

Babies at work

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Attorneys David Albrecht and Amy Beck pose with their newborns Eloise and Will. Both attorneys practice at the Fiedler Law Firm in Johnston and have been able to bring their babies to work as an extension of the firm's parental leave policy. Read about their experiences as new parents, and why the ISBA Young Lawyers Division is encouraging more law firms to take a second look at their parental leave policies, beginning on page 7.

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REMEMBRANCES OF CHIEF JUSTICE

Mark Cady



Iowa Supreme Court Chief Justice Mark S. Cady passed away unexpectedly on Nov. 15 of a heart attack. Chief Justice Cady was appointed to the Iowa Supreme Court in 1998, and the members of the court selected him as chief justice in 2011.

Born in Rapid City, South Dakota, Chief Justice Cady earned both his undergraduate and law degrees from Drake University. After graduating from law school in 1978, he served as a judicial law clerk for the Second Judicial District for one year. He was then appointed as an assistant Webster County attorney and practiced with a law firm in Fort Dodge.

Chief Justice Cady was appointed a district associate judge in 1983 and a district court judge in 1986. In 1994, he was appointed to the Iowa Court of Appeals. He was elected chief judge of

the court of appeals in 1997 and served until his appointment to the supreme court.

Chief Justice Cady was a member of the Order of Coif, The Iowa State Bar Association, the American Bar Association, the Iowa Judges Association and Iowa Academy of Trial Lawyers (honorary). He also served as chair of the Supreme Court's Task Force on the Court's and Communities' Response to Domestic Abuse and was a member of the Drake Law School Board of Counselors. Chief Justice Cady was chair of the Nation Center for State Courts Board of Directors and President of the Conference of Chief Justices.

He was married to his wife Becky for 37 years, and together they had two children and four grandchildren.

"HE IS ONE OF THE GIANTS
AND LEAVES A LASTING
LEGACY OF HONOR,
INTEGRITY AND KINDNESS.
I WILL MISS HIM GREATLY."

—JUSTICE DAVID WIGGINS,
NOW SERVING AS ACTING
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PRESIDENT'S MESSAGE:

In November, we lost a great Iowan and a wonderful person. Chief Justice Mark Cady was a man of exceptional qualities, including leadership, intellect, conviction, courage, compassion, professionalism, civility and graciousness. He was a friend to all Iowans.

The chief was a great jurist and educator. He believed in reaching out to the public and bringing the courts to the community. He sought to demystify the law and judicial process by arranging to regularly hold sessions of the Iowa Supreme Court around the state. And he advocated for greater resources and innovative programs through which the courts might better serve the people.

The chief took pride in the legal heritage of the state and spoke with passion about past Iowa court cases and the lessons they hold for us today. He often extolled Iowa's rich legal history and the personal stories of courage and commitment behind the making of this history. On one occasion, he provided an inspiring profile of Charles Bradley, a district court judge from Le Mars, who would not waiver from his oath of office, even when he was dragged from the courtroom and almost killed for refusing to accede to demands of farmers to halt farm foreclosures. The chief talked about the need for everyone to act with the courage of their convictions and do what is right even when it is not easy to do — a principle Chief Justice Cady exemplified himself.

Last year, during a week of celebration of the 150th anniversary of *Clark v. Board of Directors*, the chief spoke at event after event about the courage of the plaintiff in the case as well as the district court judge and the Iowa Supreme Court justices who ruled that segregation of schools was unconstitutional 86 years before the U.S. Supreme Court's decision in *Brown v. Board of Education*. At one of the programs, the chief was asked about his own role in the advancement of civil rights in Iowa. But he humbly shied away from making any comment about his

own contributions while the rest of those in the room knew of his involvement in some of Iowa's most recent landmark decisions.

We as Iowa lawyers greatly benefited from Chief Justice Cady's service to the state. He was a great friend to the bar. His contributions to the court and his integrity as a leader will have a lasting effect. We will always remember his profound contributions that so enriched and improved our lives. It is with deep reverence that we extend our condolences to Becky, Kelsi, Spencer and the entire family.

— **Bill Boyd, ISBA President**

FROM THE IOWA SUPREME COURT:

"Mark had all the qualities you would want in a chief justice. He had an outstanding legal mind, he was a strong leader who led by example, he was deliberative in all his decisions and he loved the Iowa Judicial Branch. As a friend, he was compassionate, warm and very personable."

