



# THE IOWA LAWYER

September 2019 V 79 N 8

## THE IOWA SENTENCING PROJECT

NAVIGATING THE MAZE OF IOWA'S  
CRIMINAL SENTENCING LAWS PG. 6

ISBA'S FALL  
CLE OFFERINGS  
**PAGE 15**

### ALSO IN THIS ISSUE

STATISTICAL REVIEW  
OF THE LATEST IOWA  
SUPREME COURT TERM p. 10

NOT ALL SUPERHEROES  
WEAR CAPES: PREVENTING  
ELDER ABUSE IN IOWA p. 19

IOWA YLD LEADS THE  
CHARGE ON LESSENING  
STUDENT LOAN DEBT p. 24



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The official publication of The Iowa State Bar Association.

#### EDITORIAL TEAM

Editor-in-Chief  
Melissa Higgins  
515-697-7896  
mhiggins@iowabar.org

General Inquiries  
515-243-3179  
isba@iowabar.org

Copy Editor  
Steve Boeckman  
515-697-7869  
sboeckman@iowabar.org

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# CONTENTS

Volume 79  
Number 8  
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## ABOUT THE COVER

Iowa Court of Appeals Judge Michael Mullins (center) is pictured with former Drake Law School students who were instrumental in carrying the torch of his "Iowa Sentencing Project," that began in 2002. Kylie Crawford (right) and Olivia Brooks (left) worked as law students to take the original document and turn it into a practical guide for practitioners and students. Not pictured on the cover is Tess Pocock, who also worked on the project. This sentencing chart is now available on Fastcase 7, free to all ISBA members. **Read more about the task of navigating the maze of Iowa's criminal sentencing laws beginning on page 6.**

## FEATURES

### 10 Statistical review of the 2018-2019 Iowa Supreme Court Term

The 2018-2019 term marked the addition of two new justices and the departure from the consistent voting bloc of the prior eight terms.

### 12 Arabella Mansfield's legacy continues 150 years later

Read the author's recommendation for how this state can continue to grow its reputation as one that fosters progress, in the legacy of the country's first female lawyer - an Iowan.

### 15 ISBA CLE Opportunities for Fall 2019

This issue contains a comprehensive guide to upcoming CLE opportunities. The center pages of the magazine may be torn out as a separate catalogue for your convenience.

### 19 Not all superheroes wear capes: Preventing elder abuse in Iowa

Private Iowa attorneys are empowered to use a relatively new action in Iowa called a 235F petition for relief from elder abuse.

### 24 On debt, and solutions - A message from the YLD President

Read what the ISBA Young Lawyers Division has been up to in its efforts to combat student loan debt, including sponsoring a "debt summit" in San Francisco.

## COLUMNS

### 5 President's Letter: Lawyers and our communities

### 26 Transitions

### 26 Kudos

### 27 In Memoriam

### 28 Classifieds

### 30 Spotlight on Service

## IN BRIEF

### 4 ISBA offers new service for office support

### 4 People's Law School gives tips on avoiding scams

### 4 Iowa's delegation attends ABA National Conference in San Francisco



## IN BRIEF

### ISBA OFFERS NEW SERVICE FOR OFFICE SUPPORT STAFF

The Iowa State Bar Association is now offering a "digital subscriber" option for legal support staff. This new service allows support staff an opportunity to engage with the larger bar community by receiving relevant ISBA and legal-related communications.

The service, which is free, will provide the subscribers access to the electronic version of The Iowa Lawyer, the Iowa Lawyer Weekly, information about products and services that may benefit the firm and limited access to the members-only section of the ISBA website. They will also have access to online communities to communicate and share best practices with peers via ISBA Engage.

Please note this new service is limited to individuals who are employed by an ISBA member attorney or firm.

### PEOPLE'S LAW SCHOOL GIVES TIPS ON AVOIDING SCAMS



The ISBA's latest People's Law School event on Aug. 20 focused on consumer protection information for older Iowans.

Fifteen satellite library locations tuned in for the livestream of the presentation, which was held at the bar association headquarters in Des Moines with an in-person audience as well. Al Perales, a consumer protection investigator for the Iowa Attorney General's Office, was the speaker. He presented his top 10 tips to protect yourself, among other advice about avoiding imposter scams.

The next People's Law School will be held on Sept. 17 with a focus on child custody laws.

### IOWA'S DELEGATION ATTENDS ABA NATIONAL CONFERENCE IN SAN FRANCISCO



Iowa's delegation to the American Bar Association House of Delegates is pictured at the ABA Annual Meeting, which was held August 8-13 in San Francisco. Left to right: Alan Olson, Kay Oskvig, Jane Lorentzen and David Brown.

#### PRESIDENT

Willard "Bill" Boyd III Des Moines 515-283-3172 wlb@nyemaster.com

#### PRESIDENT-ELECT

Jerry Schnurr III Ft. Dodge 515-576-3977 jschnurr@frontier.com

#### VICE PRESIDENT

Anjela Shutts Des Moines 515-288-6041 shutts@whitfieldlaw.com

#### SECRETARY

Dwight Dinkla Des Moines 515-697-7867 ddinkla@iowabar.org

#### IMMEDIATE PAST PRESIDENT

Tom Lewis W. Des Moines 515-274-1450 tom.lewis@brickgentrylaw.com

#### DISTRICT GOVERNORS

##### DISTRICT 1A

Chris Even Dyersville 563-875-9112 ceven@locherlaw.com

Daniel Fretheim Decorah 563-382-2959 fretheim@andersonlawdecorah.com

##### DISTRICT 1B

Shannon Simms Waterloo 319-291-6161 simms@nfiowa.com

Heather Prendergast Waterloo 319-234-4600 heather@neialaw.com

##### DISTRICT 2A

Matthew F. Berry Clear Lake 641-357-7296 berrylaw@ctel.com

Megan Rosenberg Hampton 641-456-2555 mrosenberg@hobsoncadylaw.com

##### DISTRICT 2B

Victoria Feilmeyer Ames 515-239-5146 vfeilmeyer@city.ames.ia.us

Bethany Currie Marshalltown 641-421-0990 bethany.currie@iowacourts.gov

##### DISTRICT 3A

Jill Davis Spencer 712-262-1150 jill@mbsdlaw.com

John Flaten Spirit Lake 712-336-1292 jflaten@spiritlakelaw.com

##### DISTRICT 3B

Maura Sailer Denison 712-263-4627 msailer@frontiernet.net

James Daane Sioux City 712-252-2424 jdaane@maynelaw.com

##### DISTRICT 4

Kathleen Kohorst Harlan 712-755-3156 kate@harlannet.com

Deborah Petersen Council Bluffs 712-328-8808 deborah@petersenlawcb.com

##### DISTRICT 5A

Gilbert Caldwell III Newton 641-792-4160 gcaldwell@caldwellandbrierly.com

##### DISTRICT 5B

Roberta Chambers Corydon 641-870-0108 roberta.a.chambers@gmail.com

##### DISTRICT 5C

Henry Hamilton III W. Des Moines 414-403-9082 Hhamil3@aol.com

David Nelmark Des Moines 515-244-6199 dnelmark@gislason.com

Joseph Happe Des Moines 515-288-2500 JoeHappe@davisbrownlaw.com

Margaret A. Hanson Des Moines 515-246-7957 maggiehanson@davisbrownlaw.com

Bridget R. Penick Des Moines 515-242-8902 bpenick@fredlaw.com

Adam D. Zenor Des Moines 515-245-8902 azenor@grefesidney.com

Dawn Boucher W. Des Moines 515-267-1174 dawnlarew@hotmail.com

Kathleen Law Des Moines 515-283-3116 kklaw@nyemaster.com

Nathan Overberg Des Moines 515-243-7611 noverberg@ahlerslaw.com

Joe Moser Des Moines 515-288-0145 jmoser@finleylaw.com

Mary Zambreno Des Moines 515-246-4512 mzambreno@dickinsonlaw.com

William Miller Des Moines 515-283-1000 miller.william@dorsey.com

##### DISTRICT 6

Erin R. Nathan Cedar Rapids 319-896-4013 enathan@spmbllaw.com

Melvin Shaw Coralville 319-337-7429 law@melvinshaw.com

Caitlin Slessor Cedar Rapids 319-365-9461 cls@shuttleworthlaw.com

Robert Fischer Vinton 319-472-2353 rfischerlaw@qwestoffice.net

Mark Parmenter Cedar Rapids 319-365-1184 mparmenter@lwclawyers.com

##### DISTRICT 7

David J. Hellscher Clinton 563-243-1243 dave.hellscher@clintonnational.net

Christopher Surls Lowden 563-941-5301 cls@wbllaw.com

Ian J. Russell Bettendorf 563-324-3246 irussell@l-wlaw.com

##### DISTRICT 8A

Rick Lynch Bloomfield 641-664-1997 lynchl@netins.net

Ryan J. Mitchell Ottumwa 641-682-5447 ryan@ommglaw.com

##### DISTRICT 8B

Brian Helling Burlington 319-754-6587 bhelling@seialaw.com

##### REPRESENTATIVES AND DELEGATES

##### Iowa Judges Association Liaison

Cheryl Traum Davenport 563-326-8777 cheryl.traum@iowacourts.gov

##### ABA Delegates

Alan Olson Des Moines 515-271-9100 aao@olson-law.net

David L. Brown Des Moines 515-244-2141 dlbrown@hmlawfirm.com

Jane Lorentzen Des Moines 515-244-0111 jlorentzen@hhlawpc.com

##### LEGISLATIVE COUNSEL TEAM

James Carney Des Moines 515-282-6803 carney@carneyappleby.com

Doug Struyk Des Moines 515-282-6803 struyk@carneyappleby.com

Jenny Dorman Des Moines 515-282-6803 dorman@carneyappleby.com

##### ISBA YOUNG LAWYERS DIVISION OFFICERS

President Abhay Nadipuram Des Moines 515-288-2500 abhaynadipuram@davisbrownlaw.com

