



# THE IOWA LAWYER

MAY 2018 V 78 N 4

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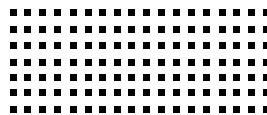
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# February 2018 Bar Exam

## Results released

The Iowa Board of Law Examiners released the results from the 2018 Winter Bar Examination, held February 26-28 in Des Moines:

- 73 percent of all those taking the exam for the first time passed.
- 75 percent of those taking the exam from Drake University for the first time passed.
- 71 percent of those taking the exam from the University of Iowa for the first time passed.

Additional passage rate statistics can be found on the Iowa Judicial Branch's website.

The admission ceremony for successful applicants was held on Friday, May 4.

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## ISBA in D.C.

An ISBA delegation visited Washington, D.C. on April 11, for the American Bar Association (ABA) Day at the Capitol, an annual lobbying event. Pictured at the Capitol: YLD Vice President Maggie White, ABA Delegate David L. Brown, ISBA President-Elect Tom Levis.

Attorneys from 48 states attended this year's ABA Day, meeting with their congressional representatives to ask them for support for certain issues. The event is organized by the association's Governmental Affairs Office.



## OUR SACRED PROFESSION

### A GUEST LETTER FROM DAVID L. BROWN

Today, the legal profession and our courts are under attack from many quarters. The legislative session has been particularly acrimonious.

Even more telling is too often lawyers characterize themselves as plaintiffs' lawyers or defense lawyers, claimants' lawyers or insurance lawyers, metropolitan lawyers or county seat lawyers, trial lawyers or transactional lawyers, private lawyers or government lawyers, prosecutors or criminal defense lawyers, federal lawyers or state lawyers, administrative governmental lawyers or private practitioners opposing the agencies, practicing bar, the trial courts, the Court of Appeals and the Iowa Supreme Court and/or the Federal Courts. We are defining ourselves on where we are individually but not in a global appreciation of the treasure we have and the responsibility we have in the profession of law.

We all remember why we went to law school, the day we were admitted to the bar and the moment we became lawyers. The idealism that permeates legal education and our profession is a powerful motivation for a life of service to our profession. Indeed, all of us need to bind-up our wounds and celebrate the rightful place our profession has among the true treasures of our society.

Our profession has been blessed with many legendary legal heroes. No one more exemplifies what we should all seek to emulate than our late Iowa Supreme Court Chief Justice C. Edwin Moore. Chief Justice Moore was a trial judge, appellate justice and chief justice who expanded the roles of the court throughout the state. He taught many years of trial practice to generations of lawyers throughout this country. He also dedicated his life to public service and had a completely positive interaction with the executive branch of government, the legislative branch, the bar association and legal educators at the University of Iowa College of Law and his alma mater, Drake University Law School.

Chief Justice Moore and those who served with him focused on what values we share rather than what positions divide us. I can still hear him say that the family of lawyers throughout this state in all phases of the profession should always strive to find common ground to heal rather than fight, and to look forward rather than to dwell on the past.

Chief Justice Moore truly felt that we were all "FAMILY" and should treat each other with civility, respect, professionalism and kindness. I was privileged to clerk for Chief Justice Moore for two years at the court. He reminded all of us at the Capitol that we were lawyers 24/7 and that a code of conduct of civility and respect was a way of life. He believed each of us should re-read on a regular basis the Lawyer's Oath we took the day we were admitted to practice to celebrate what we have in common, remind us of what our role is in society and never forget our need to work together to make this a better community.

Let us all raise our right hand and read together our sacred oath:

#### IOWA LAWYER'S OATH

I swear or affirm: As an officer of the Court serving in the administration of justice, I will:

- Support the Constitutions of the United States and the State of Iowa
- Perform to the utmost of my abilities and education
- Maintain the respect due to the Courts and my colleagues
- Faithfully and ethically discharge the duties required of Iowa lawyers

As a zealous advocate and counselor for my clients, I will:

- Strive to be worthy of trust and respect
- Counsel clients to maintain only those disputes supported by law and the legal process
- Use only those means consistent with justice
- Maintain the confidences of my clients as required by law
- Support the cause of the defenseless or oppressed, pro bono publico

As a member of the legal community, I will:

- Strive to represent the legal profession as one of justice, honor, civility, and service

Thank you to President Steve Eckley for permitting me to share these thoughts with you.

Respectfully submitted,

#### DAVID L. BROWN

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*Honored Guest Columnist*



#### A Message from the President

In the first week of May, we will swear in Iowa's newest crop of attorneys - those who passed the bar exam held in February. At that event, these new lawyers will take an oath pledging, among many things, to represent the legal profession with justice, honor, civility and service. It is my sincere pleasure to lend the President's pen this month to someone who, in my opinion, embodies these qualities in the utmost. David L. Brown has a very timely message to share with our entire Iowa legal "family."

#### Stephen R. Eckley

is a senior civil trial attorney at Belin McCormick in Des Moines.



# Uniting an army in the battle AGAINST IDENTITY THEFT

Former AG Chief tackles privacy breaches in new role

By **Melissa Higgins,**  
*Communications Director*



The old saying goes that there is nothing certain in life, but death and taxes. Now you can add a third item to that list: privacy breaches.

That's a joke Bill Brauch likes to tell. And though he chuckles when he delivers the punch line, it's not really all that funny. "I have been a victim of privacy breaches. I think all of us have," he said. "And we may not even know it."

Attorneys in Iowa might be familiar with the name Bill Brauch. He was the long-time head of the Consumer Protection Division at

the Iowa Attorney General's Office; he is the second-longest serving "Consumer Chief" in the country. He retired in 2015 after 28 years in the Consumer Protection Division, overseeing it as director since 1995.

"I couldn't identify any other job that would have made me as happy and fulfilled. It's the best thing you could do with a law degree – serve the public and have an impact on a state and federal level," he said.

After retiring, Brauch started a small private practice and consulting company. But the draw to help Iowa consumers was still there. And now, he gets to fulfill that drive in a new role, as the facilitator of the new Iowa Identity Theft Victim Assistance Coalition ("the Coalition").

The Coalition lives under the umbrella of the Iowa Organization for Victim Assistance (IOVA), which was established in 1983 as

a non-profit to educate Iowans regarding victim rights issues.

In the summer of 2017, IOVA was one of 10 recipients of a \$50,000 grant from the U.S. Department of Justice, so Brauch was hired in the fall as a contractor to implement the grant, and form and staff the Coalition.

The organization is still in its infancy, but the first step was to unite various entities that already exist in the state and have a stake in this problem. He has 18 organizations on board, which range from AARP to the Iowa Bankers Association to the Iowa DOT. Legal entities like the Attorney General's Office, Iowa Legal Aid and the County Attorney's Association have also signed on.

The Coalition will work to foster communication among these members, so they can help learn from each other to identify best practices and keep up-to-date on new trends.

"I see a need for learning from each other in an effort to provide the best information to potential victims," Brauch explained.

The primary purpose of the Coalition will be to educate Iowans about how to avoid becoming victims of identity theft. Brauch envisions the creation of an app, with information specifically targeting Iowa's minor population who may not be aware they are exposing themselves to breaches through everyday actions like playing video games. He also would like to see more specific public outreach targeting Iowa's senior population, who is likewise vulnerable to scammers.

Identity theft perpetrators don't discriminate, however, and it's a problem that keeps growing every year. Based on a Federal Trade Commission report, the Iowa incidence of identity theft jumped 30 percent between 2014 and 2015. Data from the Identity Theft Resource Center, which tracks U.S. data breaches, shows 2017 hit a new all-time high for the number of breaches.

Across the country, 17.6 million people experience some form of identity theft every year, costing over \$15 billion. According to a 2015 U.S. Department of Justice study, the average loss to a victim of

### The most common forms of identity theft reported nationally in 2017 were:

Credit card fraud: 133,000 cases

Employment or tax-related fraud: 82,000 cases

Phone or utilities fraud: 55,000 cases

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identity theft is \$1,343.

“It’s not really about the monetary loss, though that is significant,” Brauch said. “It’s also the emotional part of it: the feeling of loss of privacy. And it takes a long time to clean it all up.”

The DOJ grant restrictions forbid any lobbying, but the Coalition will work to inform members of legislation that may impact the problem. Brauch points to a specific bill this session that will be helpful to Iowans who are the victims of identity theft.

Starting July 1, Iowans will pay no fees to place or remove a freeze on access to their credit reports. On April 10, Gov. Kim Reynolds signed Senate File 2177, which was proposed by the Iowa Attorney General’s office, as well as state legislators. Iowans currently pay some of the highest freeze-related fees in the nation to credit reporting agencies.

The legislation was proposed following the massive Equifax data breach disclosed in September, affecting 1.1 million Iowans and 143 million consumers nationwide.

That specific breach should be a wake-up call for just how big of a problem this really is, and why this new organization is necessary, Brauch said. And though the grant money will expire in September, “the hope is the organization will succeed, and through it we will establish plans for future funding.”

**To learn more, contact: Bill Brauch, (515) 314-9591. [Bill@IowaIDtheft.org](mailto:Bill@IowaIDtheft.org) or [IowaIDtheft.org](http://IowaIDtheft.org).**

## Identity theft deterrence for law firms

Risk management steps to consider before a security incident occurs

Information from the ABA

- Evaluate how information enters, moves through and exits the firm’s network.
- Evaluate where information is stored and how it can be accessed by lawyers and staff. Don’t overlook third party vendors, the Cloud, personal devices and home computers.
- Identify sensitive, highly sensitive, or confidential information in the firm’s possession  
**Sensitive, highly sensitive or confidential information will frequently include personally identifiable information (PII); personal health information (PHI); nonpublic financial information; trademarks; trade secrets; patent or M&A information; customer data and any other information that clients indicate should be treated as highly confidential.**
- Identify those persons or entities that have physical or electronic access to your network and those that have potential access to sensitive and confidential information. Evaluate if they need or should have access to sensitive or confidential information and block access for those who do not need access. When third parties have electronic access to the network, evaluate segmenting the area of the network they can access.
- Identify potential vulnerabilities at each data access point.
- Evaluate the firm’s existing physical, administrative and technical safeguards at each data access point.
- Take steps to remediate vulnerabilities or weaknesses at each access point.
- Prioritize remediation steps addressing the most critical vulnerabilities first in light of available resources.
- Consider an outside IT forensic or network security vendor if necessary to assist with identifying vulnerabilities or prioritizing remediation steps.
- Evaluate your cyber coverage for data breaches or security incidents. Cyber insurance is relatively new and carriers’ forms and terms can vary widely between different insurers.
- Review your firm’s computer policies and log-on banners to ensure they include consent to real time monitoring of any email traffic or network use.
- Become familiar with the reporting obligations imposed by state data breach notification laws and under HIPAA if the firm qualifies as a Business Associate. See 45 CFR §§ 164.400-.414(2014). HIPAA includes reporting obligations to the Secretary of HHS in §164.408 and to the news media in §164.406 (when the breach involves more than 500 residents of the state).
- Check any outside counsel guidelines and business associate agreements for additional reporting obligations.
- Train lawyers and staff on data security and cyber issues including recognizing phishing and social engineering exploits, signs that a computer may be infected and who to contact at the firm in that event.
- To report and recover from identity theft, go to the Federal Trade Commission’s site at [www.identitytheft.gov](http://www.identitytheft.gov).