— **Justice Brent Appel**

"I will miss his gentle, caring manner, his eloquence, his words of wisdom. He brought our supreme court to the people we serve throughout Iowa. And he brought his Iowan values to lead the chief justices of every other state. His legacy inspires us."

— **Justice Thomas Waterman**

"No matter what your job or position or how he came to meet you or whether you agreed with him, he looked directly into your eyes and saw great value in you. He had a disarming way of tapping his hand on the back of your shoulder at the end of a meeting that conveyed simply and powerfully, 'You matter to me.'"

— **Justice Edward Mansfield**

"Not long after I joined the court, I told the chief I was interested in a particular issue regarding child welfare issues. His facial expression told me everything — not only

did he like my idea, he said: 'You have my full backing. Let's make it happen.' The chief didn't just utter those encouraging words — he backed it up with consistent interest in my progress and by ensuring access to information and assistance in an effort to reach our goal. That is true leadership."

— **Justice Susan Christensen**

"Chief Justice Cady was a selfless and dedicated public servant. For almost 40 years, he served the citizens of this state as a thoughtful and fair-minded jurist. He was a compassionate man who cared deeply about this state, his community, his family, his friends and his colleagues."

— **Justice Christopher McDonald**

FROM HIS ALMA MATER, DRAKE UNIVERSITY:

"I admired him so much, because his constant goal was to do the right thing to achieve a fairer legal system in Iowa — not the easy thing, but the right thing. The state of Iowa owes him a debt of gratitude for his tireless efforts to improve the law and the judicial system, making the lives of all Iowans better."

— **Drake Law School Dean Jerry Anderson**

FROM ISBA OFFICERS:

"I first met the chief when we were 18-year-old freshmen at Drake University. The chief and I lived in the basement level of Drake's first co-ed dormitory with 20 other 18-year-old freshmen men. We had great fun playing pickup basketball, touch football and playing poker. We all worried about getting drafted for Vietnam. We even drank a beer or two (the drinking age was 18 back then). We became good friends who confided with each other about life, girls, college and the future. I remember confiding with the chief about my desire to become a lawyer. He was leaning toward that career also. Little did we know that our paths would cross so often in the decades to follow.

I also remember that among the dormitory basement dwellers, the chief was considered special. We all knew him as soft spoken, yet, like the old EF Hutton commercial, when Mark spoke, everyone listened. He was super smart, but never said a word about how well he was doing scholastically. However, if you needed help with your studies, the chief was always there with his notes and advice. In addition, the chief was always the guy who organized our sporting events, including a time when we bought old snow skis at a thrift store and skied down a big hill near Drake. I have a distinct memory of the chief nearly crashing into a tree as he barreled down the slope. I remember we were all laughing but secretly worried that he was going to break his neck!

Today, as I remember my old friend, I can't help but wonder what Iowa would be like had the chief hit that tree and died at age 18. Would the thousands of judicial decisions he made be the same without him? I doubt it. Would the Varnum decision be written so eloquently? Probably not. Without his leadership, would Iowa be the first state in the nation to have electronic filing for legal matters from traffic tickets to supreme court briefs? Not likely. Would Iowa have the specialty courts that impact the lives of so many needy Iowans? Again, I doubt it. Would the Iowa Supreme Court have been so committed to civil rights? In my opinion, not without Chief Justice Cady.

I am incredibly sad that my friend is gone, but incredibly thankful that he spent

his legal career in Iowa. Thank you, chief. We will miss you."

– **Tom Levis, ISBA Immediate Past President**

"Justice Cady served the court, the law and the people of Iowa with distinction. He worked tirelessly for the people of Iowa. One of the most important things he did was to take the court on the road. This let Iowans get a greater understanding and respect for the court and an independent judiciary's role in a free society based on the rule of law. Everyone who appeared in his court was treated with dignity and respect regardless of their station in life. He lived out his belief in justice for all."

– **Jerry Schnurr, ISBA President-elect**

"When I think of the chief, this is what I think of first: He quietly and capably shouldered heavy responsibility on behalf of all Iowans, yet never failed to offer a warm smile and kind word to every person he met."