President-elect Torey Cuellar Nevada 515-382-7255 toreycuellar@gmail.com

Secretary Kristen Shaffer Coralville 319-365-9461 kas@shuttleworthlaw.com

##### Immediate Past President

Margaret E. White Des Moines 515-244-4300 maggie.e.white@emcins.com



# PRESIDENT'S LETTER LAWYERS AND OUR COMMUNITIES

This summer, I have been continually reminded about the importance of Iowa lawyers to our communities and community organizations. In June, the Iowa Organization of Women Attorneys (I.O.W.A.) arranged a celebration for the 150th anniversary of Arabella Babb Mansfield's admission to the Iowa Bar – the first woman to be admitted to a bar in the United States (read more about her on page 12). It was held in the Union Block Building in Mount Pleasant – the same building where Bella was sworn in. Bella never practiced law and instead pursued an academic career at Simpson College, Iowa Wesleyan University and DePauw University. In addition to her teaching career, she pursued many community activities and became a leader in the 19th century women's rights movement, which covered many issues, including suffrage. Also honored at this celebration were Iowa Court of Appeals Judge Anuradha Vaitheswaran and Vicky Long Hill for their extraordinary community service.

In August, I attended "A Meeting at the Monument." This celebration marked the one-year anniversary of the dedication of "The Monumental Journey," a monument located in Des Moines honoring the National Bar Association founders who in 1925 established their own legal association at a time when the American Bar Association and other national legal associations denied membership to African-American lawyers. At this event, Des Moines lawyer Alfredo Parrish received recognition for a lifetime of achievement in promoting civil rights and community service.

Also in August, I attended the National Conference of Bar Presidents in San Francisco, which brings together state and local bar association presidents from around the country. Iowa's Henry TePaske served as president of this national organization in 1963. A University of Chicago graduate, he practiced law for more than 50 years in Sioux Center. He had a distinguished career as both a trial and probate lawyer. In addition to his ISBA

activities, he served in ABA leadership positions, as county attorney of Sioux County, as mayor of Sioux Center and on various community boards.

We have countless other examples of lawyers who have dedicated their time and leadership to make the state better for our citizens. *The Iowa Lawyer* features one of these lawyers in each issue. (This month the "Spotlight on Service" feature recognizes Judge Mary Pat Gunderson – page 30). The common theme arising from this monthly feature is that one of the great benefits that accrue to us, as lawyers, is the opportunity to be involved in community activities. For many of us, service on community boards, like pro bono representation, can be one of the most rewarding experiences we have in our careers.

Our state nonprofit sector is vibrant. We have more than 27,000 nonprofits in Iowa, including our own association as well as the Iowa State Bar Foundation. The vast majority of these nonprofits are charitable organizations that cover a broad spectrum of daily life including religion, health, social service, education, culture, community development, housing and human rights. These nonprofits are vital in contributing to the quality of life here in Iowa.

Thousands of Iowa citizens volunteer for service on these organizations to build and support their communities. Alexis de Tocqueville, the 19th century French political scientist, historian and politician, called this engagement the American "Art of Association." Each nonprofit has a board of directors and many of these boards have at least one Iowa lawyer serving on them, often as an officer of the organization. There are many lawyers who serve on more than one nonprofit board. Lawyers also volunteer for public sector service at the city, school board, county and state levels, often in leadership positions.

The training we have as lawyers naturally fits with community organizations. Lawyers are good listeners. Lawyers are trained problem solvers. Lawyers identify key issues

and negotiate purposeful outcomes. Lawyers are pathfinders toward meaningful solutions and decision making.

This year, our newly created Well-Being Committee will seek out programs and make recommendations to promote the health and wellness of the ISBA membership, as well as educate the membership about wellness issues and available resources. Participating in community activities – whether as a board member of a nonprofit or in another volunteer capacity – brings a great balance to a life in the law. It is, in itself, a great wellness activity!

Community service is also intertwined with other ISBA efforts. For the past several years, the ISBA has focused on the challenges our rural areas have in recruiting and retaining lawyers in those areas. We now have fewer than 10 active lawyers in each of 24 Iowa counties. With the dwindling number of lawyers in the rural areas, it is not only individuals with legal needs who suffer. Our community organizations likely will struggle to have individuals who can help them move forward in their missions. Iowa needs these nonprofit organizations to advance economically and socially.

Our Iowa lawyers help community organizations "Do Good Well!"




Willard L. "Bill" Boyd III  
Nyemaster Goode, P.C.  
wlb@nyemaster.com, 515-283-3172

*Willard L. Boyd III*

Des Moines attorney Alfredo Parrish is pictured speaking at the "Meeting at the Monument" event in August.





# HISTORY <sup>OF THE</sup> IOWA CRIMINAL STATUTES SUMMARY CHART

**AKA**

**“THE IOWA SENTENCING PROJECT”**

Edited by Robert Rigg with contributions  
from Judge Michael R. Mullins, Kylie Crawford,  
Olivia Brooks and Tess Pocock



The sentencing summary chart is now available on Fastcase 7, the legal research software available free to members of the ISBA. Simply select the browse button to access this resource and all other Iowa specific resources.

## PROJECT BEGINNINGS

**T**he Iowa Criminal Statutes Summary Chart is a project overseen by Judge Michael Mullins of the Iowa Court of Appeals for over a decade. Over the past three years, several students have played a major role in expanding and updating the chart. During this time, the chart transformed from a 15-page document to a nearly 500-page “project,” containing thousands of footnotes. The transformation of the original “Sentencing Chart” was spearheaded by former Drake Law Student Kylie Crawford. Crawford worked as a research assistant to a professor at the Drake Law School Legal Clinic. She was supervised and worked closely with Judge Mullins for almost a year to develop the present version of the Sentencing Project.

## JUDGE MULLINS

I developed the Iowa Criminal Statutes Summary Chart in 2002 to help guide me through the maze of Iowa criminal sentencing laws. What started as a personal project to assist me in my work as a new judge has grown organically and surprisingly. What follows is a history of

the chart and its development to date.

After 20 years of private practice, the last 10 of which I did almost no criminal work, I was appointed as an Iowa district court judge in 2002. Immediately, I was faced with taking guilty pleas and making sentencing decisions. I was amazed at how complicated the Iowa sentencing laws had become with a myriad of enhancements, surcharges and exceptions located in various code chapters that were not intuitively connected. I found myself relying heavily on prosecutors and defense lawyers to assist in the statutory details.

After a few weeks of feeling unprepared and unqualified to adequately inform defendants of the consequences of their guilty pleas, and to ensure I included all necessary provisions

at sentencing hearings and orders, I sat down at my kitchen counter one day with my laptop and the Code of Iowa. At the end of a 10-hour day I had a matrix in the form of an Excel spreadsheet that summarized some of the most difficult code provisions that I had encountered to date. That was the skeleton of the chart's beginning.

As I began to use the limited version, I discovered more nuances in the statutes. Over a nine- to 10-month period I used spare time to expand the content and tweak the format to make it somewhat nimble and intuitive. After several iterations I had a product that I found useful, organized so that I could locate a code section (numerically organized vertically), and then read across the page identifying the applicable sentencing provisions organized under column headings in the sequence I liked to recite during either a guilty plea or sentencing proceeding.

I have always emphasized that I prepared the chart for my own use. But I realized it might be useful to others so I contacted the Iowa Supreme Court justice who served as the liaison justice for our judicial district and emailed him a copy of my chart. He assured me I could copyright the document.

About six months or so later, the Iowa Judicial Branch held a new judge training session, the first in more than two years (because of budget constraints). When I showed up, that liaison justice was part of the training faculty. At his request, we provided a copy of the chart to each of the judges at that training. A short time later the director of judicial education asked

Iowa Legislature, I updated the chart, emailed it to every judge in Iowa and to the County Attorneys Association and Iowa Public Defender. Although a useful tool to all judges and lawyers involved in criminal justice, my focus has been and remains providing a resource for judges. The benefit to others follows from that.

As a result of the chart, I was invited to speak at a joint session of the State Government Oversight Committee of the Iowa Legislature, as the members were considering embarking on re-working the Iowa Criminal Code. My chart helped demonstrate the complexities the legislature had unwittingly created incrementally over

the 30-some years since the previous major criminal code re-write. I was later appointed as the only judge member of a legislative study

committee that intended to simplify provisions of the Iowa Code. The committee was slowly making some progress but was disbanded before significant progress was made.

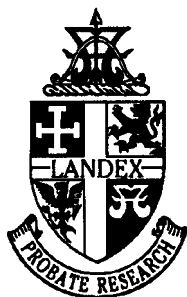
Around 2007, the Iowa Supreme Court asked, and I agreed, to publish my chart on its website to make it available to all lawyers, legislators, media and the general public.

In 2011, I was appointed to the Iowa Court of Appeals. I continued to annually update the chart and give continuing legal education presentations, including annual new judge training on the chart and on sentencing issues. In about 2016, with the heavy workload

## WHAT STARTED AS A PERSONAL PROJECT TO ASSIST ME IN MY WORK AS A NEW JUDGE ... HAS GROWN ORGANICALLY & SURPRISINGLY.

if I would give a presentation at the judges' annual meeting and present the chart to all Iowa judges. I did so in 2004.