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While these conversations can be scary, when done well, they are often meaningful, memorable, and very beneficial.

If you have a client that is ready to begin the estate planning process and a multi-generational family conversation, Foster Group would love to help. **Give us a call at 855-633-2959.**



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# A primer on reasonable **ROYALTY DAMAGES**

By Scott M. Wadding

What's it worth? That's the question most clients want to know at the outset of an intellectual property case—not only because IP cases are time-intensive and expensive, but also because the collateral consequences of filing or defending a lawsuit (such as eroding relationships with current or prospective business partners) can be significant. In high-stakes IP cases where your client is a gritty start-up that can't afford to lose, or has complex business relationships with potential infringers, a basic understanding of the potential damages is an important first step in setting expectations and providing guidance to your client on whether litigation is worth the candle.

IP damages generally come in two forms: lost profits and the reasonable royalty. Lost profits damages are muscular, but they are often unavailable, high-risk or are undesirable due to the complexity of establishing the requisite proof.<sup>1</sup> Reasonable royalty damages have therefore emerged as a leading damages valuation methodology in IP cases.

The reasonable royalty methodology generally examines what royalty a willing licensor (the IP owner) and a willing licensee (the infringer) would have agreed to when the infringement first began. It's easy to get overwhelmed when thinking about how to determine a reasonable royalty (just Google "reasonable royalty damages" and you'll see why). But after years of litigating these issues and working with leading IP damages experts, I have found it helpful to think about reasonable royalty damages in terms of three basic and widely-accepted approaches: 1) Income Approach, 2) Cost Approach, and 3) Market Approach.<sup>2</sup>

## THE INCOME APPROACH: ECONOMIC PAIN VS. ECONOMIC GAIN

The Income Approach compares the parties' economic loss and economic gain from a royalty payment to establish an economically rational range for the reasonable royalty. Think of it like a car rental negotiation. If someone plans to rent a car for a pizza delivery business, common sense tells us that the renter will not pay more than the profits she

expects to earn from delivering pizzas, and the car owner will not accept less than the amount she could obtain from renting the car to somebody else.

The Income Approach in the context of IP valuation works in a similar way. If the infringer earns a profit of \$3 per infringing unit from practicing the IP, it's rational to assume that the infringer would pay a royalty of up to, but probably not more than, \$3. Similarly, in cases where the IP owner will suffer economic loss if it were to license the IP to the infringer (such as when the IP owner could sell its product at wholesale to the infringer), the IP owner will not grant a royalty for less than its loss. Thus, if the IP owner earns a profit of \$1 per unit at wholesale, the IP owner will probably not license its IP for less than \$1 per unit because, by granting a license to the infringer, the owner loses the opportunity to sell its product to the infringer (at a profit of \$1). In this example, the Income Approach would suggest a reasonable royalty between \$1 (the IP owner's economic pain) and \$3 (the infringer's economic gain).

## THE COST APPROACH: THE COST OF THE ROAD NOT TAKEN

Under the Cost Approach, if the infringer had a viable non-infringing alternative available to it when the infringement began, the royalty will generally not exceed what it would have cost the infringer to implement the non-infringing alternative. This is because the infringer could have

adopted the non-infringing alternative instead of paying the royalty.

To use our car rental example, suppose the renter could have bought a nearly identical car for less than the total amount demanded by the car owner. Would the renter pay more than the cost to buy? Don't count on it.

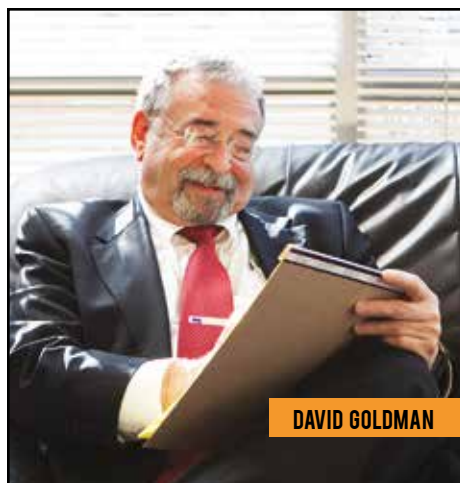
Similar principles apply in the context of IP. If an infringer could have designed around the infringing feature of the product, the infringer would likely not have paid more in royalties than the design-around cost. Thus, if it would cost \$2 per unit to design around the infringing feature, the Cost Approach suggests a reasonable royalty of no more than \$2 per unit.

## THE MARKET APPROACH: LET'S MAKE (THE SAME) DEAL

Finally, the Market Approach evaluates the royalties paid or received in other IP licenses for the same or similar technology. The Market Approach can provide some of the most compelling evidence to the determination of a reasonable royalty because the royalties paid for the same or similar technology provide concrete insight on the parties' revealed preferences of the value of the technology in the marketplace.

So, let's say that the IP owner licensed its technology to a third-party for \$1.75 per unit. The Market Approach tells us that a reasonable royalty would be near \$1.75 per unit.

But not all licenses are informative. A methodologically sound application of the



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Market Approach requires that the other licenses be both economically and technologically comparable.

Every case is different and damages strategies will depend on a host of issues, including the nature of the technology at issue, the relationship between the parties, the industries involved and the type of the IP involved. But the next time your client asks you "What's it worth?" an analysis of the Income, Cost and Market Approaches will help set reasonable expectations, equip your client to make informed decisions

and provide a useful roadmap for damages discovery and litigation throughout the life of the case. I hope you find the framework supplied by these approaches as helpful as I have when developing and implementing winning damages strategies in IP litigation

1. *In the patent context, lost profits are evaluated through the lens of the so-called Panduit factors, which include an evaluation of the demand for the patented product, absence of acceptable non-infringing alternatives, the marketing and manufacturing ability to satisfy demand and the amount of profit the patent owner*

2. *When evaluating reasonable royalty damages in patent cases, the Federal Circuit has endorsed the use of 15 factors first articulated in Georgia-Pacific Corp. v. U.S. Plywood Corp., 318 F. Supp. 1116 (S.D.N.Y. 1970), which are often referred to as the Georgia-Pacific Factors. Georgia-Pacific Factors 8 and 13 consider the Income Approach; Factors 9 and 10 consider the Cost Approach; and Factors 1 and 2 consider the Market Approach.*



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Scott M. Wadding is a trial and appellate lawyer with Kemp & Sease in Des Moines. Scott maintains a general litigation practice and has experience crafting and implementing winning damages strategies in high-stakes intellectual property matters, including multiple cases involving damages exceeding \$100 million.



## IOWA STATE BAR ASSOCIATION — 2018 Affirmative Legislative Program

Bill No./Subject	Description	Status
<b>SF 2314</b> Business Law Technical Changes	Amends §504.832 to add an explicit reference to section §504.836 authorizing a safe harbor for business opportunities. Amends §491.16A to include §§490.860 through 490.870 as these sections were not picked up when the Iowa Business Corporation Act was last amended. Clarifies language in Code §§ 9H.1 and 9H.4 regarding nonprofit corporations. The clarification is simply to ensure that all previous nonprofit chapters are included within the definition and restrictions of the chapter. Iowa's nonprofit chapter has been Chapter 504, 504A, and returned to 504.	Senate – Passed Unanimously on the Floor; House – Passed Unanimously on the Floor Sent to Governor
<b>SF 2139</b> Waiver of Spousal Share	Amends the Iowa Uniform Power of Attorney Act by adding a new subsection (10) to 633B.204 to clarify that an agent under a power of attorney may waive or relinquish a spousal right, homestead, and elective share if the principal has granted the agent Gen. Powers under the real property section 204 to 633B.	House – Passed Unanimously on the floor; Senate – Passed Unanimously on the floor <b>Signed by Governor</b>
<b>HF 639</b> Calculation of Probate Court Costs	Relates to how the clerk of probate court determines and collects charges regarding services provided in probate matters. Excludes from the determination of court costs property over which the court lacks probate jurisdiction and for which the clerk renders no services. Specifies that for purposes of calculating the costs for other services performed by the court in the settlement of the estate of any decedent, minor, person with mental illness, or other persons laboring under legal disability, the value of such a person's personal property and real estate is equal to the gross assets of the estate listed in the probate inventory minus, unless the proceeds of the gross assets are payable to the estate, joint tenancy property, transfers made during such person's lifetime such as to a revocable trust, and assets payable to beneficiaries.	House Ways & Means No Senate Companion
<b>SF 2098</b> Conforming Probate Code to EDMS Standards	Conforms old probate statutes with EDMS standards and procedures. Amends §633.22 (Probate Powers of Clerk), Amends §633.27 (Probate Docket), Deletes §633.72 (Manner of Service), Amends §633.82 (Designation of Attorney), and Amends §633.418 (Form and Verification of Claims).	Senate – Passed Unanimously on the floor; House – Passed Unanimously on the floor <b>Signed by Governor</b>
<b>SF 2099</b> Small Estate Changes	Amend §635.7 to clarify that, when the Personal Representative files a statement of conversion to or from small estate administration, the Clerk will make the conversion without court order; and amend §635.8 to provide clarification to the procedure for closing by sworn statement.	Senate – Amended a second time and Passed Unanimously on the floor and messaged back to the House; House – Awaiting floor vote on newly amended language
<b>SF 2234/ HF 2229</b> Revised Calculation of Probate Court Fees	Code §633.31 is currently being applied inconsistently throughout the state. There are now several district court cases declaring the clerks in at least six counties to be calculating court fees inappropriately. The bill addresses how the clerk of probate court determines and collects charges in connection with services provided in probate matters. Excludes from the determination of court fees property over which the court lacks probate jurisdiction and for which the clerk renders no services. Increases fees in §633.31 to keep impact of change in treatment of non-probate assets revenue neutral to the state by striking the existing fee structure and creating at 0.25% administration fee. The legislation also creates a \$185.00 filing fee while removing many of the individual charges associated with probate.	Senate – Awaiting Ways and Means Committee Vote House – Passed through Ways and Means
<b>SSB 3011/ HSB 606</b> Funeral Directives	Funeral and burial costs are paid from a decedent's estate, but the decedent is not given a say in the funeral and burial process. The proposal will allow a person to define "reasonable funeral and burial costs" so that an heir cannot subvert the person's testamentary intent.	Awaiting subcommittee in the Senate (Sinclair, CH., Edler & Taylor); House - Subcommittee did not recommend passage

Updated 4/27/18



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Governor Kim Reynolds signed Senate File 2175- Real Estate Partitions, on Wednesday, April 11, in her office at the Statehouse. Pictured: ISBA Chief Legislative Counsel Jim Carney, Assistant Legislative Counsel Jenny Dorman, Real Estate Section members R. Michael Hayes and Jim Nervig, Gov. Kim Reynolds, Lt. Gov. Adam Gregg, Sen. Jason Schultz (R- District 9), Assistant Legislative Counsel Doug Struyk.

