer
2:30 - 3:30	<b>Sensory Listings</b> Speaker: Ethel Schaen
3:30 - 3:45	<b>Break</b>
3:45 - 4:45	<b>Wechsler Adult Intelligence Scale (WAIS) IV</b> Speaker: Eva Christiansen, Ph. D.
4:45 - 5:45	<b>Case Map</b> Speaker: H. Edwin Detlie and Mike Haller, Haller Law Office, P.C., LL.O
5:45 - 6:45	<b>Social Hour</b>

## SCHEDULE - AUGUST 10

8:30	<b>Registration</b>
9:00 - 10:00	<b>Effective Advocacy at the Appeals Council and in Federal Court</b> Speaker: Sarah Bohr, Bohr & Harrington, LLC
10:00 - 11:00	<b>Legislative Developments</b> Speaker: Nancy Shor, Executive Director for the National Organization of Social Security Claimants' Representatives (NOSSCR)
11:00 - 11:15	<b>Break</b>
11:15 - 12:15	<b>Functional Capacity Evaluations</b> Speaker: Gregory Humphrey, Attorney and Dan Miller-Jacobs, DPT
12:15 - 1:30	<b>Lunch (on your own)</b>
1:30 - 2:30	<b>Ethics</b> Speaker: Nick Critelli, Nicholas Critelli Associates, P.C.
2:30 - 3:30	<b>Electronic Filing</b> Speaker: Tim Cuddigan, Cuddigan Law

# Registration Form: Social Security Disability Conference

Name : \_\_\_\_\_

Member # \_\_\_\_\_ Phone # \_\_\_\_\_

Address: \_\_\_\_\_

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

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## REGISTRATION FEE:

Early registration fee is \$225 and includes an electronic version of the materials. A hard copy version of materials is available for \$90 but must be requested below. The early registration fee of \$225 ends on July 2nd. At that time, the registration fee will be \$295.

Yes, I will be attending the Social Security Disability Conference (electronic version included) - \$225

Yes, I will be attending the Social Security Disability Conference and would like a hard copy of the materials - \$315

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# In Memoriam

**Bradley B. Howe**, 62, died Feb. 11 at his home in Spencer

Born in Spencer, Brad earned his B.A. degree at the University of Iowa College of Law and his J.D. at the University of Kansas. After clerking for two years for Iowa Supreme Court Justice M.L. (Larry) Mason in Mason City, he moved back to Spencer where he joined the Sackett, Sackett & Hemphill Law Firm. In 1994, he joined Redge Berg to form the Berg & Howe firm in Spencer.

**Dw Young**, 82, died in Rock Island, Ill., on April 18.

A high school graduate of Fort Madison, Dw received his bachelor's degree in Economics from the University of Iowa, and his J.D. from the University of Iowa College of Law in 1953. After graduating from law school, he joined the U.S. Army where he served for two years. He practiced in Rock Island.

**W. Louis Beecher**, 90, died April 30 at the Cedar Valley Hospice Home.

Louis enrolled at Loras College in

Dubuque at the age of 16, then switched to the University of Iowa where he earned his B.A. degree in 1942. Following a four-year stint in the Army Air Corps, Louis returned to the University of Iowa College of Law where he received his J.D. in 1947. He joined his uncle at the Beecher Law Firm in Waterloo where he practiced the rest of his life.

**Hon. Thomas H. Preacher**, 61, died May 1 at Clarissa Cook Hospice in Bettendorf after a six-year battle with cancer.

Judge Preacher was born in Providence, R.I., and lived in Hyattsville, Md., and Pensacola, Fla., before moving to the Quad Cities in 1956. He received his B.A. in Philosophy from Dartmouth College and his J.D. from the University of Iowa College of Law.

After admittance to the Iowa Bar, Thomas joined the firm of Newport and Buzzell, then Alexander and Preacher, which later became Stafne, Lewis, Jasper, Alexander and Preacher. In 2008, he was named a district associate judge for Scott County.

## Remembering their legacy

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

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

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

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



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**Nicholas A. Carda**

**Nicholas A. Carda** has joined the Knoxville law firm of Johnson & Lane as an associate attorney. He is a 2010 graduate of the University of South Dakota School of Law. Prior to joining Johnson & Lane, Nick was an associate attorney at Banks, Johnson, Kappelman & Becker in Rapid City, S.D. His areas of general practice include, but are not limited to, litigation, family law, criminal defense, estate planning and real estate law.