Many judges began to use the chart and included it in their personal bench-book, typically a three-ring binder every judge took to the bench. At that time, the chart was about 15 pages of an Excel spreadsheet plus an introduction page. Judges began to show it to prosecutors and defense lawyers, and I consented to its dissemination. The County Attorneys Association and the Iowa Public Defender posted the chart on their websites. After each session of the



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**THE 517-PAGE, 5,200-FOOTNOTE CHART WOULD HAVE BEEN COMPLETELY UNWIELDY IN A PAPER WORLD, BUT IS A USEFUL AND MORE MEANINGFUL TOOL IN AN E-WORLD.**

on our court and the fact that in my current job I no longer had a day-to-day need for the chart, combined with my concern for transition planning in contemplation of retiring someday,

I contacted Prof. Robert Rigg at Drake Law School to explore the possibility of obtaining institutional

continuity for the chart and educational opportunities for law students. He and Drake graciously took the project. At that time the chart was less than 20 pages, still in Excel format. The tightness and brevity of the chart made it nimble and easy to copy, print, keep in a binder, et cetera. The brevity also, however, limited content and actually left some content practically unusable. The structure of the format also limited the ability to expand the content.

After several planning sessions to discuss the future of the chart and its potential use and development, in 2017 Drake Law School and I published a completely reformatted chart. The reformatted version using as its foundation the content from the spreadsheet chart—can accommodate future enhancements and form the foundation of a larger project.

The 517-page, 5,200-footnote chart would have been completely unwieldy in a paper world, but is a useful and more meaningful tool in an e-world.

It is capable of easily incorporating additional content and annotations and is searchable.

**STUDENT PORTION OF THE IOWA SENTENCING PROJECT KYLIE CRAWFORD**

I graduated from Drake Law School in May 2017. While in law school I served as a research assistant, which is how I became part of the team that facilitated the chart's substantive update and major formatting revision in 2016–2017. Beginning in the summer of 2016, we spent several months testing over 20 different format variations looking for one that would be user-friendly, sustainable and amenable to future modifications and additions. During this time, I was also in charge of updating the substance of the chart.

My contribution to the project began by taking Judge Michael Mullins's "big picture" ideas and creating various formatting drafts at a macro level. I would then send the format drafts to the other members of the team and we would discuss them via email and at our monthly meetings. Afterward, I would merge the approved concepts from the drafts into one template draft and create several new format drafts based on that template. We repeated this process multiple times before adopting the general macro format used in the final version of the chart.

Once we decided on the macro format, I began updating the substance contained in the chart. I started with the assault chapter of the Iowa Code—chapter 708—because of the multitude of sentencing scenarios possible. For example, chapter 708 contains both misdemeanor and felony crimes, and crimes that have mandatory minimums, exceptions to eligibility for a deferred judgment, deferred sentence, or suspended sentence, multiple surcharges, sex offender registry requirements, and exceptions based on sentence enhancements and for juvenile offenders. I then entered the updated information into the reformatted chart and made micro formatting adjustments to accommodate that information. Like the macro formatting process, I would often create multiple drafts with different micro formatting options, send the drafts to the other team members, and combine and modify the drafts based on feedback.

In April of 2017 we agreed on the general micro format used in the final version of the chart. I was then able to spend the next two months updating the substance of the rest of the chart, drafting several new sections (e.g., detailed instructions on how to use the chart, sentencing for juveniles charged as adults, and sentencing enhancements) and making final edits. Judge Mullins premiered the reformatted chart at The Iowa State Bar Association Annual Meeting in June 2017.

My involvement with this sentencing project was, without a doubt, one of the best learning opportunities I had during law school. I gained a comprehensive understanding of sentencing in Iowa, including many of its quirks and present issues, which is invaluable because sentencing plays such a large role in the criminal justice process. The feedback and comments from Judge Mullins, as a former trial court judge, and my professor as a practicing criminal defense attorney, provided me with insight into trial judges' and litigants' approaches to sentencing. My experience also increased my appreciation of how style and presentation affect the palatability of information.

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Partner



Currently, I serve as a law clerk at the Iowa Supreme Court and I am proud to say that I regularly consult the reformatted chart, suggest it as a resource to the other law clerks and draw upon what I learned while involved with this sentencing project. I am incredibly grateful for the opportunity.

## STUDENT LEADERSHIP TESS POCKOCK & OLIVIA BROOKS

Judge Mullins and Kylie Crawford aimed to take the original document—once used as a quick reference—and turn it into a practical guide for practitioners and students across the state. Without Judge Mullins vision and Crawford's willingness to devote the time, this project would not have been possible. Crawford was in her final year at Drake Law when she alone took on researching the criminal law provisions of the Iowa Code in order to develop the new Iowa Sentencing Project. Once completed, she trained the incoming Drake Law research assistants—Olivia Brooks and Tess Pocock—on applying legislative updates and editing the chart.

The steep learning curve Brooks and Pocock confronted when they embarked on the next round of legislative updates epitomized how complex the sentencing provisions of the Iowa Code had become and how important it was to categorize the information in a useful and easily accessible manner. With Judge Mullins guidance, the two navigated the cross-references, became adept at statutory interpretation, and learned where and why general trends (and exceptions to those trends) existed in Iowa's criminal law provisions. Now, with two years of experience updating the Iowa Sentencing Project, Brooks and Pocock have begun to train new students to continue this important project. Lauren Calef and Ben Kenkel will improve upon the work of former students while gaining important skills and mentorship.

## OPPORTUNITIES

Although the project has come a long way, those involved have great aspirations for where it can go in order to refine and continue to develop this resource for members of the Iowa Bar. To this end, student research assistants will continue to add updated case law and, of course, incorporate legislative updates as they become available. While this project has been a useful tool for judges, attorneys, students, the general public and legislators in its current format, those working on this project see room for improvement with the project's usability.

Over the past semester, Brooks and Pocock have met with their professor and Judge Mullins to discuss the possibility of developing a phone application for the Iowa Sentencing Project. A phone app would take what is already a useful resource and make it more accessible to those already using it, while also expanding the user

base. The students have presented this vision to faculty and local attorneys. At this time, the research assistants are seeking grant funding with the goal of making the app project a reality.

The sentencing summary chart is now available on Fastcase 7, the legal research software available free to members of the ISBA. Simply select the browse button to access this resource and all other Iowa specific resources.



**Lauren Calef** and **Ben Kenkel** will be continuing to update and adapt the sentencing chart project as they work with the Drake Legal Clinic in their 3L year.

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# STATISTICAL REVIEW OF THE 2018-2019 IOWA SUPREME COURT TERM A NEW MAJORITY

By Spencer Cady

Since the 2010-2011 term, the Iowa Supreme Court has been coined the “Cady Court” as Chief Justice Mark Cady has not only served as the chief justice, but has consistently served as the deciding vote in divided cases between Justices David Wiggins, Brent Appel and Daryl Hecht on one side, and Justices Thomas Waterman, Edward Mansfield and Bruce Zager on the other. The 2018-2019 term shuffled the makeup of the court with the retirement of Justice Bruce Zager and resignation of Justice Daryl Hecht, and the appointments of Justices Susan Christensen and Christopher McDonald. A statistical review of the 2018-2019 term reveals a new majority among the current justices.<sup>1</sup>

## OPINIONS BY THE NUMBERS

The Iowa Supreme Court decided 108 cases by opinion last term, which is par for the court. It took an average of 82 days from the submission of a case for the court to publish an opinion. The justices published a total of 164 opinions, including majority, concurring and dissenting opinions. The number of dissenting and concurring opinions continued its increasing trend over the last decade. The court authored 42 dissenting opinions and 14 concurring opinions.

Justice Appel authored the most opinions with 40, including 19 dissenting opinions and six concurring opinions. Justice Wiggins authored 27 opinions, with 10 dissenting opinions and one concurring opinion.

Forty-five cases each came to the court by way of further review and direct appeal, making up 83 percent of the total cases. The court heard five cases on interlocutory appeal, two cases on certiorari, two cases on certified questions and one case on discretionary review. The court also decided 15 attorney discipline cases.

## JUSTICE AGREEMENT/ DISAGREEMENT

The justices agreed with each other approximately two-thirds of the time, publishing unanimous opinions in 71 of the 108 cases.

Of the remaining contested cases decided by the current court, the data shows Justices Waterman, Mansfield,

JUSTICE AUTHORSHIP				
JUDGE	TOTAL	MAJORITY	CONCURRING	DISSENTING
Cady	17	12	2	3
Wiggins	27	16	1	10
Hecht	1	1		
Appel	40	15	6	19
Waterman	22	18	1	3
Mansfield	22	17	1	4
Christensen	14	13	0	1
McDonald	8	3	1	4
<b>Per Curiam</b>	<b>13</b>	<b>13</b>		
<b>TOTAL:</b>	<b>164</b>	<b>108</b>	<b>14</b>	<b>42</b>

# IOWA SUPREME COURT 2019-2020 CALENDAR ANNOUNCED

The Iowa Supreme Court's next adjudicative term runs from Sept. 2, 2019 to June 30, 2020. This term includes a special evening session in Des Moines, special sessions at Drake and Iowa law schools and three special sessions in communities around the state to hear oral arguments. The 2019-2020 adjudicative term will also mark the sixth year the supreme court will live stream and archive its oral arguments on the Iowa Courts YouTube channel.