## Kudos

The Iowa Academy of Trial Lawyers, a group of the top 250 trial attorneys in Iowa, elected Dubuque attorney Les V. Reddick as president for 2018. Reddick succeeds Academy President Kristopher K. Madsen of Council Bluffs. Neven J. Mullholland of Fort Dodge was elected vice-president, and Des Moines attorney David L. Brown was elected secretary/treasurer.



Maynard Telpner, the founder of the Council Bluffs law firm Telpner Peterson, recently celebrated his 90th birthday in Ashland, Oregon. Telpner practiced law in Council Bluffs and was an active member of The Iowa State Bar Association for over 50 years, including two terms on the board of governors. Maynard is shown in this photo with long-time partners Chuck Smith, Jack Ruesch and office administrator, Peggy Caruso.

Thomas Henderson has become a Fellow of the American College of Trial Lawyers, one of the premier legal associations in North America. Founded in 1950, the college is composed of the best of the trial bar from the United States and Canada. Henderson is a member attorney at Whitfield & Eddy Law.



## IOWA STATE BAR ASSOCIATION — 2018 Affirmative Legislative Program

Bill No./Subject	Description	Status
<b>HF 2125</b> Very Small Estates	Amends Code § 633.356 addressing the distribution of property by affidavit for a very small estate. The legislation increases the amount of a qualifying estate from \$25,000 to \$50,000. Also adds to the current requirements of the affidavit the following: that no debt is owed to the Iowa Department of Human Services for reimbursement of Medicaid benefits, or if there is it will be paid to the extent of the funds received; that no inheritance taxes are owed; and that creditors will be paid to the extent of funds received pursuant to the affidavit.	Senate – Passed Unanimously on the floor; House – Passed Unanimously on the Floor <b>Signed by Governor</b>
<b>SF 2303</b> Deferred Payment of Taxes – Options to Bonding	Amends §450.48 to clarify satisfactory security to the Department of Revenue to include but not be limited to bank or securities accounts with an irrevocable pay on death or transfer on death provision naming the department of revenue, an escrow agreement with an attorney under which the funds will be held in the attorney's trust account, or the lien imposed by the chapter.	Senate – Passed Unanimously on the Floor; House – Passed Unanimously on the Floor <b>Sent to Governor</b>
<b>SSB 1090</b> Rule Against Perpetuities	The bill creates an exception to the rule against perpetuities if the Trustor explicitly suspends the rule and if the Trustee has the power to sell trust assets.	SSB1090 No House Companion
<b>HF 2318</b> Redemption from Tax Sale of Property Owned by Persons with Disabilities	Remedies issues arising from Iowa Court of Appeals decision Firestone v. FT13 (Filed 4-30-14) relating to redemption issues arising from ownership of property by minors or persons of unsound mind.	Senate – Passed Unanimously on the floor; House – Passed Unanimously on the Floor <b>Signed by Governor</b>
<b>HF 2232</b> Requirements for Timely Filing of Releases or Satisfaction of Mortgages	Remedies ambiguities and inconsistencies in existing statutes & provides remedies for failure of mortgagees to issue releases of mortgages.	Senate – Passed Unanimously on Senate Floor, House – Passed Unanimously on the Floor <b>Signed by Governor</b>
<b>HF 2175</b> Real Estate Partitions	This bill completely reorganizes and renumbers Iowa Code chapter 651, and repeals Division XII of the Iowa Rules of Civil Procedure governing partition procedures. The proposed legislation divides chapter 651 procedures into two divisions, general procedures applicable to all partitions and special procedures applicable to "heirs property," partitions. This bill adds a definition section, new sections clarifying court procedures governing the initial decree, the appointment of a judicial referee, the appraisal order, and the final determination of real property value. Finally, this bill specifically authorizes the equitable remedy known as "owelty" in Iowa partition actions and provides that attorney fees in partition actions are to be fixed by the court in a reasonable manner and taxed as part of the court costs.	Senate – Passed Unanimously on the floor; House – Passed 99-1 on the floor <b>Sent to Governor</b>
<b>HSB 63</b> Forcible Entry & Detainer Actions After Forfeiture of Real Estate Contracts	Makes changes to procedures for eviction after forfeiture of a real estate contract. Grants statutory authority under Code Chapter 648 for a vendor in a real estate installment contract to seek Forcible Entry & Detainer action against holdover vendee who fails to vacate after forfeiture proceedings are complete, while affording holdover vendees proper due process. Allows small claims magistrates to hold preliminary hearings in forfeiture cases and to enter judgments of removal only if the defendant defaults or appears and does not raise facts which would constitute a defense to eviction.	In House Judiciary No Senate Companion

Updated 4/27/18

# The customer DUE-DILIGENCE RULE

By Cheryl Friedenbach and John Haarala,  
First National Bank of Omaha

## New regulations require financial institutions to gather ownership information from its legal entity customers

Effective May 11, covered financial institutions will be required to comply with the United States Department of Treasury's Financial Crimes Enforcement Network's ("FinCEN") final rule on the customer due diligence ("CDD Rule").<sup>1</sup> The CDD Rule substantially changes the Bank Secrecy Act /Anti-Money Laundering ("BSA/AML") compliance program requirements for covered financial institutions.

Currently, a covered financial institution's BSA/AML compliance program must include four pillars, but the CDD Rule adds a fifth: risk-based procedures for conducting customer-due diligence, including procedures to identify the beneficial owners of legal entity customers. The CDD Rule will help law enforcement prevent anonymous shell companies from using the U.S. financial

system for money laundering, criminal activity and terrorist financing. The new regulation will add to the data collection and record-keeping requirements of covered financial institutions and will require legal entity customers to identify their natural-person owners if they wish to do business with a covered financial institution.

### CURRENT BSA/AML REQUIREMENTS

Covered financial institutions have long played an important role in detecting and reporting suspicious financial transactions to law enforcement as part of their duties under the Bank Secrecy Act.<sup>2</sup> Under the Bank Secrecy Act, a covered financial institution is required to adopt and implement a formal BSA/AML compliance program.<sup>3</sup> An effective BSA/AML compliance program must be tailored to the risks faced by the

financial institution and be reasonably designed to monitor, collect and report useful financial transaction information to appropriate law enforcement agencies. This risk-based approach means that a community bank with operations in a single county could have a different BSA/AML compliance program than a regional bank operating across several states or a money-center bank operating internationally.

Although risk-based differences between institutions are expected, all BSA/AML compliance programs must include four main requirements, or pillars: 1) internal policies, procedures and controls designed to guard against money laundering; 2) a designated officer responsible for the BSA/AML compliance program; 3) an ongoing BSA/AML training program for employees; and 4) an independent audit to test the institution's BSA/AML program.<sup>4</sup>

*Until May 11, there was no regulatory mandate that financial institutions obtain the underlying ownership information from their legal entity customers. This regulatory gap created an opportunity for individuals to act anonymously behind the veil of shell companies. The new CDD Rule looks to close that gap by adding a fifth BSA/AML compliance-program pillar: customer-due diligence.*

### THE NEW REQUIREMENTS UNDER THE CDD RULE

The CDD Rule codifies FinCEN's belief that a covered financial institution's BSA/AML program must contain a customer due-diligence component that includes 1) customer identification and verification; 2) beneficial ownership identification and verification; 3) the development of customer-risk profiles based on an understanding of the customer relationship; and 4) on-going monitoring to report suspicious activity

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and update customer information.<sup>5</sup>

The first requirement—customer identification—is already a regulatory requirement for covered financial institutions under the Bank Secrecy Act. The second requirement—beneficial ownership—is essentially a brand-new requirement under the CDD Rule. The third and fourth elements, while they will become explicit regulations for covered financial institutions under the CDD Rule, merely put into writing what has long been an enforced regulatory expectation for financial institutions.

As the wholly new obligation under the CDD Rule, the beneficial-ownership requirement will impose the most challenge and change upon the financial-services industry. *As of May 11, covered financial institutions must have written procedures in place to identify and verify the identity of the natural-person beneficial owners of legal entity customers that open a new account.*

#### EXACTLY WHO IS A BENEFICIAL OWNER?

Under the CDD Rule, there are two tests to identify beneficial owners of a legal entity customer:

- All individuals directly or indirectly owning more than 25 percent of the legal entity (ownership prong);<sup>6</sup> and
- An individual with “significant responsibility to control, manage, or direct” the legal entity (control prong). The controlling party will generally hold a title like Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, President, Vice President, Controller, General Partner or Managing Member.<sup>7</sup>

A legal entity customer can have anywhere from one to five beneficial owners. Mathematically, up to four individuals can satisfy the ownership prong, although it is possible that no individual directly or indirectly owns 25 percent or more of the entity.<sup>8</sup> Regardless of how many individuals meet the ownership prong, a legal entity will always have at least one individual that satisfies the control prong.<sup>9</sup> This is true, even for non-profit entities that have no shareholders.

To eliminate the problems that anonymous shell companies create for law enforcement agencies, it is essential to identify the people controlling the entity. For that reason, if a legal entity customer is owned by other legal entities—so-called layered ownership—it will be necessary to look through the layers of ownership to arrive at a natural person that indirectly owns or controls the legal entity customer.

A covered financial institution satisfies its beneficial-ownership identification obligation by obtaining a signed certification from its legal entity customer setting forth the names of its beneficial owners.<sup>10</sup> The signed certification must be obtained at or within a reasonable time of account opening. The certification is not required to be on a specific form or in a specific format, but it must contain substantially the same information as is set forth on the sample certification form provided in the rule.<sup>11</sup>

After obtaining the signed certification form, the covered financial institution will then be required to use risk-based procedures to verify the identity of each individual beneficial owner.<sup>12</sup> The identity verification procedures must contain the

same elements the covered financial institution uses for verifying the identity of individual customers: name, date of birth, address and government identification number, together with any required supporting documentation.<sup>13</sup>

A covered financial institution can rely on the beneficial ownership information provided in the signed certification unless it has “knowledge of facts that would reasonably call into question the reliability of such information.”<sup>14</sup> This knowledge could come from financial or ownership information the covered financial institution previously obtained that conflicts with the information presented on the beneficial ownership certification form.