**Aaron J. DeKock**

**Aaron J. DeKock** has joined the firm of Scheldrup Blades in West Des Moines as an associate attorney. Aaron received his B.A. in Political Science from Central College and received his legal education from Drake University Law School. His practice is primarily focused in the areas of workers' compensation, employment law and family law.



**Lucas C. Helling**

**Lucas C. Helling** recently joined the Fairfield law firm of Foss, Kuiken & Cochran PC as an associate attorney. His general practice will emphasize civil litigation, family law, business entities, estate planning and real estate. Lucas earned his bachelor's degree from Wartburg College in 2007 and his J.D. from Drake University Law School in 2011.

The law office of **Larry J. Melcher** has moved to the U.S. Bank Building, Ste. 306, 421 W. Broadway, Council Bluffs, IA 51503



**Brian L. Bengs**

Lieutenant Colonel **Brian L. Bengs**, an Air Force Judge Advocate, leaves his position as Deputy Staff Judge Advocate, United States Air Force Warfare Center, Nellis Air Force Base, Nev. in June. In July, he assumes a new position as Legal Advisor/Instructor for the NATO School in Oberammergau, Germany. A native of Burt, Lt. Col. Bengs received a B.A. in history from Iowa State University in 1994, a J.D. from the University of Iowa in 1996, an M.A. in history from Louisiana Tech University in 2007, and an LL.M. in international law from The George Washington University in 2007.



**Trenton Norman**

Captain **Trenton Norman**, an Air Force Judge Advocate, will leave his position as Assistant Staff Judge Advocate, United States Air Force Warfare Center, Nellis Air Force Base, Nev., in June. In July, he begins duties as Area Defense Counsel for Nellis Air Force Base. Captain Norman received a B.A. in political science from Iowa State University in 2006 and a J.D. from the University of Iowa in 2009.



**Nicole J. Herbers**

First Lieutenant **Nicole J. Herbers**, a new Air Force Judge Advocate, assumed her position as Chief of Claims for the United States Air Force Warfare Center, Nellis Air Force Base, Nev., in April. She graduated from the nine-week long Judge Advocate Staff Officer Course at Maxwell Air Force Base, Ala., on April 13. A native of O'Neill, Neb., Lieutenant Herbers earned a B.A. in Intercultural Studies and Bible from Grace University in 2005 and a J.D. from Creighton University in 2011.



**Collin M. Davison**

**Collin M. Davison** has joined the Mason City law firm of Heiny, McManigal, Duffy, Stambaugh & Anderson, P.L.C., as an associate attorney. Collin earned a degree in General Business from Drake University in 2009 and his J.D. from Drake University Law School in 2011.



**Tiarr D. Sweere**

**Tiarr D. Sweere** has become a shareholder, director and vice president of the Muscatine law firm of Stanley, Lande & Hunter PC as of April 1. She had been an associate with the firm since February 2007 and previously from 1998-2001. Tiarr graduated from the University of Iowa in 1995, receiving a Bachelor of Business Administration degree with a major in accounting. She received her J.D. from the University of Iowa College of Law in 1998. Her practice includes wills, trusts, estate planning and probate law, taxation, tax returns, and real estate law matters.



**Mark C. Cord III**

**Mark C. Cord III** has become partner at the Berenstein, Moore, Heffernan, Moeller & Johnson law firm located in Sioux City. Mark, who joined the firm as an associate in 2006, will continue his practice in the areas of business, commercial and real estate, wills, trusts, estate planning and probate law. Mark graduated from the University of Iowa in 1988 and received his law degree from the University of South Dakota School of Law in 2005.



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Tara L. Hofbauer

**Tara L. Hofbauer** has joined the law firm of Hudson, Mallaney, Shindler & Anderson, P.C. in West Des Moines as an associate. Tara earned a B.S. in English from Iowa State University in 2004 and received her J.D. from Drake University in 2006. She has a general practice including but not limited to family law and litigation.



Cody M. Kiroff

**Cody M. Kiroff** has joined Modern Woodmen of America in Rock Island, IL. as assistant corporate counsel. He received his bachelor's degree in Biomedical Engineering from the University of Iowa in 2008 and his J.D. from the University Of Iowa College Of Law in 2011.