## THE COURT'S SPECIAL SESSIONS SCHEDULE

SEPT. 10, 2019	SEPT. 17, 2019	OCT. 11, 2019	FEB. 10, 2020	MARCH 26, 2020	MARCH 31, 2020
Muscatine High School 7:00 p.m.	Des Moines North High School 7:00 p.m.	University of Iowa School of Law 10:30 a.m.	Iowa Judicial Branch Building 7:00 p.m.	Drake Law School 9:30 a.m.	Oskaloosa High School's Auditorium 7:00 p.m.

Christensen and McDonald generally sided together in a majority of the cases. Justices Waterman and Mansfield agreed with each other 80 percent of the time, Justice Christensen agreed with Waterman 92 percent of the time, and Justice McDonald agreed with Waterman 86 percent of the time. Justices Christensen and McDonald sided together in 90 percent of the cases.

Justices Wiggins and Appel continued to vote along similar lines, agreeing with each other in 72 percent of the cases. Although no longer the swing vote, Chief Justice Cady remained relatively split between the two blocs, agreeing with Justices Wiggins and Appel in 52 percent of the cases, and agreeing with Justice Waterman 56 percent of the time, Justice Mansfield 64 percent of the time, Justice Christensen 50 percent of the time and Justice McDonald in 38 percent of the cases.

## TRAVELING COURT

The court continued its practice of taking the court outside of the judicial building to hold oral arguments on the road in venues across the state. The court held arguments in special sessions at the University of Iowa College of Law, Johnston High School, Red Oak, Drake University Law School and Forrest City. The court is expected to continue hearing cases on the road during the 2019-2020 term, with stops scheduled for Muscatine, Oskaloosa, Des Moines North High School, University of Iowa College of Law and Drake University Law School.

## CONCLUSION

The 2018-2019 term marked the addition of two new justices and the departure from the consistent voting bloc of the prior eight terms. The numbers indicate a new majority may

exist on the court with Justices Waterman, Mansfield, Christensen and McDonald generally siding in agreement in divided opinions. The Iowa Supreme Court begins its new term Sept. 2 and, if the 2018-19 data is an indicator of the future, appellate practitioners can expect this new majority in the 2019-2020 term.



**Spencer Cady** is an attorney at Nyemaster Goode, P.C. in Des Moines, where he focuses on commercial litigation. Cady is a 2013 graduate of Drake University Law School and clerked for Judge James E. Gritzner in the United States District Court for the Southern District of Iowa. He is an editor and contributor to On Brief: Iowa's Appellate Blog, which provides discussion on recent decisions and news from Iowa's appellate courts and public access to Iowa Supreme Court briefings.

## AGREEMENT AMONG CURRENT JUSTICES: NON-UNANIMOUS OPINIONS

	WIGGINS	APPEL	WATERMAN	MANSFIELD	CHRISTENSEN	MCDONALD
CADY	52%	52%	56%	64%	50%	38%
WIGGINS		72%	20%	20%	29%	29%
APPEL			12%	20%	13%	19%
WATERMAN				80%	92%	86%
MANSFIELD					75%	67%
CHRISTENSEN						90%
MCDONALD						

## FOOTNOTES

1. Statistics were compiled by Nyemaster Goode, P.C. Further discussion and analysis on the 2018-19 term can be found on OnBrief: Iowa's Appellate Blog, [www.iowaappeals.com](http://www.iowaappeals.com).



## ARABELLA MANSFIELD'S LEGACY CONTINUES .....

# 150 YEARS AFTER

By Frederic Hayer

## BECOMING THE FIRST FEMALE ADMITTED TO PRACTICE LAW

**T**hroughout history, the state of Iowa has been recognized as the home of numerous advances in the women's rights movement. In 1846, the year of its admission as a state, Iowa became the second state in the country to allow women to own property, and in 1857, the University of Iowa became the

first state university in the United States to allow women into its degree programs. Additionally, this year marks the 150th anniversary of Iowan Arabella Mansfield becoming the first woman in the history of the United States to be admitted to the state's bar. Arabella Mansfield led a life characterized by devotion to study, commitment to community and persistence in the face of adversity. As Iowans, we should take pride in her accomplishments and attempt to emulate her virtues in order to continue her legacy of discipline, service and equality.

Arabella Mansfield, née Belle Aurelia Babb, was born in Des Moines County on May 23, 1846. After her father died in a mining accident in California, Arabella Mansfield's family moved to Mount Pleasant, where she attended high school. In 1866, Arabella graduated from Mount Pleasant's Iowa Wesleyan College as valedictorian. Afterward, Arabella Mansfield studied law with her brother and fellow Iowa Wesleyan alumni in his law office in Mount Pleasant. Her brother, Washington

Irving Babb, was admitted to the Iowa bar one year ahead of his sister, and later went on to serve as a judge of the Second Judicial District of Iowa. In 1869, Arabella Mansfield became the first woman in the history of the United States to be admitted to the bar.

Arabella Mansfield applied for admission to the Iowa bar on June 15, 1869. At that time, The Iowa Code of 1851 in Section 2,700 (1610) of Chapter 114 on Attorneys and Counselors only explicitly authorized "white male person[s]" to be admitted to the bar. However, the examination committee, appointed by Henry County District Court Judge Francis Springer, considered this section in combination with a provision of statutory construction, division 3 of Section 29, Chapter 3 of the Revision of 1860, that provides that "words importing the masculine gender only may be extended to females." George B. Corkhill and E. A. Vancise, the members of the examination committee, wrote in their report that Arabella Mansfield exhibited "evidence of long and careful study, of excellent application, and a thorough acquaintance with the elementary principles of law" and gave "the very best rebuke possible to the imputation that ladies cannot qualify themselves for the practice of law."

During her lifetime, Arabella Mansfield was active in academics, holding positions including Registrar, Professor of History and Dean of both the Art and Music Schools at DePauw University, and lectured on art, literature and religion at numerous colleges



including DePauw University, Simpson College and Wesleyan College. Arabella Mansfield was also an active participant in the Women's Suffrage Movement, playing a substantial role in both the national and local Iowa women's rights organizations. Arabella Mansfield's legacy still lives on today and her accomplishments serve as an inspiration for all Americans to live up to.

In recognition of Arabella Mansfield's legacy, the Diversity Lab, a self-styled "incubator for innovative ideas and solutions that boost diversity and inclusion in law," created the Mansfield Rule in 2017. Modeled after the Rooney Rule, which requires NFL teams to interview at least one minority candidate for head coaching positions, the Mansfield Rule requires that at least 30 percent of candidates that law firms consider for

partner promotion and leadership positions are women or attorneys of color. Law firms that are in compliance with this standard can qualify to become "Mansfield Certified." Of the 44 law firms that initially adopted the Mansfield Rule, Diversity Lab concluded that, within the first year of implementation, 95 percent experienced an increase in formal discussions among firm leadership about including more diverse candidates in the applicant pool.

Arabella Mansfield's achievements are one of the many reasons to be proud of Iowa's history of advancing women's rights. However, today Iowa ranks among the 10 states with the greatest disparity in pay between men and women and is among the 17 states that currently have only

one female supreme court justice. To continue to grow Iowa's reputation as a state that fosters progress and social advancement for all and in order to honor Arabella Mansfield's legacy of equality and perseverance, Iowa law firms should help ensure that all qualified candidates for promotion are given due consideration by adopting and implementing the Mansfield Rule.



**Frederic Hayer** is currently a 2L at Drake University Law School. An Iowa native, he was born in Des Moines and received a B.B.A. from the University of Iowa's Tippie College of Business. He is interested in studying Business and Corporate Law and in his free time enjoys taking walks in nature.

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	1	2 AM	3	4	5 PM	6
7	8 PM	9	10	11	12	13
14	15	16	17 AM	18 AM	19 AM	20
21	22	23 AM	24 AM	25	26	27
28	29	30				

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# CLE HIGHLIGHTS

# FALL 2019

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The Agricultural Law Seminar is an event no attorney with agricultural or rural clients will want to miss. Highlights include an update from the Federal Reserve on the farm economy, a message from Justice Waterman on the Iowa Business Specialty Courts, a look at the status of industrial hemp, a review of legal issues impacting contract feeding arrangements and much more.

CLE CREDIT: 6.5 state hours which includes 1 ethics hour

## CORPORATE COUNSEL AND TRADE REGULATION SEMINAR



Sept. 27 • 8:45 AM - 4:15 PM  
In-person or Live Webinar  
ISBA Building, Des Moines

This seminar will cover many developments of interest to corporate counsel and trade regulation attorneys, including new trends in corporate governance, data privacy, insurance bad faith and antitrust law, immigration enforcement, as well as the Iowa Supreme Court's 2018-2019 business docket.

CLE CREDIT: 5.5 state hours which includes 1 ethics hour

## FAMILY LAW SEMINAR



Oct. 24-25  
West Des Moines Marriott, West Des Moines

Seminar presentations include business valuation experts discussing how to analyze a small business owner's tax return, spousal support guidelines, QDRO basics, minor guardianship proceedings and a presentation on all the changes related to the Family First Prevention Services Act.

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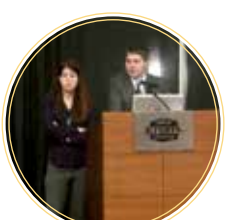
## **MECHANIC'S LIENS FOR LENDERS**

Stephen Marso, Whitfield & Eddy, PLC, covers important information about the mechanic's liens statute, case law and offers insightful tips.



## **WHEN TECHNICAL OBJECTIONS SHOULD CLOUD TITLE UNDER IOWA LAND TITLE STANDARD 1.1**

Timothy Gartin, Hastings Gartin & Boettger LLP, addresses Title Standard 1.1 and examines what's at stake if it's not properly applied.