#### WHO IS IMPACTED BY THE CDD RULE?

Although the CDD Rule is a regulation that governs covered financial institutions, it will also have an impact on the legal entities that use financial institutions. Following are the key parties as defined by the new regulation:

##### *Covered financial institutions*

Under the CDD Rule, “covered financial institutions” are defined as federally regulated banks and credit unions, mutual funds, brokers or dealers in securities, futures commission merchants and introducing brokers in commodities.<sup>15</sup> The term “account” is broadly defined and means a formal relationship established to provide or engage in financial service dealings or other transactions.<sup>16</sup> An account can include deposit accounts, transaction accounts, loans, credit cards, extensions of credit, safety deposit boxes and many other products and services

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offered by a financial institution. A “new account” is any account opened by a legal entity customer after May 11.<sup>17</sup>

The CDD Rule only applies to new accounts and is not retroactive. However, legal entity customers with an existing relationship with financial institutions will still be required to provide a beneficial ownership certification if that entity opens a new account. Further, a covered financial institution’s ongoing customer due diligence will identify risk-based triggering events that will require it to obtain beneficial ownership information from its existing customers.

**Legal entity customers**

“Legal entity customers” are defined under the CDD Rule as corporations, limited liability companies and similar entities created by a filing with the Secretary of State or similar office; general partnerships; and similar entities formed under the laws of a foreign jurisdiction.<sup>18</sup> Under this definition, professional corporations and limited liability partnerships are also legal entity customers. Conversely, sole proprietorships, unincorporated associations and natural persons are not legal entity customers.<sup>19</sup>

**THE CDD RULE IMPACT ON LAWYERS**

**Opening an account with a covered financial institution**

A law practice or firm operating as a corporation, limited liability company, limited liability partnership, general partnership or any other entity that requires a filing with the state for its formation is a legal entity customer under the CDD Rule. Like any other legal entity customer, law firms

will be required to provide their financial institution with a signed certification listing the firm’s beneficial owners to open a new account.

When the CDD Rule was proposed, attorneys and their bar associations were concerned that the rule would require attorneys to disclose their client’s beneficial ownership information when they opened a client trust or attorney escrow account. During the rule’s comment period, the American Bar Association lobbied effectively that lawyers and law firms should not be forced to disclose their client’s beneficial ownership information on these types of accounts for the following reasons:

- Such accounts may contain funds from multiple clients and third parties, creating significant challenges for the lawyer in collecting beneficial ownership information;
- The increased record keeping burden for attorneys and their clients would lead to a decrease in the legitimate use of these accounts;
- State bar associations already subject attorney trust accounts to strict record-keeping and fiduciary requirements; and
- An attorney’s professional obligation to maintain client confidentiality could be violated by disclosing client beneficial ownership information.<sup>20</sup>

Under the final CDD Rule, client trust and attorney escrow accounts will be deemed intermediated accounts. The law firm will be deemed the owner of such an account and will be required to provide the law firm’s beneficial ownership information to open the account, but will not be

required to disclose its client’s beneficial ownership information.

**Advising clients**

Attorneys representing legal entity customers may see an uptick in calls after May 11, as covered financial institutions begin to require those clients to complete beneficial ownership certification forms as a condition to opening a new account. Knowing the requirements and reasons behind this new regulation will help an attorney field these calls and better advise their clients. By taking a proactive stance and educating business-entity clients about the implementation and impact of the CDD Rule prior to May 11, attorneys can help their clients take steps in advance to gather the additional information that will be required from them when they seek new products and services from covered financial institutions.

Clients using a legal entity as part of an asset protection or estate plan may be alarmed to find that their beneficial ownership information will be required if they want to do business with a covered financial institution. A legal entity opening bank accounts or obtaining loans will need to provide a signed certification listing that entity’s beneficial owners to the covered financial institution. That certification form will become a part of the covered financial institution’s file for that customer, and will be subject to subpoenas and discovery requests in criminal matters and civil litigation. The CDD Rule seeks to identify the natural persons that control a legal entity customer, and that rule may create challenges for individuals seeking maximum privacy in their business dealings.

Additionally, attorneys should be aware that covered financial institutions have a duty to file a Suspicious Activity Report (“SAR”) with FinCEN when they have reason to believe that a transaction has been designed to evade a BSA regulation.<sup>21</sup> FinCEN makes SAR information available to law enforcement agencies to aid in their investigations. After May 11, if a covered financial institution has reason to suspect that the ownership of a legal entity customer was structured to conceal the beneficial ownership of the entity, it would have a duty to determine if the underlying circumstances warrant the filing of a SAR. For business-entity clients with complicated ownership structures or with



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recent significant ownership changes, it may be prudent for counsel to provide such clients with a letter or document providing a general overview in layperson's terms of the ownership structure and business reasoning behind the ownership structure. Such a document may prove helpful in preventing unnecessary delay for the client in obtaining services from a covered financial institution.

**A word about trusts**

A trust that does not require a filing with a Secretary of State or other similar office for its formation is not considered a legal entity customer under the CDD Rule and will not have to provide a listing of its beneficial owners to its financial institution at account opening.<sup>22</sup> A trust is a contractual arrangement for the control of property entered into between a grantor and trustee for the benefit of the trust beneficiaries. As such, most trusts formed for estate-planning purposes do not have beneficial owners as contemplated by the CDD Rule.

Most regulators will still require covered financial institutions to determine the identity of any individual with control over a trust. This means that covered financial institutions will need to verify the identity of the trustee, and, in the case of revocable trusts, the identity of any settlor who retains the right to revoke the trust and control the underlying assets.<sup>23</sup> While

the CDD Rule does not add any additional requirements with regard to a financial institution's obligations to verify the identity of trust parties, it does not lessen the existing requirements either.

**CONCLUSION**

The CDD Rule puts the burden on covered financial institutions to collect the beneficial ownership information on its legal entity customers in an effort to protect the United States' banking and financial system from the criminals, kleptocrats and terrorists that hide behind anonymous shell companies. Time will tell if the CDD Rule serves as an effective tool for law enforcement or merely alters the bad actors' mode of operation. In the meantime, lawyers can play a key role in helping their clients navigate the requirements of this new regulation.

1. *FinCEN Customer Due Diligence Requirements for Financial Institutions*, 31 C.F.R. Parts 1010, 1020, 1023, 1024, and 1026 (2017)
2. *The Bank Secrecy Act is codified at 12 U.S.C. § 1829b; 12 U.S.C. §§1951-1959; 18 U.S.C. § 1956, § 1957, and § 1960; and 31 U.S.C. §§5311-5314 and §§5316-5332.*
3. 31 U.S.C. § 5318(h)(1)
4. *d.*
5. 81 Fed. Reg. 29398, 29399 (May 11, 2016)
6. 31 C.F.R. § 1010.230(d)(1)
7. 31 C.F.R. § 1010.230(d)(2)
8. 31 C.F.R. § 1010.230(d)(3)
9. *Id.*
10. 31 C.F.R. § 1010.230(b)(1)

11. *Id.*
12. 31 C.F.R. § 1010.230(b)(2)
13. 31 C.F.R. § 1020.220(1)(2), 31 C.F.R. § 1023.220(a)(2), 31 C.F.R. § 1024.220, and 31 C.F.R. § 1026.220(a)(2)
14. 31 C.F.R. §1010.230(b)(2)
15. 31 C.F.R. § 1010.605(e)(1)
16. 31 C.F.R. § 1020.100(a), 31 C.F.R. § 1023.100(a), 31 C.F.R. § 1024.100(a), and 31 C.F.R. § 1026.100(a)
17. 31 C.F.R. § 1010.230(f)
18. 31 C.F.R. § 1010.230(e)(1)
19. *Id.*
20. *Letter from American Bar Association to Financial Crimes Enforcement Network, dated October 3, 2014, available at https://www.americanbar.org/content/dam/aba/uncategorized/GAO/2014oct3\_commentsto-FINCEN\_authcheckdam.pdf*
21. 12 C.F.R. § 21.11(c)(4)(ii)
22. 31 C.F.R. § 1010.230(d)(3)
23. *Federal Financial Institutions Examination Council, Bank Secrecy Act/Anti-Money Laundering Examination Manual 281 (2014)*

This article was adapted with permission from the authors and the Nebraska State Bar Association, from *The Nebraska Lawyer* (January/February 2018).

Cheryl Friedenbach is the Bank Secrecy Act/Anti-Money Laundering/Office of Foreign Asset Control Compliance Officer and Vice President for First National Bank of Omaha. In this capacity, she is accountable for an enterprise Financial Crimes Compliance Program that meets the needs of an institution with a branch presence in seven states as well as national credit card and cash management portfolios. Friedenbach has over 25 years of banking experience, with over 10 years in BSA/AML. She has been a Certified Anti-Money Laundering Specialist (ACAMS) since 2009.



John Haarala is in-house counsel for First National Bank of Omaha, with a practice focused on commercial lending and regulation. John has over 10 years' of experience as in-house counsel for banks and bank holding companies. He is a Certified Regulatory Compliance Manager through the Institute of Certified Bankers and a Certified Fraud Examiner through the Association of Certified Fraud Examiners. John was a member of the 2016-2017 NSBA Leadership Academy Class. He is a graduate of Central Michigan University and Western Michigan University Cooley Law School.



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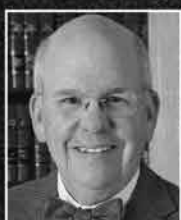
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# Please join us for the 2018 ISBA Annual Meeting

We invite you to “ignite your practice with purpose” at the 2018 Iowa State Bar Association Annual Meeting, being held June 18-20 at the Community Choice Credit Union Convention Center (Iowa Events Center).

Over the last nine months, the ISBA Annual Meeting Committee has worked tirelessly to put together a stellar conference for all Iowa legal professionals. The spacious Iowa Events Center allows us to create many educational opportunities for you, with sometimes seven educational tracks running all at once. We have attempted to provide something for everyone each day and organized the meeting so attendees can receive all of the required CLE for the year. Tracks include, but are not limited to, ag law, family law, federal practice, litigation, probate and real estate/commercial and bankruptcy law.