Joshua J. McIntyre

**Joshua J. McIntyre** has joined the Davenport law firm of Lane & Waterman LLP as an associate. In 2008, he received his B.A. in Computer Investigations/Criminal Justice and Economics from Saint Ambrose University. Josh received his J.D. in May 2011 from the DePaul University College of Law.

The Iowa State Bar Association congratulates the following individuals for their accomplishments:



Brian Farrell

**Brian Farrell**, for being selected as a Fulbright Scholar by the U.S. Department of State and the J. William Fulbright Scholarship Board. He will lecture in the law department at Sofia University in Bulgaria next fall. Brian is the academic support director and an adjunct lecturer at the University of

Iowa College of Law, and is president of the Innocence Project of Iowa.

**Raymond M. Beebe** for his 38-plus years as general counsel to Winnebago Industries, Inc. Raymond retired from his position as Vice President, General Counsel and Secretary of Winnebago, effective June 1. He received his B.S. from Iowa State University in 1964 and his J.D. from the University of Iowa College of Law in 1967 where he currently serves on the Board of Directors of the Iowa Law School Foundation.



Emily Chafa

Administrative Law Judge  
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### TRANSITIONS SUBMISSIONS ONLY BY E-MAIL

Copy deadline for *Transitions* is 30 days before the month of publication. Please follow the same style published here and keep submissions short and to the point. For new hires and promotions, the name of the law firm is not as important as the individual involved, so mention the lawyer first. Always submit a photo of the subject.

If it is to be digital, please use the ".jpg" format only. Make all submissions in plain text or Microsoft Word ".doc" format via e-mail to [cfritz@iowabar.org](mailto:cfritz@iowabar.org) and please do not expect late submissions to be published immediately. We need at least a 30-day interval before publication. Include office phone number and name of the person furnishing the copy. Questions? Call Chris Fritz at 515-697-7873.

Thank you for your assistance.

YLD president's letter – Jennifer Zahradnik

## Opportunities abound for young lawyers in small towns?

It's hard to imagine where the last year has gone. When I took office last June, I thought that there was going to be lots of time to accomplish lots of things. During the year we definitely accomplished some things but not near as many as I would have liked.

Last June when I attended the annual meeting, I thought that this was just going to be another year and that it would look very similar to the past year. I couldn't have been more wrong.

I got the opportunity to fulfill a law school goal and now get the honor and privilege of practicing with one of my law school classmates, James Ries. This new venture has taken the stress of being the boss off my shoulders and has allowed me to look forward to coming to work every day.

I was also blessed with a new addition to my family. Alexandra was born on April 26 and is doing great. If she spends as much time at the office with mom as her older sister did, she's going to have a huge vocabulary by the time she starts talking.

I remember three years ago when I decided that I wanted to take a leadership role with the YLD. I remember thinking, "How am I going to handle doing this; I work in a two lawyer firm?" The key is time management and good organizational skills.

To all the young lawyers out there involved in a general practice, solo or small firm or who practice in a rural community and want to get involved in the YLD or run for YLD office, it is doable; Just plan



Belle Plaine's main street business district as it looked in 2005 before rehabilitation began.

on being really busy. If you are looking to move to a small community, to join a rural practice or to hang out your own shingle, keep a few things in mind.

I grew up outside a small town 50 miles west of Lincoln, Neb., with a population of 268 people. I was familiar with the dynamics of a small town. Upon graduation from law school, I knew that I wanted to practice in a small rural community. I wanted to go back to a place where you know everyone in town, where people wave as you drive by and when something important occurs in your life the towns

people congratulate you when they see you in the store, at the bank or on the street. I got lucky, I found a small firm in Belle Plaine that was looking to hire an associate.

Moving into a rural community, especially if you didn't grow up in one, can be challenging. I've had many colleagues start in a small community only to move back to the city after about three years. The dynamics of those small communities are different than anything you will experience living in Des Moines, Cedar

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### ADMISSION ON MOTION

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

**Travis James Burk**, self-employed, Des Moines; **Bradley Korrell**, Korrell & Frohlin, Austin, Texas; **Craig Robert Leslie**, Holy Family Catholic Schools, Dubuque; **Thomas E. Morrow, Jr.**, Omaha, Neb.; **Joelle Lee Palmer**, Principal Financial Group, Des Moines;

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



Belle Plaine's main street business district after the rehabilitation.