## **ONE OF THESE IS NOT CERTAIN: DEATH. TAXES. IDR PURGATORY.**

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# NOT ALL SUPERHEROES WEAR CAPES

By J. Andrew Cederdahl,  
Assistant Iowa Attorney General



 "I have a very dear friend I take care of who is 95 and three unidentified people have gone inside his house and locked the door...and I'm very scared that they are harming him." On May 30, 2018, a caller frantically requested police be dispatched to the home of the 95-year-old.

Continued on page 20

Continued from page 19

The transcript appears to reflect the 911 operator's search for meaning among the cacophony of facts presented. "Where did you get information about someone having gone to the location?" "How did they get into the location, they just walked into an open door?" "But you're the caregiver that takes care of the 95-year-old person that's there?" "[Are we] talking about a legal situation or a medical situation[?]"

The operator's questions progressively narrowed as the caller's answers began to paint a familiar picture of elder abuse. What did the police discover when they arrived?

The 95-year-old was famed American comic book writer Stan Lee. The caller reporting the "three unidentified people" was Keya Morgan, who was being investigated by police officers for allegedly engaging in elder abuse against Lee. Media outlets

reported that Morgan was a memorabilia collector who began acting as Stan Lee's manager and later became his "caretaker" sometime after Lee's wife died in 2017. Events precipitating the 911 call included Morgan allegedly firing Lee's long-time attorney Tom Lallas, filing civil lawsuits on Lee's behalf and denying contact between Lee and his family and lifetime associates.

Lallas eventually filed an application for a civil elder abuse no-contact order on Lee's behalf that alleged Lee was experiencing impaired judgment, was "vulnerable to financial predators" and had "a large estate worth over \$50 million" with no clear fiduciary to act on his behalf. Lallas attached the transcript of Morgan's 911 call as an exhibit to his application.

The unfortunate events that transpired during the final stages of Lee's life are striking. Lee was credited with co-creating iconic comic superhero characters such as Spider-Man and the X-Men, so he was creative, thoughtful and engaged. He reportedly loved being active in cameos and conventions, so he lived a rather public celebrity life. He was a man of great financial means and had the resources necessary to guard his interests. The story of his alleged exploitation brought media attention to the issue of elder financial exploitation and served as a reminder that elder abuse can happen to someone like Lee, who otherwise appears well-situated to protect against it.

It is a mistake to assume that the California multi-millionaire's story is a classic elder financial abuse scenario completely akin to what is occurring within rural Iowa, although certain parallels can be drawn. The tactics Morgan allegedly used against Lee are common in cases of elder financial exploitation, and it is certainly true that many older Iowans have large assets like family farms to be stolen. The wealth of some older Iowans can make them targets for exploitation.

## ELDERLY POOR AT GREATER RISK

As helpful as it is in directing public awareness to the problem of elder financial exploitation, Lee's story has the potential to create public confusion about the "typical" elder financial abuse victim. A study by the US Securities and Exchange Commission Office of the Investor Advocate entitled *Elder Financial Exploitation: Why It Is A Concern, What Regulators Are Doing About It, And Looking Ahead* reported that "paradoxically,...the elderly poor are at even greater risk of financial exploitation [than the wealthy]." We should not mistakenly assume that the elderly poor are less likely to be exploited because there is presumably "nothing" — or at least far less than Stan Lee's \$50-million-dollar estate — to be stolen from them. In reality, elder financial exploitation of those with far less means than Stan Lee is rampant. If exploitation can happen in plain sight to someone as privileged as Stan Lee, it is frightening to fathom the reality of victimization largely hidden from public view in places like rural Iowa.

Iowans are becoming more aware that elder abuse is a pervasive problem. Research studying the prevalence of elder abuse perhaps universally concludes that it is an underreported public health crisis increasing in frequency. Reports and recommendations abound, warning of the aging "baby boomer" population and the need for proactive efforts to address the alarming rate of predation it will likely continue to experience.

The Iowa Department of Human Services (DHS) Dependent Adult Statistical Report for the period from July 1, 2017 until June 30, 2018 indicates that DHS received a staggering 8,195 reports of alleged dependent adult abuse or neglect. Though it is a safe assumption that a portion of the 8,195 allegations were unjustified, we also know that elder abuse is consistently underreported. Older Iowans' actual experiences with elder abuse may therefore be much worse than these numbers suggest. Even if the reality is on par with the statistics, they

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nonetheless reflect a serious issue.

Yet, a 2018 study called *The Elder Abuse Pathway in East Central Iowa* reported that “an older Iowan who experiences some form of abuse, exploitation or neglect has less than a five percent chance of any formal litigation taking place after filing a claim[, so]...this population continues to be adversely affected by a lack of legal recourse.” Review of the figures suggests an unmet demand for legal services from elder abuse victims.

## POTENTIAL SOLUTIONS

Elder abuse statistics outline not only appalling problems, but potential roadmaps for solutions. Those of us who have attended an elder abuse presentation may know the feeling of resignation in the face of the problem’s enormity. Presenters tend to divulge elder abuse statistics before the

discussion of the complexities involved with remedying abuse even begins.

It is important to keep educating the public about the severity of the elder abuse problem, but we should resist thereby rendering the issue presumptively insurmountable from the outset. It can be helpful instead of defeating to know the scope of any problem one endeavors to solve. In defining a problem’s scope, we can give it the legitimacy and urgency demanded. We can find allies with whom to coordinate resources and intelligence. We can debate and plan how to realistically take action to address the matter.

Private Iowa lawyers need not be resigned observers of the onslaught of depressing elder abuse statistics. Participation by the private bar in civil cases involving elder financial exploitation may be the pivotal factor in efforts to meet the demand for legal services elder abuse victims need. Many private

Iowa attorneys nonetheless wonder whether they have an appropriate or viable role in stemming the problem.

Private Iowa attorneys are empowered to use a relatively new action in Iowa called a 235F petition for relief from elder abuse. The petition gives victims and private attorneys a quicker and less costly remedy than would have been previously required. Prior to its availability beginning in 2014, an elder abuse victim’s only routes to justice were through government agencies like DHS or hiring a private attorney to file traditional causes of action against the alleged abuser. DHS is unable to investigate many reports of elder abuse because the alleged abuser is not a “caretaker” as statutorily defined in Iowa Code 235B. Iowa Code 235F broadened the categorical definition of abusers such that they need not be “caretakers” to be sued by private actors. The broadening of

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235F's definition of abusers includes family members who are not necessarily engaged in "caretaker" activities, providing a remedy against widespread elder abuse and exploitation by family members. The 235F petition for relief from elder abuse is therefore an incredibly valuable tool at the Iowa bar's disposal, but is not as widely used or known as it should be.

## USING 235F PETITIONS TO ESTABLISH/EXPAND LAW PRACTICES

Private attorneys who are working to establish practices in Iowa or those who are looking to expand their practices should consider learning how to use 235F petitions for relief from elder abuse. The aging population is growing. Increasing numbers of older Iowans will need civil legal services. Learning how to represent victims in

elder financial exploitation cases is a helpful introduction to elder law principles all private attorneys will need to grasp in order to effectively serve and guard their older clients.

Attorneys who file petitions for relief from elder abuse can expect to obtain quick and meaningful courtroom experience. A traditional civil action is not typically tried until a year or more after it is filed, and only then after extensive discovery processes. Many cases settle before they reach the courtroom. In contrast, Iowa Code chapter 235F.5(1) provides that a hearing upon a petition for relief from elder abuse is to be set between five and 15 days after commencing the proceeding and noticing the opposing party. Gaining experience in directing and crossing witnesses, entering exhibits and making arguments to judges will help attorneys hone trial experience transferable to other non-"elder law" contexts.

Further, the potential for an award of costs and attorney fees to 235F petitioners incentivizes private bar participation in the fight against elder abuse. Iowa Code chapter 235F.6(7) provides that the court can assess costs and attorney fees against the abuser if the petitioner can prove elder abuse.

Many low-income older Iowans are financially exploited by alleged "caretakers," fiduciaries and others informally associated with the victim. As was alleged in the case of Stan Lee, an exploiter may effectively be the victim's only company and may have control over the victim's financial resources. The victim may therefore have an imminently provable case, but simply cannot file a 235F petition pro se, cannot afford a private attorney to bring the case and/or has no other allies to file as substitute petitioner.

Attorneys who become aware of such cases might choose to take a smaller financial risk by attempting to obtain payment from the abuser rather than bringing a traditional cause of action against the abuser (particularly in cases where there is no \$50-million-dollar estate). They would not be locked into a years-long battle

with uncertain prospects of payment for their legal services.<sup>1</sup> Even if the victim requires greater relief than is permitted by 235F petitions, obtaining an order via the 235F petition can stabilize victims needing imminent assistance.<sup>2</sup>

Most important, all Iowa attorneys should consider learning more about using 235F petitions because helping elder abuse victims is the right thing to do. Stan Lee created iconic superhero characters recognized around the world not only for their distinctive regalia, but also for their principled pursuits of justice. Stan Lee's characters were fictional, but it is possible for us to strive to attain the ideals for which many of his characters stood. After all, it was not a superhero in a cape who came to Stan Lee's aid in his time of need. It was his lawyer.

## TIPS FOR USING PETITIONS FOR RELIEF FROM ELDER ABUSE

### 1. Attaining quick and effective remedies for financial exploitation

A petitioner using 235F can obtain more than the simple "no-contact" order of which most attorneys are familiar in domestic abuse contexts. The 235F process is modeled after the 236 process but includes broader remedies tailored to circumstances of elder abuse.