The conference, held in conjunction with the Iowa Judge’s Conference and the Iowa Court Reporters Association, is a great opportunity to network with attorneys and judges, building on old relationships and creating new ones. This year’s planned social events include the Drake and Creighton Law school luncheons on Monday. The University of Iowa is hosting a hospitality room throughout the day on Tuesday where alumni can stop in and socialize. Once again, YLD members in their first three years of practice and law students can attend the event’s CLE programming free of charge. Join us Monday evening for the Joint Presidents’ Reception, hosted by Nyemaster Goode, PC, as they celebrate their 100-year anniversary. On Tuesday, attend the 50-Year Member Luncheon and the always lively YLD social event. Finally, on Wednesday, the Iowa Supreme Court Honors Luncheon will be held, and in the evening we wrap up the 2018 ISBA Annual Meeting with the Annual Awards Gala.

New this year is the Annual Meeting Art Show. Attorneys, judges, court reporters or any other legal professional who possess a love for creating art pieces are welcome to display their works in the Annual Meeting Exhibitor Hall during the length of the event. Not only can you be a proud attorney at this year’s conference, you can be a proud artist. To participate, please contact ISBA CLE Director Christy Cronin at cle@iowabar.org or 515-697-7874.

Need to get the blood flowing in the morning? Take a 30-minute stroll through downtown Des Moines with an ISBA Annual Meeting Committee member, speaker or volunteer prior to each day’s CLE programming. Want to unplug? Relax and reduce your stress level on Tuesday and Wednesday with a quick yoga session.

Our annual meeting will also be one of the first events to take place in the Iowa Events Center since the opening of the brand new Hilton hotel. Home to the new Park Street Kitchen restaurant, the hotel will be a convenient getaway for attendees as it is the only hotel directly connected to the Iowa Events Center.

We are excited to offer you three days of education, fun and time to reconnect with your colleagues. We highly encourage all members of the Iowa legal community to attend. This is your community, your association, your annual meeting. We very much look forward to seeing you in June.

Best Regards,  
Kathleen Law and Christine Moon  
*ISBA Annual Meeting Co-Chairs*



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The Iowa State Bar Association

# ANNUAL MEETING

June 18 - 20 | Iowa Events Center | Des Moines

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## MONDAY, JUNE 18

### AG LAW TRACK

- › Animal Agriculture Law Update - Jake Bylund, Eldon McAfee and Julie Vyskocil
- › Evaluating the Impact of the Tax Cuts and Jobs Act on Agriculture - Kristine Tidgren

### PLENARY TRACK

- › The Iowa Constitution: Origins and Back Stories - Prof. Todd Pettys

*Prof. Pettys (H. Blair and Joan V. White Chair in Civil Litigation, University of Iowa College of Law) will provide an introduction to some of the issues that dominated Iowa's constitutional debates in the mid-nineteenth century. The debates concerned issues ranging from the rights of Blacks, to the connection between the nation's slavery politics and the placement of the state's geographic boundaries, to the state's need for a reliable currency for conducting ordinary economic transactions. On each of those issues, he hopes to provide attendees with a richer understanding of public life in mid-nineteenth-century Iowa.*

### WHAT'S TRENDING IN LAW TRACK

- › Gray Area Thinking Human Inclusivity Training - Ellen Krug
- › Military Discharge Upgrades After the Hagel Memo - Todd Schmidt
- › Statutory Interpretation for Iowa Lawyers - John Heggen

## TUESDAY, JUNE 19

### PROBATE TRACK

- › Drafting for Estate Planners: How to Make Fiduciaries Happy and Avoid Litigation - Elizabeth Meyer
- › Ethical Dilemmas for Estate Planners - Prof. Emily Hughes
- › Legislative Update for Estate Planners - Sue Pence
- › Saving Your Clients' Retirement Savings - Robert Kirkland
- › Tax Primer for Estate Planners - Frank Comito, J. Michael Deege and Michael Gilmer

*Americans have accumulated over \$26 trillion in their retirement and other qualified accounts, much of which will be transferred to their beneficiaries in the coming years. Learn how to best incorporate retirement and qualified plan assets into your clients' estate plans during Saving Your Clients' Retirement Savings with retirement plan and estate planning expert, Attorney Robert Kirkland (Kirkland Woods & Martinsen LLP, Kansas & Missouri).*



# TUESDAY, JUNE 19 (CONT'D)

## PLENARY TRACK

- › The 2017 Legal Trends Report - George Psiharis

*In 2016, Clio unveiled the inaugural Legal Trends Report. It was a watershed moment for an industry that had long suffered from a lack of informed data insights. In this session, George Psiharis takes a deeper look into the trends that define the legal profession complete with a host of exciting new insights that could transform the way you think about running your law practice.*



# WEDNESDAY, JUNE 20

## COMMERCIAL AND BANKRUPTCY LAW/REAL ESTATE TRACK

- › An Overview of the New Tax Law - Rebecca Miller
- › Bankruptcy Update - Hon. Thad Collins and Hon. Anita Shodeen
- › Platting and Subdivisions: Practical Considerations - Erik Fisk
- › The New Chapter 13 Model Plan - Carol Dunbar and Elizabeth Goodman
- › Time Restraints for Rights of First Refusal - Deborah Petersen

## FAMILY LAW TRACK

- › Appellate Practice - Andrew Howie and Hon. Richard Doyle
- › Equitable Powers of the Court - David Cox, Hon. Chad Kepros and Hon. David Odekirk
- › Family Law Case Update - James Meade
- › Limited Scope Representation and the Self-Representation Tsunami - Matthew Brandes and Justice Thomas Waterman
- › Tax Implications of Divorce Following Changes to Federal Tax Law - Brian Crotty and Ron Nielson
- › Vocational Experts and Trying a Spousal Support Case Following Gust and Mauer - Amy Botkin, Diane Dornburg and Jaclyn Zimmerman
- › What Family Law Attorneys Need to Know About Real Estate Law - Kirsten Frey

## LITIGATION TRACK

- › 30(b)(6) Depositions: When and How to Use Them to Your Advantage - Brian Ivers
- › Cell Phone Discovery - Angela Campbell
- › Evidence in Action: Critical Issues in Iowa and Federal Evidence - Prof. Ron Carlson and Michael Carlson
- › Jury Verdict Panel - Brian Galligan, Jacqueline Samuelson and Bradley Schroeder
- › Gender Matters: Practical Solutions for Tackling Bias and Unprofessional Conduct in the Iowa Legal Profession - Leslie Behaunek, Steve Eckley, Judge Rebecca Goodgame Ebinger, Bryan O'Neill, Bridget Penick and Justice Thomas Waterman
- › When You Need to Bring in an Employment Lawyer for Your Client - Brooke Timmer

*In Evidence in Action: Critical Issues in Iowa and Federal Evidence, Prof. Ron Carlson (University of Georgia School of Law) and Michael Carlson (Deputy Chief Assistant District Attorney, Cobb Judicial District, Georgia) provide successful objection tactics in Iowa and federal practice. Using a trial question and answer format, they will supply practical techniques for trial proof and practice.*



## ADDITIONAL TRACKS AVAILABLE

Monday:	• Collaborate Law	• Corporate Counsel	• Fundamentals of Law	• Retirement
Tuesday:	• Case Law	• Fundamentals of Law	• Juvenile Law	• Litigation
Wednesday:	• Access to Justice	• Elder Law	• Fundamentals of Law	

## SOCIAL EVENTS

### MONDAY

Creighton Law School Luncheon  
Drake Law School Luncheon  
Joint Presidents' Reception

### TUESDAY

50-Year Member Luncheon  
University of Iowa Law School  
Hospitality Suite  
YLD Social Event

### WEDNESDAY

The Iowa Supreme Court  
Honors Luncheon  
ISBA Annual Awards Gala

# 2018 ANNUAL MEETING REGISTRATION FORM

Judges, law clerks, and judicial branch staff attorneys will receive registration information from the Iowa Judicial Branch.

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

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

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

## Registration Fees

Prices below reflect the early-bird registration fees. Registering after **June 6** will result in a \$50 late fee being added on to the registration fee amounts below.

### Full Seminar Registration

- ISBA Members (6 Years or More) - \$375
- ISBA YLD (Years 4-5: Admitted Between July 1, 2014 - June 30, 2016) - \$275
- ISBA YLD (Years 1-3: Admitted After July 1, 2016) - Free
- Non-ISBA Members - \$485
- Paraprofessional (Legal Assistants & Office Employees) - \$175
- Law Students - Free

### Individual Day Registration

- Only Monday (ISBA Members) - \$200
- Only Monday (Non-ISBA Members) - \$225
- Only Tuesday (ISBA Members) - \$225
- Only Tuesday (Non-ISBA Members) - \$285
- Only Wednesday (ISBA Members) - \$225
- Only Wednesday (Non-ISBA Members) - \$285

### Social Events (If only attending complimentary events, you must register above for Annual Meeting)

- |   |   |
|---|---|
| <input type="checkbox"/> Creighton University Law School Luncheon (Monday, June 18)         | \$25 each \$ _____                        |
| <input type="checkbox"/> Drake University Law School Luncheon (Monday, June 18)             | \$25 each \$ _____                        |
| <input type="checkbox"/> Joint Presidents' Reception (Monday, June 18)                      | Complimentary to Annual Meeting attendees |
| <input type="checkbox"/> 50-Year Member Luncheon (Tuesday, June 19)                         | \$25 each \$ _____                        |
| <input type="checkbox"/> Probate Track Luncheon (Tuesday, June 19)                          | \$25 each \$ _____                        |
| <input type="checkbox"/> University of Iowa Law School Hospitality Suite (Tuesday, June 19) | Complimentary to U of I Law School alum   |
| <input type="checkbox"/> YLD Social Event at the ISBA Headquarters (Tuesday, June 19)       | Complimentary to Annual Meeting attendees |
| <input type="checkbox"/> Iowa Supreme Court Honors Luncheon (Wednesday, June 20)            | \$25 each \$ _____                        |
| <input type="checkbox"/> ISBA Annual Awards Gala (Wednesday, June 20)                       | \$60 each \$ _____                        |

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

### Morning Walk

See downtown Des Moines on a 30-minute morning walk prior to that day's CLE programming. See event page for more information.

- Monday: 9:15 a.m.                       Tuesday: 6:45 a.m.                       Wednesday: 6:45 a.m.

### Yoga and Deep Breathing

Relax and reduce your stress level on Tuesday and Wednesday with a quick yoga session. See event page for more information.

- Tuesday: 7:00 - 7:30 a.m.                       Tuesday: 12:00 - 12:45 p.m.  
 Wednesday: 7:00 - 7:30 a.m.                       Wednesday: 12:00 - 12:45 p.m.

### Annual Meeting Art Show

Attorneys, judges, court reporters or any other legal professional who possess a love for creating art pieces are welcome to display their works in the Annual Meeting Exhibitor Hall during the length of the event. See event page for more information.

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

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**Special Considerations** (dietary, hearing, vision, etc.): \_\_\_\_\_

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

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

**Cancellation policy:** Registration refunds will be issued only if written notification is received by the bar office by June 6, 2018. Written notification can be mailed, faxed, or e-mailed to the bar office.