– **Stephen Eckley, ISBA Past President**

"Justice Mark Cady was truly a shining star — a man who stood out and guided the way for many.

Although we had been friends for years, it was while I was acting Iowa State Bar Association president that I became truly inspired. He encouraged me to look past obstacles, dig deeper and discover ways to improve the Iowa Court System and to improve myself. An authentic leader who held himself to the highest standard, kindness and

compassion formed the core of his life. We saw it in his court opinions, his warm greetings on the street and carrying his granddaughter out of the House Chamber after the completion of the State of Judiciary address. His wisdom, his strength and his warmth have been a beacon of light for all of us."

– **Skip Kenyon, ISBA Past President**

"I first met Chief Justice Cady in law school. He had just finished hearing oral arguments at the Iowa College of Law's Supreme Court Day. One of my college roommates grew up in Fort Dodge and knew the Cady family, so I thought it would be a good time to say hello and share that connection. At that time, I didn't think I would cross paths with the chief ever again. Who would've thought that several years later I'd be sitting in his chambers as YLD President talking about ways we could work together to improve the lives of Iowa's young lawyers?

Chief Justice Cady is a person we should all emulate. He was humble, loved his family, cared for everyone, worked hard at his job and always tried to do the right thing. I cannot thank him enough for always making the time to hear about the YLD's priorities and his willingness to find ways to help us meet our goals as an organization.

Of course, I'm going to miss seeing his intellectual prowess shine in his opinions. But, more so, I'll miss his confident leadership, his hopeful outlook on life, his warm hugs and seeing his face light-up when I asked him about his family." – **Abhay Nadipuram, ISBA Young Lawyers Division President**

IOWA SUPREME COURT TO CREATE LEARNING CENTER IN HONOR OF CHIEF JUSTICE CADY

The Iowa Supreme Court announced the initial steps towards creating the Chief Justice Mark S. Cady Learning Center on the first floor of the Judicial Branch Building in Des Moines.

Chief Justice Cady was a longtime advocate for civics education, and one of his goals was to create an interactive learning center for all Iowans in the judicial branch building – for the many students and visitors from around the world who want to learn more about the Iowa court system.

The Cady family has asked that memorial contributions be made to The Iowa State Bar Foundation, earmarked for this project. Visit iowabar.org/donations to contribute.



Babies at work

Attorney parents look for creative solutions to achieve better work-life balance | By Melissa Higgins, Communications Director

A difficult client. Angry opposing counsel. A judge who rules against your motion. Lawyer life can be stressful and full of contention. But, there's a cure-all at the Fiedler Law Firm in Johnston.

"If you're having a bad day, there is nothing like a little baby snuggle," firm owner Paige Fiedler said.

This fall, the Fiedler firm had two babies who were regulars amongst the office staff. But they weren't there because of Fiedler's love of pudgy little cheeks as instant stress relief.

"We want to put our money where our mouth is," Fiedler said.

The Fiedler firm primarily represents people who need help because they have been fired or discriminated against, often due to pregnancy discrimination or violations of the Family & Medical Leave Act (FMLA), which gives job protection when employees take unpaid leave for qualified medical and family reasons. Fiedler's firm employs seven attorneys (in Iowa and Nebraska) and six staff members. "Putting our money where our mouth is" means offering all employees paid maternity and paternity leave, above and beyond what any law currently requires.

"Everybody has gotten paid leave since I started my firm in 2001. Currently, we offer eight weeks for mothers who deliver the baby and six weeks for fathers, or those who adopt," said Fiedler. In addition, she offers as part of her parental leave policy a flexible plan to transition back to work.

"It was kind of an expectation – if you have a baby, bring it," said attorney Amy Beck, whose son, Will, spent four months as her office roommate.

Will was born on July 23, 2019, and after Beck took her initial paid maternity leave, she began bringing Will to work with her at Fiedler's urging.

"Most of this stuff here," Beck said, pointing to the baby items in her office, "actually belongs to the firm." That's because seven babies of attorneys or staff members have spent some of their newborn life at the office, so Fiedler purchased items like baby seats and cribs to have on hand.



Parental Leave

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The YLD's Parental Leave Task Force initiative

The ISBA Young Lawyers Division recently completed a survey of Iowa law firms. Based on the data received, 75 percent of law firms surveyed have only FMLA and no paid leave available. Only six percent of firms surveyed offer paid paternity/spousal leave.