Petitioners can request that the abuser be restrained from contacting the victim via 235F, but this remedy is often insufficient in the case of elder financial exploitation. Abusers may further victimize from afar through the misuse of fiduciary powers. Therefore, petitioners who prove elder financial exploitation can obtain other remedies, including an order restraining the abuser from exercising powers on behalf of the victim and returning custody or control over "funds, benefits, property, resources, belongings or assets" of the victim.

Note that Iowa Code 235F.6(3)(a)-(b) makes clear that the summary 235F petition proceedings are not

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end-runs around the probate code in order to obtain de facto guardianships and conservatorships. The 235F petitions are not methods to allow others to “assume responsibility” for the victim’s assets, and petitioners cannot use 235F to obtain an order “affecting title to real property.”<sup>3</sup>

## 2. Proving “Vulnerability”

Petitioners must prove that the alleged victim is a vulnerable elder – someone over 60 “who is unable to protect himself or herself from else abuse as a result of a mental or physical condition or because of a personal circumstance which results in an increased risk of harm to the person.” This provision was recently amended from prior language, which appeared to read that age alone could make one “vulnerable” for purposes of proving abuse. The Iowa

Supreme Court addressed the meaning of “vulnerability” in *Chapman* (890 N.W.2d 853) and *Struve v. Struve* (930 N.W.2d 368, (Iowa 2019)). In *Struve*, the Court noted that, “[a]bsent proof of the inability to self-protect, the statute would encompass garden-variety legal claims involving persons age sixty or older.” Therefore, petitioners using 235F should

ensure they endeavor to sufficiently evidence vulnerability of the older person. It is important to remember that the dynamics of abuse are real regardless of age.

## 3. Appointing a Guardian Ad Litem

Iowa Code 235F.4 provides that the court may, on its own motion or on the motion of a party, appoint a guardian ad litem for a vulnerable elder if justice requires. Note that the vulnerable elder’s attorney cannot serve as the guardian ad litem.

*This article is for educational purposes only. Information conveyed herein does not create an attorney-client relationship. The Coordinated Community Response (CCR) Team is a multidisciplinary group of professionals addressing systemic barriers to elder abuse victims in Iowa. The Iowa Attorney General’s Office, along with other government and non-profit partners, administers the Office on Violence Against Women Enhanced Training and Services to End Abuse in Later Life Grant (CFDA No.16.528 and Award No. 2015-EW-AX-K003), which funds the work of the CCR. Contact Assistant Iowa Attorney General Chantelle Smith at [Chantelle.Smith@ag.iowa.gov](mailto:Chantelle.Smith@ag.iowa.gov) if you are interested in contributing.*

## FOOTNOTES

1. The Iowa Supreme Court recently clarified that 235 petitions for relief from elder abuse institute “summary proceedings” intended to provide limited but expedited relief to vulnerable elder subject to elder abuse. *Struve v. Struve*, 930 N.W.2d 368 (Iowa 2019).
2. “A proceeding under [Iowa Code 235F] ... is in addition to any other civil or criminal remedy.” Iowa Code chapter 235.8(1).
3. The Iowa Supreme Court’s most recent case interpreting Iowa Code 235F further elaborates that “joinder of additional claims to a petition for relief from elder abuse is disallowed.” *Struve v. Struve*, 930 N.W.2d 368 (Iowa 2019).



# ON DEBT, AND SOLUTIONS

A message from YLD President  
Abhay Nadipuram



YLD President Abhay Nadipuram provides introductory remarks for the program *Uncomfortable Conversations About Legal Education — Student Debt, Diversity, And More.*



YLD Immediate Past President Maggie White begins the Lightning Talks with a presentation about the public student loan forgiveness program.



Drake Law School Dean Jerry Anderson presents on income sharing agreements as an alternative for law schools.

These days most all young attorneys entering the profession come to their first job with a load of debt fastened like a ball and chain firmly on their ankles. It follows them wherever they go, and the debt's heavy burden impacts their career and life choices. It's a problem that is impacting the profession on a large scale—fewer attorneys can afford the risk of solo practice, attorneys are forced to abandon rural communities in favor

of higher paying urban opportunities, and more are putting off having families and buying homes until they get a better handle on the debt. While well-known and widely discussed, the problem has not until very recently spurred many promising solutions.

The Iowa State Bar Association Young Lawyers Division has positioned itself at the forefront of finding solutions by working closely over the past two years with Law School

Transparency (LST), a non-profit based in North Carolina that has a mission to make entry to the legal profession more transparent, affordable and fair. The YLD and LST recently announced a Blue Sky Initiative centered on the systemic challenges that make lowering prices and advancing diversity in our profession so difficult.

We kicked off the initiative on August 8 at the ABA Annual Meeting in San Francisco. In collaboration with the ABA Young Lawyers Division, we presented an entire morning. Some of the programming focused on the barriers to reducing the cost of legal education and what regulators, bar associations, lawyers and law schools need to do in order to overcome these barriers.

The program, *Uncomfortable Conversations About Legal Education: Student Debt, Diversity, And More*, showcased an array of speakers, including Kyle McEntee, executive director of LST; Kyle Fry, chair of the ISBA Innovations Committee; Maggie White, immediate



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past president of the ISBA YLD; and Dean Jerry Anderson of Drake University Law School. The speakers discussed how the law school business model is a house of cards, how the *U.S. News & World Report* rankings harm innovation, several affirmative steps regulators and law schools can take to make law school affordable, and student debt alternatives that may make financing law school less difficult. Programming materials and a description of the efforts to date can be found at [www.LawSchoolTransparency.com/progress/](http://www.LawSchoolTransparency.com/progress/).

Bar, on how it can better nurture innovation and help schools responsibly charge their duties to our profession and those we serve. Regulatory change can affect the cost of joining the legal profession in big and small ways.

The group's call has consistently been to 'talk less and do more.' As just one example, LST and the YLD have jumped head first into creating a thoughtful and independent measurement system for law schools that is very similar to LEED Certification. Schools will be able to earn certification in a handful of categories that are

The ISBA was the first bar association in the country to contribute to the Blue Sky Initiative, pledging \$30,000. Since then, other bar associations have pledged support, and several Iowa lawyers have contributed individually. The collaborative is currently looking for additional financial partners to ensure the Blue Sky Initiative is a long-term success.

(Anyone can make a tax-deductible contribution to this initiative through Law School Transparency by going to [www.donateLST.com](http://www.donateLST.com).)



LST Executive Director Kyle McEntee presents on how *U.S. News & World Report* can change its criteria to reflect what matters in legal education.



Kyle Fry of the ISBA YLD moderates a panel to discuss what long-term solutions exist to reduce the cost of legal education.



Summit organizers pictured left to right: Abhay Nadipuram, Kyle Fry, Maggie White, Torey Cuellar, Kyle McEntee.

We could talk endlessly about who or what is to blame for the exorbitant cost of law school, but it's far more productive to focus on changing what needs to change. The Blue Sky Initiative does just that by confronting the structural barriers that hold schools back. We envision lower tuition, less financially-stressed graduates and a profession that looks more like our diverse society.

Much of our focus is on a de facto regulator of law schools, *U.S. News & World Report*—a ranking that does not consider how it impacts the modern and future law school. The incentives it creates and hierarchy it reinforces complicate even the most basic reform conversations within law schools. Decision-makers need new systems of measurement that produce better incentives, yet still offer consumers valuable information as they decide where to attend law school. We also plan to continue to work with the actual regulator, the ABA Section of Legal Education & Admissions to the

significantly undervalued in today's ranking system. We are currently securing input from stakeholders throughout the country and profession through interviews, small group discussions and convenings.

At its core, the Blue Sky Initiative is both a cost and a diversity initiative, each of which is a very important focus of my time as president of the YLD.

I am truly grateful for the work that Kyle Fry and Kyle McEntee did to make this happen. I'm also thankful for the ABA YLD for its financial and logistical support. This summit was a great start to the Blue Sky Initiative and we hope that it has motivated our friends and peers to partner with us.

Thanks,  
**Abhay Nadipuram,**  
*YLD President 2019-2020*

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# TRANSITIONS



GEHLING

**Emilee Gehling** and **Anthony Osborn** have opened the Gehling Osborn Law Firm in Sioux City. Both are licensed in South Dakota, Iowa and Nebraska. They serve clients throughout the three states. For further information, please visit [www.golawfirm.com](http://www.golawfirm.com) or call (712) 226-4600.

**Gehling** received her J.D. from the University of Iowa College of Law and focuses on general business, real estate, mergers and acquisitions, estate planning, surrogacy and adoption.

**Osborn** received his J.D. from the University of Iowa College of Law and focuses on construction law and complex business litigation including, but not limited to, disputes involving breach of contract, trade secrets, real estate and employment.



OSBORN

**Eugene L. Nassif** has joined Lederer Weston Craig PLC as an associate attorney. He received his J.D. from Drake University Law School in 2018. Prior to joining the firm, he worked as a clerk and associate attorney at LaMarca Law Group in Des Moines, and additionally with former state Rep. Ken Rizer and former Iowa Gov. Terry Branstad.



NASSIF



CLARK

**Barbara J. Clark** has joined Westman, Champlin & Koehler in Minneapolis. Clark practices general intellectual property law with an emphasis on patent prosecution and client counseling. She has over 25 years of experience in preparing and prosecuting patents related to chemical, chemical engineering, food science and mechanical inventions, with an emphasis on green technologies.