## MEDIATOR TRAINING

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former dean and adjunct professor, Drake University Law School, invites applications for:

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

For information, contact Susan Ewing at [amta@dwx.com](mailto:amta@dwx.com).

## Outreach to law students

### A YLD initiative

The Young Lawyers Division has ramped up its efforts to reach out to law students as prospective ISBA members. In 2015, a committee was formed with a goal of increasing law student participation in bar association activities, specifically to show them how ISBA membership can be beneficial to them as they transition into practice. The committee works to publicize the free ISBA membership to law students and encourage them to attend ISBA events, in addition to having events specifically tailored to law students.



In November 2017, ISBA YLD members and Drake University Law School students spent an evening volunteering and networking. The young attorneys and students teamed up to package meals at Meals from the Heartland's West Des Moines packaging center. The packaged meals are distributed globally, most commonly to orphanages and schools. Before volunteering, the students and attorneys gathered for an hour of networking and socializing.



In December 2017, the ISBA YLD partnered with Polk County Women Attorneys to provide breakfast to Drake law students during finals. Representatives from both organizations handed out breakfast sandwiches, coffee and well wishes during Drake's two weeks of finals. Many students took advantage of the pre-test fuel and were very appreciative of the YLD for providing it. A similar event during the University of Iowa finals week resulted in more than 100 attendees.



In March 2018, ISBA YLD members and University of Iowa College of Law students teamed up for a night of service and networking. The evening started with a service event at the American Cancer Society Hope Lodge in Iowa City. The group served homemade meals of chicken soup and pasta to cancer patients and caregivers who reside at the Hope Lodge. After volunteering, the students and attorneys continued their night by networking and socializing.



# CLE Calendar

May 14

SHIIP: Helping Your Clients with Medicare Issues  
(Live Webinar)

May 16

Copyright Law and Recent Updates  
(Live Webinar)

May 18

Tax Law Update  
(In-person or Live Webinar)

May 21

Medicaid to Nursing Home Care: Solving Semi-Complicated Scenarios  
(Live Webinar)

May 29

Social Media Discovery Issues in Litigation  
(Live Webinar)

June 13

Bringing and Defending Willful Infringement Claims  
(Live Webinar)

June 13

Child Support Guidelines  
(Live Webinar)

June 18-20

Annual Meeting  
Iowa Events Center  
Des Moines

July 19

IP Licensing  
(Live Webinar)

July 24

Secured Transactions Under Article 9 of the Iowa Uniform Commercial Code  
(Live Webinar)

August 23

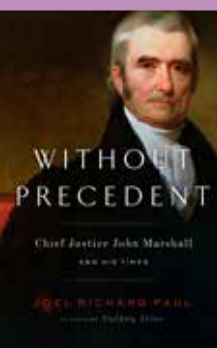
Those Affected by Dementia: Understanding their Needs  
(Live Webinar)

# BOOK REVIEW

By Brett Wessels

Interesting takeaways from 'Without Precedent: Chief Justice John Marshall and His Times'

Brett Wessels is an Assistant County Attorney for Pottawattamie County and a 2013 graduate of Creighton Law School. The author of this article would like to thank Professor Joel Richard Paul for providing an advance copy of "Without Precedent: Chief Justice John Marshall and His Times."



John Marshall (1755-1835) was the fourth Chief Justice of the United States Supreme Court. Marshall's 34 years as chief justice remains the longest tenure as chief justice in the history of the Supreme Court. The rulings during the Marshall Court were particularly influential in developing the Supreme Court as a coequal branch of government. He is also credited with conceiving many of the foundational doctrines of constitutional law still guiding our country.

On Feb. 20, 2018, University of California Hastings Law School Professor Joel Richard Paul released an excellent biography on John Marshall titled, "Without Precedent: Chief Justice John Marshall and His Times." The biography appropriately explores Marshall's time on the bench, such as his role in landmark constitutional cases including *Marbury v. Madison* and *McCulloch v. Maryland*. However, Marshall was much more than a jurist. The book examines Marshall's entire professional career, his personality and impactful experiences that shaped his judicial philosophy. This was a highly entertaining and educational biography that should be on a lawyer's reading list. The following are a few observations on John Marshall's interesting life and career from "Without Precedent: Chief Justice John Marshall and His Times."

## MARSHALL ACCEPTING THE SUPREME COURT NOMINATION WAS A SURPRISE

John Marshall was talented and ambitious. Strangely enough, that is why Marshall did not seek to become a Supreme Court Justice. In the early 1800's, talented and ambitious attorneys largely avoided the Supreme Court and Marshall had already turned the position down once. When he was unexpectedly asked again in 1800 by President John Adams, the Supreme Court was a constitutional and practical afterthought.

At the time, there was constant turnover and little interest in joining the Supreme Court. The reasons for this are the same reasons why Marshall should have been even less interested the second time he was approached. For example, the travel requirements were burdensome. Marshall loved Richmond, Virginia, but as a justice, every February he would have to travel from Richmond to Washington, D.C. The sojourn would be arduous and dangerous, with the roads being heavily forested and the roads constantly flooding. Justices also had to perform the obligatory "riding circuit." Since there were no appellate courts, on different times throughout the year the justices traveled on horseback to hear cases. The justices would sleep in uncomfortable taverns and listen to poorly trained lawyers argue cases.

Additionally, the Supreme Court's docket barely had a pulse. President Adams' first candidate turned down the job, a major reason was the risk of being bored. The Supreme Court's jurisdiction was limited mostly to admiralty law since there were so few federal laws and, therefore, most legal disputes were governed by state law. The narrow jurisdiction resulted in the docket averaging fewer than 10 cases a year and only issuing 63 decisions in its first decade.

The federal government cared little about the substance of the Supreme Court rulings or where they physically made these rulings. Unsurprisingly, government officials forgot to even build a federal courthouse when constructing the Capital.

Not only was the Supreme Court relatively powerless, but as a government entity it was literally homeless. Congress begrudgingly allowed the Supreme Court to use a vacant committee room on the ground floor of the unfinished capitol building. For the first decade of Marshall's tenure, the justices met in a room the size of a small classroom, with large windows overlooking a swamp and muddy creek. The makeshift courtroom had poor lighting and had no formal bench or bar-- the justices sat behind a table facing the lawyers. Behind the lawyers there were a few chairs for spectators in case someone happened to wander in.

Despite all of these unappealing considerations, Marshall accepted the nomination from an outgoing President Adams in 1801 and served until his death on July 6, 1835. Over the course of that time, Marshall thoroughly enjoyed his time as chief justice and helped bring prominence and power to the Supreme Court.

## MARSHALL'S OUTGOING PERSONALITY PLAYED A LARGE ROLE IN HIS PROFESSIONAL SUCCESS

Marshall's innate networking skills and his likeable personality played a major role in his professional accomplishments. This was remarkable, if not ironic, since Marshall's formative years were spent in relative isolation on the Virginia frontier and he benefited from only one year of formal schooling.

After the turmoil of the Revolutionary War, Marshall established himself as a gregarious member of the Richmond community. Developing personal relationships was a high priority for Marshall, so he joined the Masons, Formicola's Tavern Club, Jockey Club and the Quoit Club. He wanted his home in Richmond, Virginia, to be at the center of the social scene, so he designed his house with a massive dining room and hosted a monthly party for local attorneys. Marshall quickly emerged as a leading member of the Richmond Bar and was also the youngest man ever chosen for Virginia's highly influential Council of State.

During this time, Virginia, was the

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largest and most important state necessary for ratification of the proposed federal constitution. If a federal constitution was going to pass, Virginia needed to be on board. The event that would determine whether Virginia would vote either for or against ratification was called the Virginia Nominating Convention and each city in Virginia would have at least one representative.

Marshall wanted to become a delegate for Richmond and he openly supported the ratification of a federal constitution. This came from Marshall's vision that the country should be formed on the basis of a strong national government. However, ratifying the constitution was the minority view in Richmond and therefore, winning a public election to become its delegate would be a challenge. Despite his controversial views, Marshall's likeability and popularity helped him win a very close election.

The delegate election in Richmond was a watershed moment, setting in motion events that thrust Marshall into the national spotlight. The Virginia Nominating Convention was a massive, highly attended event that was being watched by the other states. At the Virginia Nominating Convention, Marshall's personality was on full display. While Marshall's informal appearance and manners lacked a polished gravitas, he impressed the other delegates with his persuasiveness. For example, Marshall flipped the delegates from the Kentucky territory by convincing them that a federal constitution would open up the frontier for development and homesteading.

Marshall's salesmanship of the constitution extended beyond the formal confines of the Virginia Nominating Convention, as he hosted parties for delegates at his nearby home. In the evening, he would visit taverns where delegates were drinking to try and persuade them to vote for ratification. After discussing politics, Marshall would charismatically tell stories about fighting in the Revolutionary War. Ultimately, and by a slim margin, Virginia voted to ratify the Constitution and Marshall's critical role in the passage helped him emerge as a respected national figure.

Marshall's personality contributed to the meteoric rise of the Supreme Court. In the early 1800's, what Washington, D.C. lacked in culture, it made up for in swampland and brush. There were fewer than 3,000 residents and most lived unhappily in boarding houses located around the Capitol building. Marshall saw an opportunity. Since there

was limited housing available, Marshall arranged for each justice to live in the same boarding house for \$15 a week.

The justices lived a unique fraternal lifestyle at the boarding house. They ate and drank together, played cards, and discussed cases late into the night. Marshall was in his true element- he would pour wine, tell jokes, and get to know the other justices on a personal basis. As Marshall got to know his fellow justices, he even set up the widowed ones on dates. This housing arrangement undoubtedly developed comradery and implicit trust, which in turn played a role in the unprecedented legal unanimity seen during the Marshall Court.

### MARSHALL WAS AN ACCOMPLISHED WRITER

Marshall's Supreme Court opinions are likely his most well-known work as a writer. During his 34 years as chief justice, the output of opinions by Marshall was staggering. In total, he wrote 547 opinions and there were others that went unsigned. In his first decade on the court, there were 227 published opinions and at least 152 were written by Marshall. The modern Supreme Court justice typically writes fewer than 10 majority opinions in a much more crowded docket.

Marshall's writing extended beyond his work as a jurist. He frequently wrote long letters, drafted poetry and kept a detailed journal. After the Virginia Nominating Convention, Marshall was appointed to a Virginia committee responsible for drafting a list of amendments guaranteeing the rights of individuals and states. Within a week, Marshall and James Madison drafted the First, Third, Fourth, Fifth and Eighth Amendments to the Constitution. Marshall never received sufficient credit, but he arguably played as much of a role as James Madison in drafting the Bill of Rights.