Rapids, Iowa City, Waterloo, etc.

Be prepared to be asked to get involved in every civic group in town. Do this; it will greatly benefit you and will introduce you to the movers and shakers of the community.

Don't be afraid to tell them you can't be president after you've been involved for only one year. Don't get discouraged if they don't listen to you right away. Remember you are new, you don't know how things have been done for the past 50 years. Don't get discouraged and just keep after it.

In every community there are those who get things done and there are those who complain about everything. Every town and community follows a basic dynamic. About 10 percent of the population supports everything and is actively involved in making it happen, About 10 percent of the population are C.A.V.E (Citizens against virtually everything) people, and the remaining 80 percent could go either way. The trick is not to convert these people to your cause but to take the 80 percent of the population and get them on board and active in some manner.

When I moved to Belle Plaine, I was asked to get involved with the local rotary club and joined right away. After living in Belle Plaine for about a year, I decided that I wanted to get involved with the local chamber of commerce. It was during my second year in town that the community conducted an assessment

and looked to address the needs for the future of the community. Following a community survey, it was determined that the three major projects that needed improvement were the downtown district, the aquatic facility and the schools.

I was actively involved in getting Belle Plaine accepted as a Main Street Community. I also was privileged to assist Belle Plaine in being the first community in the state to have a façade rehabilitation program. It took some time and a lot of effort, blood, sweat and tears but we've managed to accomplish all three of those improvements. As you can see from the before and after pictures a vibrant main street really does make a difference.

Young Lawyers really can do great things when they put their minds to it.



## Voting on Judicial Performance Review (Plebiscite) ends June 13

If you haven't already filled out the Judicial Performance Review, previously known as the "Plebiscite," for the 2012 election, please do so by June 13.

You should have received an e-mail early this month with a link to the evaluation instrument and instructions for filling it out. If you did not receive the e-mail, please contact the ISBA immediately at 515-243-3179 or [isba@iowabar.org](mailto:isba@iowabar.org) so the link can be sent to you.

As approved by the Board of Governors at its March meeting, the biannual review is being conducted earlier than usual this year so the ISBA has more time in which to support Iowa's judicial merit selection system prior to the November 2012 election. Attorneys' assessments of the performance of judges who'll be up for retention in November are needed to provide direction to the association in its supporting efforts.

Results of the performance review will be presented to the governors at their June 21 meeting, and released after their approval.

When I look back over the past year, I'm sad to see it go, but excited to take the title of immediate past president of the YLD. I want to thank Laurie and Ian for their support and the entire YLD Executive Council for their efforts and the things that we accomplished this year. I am confident that the YLD will be in good hands for the next two years and that a great many more things will be accomplished.

Thanks to the Bar staff, especially John, Harry & Lisa. You really help the YLD shine.

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# Depression: The soul speaks

By Jim Benzoni\*

Depression among lawyers has received significant and needed attention in the pages of the Iowa Lawyer magazine recently. As one who has suffered from this malady in a debilitating form, I have followed those articles with interest.

It does indeed take courage to speak of being afflicted with a mental illness which few understand. For those who have never suffered from depression, the suffering of one afflicted is incomprehensible.

The various articles addressing depression have rightly talked of medication and seeking therapy. However, lacking from some of those articles is an insight

into what I and others have found to be a main cause of the depression, both in our own profession and in the world around us: namely, the lack of a true sense of purpose, of being aware of the reason why we exist and our unique role in this world. In other words, a lack of a profound awareness of the presence of God.

Like many others, I have dealt with depression both in myself and in people around me. My former lawyer partner took his own life a little more than a year ago as a result of his depression. What I have observed in depressed people is that, unlike the missionaries I admired since I was a boy for their willingness to sacrifice everything, depressed people are intensely focused on themselves.

Depressed people get caught in a negative feedback loop that they are unable to break. And, like a fly caught in a diabolical spider's web, the more the depressed person struggles to be free, the more he or she become entangled.

Depression appears to be is a very exaggerated form of selfishness.

However, that is not to say that depression is bad. Rather, depression may be our inner being's struggle to express itself, to be free. Depression may be our own soul trying to speak to us, to get our attention. But the depressed person is so caught in his or her own small life *trying to be happy* that he or she doesn't even listen to the spirit within. Or else depressed persons find that they are so blocked and

jammed up that they get frustrated and despair of ever finding that inner door to freedom. In its end stages, this despair can lead to suicide.