CARDA

**Nicholas A. Carda** has joined the firm of McEnroe, Gotsdiner, Brewer, Steinbach & Rothman in West Des Moines as an associate. He received his J.D. from the University of South Dakota School of Law. He will practice primarily in the areas of criminal defense and civil litigation.



FOLEY

**Thomas W. Foley** has joined Riccolo, Semelroth, & Henningsen, P.C. ("RSH Legal") in Cedar Rapids as an attorney. Before joining RSH Legal, Foley was a partner with Spies, Pavelich, & Foley in Iowa City. He represents individuals in all types of employment-related litigation and will lead RSH Legal's new employment law/individual rights practice group. Foley is admitted to practice in the Northern and Southern Districts of Iowa, as well as the Eight Circuit Court of Appeals.

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## KUDOS

### IOWA'S UTILITY CONSUMER ADVOCATE TAKES NATIONAL LEADERSHIP ROLE

**Mark Schuling**, the utility consumer advocate for the state of Iowa, is the new president of the National Association of State Utility Consumer Advocates (NASUCA). Schuling has previously served as secretary, treasurer and most recently vice president of NASUCA.

Schuling was appointed by Iowa Attorney General Tom Miller as the Iowa Consumer Advocate in January 2011. He was previously a practicing attorney for over 20 years with the Brick, Gentry, Bowers, Swartz, Stoltze, Schuling & Levis Law Firm in Des Moines, and served as director of the Iowa Department of Revenue from 2005 to 2011 under Governors Tom Vilsack and Chet Culver.

*NASUCA is a voluntary association of 57 consumer advocate offices.*

## LETTER TO THE EDITOR

Dear Editor,

Jim Provenzale's discussion of the formal memorandum is excellent ("In defense of the memorandum" from the August 2019 *Iowa Lawyer*). Another consideration in defense of memoranda is this: It allows the lawyer to set forth in detail the facts that have been communicated by the client and the precise issue(s) researched. This may avoid problems later related to misunderstandings over what was communicated and what research was requested. Best wishes!

John D. Sens





WETSCH

**David Wetsch** and **Emily McGovern** have joined Dickinson, Mackaman, Tyler & Hagen, P.C. in Des Moines.

**Wetsch** earned his J.D. from Drake Law School in 1979 and joined the firm as a shareholder. With over 40 years of experience in the Des Moines area, David's general practice provides counsel to individuals and businesses in Iowa and across the country on a variety of matters including banking, real estate and estate planning. He also advises clients in general business and corporate law matters. He comes to Dickinson Law from Wetsch, Abbot & Osborne, PLC, where he was a founding partner.



MCGOVERN

**McGovern** joined the firm as an associate in the startup and banking groups, assisting new companies with their legal needs as they plant roots in Iowa and around the Midwest. Her practice will focus on a variety of issues, including banking, mergers and acquisitions, corporate law, privacy matters and cybersecurity. She received her J.D. at Washington University School of Law, and most recently a Master of Laws (LLM) degree focused on Law & Entrepreneurship from Duke University School of Law.



WEICK

**David Arthur Weick** has joined Cordell & Cordell in the firm's Des Moines office. Weick earned his J.D. from the Sandra Day O'Connor College of Law at Arizona State University. Prior to joining Cordell & Cordell, Weick practiced family law, juvenile law and criminal law.



PLAISANCE

**Lara Q. Plaisance** and **Kathryn R. Johnson** have joined MVP Law as shareholders. The firm has also opened a new West Des Moines office to accommodate growth and to continue providing prompt and efficient legal defense in workers' compensation cases throughout Iowa.



JOHNSON

**Plaisance** returns to the firm after six years of practice exclusively in Iowa workers' compensation law. **Johnson** joins the firm after practicing insurance defense in the areas of workers' compensation and tort litigation in Iowa for the past eight years.

The law firm of **Hupy and Abraham, S.C., P.C.**, has announced the relocation of its Cedar Rapids office to serve clients better and accommodate its staff. Hupy and Abraham handles personal injury cases, including car and motorcycle accidents, slip and falls, dog bites and trucking accidents. The new office is located at 415 12th Ave. SE, Suite 202 in Cedar Rapids, and will be open Monday through Friday from 8 a.m. to 5 p.m. Firm headquarters will remain in Milwaukee, Wisconsin.

## IN MEMORIAM

**Katherine Anne Daman**, 41, of Waterloo, died Aug. 4. Daman was born in 1977. She received her J.D. from Drake University Law School, and was a litigator for Cordell and Cordell, a domestic litigation firm. She opened the Des Moines office where she was a key contributor to its success and growth.

**Richard B. Riley**, 77, of St. Paul, MN, died July 19. Riley was born in Keokuk in 1942. He received his J.D. from the University of Iowa College of Law. Upon receiving his law degree, he accepted a position with the office of the Minnesota Attorney General in St. Paul. Subsequent legal positions included the Department of Housing and Urban Development (H.U.D.) and in-house counsel for Northland Mortgage. He retired in December 2017.

**Matthew J. Coleman**, 51, of Boone, died May 21. Coleman was born in Boone in 1968. He served in the U.S. Air Force active duty from 1990 to 1993 and was also in the Air Guard for numerous years. He received his J.D. from Creighton University School of Law in 2013. In 2016, he self-published a fiction novel.

**R. Jeffrey Lewis**, 72, of Indianola, died July 22. Lewis received his J.D. from the University of Minnesota. In 1972, he joined the firm of Davis, Johnson, Burt & Davis in Des Moines. That firm merged to become the Gamble & Davis law firm where he shortly became a partner, specializing in the defense of the transportation industry and commercial litigation. In 1994, he became managing partner of the law firm Lewis, Webster, Van Winkle & Knoshaug, where he practiced for the rest of his career. He was honored with memberships in the Iowa Academy of Trial Lawyers and the American College of Trial Lawyers.

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**Litigation Associate Attorney** – Davis Brown Law Firm, Des Moines, IA – Davis Brown, a large law firm with offices in Des Moines, West Des Moines and Ames, seeks a litigation associate attorney for the downtown Des Moines office. Candidates must have between 1 and 4 years of experience in general litigation. Candidates should exhibit strong academic performance, work ethic and interpersonal skills. To apply, visit <https://careers.iowabar.org/jobs/12607717/litigation-associate-attorney>

**Associate Attorney** – Mark Gray Law, PC, Ankeny, IA – Mark Gray Law is seeking an attorney to join our transactional firm for a full-time non-partnership or partnership track position to assist primarily with the firm's estate planning and probate practice. Preferred candidates are those with a strong interest in

estate planning, probate and trust administration. Please send a resume and cover letter to Tammy Gray at [tgray@markgraylawplc.com](mailto:tgray@markgraylawplc.com) or you may provide an "anonymous" submission.

**Law Firm Bookkeeper** – McEnroe Law Firm, PC, West Des Moines, IA – McEnroe Law Firm is seeking a bookkeeper. Law firm experience required. Must pass a background check and have experience working in an Iowa law firm. Must be experienced in handling IOLTA Trust Accounts as well as being able to perform all payroll functions, client billing, receivables and accounts payable. Experience in preparation and filing of court appointed claims for federal, state criminal and juvenile cases is a plus. All replies are held in confidence. To apply, visit <https://careers.iowabar.org/jobs/12625518/law-firm-bookkeeper>.

**Chief Compliance Officer** – University of Iowa Health Care, Iowa City, IA – Reporting to the Associate Vice President and CEO of UI Hospitals & Clinics and the Associate Vice President and Executive Dean of the UI Carver College of Medicine, the CCO is responsible for the direction and leadership of the compliance and privacy program for UI Health Care. The new CCO will continue to develop and oversee an integrated, enterprise-wide compliance and privacy program to support UI Health Care. Recruiting is underway and will continue until the appointment is made. To discuss this position further, or to make nominations, please feel welcome to contact us by email at [UIHealthCareCCO@wittkiewer.com](mailto:UIHealthCareCCO@wittkiewer.com)

**Contract Administrator** – University of Iowa Division of Sponsored Programs, Iowa City, IA – The University of Iowa Division of Sponsored Programs (DSP) is seeking a full-time contract administrator to join the staff of a thriving research administration office in a BIG10 institution of higher education. We offer a challenging and exciting work environment in which one has the opportunity to grow and learn about research contracts in an academic setting. The contract administrator position

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**Special Assistant United States Attorney** (HIDTA/Iowa Attorney General's Office) – United States Attorney Southern District of Iowa, Des Moines, IA – Applicant will be employed by the Iowa Attorney General's Office. This position will be physically located at the United States Attorney's branch office in Davenport. The branch office is in the recently remodeled, state-of-the-art Davenport federal courthouse. Davenport is located on the banks of the Mississippi River and is part of the Quad Cities metropolitan area. Send resume and cover letter to: Vicki Bahe, HR, Office of the Attorney General of Iowa, 1305 E. Walnut St., Des Moines, IA 50319, Or send via email to [vicki.bahe@ag.iowa.gov](mailto:vicki.bahe@ag.iowa.gov).

**Associate Attorney** – Baylor Evnen, LLP, Lincoln, NE – Baylor Evnen, LLP is currently accepting resumes for an associate attorney in the Workers' Compensation Practice Group. The ideal candidate will have quality work experience with an emphasis in litigation or workers' compensation. Qualified candidates will preferably be admitted in Nebraska and Iowa or in a position to gain admittance to Iowa in the near future. To apply, visit <https://careers.iowabar.org/jobs/12571252/associate-attorney>.