When Marshall was Secretary of State, he authored an extremely influential letter. In 1800, British warships were regularly seizing U.S. cargo ships and then pressing U.S. sailors into service for the British navy. This became a matter not only of economic concern, but public outrage. Marshall drafted a lengthy letter to British officials, eloquently and powerfully stating the United States position of neutrality in international waters. Marshall was detailed in his argument, but was also firm with his rhetoric, stating that the U.S. was prepared to defend itself if the attacks continued. Marshall's letter was so robust and position so well elucidated that it shaped American foreign policy for the next 100 years.

One unsuccessful writing endeavor Marshall may have wished to forget about was his foray into biographical writing. Marshall wrote the first-ever presidential biography, titled "The Life of George Washington." The five volumes totaled almost 1,000 pages. Marshall's personality and schedule was not a good fit for biographical writing. His restless mind was not suited for long periods of reflection and his hectic schedule did not provide adequate time for such a massive undertaking. Thomas Jefferson, believing the biography was going to be an attack on the Republican Party, openly disparaged the book even before it was released and ordered local postmasters to not advertise it. Consequently, the sales of the biography were underwhelming at best and the book was one of the few public failures of Marshall's career.

### THROUGHOUT HIS LIFE, MARSHALL RELENTLESSLY SOUGHT UNITY


At the age of 19, John Marshall left home for the first time to join the local militia as a volunteer to fight in the Revolutionary War.

When he arrived at the designated loca-



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tion for drills, the captain unexpectedly did not show. Since his father had taught him how to fire weapons, Marshall took charge and led the training. Marshall ended the session by imploring the volunteers to join the newly formed regiment. Marshall's first taste of leadership was a resounding success despite having just left the rural frontier only weeks earlier. This was only the beginning, as Marshall's ability to bring people together was a reoccurring theme throughout his life.

After the Revolutionary War, rallies were held throughout New England to support George Washington's foreign policy of neutrality. Alexander Hamilton was responsible for designating the person to organize the rally in each city. Virginia, being the most powerful state, was the most important rally and Hamilton knew who to ask: John Marshall. Marshall's personality and ability to find common ground among delegates at the Virginia Nominating Convention built his reputation. Marshall was a natural organizer, publishing notices and persuading prominent speakers to attend. People flooded to Richmond and the rally was extremely successful, drawing the largest crowd of any in the nation.

A discussion of Marshall's ability to unite individuals would not be complete without examining his time on the Supreme Court. Prior to Marshall, the Supreme Court did not issue a majority opinion. Per the tradition from English courts, each justice

issued his own opinion seriatim. Marshall disliked this fragmented approach and desired more collective judicial unity. His theory, which ultimately proved correct, was that a single opinion would enlarge the Supreme Court's authority while simultaneously improving legal clarity. Consequently, Marshall's first substantive opinion as chief justice was the first single opinion for a unanimous court.

Marshall not only invented the majority opinion, but he repeatedly forged consensus. Marshall's opinions nearly always sought political compromise and the result was judicial unanimity that remains historically unprecedented. In his 34 years as chief justice, there were 1,129 decisions and all but 87 were unanimous. Of the 547 opinions Marshall wrote, 511 were unanimous. Comparatively, from 1995 to 2015, fewer than half of the court's decisions were unanimous. This is not because the Marshall Court had "easy" cases. The legal issues during Marshall's time on the court were highly contentious and the justices were politically different. Marshall was a Federalist and every Supreme Court Justice appointed during Marshall's tenure was by a Democrat or Republican president, all who were philosophically opposed to Marshall.

The united front of the Supreme Court Justices during the formative years of the United States was essential in ushering in the judiciary as a coequal branch of government.

# Urbandale high school team wins

## Iowa mock trial state championship

The 36th annual Iowa High School Mock Trial Tournament was held March 26-28 in Des Moines. During the championship round in the Iowa Supreme Court building, Urbandale High School's "S.U.I.T.S." team defeated Johnston High School's "Big Mock Candy Mountain" team to become the 2018 Iowa High School Mock Trial State Champions. Thirty-two teams qualified for state in 2018.



Urbandale H.S. students and coaches pictured left to right: Julie Jackowski, Tim Whipple, Evie Fedosa, Ashleigh Kistenmacher, Claire Weihs, Noah Hoffman, Maya Sims, Jackson Fedosa, Ellie VanRoekel, Brian Kemmerer, Blair Liveringhouse, Tina Hoffman. Not pictured: Jacob Eisbrenner.

### Kunal K. Patra, MD Board Certified Psychiatrist



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Redacted reports of actual cases as well as Attorney References for quality of services available at [www.legal.1psychiatry.org](http://www.legal.1psychiatry.org)

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## LETTER TO EDITOR: WOMEN IN LEADERSHIP

I would like to commend Steve Eckley for writing the letter he was “warned not to write” in the April 2018 Iowa Lawyer. The topics addressed, those of sexual harassment, sexual discrimination and implicit bias, need to be addressed by all of us, in all professions, occupations and walks of life.

My initial reaction to Steve’s letter, and the other recent revelations of continuing sexual assault, harassment and discrimination, has been disheartened dismay that our daughters and granddaughters are now fighting the same battles as those of us women who were the first generation to enter the professional workforce in significant numbers.

I always thought that as my generation arrived at positions of influence, things would change. I would have thought that a letter such as Steve’s would not be necessary in 2018. But it is.

Steve’s letter points to some ways individuals can make a big difference on a personal level. There are many resources available to help all of us effect change and reduce the incidence of harassment, discrimination and bias. The next question may be “What can the ISBA do as an organization?”

Although this is a problem that needs to be addressed in many ways, one of the primary positive steps an organization like the ISBA and its leaders can take to reduce the incidence of harassment, discrimination and bias, and to effectively react to any such behavior, is to increase the number of women in significant leadership positions. That is an area where the ISBA could improve.

In the history of the ISBA, and in the almost 40 years I have been an attorney, there have been only three women who have served as president of our organization. There are no women in the officer chairs right now, nor will there be a woman elected as vice president in 2018. This is despite the fact that since the late 1970’s, of the new lawyers admitted to the bar, more than 30 percent are women, and in the past 20 years, that number is 50 percent or more. In other words, it is not for lack of capable women.

When it comes to other leadership positions in the ISBA, there has been progress, but not what one would expect based on the number of women in the profession and the number of women who are active in the work of the Bar.

First, women membership on our committees and section councils is higher than our percentage of membership (approximately 30 percent of ISBA members are women, a number that is disappointing in and of itself). Women who ask to be appointed to a committee or to a section council are routinely appointed to those positions, so there seems to be no barrier to women participating in the work of the ISBA.

On the other hand, the ISBA Administrative Committee, which consists of the officers and at-large members, has only one woman out of seven members (14 percent women). There are 49 total substantive sections and committees. In 2017-2018, there are 11 women chairs of those sections and committees, or 22 percent.

The Board of Governors has 44 members, 16 of whom are women, or 36 percent, which is a good sign that there are women who are

willing to put their hat in the ring for elected ISBA leadership positions.

It appears that women’s participation in the work of the ISBA does not translate into the leadership positions of officers, administrative committee members, committee and section chairs.

ISBA needs more women on the Board of Governors so that nominating a woman as the vice president is no longer an unusual surprise. We should also consider adding different paths to becoming an officer, so that those who are active in the day-to-day work of the sections and committees could be considered for an officer position. The current method is not arriving at the desired results. There should never be a year when there are no women in the officer chairs, and it should not be unusual for there to be several women in the officer chairs and on the administrative committee. I encourage any woman who is interested in a leadership position on the Board of Governors, or as chair of a section or committee, to let your interest be known and to run for the Board of Governors. We must rebuke any perception that women, for whatever reasons, are not interested in these influential and meaningful positions.

Steve was warned not to write his letter, which is telling in and of itself. I am thankful that he did, and I hope that it motivates women members of the ISBA to step forward into leadership positions for many reasons: to help curb the behavior that spurred the Me Too movement in the first place and to guarantee all the benefits of women’s meaningful participation at all levels of our organization.



**Margaret Van Houten**

is a shareholder at the Davis Brown Law Firm in Des Moines.

### Letters to the Editor

The Iowa Lawyer welcomes letters that pertain to recent articles or columns. They should generally be limited to 250 words, be original, signed and addressed to The Iowa Lawyer editor. Letters may not promote individual products, services or political candidates. They may be edited for grammatical errors, style or length.

Additionally, The Iowa Lawyer is always looking for quality submissions on a wide variety of topics related to the practice of law. Please send any inquiries about submissions to: mhiggins@iowabar.org, or

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Editor, Iowa Lawyer Magazine  
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# Transitions



Bright

**David Bright** has joined Pugh Hagan Prahm, PLC in Coralville. Bright received his J.D. from the University of Iowa College of Law in 2001. He practices in the areas of real estate, land use and real estate development, business transactions, franchising and distribution, nonprofit and tax-exempt organizations, and estate planning and probate.



Henry

**Edward Henry** has been named a shareholder at Fuerste, Carew, Juergens & Sudmeier, P.C. in Dubuque. Henry received his J.D. from the University of Iowa College of Law in 2015. He maintains a general practice including bankruptcy, business and commercial law, corporate law, estate planning, wills and trusts, probate law and real estate law.



Wittmack

**Charlie Wittmack** has joined Hartung Schroeder Law Firm in Des Moines. Wittmack is a 2006 graduate of the University of Iowa College of Law. He formerly prac-

ted with the Davis Brown Law Firm in Des Moines and then as a solo practitioner in Charlotte, North Carolina. Wittmack has a general practice that includes appearances in the courtroom and in the boardroom.



Deutmeyer

**Tracy L. Deutmeyer** has joined Fredrikson & Byron's Des Moines office as an officer in the advertising, marketing & trademark, and copyright protections & enforcement groups. Deutmeyer works closely with clients on protecting and enhancing their intellectual assets around the globe.



Seyfer

**Andrew J. Seyfer** has joined Bradley & Riley, P.C., in Cedar Rapids as an associate. Seyfer received his J.D. from the University of Iowa College of Law in 2011. Seyfer worked as a tax manager at Ernst & Young LLP in Chicago, Illinois, where he served both public and private corporate clients on tax matters. He is a member of the tax, estate

planning and business practice groups.



Lattner

**Leigha Lattner** recently joined the Kintzinger Law Firm in Dubuque. She received her J.D. from William Mitchell College of Law in 2014. Prior to joining the firm, she served as a judicial law clerk for the judges of the First Judicial District. Lattner will be practicing in litigation, specifically criminal defense, employment and business law, and family law.