It is my experience that depressed people can be very stubborn. They seem to hang on to their depression (and its sometimes obvious causes) despite their malaise. This observation is key for finding the way out of depression: Letting go.

My own experiences in letting go and overcoming depression are somewhat unique. But all of us face this same existential choice: Life or Death, Growth or Stagnation, Freedom or Slavery — at the very center of our being, in our soul. And it is out of the center of our being, our soul, that depression seems to arise.

While my experience may be unique, its very starkness and the profundity of the change in my life may provide a reliable guide to almost anyone who wishes to be free — and happy and whole and useful.

I was arrested for two counts of first degree murder in Oklahoma. I had never even met the two people who were killed or knew anything about them until after my arrest. The entire prosecution was based on highly questionable circumstantial evidence. The prosecution requested the death penalty or life without parole.

I was profoundly depressed at the time. Being incarcerated meant I had some time out. Jail is like that. Now I had time and opportunity to deeply focus on my depression and what it was trying to tell me. After 60 days in jail, fasting and praying, I realized that I had to change. Profoundly. And I realized that I didn't know how. I didn't have much faith in God by then, but I knew intuitively that someone far more powerful than myself was orchestrating that show — and I had better listen. Or else.

I told my God, whoever it was, that I knew I had messed up. I was not quite sure how, but I realized that my life was no longer moving in a positive direction. I told God that I no longer wanted anything for myself, and that it was okay if I stayed in prison the rest of my life or had the death penalty. I figured I had lost

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the right to demand anything better. The one thing I asked of God was just that I might be helpful to someone in jail.

I did not realize it at the time, but that was the beginning of my recovery. I resigned myself to the eventuality of losing my case. I took more interest in the welfare of the guys in jail. One guy in the next cell was beating his head against the bars. Hard. I got him to calm down by playing cards with him under the bars all night. As I recall, he was sleeping quietly by morning.

I began being more helpful to my attorney. I started sharing the cookies I received from my family with the other guys in jail (it was a little county jail, where everyone knew each other — both the guards and the inmates).

I designed an exercise yard for the inmates. The county jail was on top of the court house. We were locked up 24-7. So I designed a basketball court on top of the courthouse on some open roof space, complete with chainlink fence.

I got a guard to smuggle us up ice-cold watermelon one sweltering Sunday afternoon. The jail was baking in 100 degree weather with no air conditioning. We enjoyed the watermelon, but the guard almost got fired after being seen with the watermelon on the security camera (the guard was laughing about it later).

When I was finally released, my court-appointed attorney told me that I was good in court, and suggested that I consider law school. I figured that God had been pretty direct with me, so I had better listen.

My brother came down from Omaha to pick me up. I took the LSAT exam within a couple months of my release. Drake accepted me into law school the next summer, and the rest is history.

Because of my past criminal record, I was not allowed to sit for the bar exam when I first applied. I experienced more doubts and depression dealing with that and my own past. Once again, I received the assistance and sage advice of wonderful lawyers. Eventually I was allowed to take the bar and later opened my own office.

Because of my past in the criminal justice system, I gravitated towards criminal defense public defender work. I had traveled some in Mexico in the past, and had picked up some Spanish. So I began

assisting some of my Hispanic court-appointed clients with their immigration cases. This area of practice grew until it is now my primary practice area. As I was also deported from Mexico many years ago, I have a real affinity for my clients who are facing the same trip in reverse.

I have learned not to worry about making money. A dear lawyer friend once advised me: “Don’t worry about money. Take care of your clients. The money will be there.” And so it is.

I have come to love my clients — all of them, even the ones that drive me nuts. I expect the very best of my clients, that they will strive to be their very finest. I demand integrity of both my clients and myself. I have learned I can never ask anything of my clients that I am not willing to do myself — even prison or deportation. I have learned that we lawyers must *love* our clients.

I feel that I am successful if my client finishes the case a better person than when he or she started. I encourage my clients to reach beyond themselves, to sacrifice, to love and remember the poor in their homes countries, especially the children, the orphans.

Depression may well be God’s way of speaking to us. It was for me.

So, the real question is: Am I willing to listen, deeply listen, to explore the depths within myself? And even more critically, am I willing to make the very profound — possibly life altering — changes in order to be true to that spirit deep within me that is yearning to be free?