**Legal Counsel** – Legislative Services Agency, Des Moines, IA – Effective immediately, applications are being taken by the nonpartisan Legislative Services Agency for the position of legal counsel. Applicants should send a resume and cover letter to the Director, Legislative Services Agency, State Capitol, Des Moines, IA 50319, or online at <https://www.legis.iowa.gov/careers>. The Legislative Services Agency is an equal opportunity employer. Applications must be received by Sept. 6, 2019.

**Attorney 1** – Iowa Department of Revenue, Des Moines, IA – Thank you for considering a career with the Iowa Department of Revenue. The Department has the opportunity to interact with nearly every Iowan at some point during his or her lifetime. To do our job, we must effectively communicate and focus on our customers. Submit a completed Iowa Department of Administrative Services – Human Resources Enterprise (DAS-HRE) application form by the closing date. To complete an electronic application form, click on "Apply for Job Vacancy(s)" button. You may also mail an application form to: Iowa Department of Administrative Services – Human Resources Enterprise, Hoover State Office Building, 1305 East Walnut St., Des Moines, IA 50319-0150 or fax your application to (515) 281-7970. Applicants must also submit a cover letter and resume to Mary Kay, at [marykay.younger@iowa.gov](mailto:marykay.younger@iowa.gov) before the job posting end date.



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**Workers' Compensation Defense Attorney** – Hopkins & Huebner, P.C., Des Moines, IA – Seeking a workers' compensation attorney. Independently manage a caseload involving workers' compensation matters, working cases from beginning to end, work closely with other attorneys on legal projects and represent clients in a wide range of litigation claims. To apply, visit <https://careers.iowabar.org/jobs/12696992/workers-compensation-defense-attorney>.

**Corporate Counsel, Officer** – Hills Bank, Hills, IA – The Corporate Counsel, Officer provides legal counsel to the bank in a variety of areas, including acting as a key resource for general in-house legal questions; reviewing and negotiating contracts with third-party vendors; revising bank agreements, forms, letters, and operational procedures; preparing bankruptcy documentation, and responding to subpoena requests. To apply, visit <https://careers.iowabar.org/jobs/12698384/corporate-counsel-officer>.

**Litigation, Real Estate & Tax Attorneys** – Bradley & Riley PC, multiple Iowa offices – Bradley & Riley PC, an AV-rated firm with offices in Cedar Rapids, Iowa City and Chicago is seeking candidates for the following positions: Experienced tax attorney with a minimum of 2 years of experience in state and federal tax law for their Iowa offices. The ideal candidate will have CPA or experience at a public accounting firm or law firm. Experienced real estate attorney for their Cedar Rapids office. The ideal candidate will have 5 years or more experience in real estate law, a strong attention to detail, and excellent writing and communication skills. Litigation associate attorney for their Iowa offices. The ideal candidate will have 1-8 years or more experience in litigation, a strong attention to detail, and excellent research, writing and communication skills. Send cover letter, writing sample and resume in confidence to: Bradley & Riley PC, Attn: Kandi McElroy, 2007 1st Avenue SE, Cedar Rapids, IA 52402, Or electronically to: [kmcelroy@bradleyriley.com](mailto:kmcelroy@bradleyriley.com).

**Corporate Counsel** – Ruan Transportation Management Systems, Des Moines, IA – Seeking a corporate counsel to oversee litigated workers compensation, auto, liability, and review contracts. Frequent travel is required. For more details and to apply, visit <https://careers.iowabar.org/jobs/12707006/corporate-counsel>.

**Assistant Attorney II** – City of Sioux City, Sioux City, IA – The City of Sioux City is looking

to hire an Assistant City Attorney II. The Assistant City Attorney II deals with serious and complicated aspects of the practice of law. Responsibilities include negotiation and trial primarily civil litigation, preparation of major contracts and documents, and litigation of labor matters; personnel issues including attending pre-disciplinary and grievance hearings, along with many other duties as needed. For a complete job description, minimum qualifications and to apply please visit the City of Sioux City website at [www.Sioux-City.org](http://www.Sioux-City.org).

**Assistant City Attorney I** – City of Sioux City, Sioux City, IA – The City of Sioux City is looking to fill the position of Assistant City Attorney I. The Assistant City Attorney I will research law and prepare and try minor cases, conduct legal research, prepare memorandums and briefs and prepare/review legal documents. Will research and prepare ordinances; counsel, advise and consult with employees from city departments; prepare, prosecute or defend misdemeanor crimes – crimes which typically involve law enforcement personnel in addition to lay witnesses. For a complete job description, minimum qualifications and to apply please go to the City of Sioux City website at [www.Sioux-City.org](http://www.Sioux-City.org).

**Trust Officer** – Iowa State Bank, Urbandale, IA – We are currently seeking a Trust Officer at our Hickman location in Urbandale. The Trust Officer is responsible for the administration of personal trust accounts with a focus on meeting the needs of current account holders and on developing new trust business and referrals to the bank. To apply, visit <https://careers.iowabar.org/jobs/12725602/trust-officer>.

**Business Law/Bankruptcy Attorney** – Bradshaw, Fowler, Proctor & Fairgrave, P.C., Des Moines, IA – One of the busiest bankruptcy and reorganization practices in Iowa has an opportunity for a seasoned and talented attorney. The right candidate ideally has five-plus years' experience in a bankruptcy and reorganization practice. We offer a competitive salary and benefits commensurate with

experience. Associate and lateral opportunities also may be available. Send CV to Jeffrey D. Goetz at [goetz.jeffrey@bradshawlaw.com](mailto:goetz.jeffrey@bradshawlaw.com).

## UPCOMING EVENT

Please join us for the opening dinner of the Inns of Mediation 2019-2020 year on Tuesday, Sept. 24 at Hoyt Sherman Place, 1501 Woodland Ave., Des Moines. Our keynote speaker will be Amy Skogerson from The Law Shop. Tickets can be purchased at [www.innsmediation.org](http://www.innsmediation.org), by selecting the Membership Registration link. All the dinner meetings are included with your membership, or individual tickets can be purchased for \$35/dinner. In addition to the 1.5 hours of CLE for the dinners, members will also have access to nine additional CLE webinars during this academic year. Watch for our upcoming webinar invite.

## SPACE AVAILABLE

Office Space available for a one-year lease with an option to renew. Three available offices: two are 10' x 14' and one is 10' x 11' Rent includes full use of a conference room with seating for 8, learning center with seating for 26 people, a receptionist to direct calls and a kitchen. Please email [kelly@weissfg.com](mailto:kelly@weissfg.com) for additional information or to request a rental application.

## PERSONAL

If depression, stress, alcohol or drugs are a problem for you, we can help. We are a non-profit corporation offering attorneys free help in a totally confidential relationship. We are the Iowa Lawyers Assistance Program. Under order of the Iowa Supreme Court, all communication with us is privileged and private. Our director is a former lawyer, a recovering alcoholic and drug addict. He is a trained substance abuse counselor. We cannot help unless you call – 515-277-3817 or 800-243-1533 – or message (in confidence) [help@iowalap.org](mailto:help@iowalap.org). All you have to do is ask us to contact you. No other details are necessary. We will call you. The Iowa Lawyers Assistance Program also can provide speakers for local bar associations.

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



▲ The artwork of Kids First's child clients hangs on the wall. The children are asked to draw a depiction of their family during divorce as a therapeutic exercise.

# SPOTLIGHT ON SERVICE | JUDGE MARY PAT GUNDERSON



**Mary Pat Gunderson**

**R**etired District 5C Judge Mary Pat Gunderson sees volunteer service work as a way to balance the “bad” that sometimes shows itself in the practice of law.

“I think part of the reason it is important for lawyers and judges to do volunteer work is because it helps us maintain balance,” she said. “Being a lawyer or a judge is hard work. People seek out the advice of lawyers when they have a problem, whether it is a divorce, criminal matter, a personal injury or because they are being sued. We don’t always see people at their best and it can be draining and stressful.”

It is this goal of maintaining optimism and seeing the good that keeps Judge Gunderson committed to one organization in particular – Kids First Law Center in Des Moines. She was involved in the Visionary Committee that

brought a Kids First location to Des Moines. She is now the chairperson for this organization, which provide free or low-cost representation to children in high-conflict divorce and custody cases. The main mission is to make children's voices heard.

“As a judge I had the opportunity to preside over so many interesting cases and work with great lawyers, colleagues and court staff, but one of the most difficult things about being a judge was determining custody arrangements in dissolution cases. My work with Kids First came about because I wanted to provide children whose parents were divorcing with some support as they navigated through this often very difficult experience. I felt fortunate to have Judge (Eliza) Ovrom help me lead the charge to bring Jenny Schultz’s amazing Kids First Cedar

Rapids organization to Des Moines. We also have outstanding board members and an amazing team at Kids First Des Moines made up of both lawyers and non-lawyers. It is a real privilege to work with such committed people.”

She has also served on the Iowa Supreme Court Task Force on Family Law, on the Volunteer Lawyer Project Board of Directors for the Polk County Bar Association, as a volunteer judge for “Adoption Saturdays” (to provide free adoptions for children in foster care) and has been active on various committees at her church – Plymouth Congregational.

“Volunteering reminds us about what is good in the world,” she said. “We are lucky to be a part of a community where people help one another just because it is the right thing to do.”

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**TOM L. DREW**

535 40th Street, Des Moines, IA 50312

Phone: (515) 323-5640

Fax: (515) 323-5643

Email: [tdrew@drewlawfirm.com](mailto:tdrew@drewlawfirm.com)