Maxwell

**Nicholas T. Maxwell** has been named partner at Harrison, Moreland, Webber, Simplot & Maxwell P.C. in Ottumwa. Maxwell earned his J.D. from the University of Iowa College of Law in 2012. He has been with the law firm since 2012 and maintains a general practice including, but not limited to, insurance defense.

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## Kudos

The National School Boards Association's Council of School Attorneys (COSA) presented its Lifetime Achievement Award to James C. Hanks on April 7. Hanks is a member at the Ahlers & Cooney law firm in Des Moines, and has served as chair of the firm's Education Law practice area, which represents over 250 Iowa K-12 school districts, area education agencies, community colleges, colleges and universities.

Des Moines Downtown Chamber members voted Whitfield & Eddy Law Business of the Year. Whitfield & Eddy has been a long-time member of the Downtown Chamber, active in committees, the board of directors, and as a sponsor of events including the Annual Celebration. Pictured is attorney Drew Gentsch accepting the award on behalf of the firm.



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**DEPUTY COUNSEL** – *The University of Iowa Office of the General Counsel, Iowa City, IA* – Seeking applicants for the position of Deputy Counsel in the University's Office of General Counsel. The Deputy Counsel reports to the Vice President, Legal Affairs and General Counsel, and will provide legal advice to the university on a potentially broad variety of subject matter areas, including employment law, disability, discrimination, harassment, retaliation issues in education and employment, litigation preparation and support, and other issues related to a public institution of higher education. To review the complete position description and apply online, please see <http://jobs@uiowa.edu>, and refer to Requisition # 72635. All applications must be submitted by using the website.

**ASSOCIATE** – *Smith Peterson Law Firm, Council Bluffs, IA* – Seeking an associate attorney with 0-3 years' experience to practice in a well-established, A-V-rated firm in Council Bluffs, with a practice throughout western Iowa and eastern Nebraska. Candidate should be interested in cultivating a long-term career at the firm with goal of becoming a partner. Apply by sending cover letter, resume and law school transcript to Gregory G. Barntsen, Smith Peterson Law Firm, 133 West Broadway, Council Bluffs, IA, 51502. Send application to email address: [gbarntsen@smithpeterson.com](mailto:gbarntsen@smithpeterson.com)

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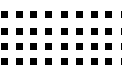
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# Thanks to speakers

## *From March 2018*

### **Top Patent Law (Live Webinar)**

March 7, 2018

Sponsored by ISBA Intellectual Property Law Section  
Michael Borella, Ph.D., McDonnell Boehnen Hulbert & Berghoff LLP  
Kevin Noonan, Ph.D.  
Donald Zuhn, Jr., Ph.D.

### **Representing Children in Iowa (Live Webinar)**

March 7, 2018

Sponsored by The Iowa State Bar Association and Drake Law School  
Lora McCollom, McCollom Law Firm PLLC  
Jenny Schulz, Kids First Law Center

### **Juvenile Law Seminar (In-person or Live Webinar)**

March 8, 2018

Sponsored by the ISBA Family & Juvenile Law Section  
Rachel Antonuccio, Johnson County Public Defender's Office  
Dr. David Brown, Special Education Instructor, West Liberty High School  
Dr. Ed Connor, Connor & Associates  
Jane Harvey, Department of Human Services (DHS)  
Prof. Brent Pattison, Director of Joan and Lyle Middleton Center for Children's Rights, Drake University  
Nicole Proesch, Iowa Department of Education  
Wendy Rickman, Department of Human Services (DHS)  
Dr. Rizwan Shah, Retired Child Abuse Program Director and Emeritus Faculty at Blank Children's Hospital  
Tara van Brederode, Attorney Disciplinary Board  
Hon. Colin Witt, District Associate Judge, District 5C  
Dr. Armeda Wojciak, assistant professor, University of Iowa College of Education  
Julia Zalenski, Johnson County Public Defender's Office

### **Criminal Law Seminar (In-person or Live Webinar)**

March 9, 2018

Sponsored by the ISBA Criminal Law Section  
B. John Burns, Federal Public Defenders Office  
Paul Bush, Iowa Division of Criminal Investigation, DNA Lab Supervisor  
Larry Johnson, Jr., State Public Defender  
Marc Krickbaum, U.S. Attorney, Iowa's Southern District  
Hon. Henry Latham, District Court Judge, District 7  
Joseph McEniry, Legislative Services Agency  
Doug Struyk, Carney & Appleby PLC  
Jeff Wright, Chair, Iowa Board of Parole

### **Recordings of Public Safety Officers on Duty (Live Webinar)**

March 12, 2018

Sponsored by The Iowa State Bar Association  
Government Practice Section  
Skylar Limkemann, Scheldrup Blades PC

### **Employment Law Audits (Live Webinar)**

March 26, 2018

Sponsored by The Iowa State Bar Association  
Business Law Section  
Mikkie Schiltz, Lane & Waterman

## *From April 2018*

### **IP Mediation and Industry Trends (Live Webinar)**

April 10, 2018

Sponsored by ISBA Intellectual Property Law Section  
Patricia Sweeney, McKee, Voorhees & Sease, PLC

### **Joint Physical Care and Parenting Plans (Live Webinar)**

April 11, 2018

Sponsored by The Iowa State Bar Association and Drake Law School  
Stacey Warren, CashattWarren Family Law, P.C.

### **Employment Agreements: Emerging Issues in the Digital Age (Live Webinar)**

April 19, 2018

Sponsored by The Iowa State Bar Association Corporate Counsel Section  
Melissa Schilling, Dickinson, Mackaman, Tyler & Hagen, P.C.

### **Commercial and Bankruptcy Law Seminar (In-person or Live Webinar)**

April 20, 2018

Sponsored by The Iowa State Bar Association Commercial and Bankruptcy Law Section  
Thomas O. Ashby, Baird Holm LLP  
Hon. Thad J. Collins, Northern District Iowa Bankruptcy Court  
Thomas Goodhue, Nyemaster Goode, P.C.  
Nicholas J. Kilburg, Phelan Tucker Mullen Walker Tucker & Gelman LLP  
Jonathan E. Kramer, Whitfield & Eddy PLC  
Elizabeth M. Lally, Goosmann Law Firm, PLC  
Eldon McAfee, Brick Gentry PC  
Hon. Anita L. Shodeen, Southern District Iowa Bankruptcy Court  
James L. Snyder, Acting United States Trustee, Region 12  
T. Randall Wright, Baird Holm LLP

### **Substance Abuse and the Family (Live Webinar)**

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## In Memoriam

**James William Brown**, 87, of Osceola died April 3. Brown was born in Des Moines. He served as a pilot in the U.S. Navy during the Korean War and received his J.D. from Drake University Law School in 1959. He practiced law as a partner at Reynoldson, Brown & Van Werden, before starting his own practice. In 1979, Brown was appointed a judge of the Iowa District Court by then-governor Robert Ray, where he served until 2002 when he was appointed a senior judge on the Appellate Court until 2008.

**Shannon Gant Holz**, 54, of Des Moines died March 4. Holz was born in 1963 in Clovis, New Mexico. She received her J.D. from Drake University Law School in 1988. She served as a law clerk for the Iowa Court of Appeals, then worked as a commercial real estate lawyer for the Principal Financial Group, Terrus Real Estate Group, and finally back at Principal.

**Thomas X. Wright**, 94, of Des Moines died March 23. Wright was born in 1923 in Des Moines. He served in the Army Air Corps in World War II and received his J.D. from Drake University Law School in 1948. He served as senior vice president of Employers Insurance Companies. He was past president of The Iowa Insurance Institute and a member of the International Association of Insurance Counsel and the Iowa Bar. He also served on the boards of Christ Child Home and Bishop Drumm Care Center.

# SPOTLIGHT on SERVICE



The ISBA Public Relations Committee will be honoring 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.

If you happen to spot Johnston's Mayor Paula Dierenfeld in the middle of a long run on an Iowa road, chances are she is not only logging those miles to stay in shape. Dierenfeld, an attorney at Nye-master Goode, has used her passion for running to inspire her community to get involved in non-profit endeavors.

Every year for the last five years, Dierenfeld has issued a challenge to Johnston residents: For every bag of food, personal care items or \$10 they donate in the month of December to the local food pantry, she will run one mile, beginning on New Year's Eve day. It started with 36 bags and 36 miles five years ago and has grown to 381 bags and 381 miles this year.

"I ran the last mile on Feb. 15 – averaging eight miles a day to fulfill my commitment," she said. "This all started as a result of information I had received from the local food pantry showing that December is the month that they typically receive the lowest amount of food and monetary donations all year."

That didn't sit well with Dierenfeld, who continually strives to think of creative ways to better the Johnston community. This sense of civic duty began well before her stint as mayor, which started in 2009. She

previously served two terms on the Johnston City Council, and she has held various positions in federal and state government, including staff assistant to Senator Chuck Grassley, research staff director in the Iowa General Assembly, legal counsel to former Iowa Governor Terry Branstad and member of the Iowa Utilities Board. At Nye-master Goode, Dierenfeld is a member of the Governmental Affairs Department.

Other activities Dierenfeld is passionate about are organizing Johnston's annual kite festival, which is inspired by the kite tournament that was held every year in her hometown of Sac City, as well as her role on the board of directors for the Iowa Gold Star Military Museum.

"Over the past several years, I have worked with other directors to fundraise, design and construct exhibits to display artifacts from all of the military conflicts that Iowans have participated in," Dierenfeld explained. "It's an honor to volunteer my time to a project that recognizes the heroic service of all Iowa veterans."

Dierenfeld and her husband, David Roederer, have three children and 13 grandchildren.

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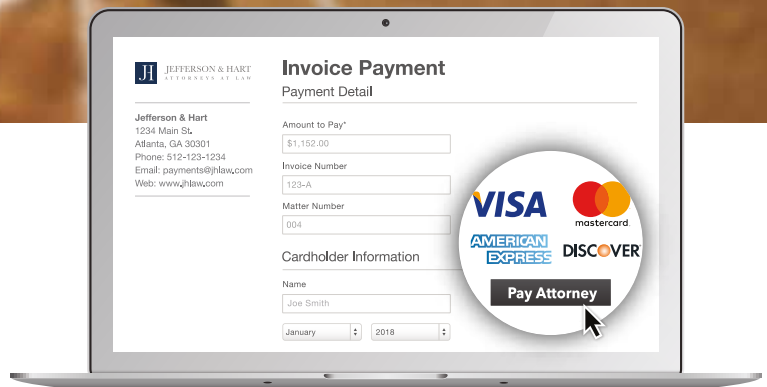
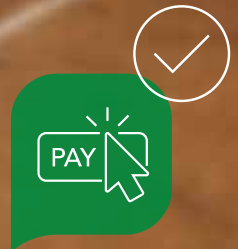


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