I am well aware that the road to recovery is dangerous and rocky. We all need help along the way. I was treated by a psychiatrist for a while, and was on

medication. I also saw a therapist for quite some time. I attended an outpatient treatment program. I have been involved in a 12-Step recovery program for more than 20 years. All these things helped me to recover.

But the most important — and perhaps the most overlooked — was my profound personal surrender to that supreme creative power and dedication to serve that goodness to the best of my ability for the rest of my life regardless of the cost. That is the essential step in going from despairing depression to a life abounding in joy and happiness and friendship and adventure and usefulness and love.

I recently found that these things I have learned over the years are not a new discovery. Viktor Frankl discusses them much more knowledgeably than I in his soul-searing classic *Man’s Search for Meaning*. Whether or not you suffer from depression, this simple profound book is well worth reading. I am glad I read it only recently, as I am happy to have been taught these same lessons by life itself — just as was Dr. Frankl.

Today I thank God for my depression. For without it, I might still be living a somewhat shallow, slightly phony, discontented life, and I would never have come to know the profound experience of being able to love my clients with all their foibles and weakness and to see in them the bright and shining and wonderful persons that they really are — even when they don’t believe it themselves.

I thank God that I am a lawyer.

*\*Jim Benzoni practices law in Des Moines. His area of practice is immigration law.*

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**NOTICE: — MEDICAID PROGRAMS:**

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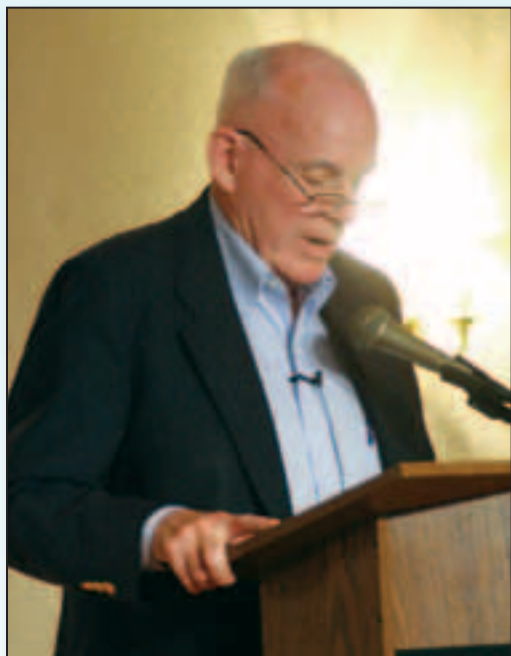
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# 2012 Bench-Bar Conference focuses on efficiencies in the judicial system

The approximately 85 judges and attorneys who attended the 2012 Bench-Bar Conference early last month participated in several hours of discussions about ways in which the judicial branch can efficiently use existing resources and still provide access to justice for all Iowa citizens.

The discussions were mixed in with several social events designed to allow judges and attorneys to mingle in an informal setting. As has been the custom since the conference was started in 1989, no coats, ties or titles were allowed and only first names were to be used.

A major piece of the discussions on improving access to justice occurred on Thursday morning, the first full day of the conference. Justice Daryl Hecht, chair of the Iowa Civil Justice Reform Task Force, moderated a panel of five individuals who discussed the task force findings. The five represented each of the subcommittees — discovery, pre-trial procedures, trial management, specialty courts and rules, and court-annexed ADR — that made up the overall task force.



**Michael Gartner, a lawyer, onetime president of NBC News, owner of the Iowa Cubs and longtime central Iowa newspaperman, gave the keynote address at the banquet on Thursday night of the Bench-Bar Conference. Gartner spoke about the heroism of Iowa judges through the state's history.**

With regard to discovery, Judge Eliza Ovrom told the group that the survey conducted as part of the task force's work showed that having a reasonable initial disclosure provision would speed up the trial process. Information not disclosed during the initial disclosure period would not be allowed to be introduced later. Comments

made during the public comment period suggested that counsel should discuss early-on what would be allowed.

Sharon Soorholtz Greer told the attendees that the pre-trial procedures subcommittee's findings included a desire for more information on the jury questionnaires, that rules be uniform across all judicial

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C12-0201-010 (2/12)



**District 5 Chief Judge Arthur Gamble updates attendees at the Bench-Bar Conference on the activities occurring in the Fifth District. To his right are Judge Annette Scieszinski of the Eighth District and Chief Judge Duane Hoffmeyer of the Third District. The chief judges — or a representative — from each of Iowa's eight districts gave short presentations about activities in their districts after the luncheon on Thursday of the Bench-Bar Conference.**

districts and that there be a one-judge, one-case approach to civil cases.

Judge Sean McPartland discussed the trial management subcommittee's work, including its findings on videoconferencing and a relaxed findings of fact and conclusions of law.

Beth Flansburg reported on the survey results for the specialty courts and rules subcommittee. Sixty five percent of respondents favor a family court; 27 percent thought business courts were a good idea, she said.

A review of what other states are doing revealed that 20 states have developed business courts to handle

their more complex cases. Georgia had 12 cases tried in business court the first year its specialty business courts were in existence. The next year the caseload doubled. Last year 64 cases were tried in Georgia's business courts.

The subcommittee recommends that Iowa start with a pilot project to see if business courts would work here, she said.

Gerald Denning said that a review of mediation/ADR programs nationally by the court-annexed ADR subcommittee revealed that Iowa is in the bottom eight of states that tie mediation/ADR to the courts. The survey of Iowans showed that ADR is "very good" in Iowa; it's just not

tied in with the courts, he said.

"Is it a concern that ADR has gone so far that it is totally out of the civil court system, or is it not a concern?" he asked the group.

The panel presentation was followed by discussions within four small groups. Summaries of those discussions are expected to be available soon.

Friday morning the discussion on what the courts can do to provide access to justice continued with a panel presentation entitled: "Courts, Society's Emergency Room — Access to Justice, Challenges in Delivery of Due Process," moderated by Judge Ovrom. First to speak was Ned Bjornstad, who has served as the Dickinson County attorney for the last 10 years. He reported that the county sees approximately 850 indictable misdemeanors, 125 felonies and 5,000-10,000 simple misdemeanors a year. That translates into about 70 indictable misdemeanors for each of 12 trial dates, and 25 felonies for five trial dates, he said.

He also told the attendees that most cases involve some sort of sex crime today, compared with a few years ago when most cases involved meth.

Iowa Court of Appeals Judge Gayle Vogel told the group that in 1994, the court of appeals handled 650 cases. The last few years, the number has jumped to 1,000 per year.

Based on 12 years of statistics, there are fewer civil and more criminal cases, she said.



**Judge Eliza Ovrom (third from right) discusses the recommendations of the Discovery Subcommittee of the Civil Justice Reform Task Force during the panel presentation entitled "Triage Justice" at the Bench-Bar Conference. Other panelists (from left) Sharon Soorholtz Greer, Gerald Denning, Justice Daryl Hecht, Beth Flansberg and Judge Sean McPartland discussed recommendations from the other four subcommittees of the task force.**



More young attorneys attended this year's Bench-Bar Conference than veteran attendees recall from past conferences. The young attorneys added a vitality to the conference that made it one of the best in recent years, according to several veterans. Pictured from left are: Jay Farley, Brett Beattie, Luke Craven, Joe Vogel, Steve Tyler, Scott Hall, Gina Verdoorn, Tabitha Turner, Meghan Sloma, Ashleigh O'Connell, and Tara Olivenzia.

Termination of parental rights cases have exploded. In the old days, parents had a better chance to learn new skills and resume care for their children. Today, the lack of skills is accompanied by drug complications, she said.

Brett Beattie, a surprise panelist chosen from the audience, discussed options for improving access to justice that he has observed in his nine years as a Des Moines-based attorney practicing primarily in personal injury. One idea would be to have a law-clerk-for-a-day program whereby an attorney would be assigned to a district court judge for a day to help with his or her caseload.

This panel discussion was also followed by small-group breakout sessions.

In addition to the panel presentations, the conferees heard presentations on the proposed new attorney advertising rules, an ethics update and reports from the law school deans at Drake University and the University of Iowa. They were also treated to a reception on the lake at the home of retired Iowa Court of Appeals Chief Judge Rosemary Sackett and retired Milford attorney Bill Sackett; an awards dinner featuring Michael Gartner, Iowa attorney and longtime newspaper editor and publisher, as the keynote speaker; and an afternoon of recreation including bicycle riding and golf.

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