Because of the overwhelming interest in parental leave issues, the YLD recently created a Parental Leave Task Force. In addition to the survey, this group published a series of articles related to pregnancy and parental leave, which follow in this issue of *The Iowa Lawyer*.

"Our next steps will be encouraging young attorneys to partner with employers to draft formal, written parental leave policies for their firms. We want to encourage creative solutions, just like what the Fiedler Law Firm is doing with its policy."

— Torey Cuellar, YLD President-elect and Chair of the Parental Leave Task Force

Another Fiedler firm attorney who recently transitioned back from parental leave is David Albrecht. His daughter, Eloise, was born June 13, 2019. Albrecht was able to take two weeks off immediately after Eloise's birth, saving his remaining four weeks of paternity leave until after his wife went back to work.

"We both had that initial time together, which I really appreciated," Albrecht said. "When people say, 'I went back the next day (after my wife had a baby),' I don't see that as a badge of honor. I think, 'Wow, that's too bad. You don't know what you missed.' To not have the ability or choice to stay home is very unfortunate from the dad's perspective," Albrecht said.

Albrecht and Beck both say that generous and flexible maternity/paternity leave policies were factors in their decision about where to practice, echoing the growing trend amongst millennial employees that prioritizes work-life balance as a necessity of employment. A 2017 Ernst & Young study revealed that 83 percent of millennials would be more likely to join a company if it offered paid parental leave.

"It hardens and deepens firm loyalty when you have someone from the top saying, 'I am invested in you, not just professionally, but personally.' And then to allow you to bring your children to work whenever you want and support you, 100 percent. That's huge," Albrecht said.

Albrecht's daughter was due to be born right before the high-profile Chris Godfrey discrimination trial vs. the state of Iowa, which the Fiedler firm was brought into late in the game and resulted in an "all-hands-on-deck" scenario for associates.

"I didn't know what to do," Albrecht said. "But we had a pow-wow, and Paige insisted I still take my time. There was no question. And during my leave, there was never any expectation that I would still be involved. It

was totally hands-off," Albrecht said.

Once Beck and Albrecht came back to work, with babies in tow, they said the transition was made easier by a boss who personally set the tone for a family-friendly environment.

"The first day Will was here, he had a blowout diaper. It was awesome to see my boss, this top employment litigator, step right in to help. He's making a mess and she's in a suit, but she handled it like a champ," said Beck.

They also both said that the staff happily steps in to help cover baby duty when they're in meetings, but often the babies come to those as well.

"I've brought my baby into client meetings and they are always very happy about it. It's hard to dislike a baby and it eases their concerns. Especially in pregnancy-related cases — they realize we understand what they're going through," Beck said.

Beck says having Will as her daily office buddy hasn't slowed her productivity.

"I'm still able to be very productive. More so than if I brought him to daycare sooner than I wanted and was worried or stressed about it," Beck said.

That's how Albrecht sees it too. "Work life balance isn't about how many hours am I here or there. It's if you feel safe in both scenarios. Then you can feel balance. That's what's big about this firm — when I'm at home, I don't feel pressured to be at work. And when I'm at work, I feel comfortable with what's happening at home. So, I'm overall much happier and more productive," he said.

Fiedler recalls when she graduated from law school in the 1990s many of her female classmates who worked at big Des Moines firms had no leave policies at all. Or, they would be allowed leave, but the firms wouldn't adjust the billable hours requirement, making it nearly impossible to take the time. Her experience, however, was different.

"I clerked for Roxanne Conlin (a plaintiff's employment litigator) when I had my second child. She insisted I bring the baby in. Everybody in the office helped," Fiedler said. Fiedler wanted to replicate the same experience for her own associates.

"Solutions like this are so important for women to continue to have an upward trajectory at their firms," Beck said. "And it shows we don't just hold other businesses accountable for following anti-discrimination laws. We're also showing that, as a firm, we do the things that we're trying to protect for our clients."

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The YLD's latest endeavor

The Parental Leave Task Force



The Iowa State Bar Association Young Lawyers Division is focused on fulfilling its mission by finding ways to best serve its members: Iowa's newest attorneys. The Young Lawyers Division recognizes that attorneys should not have to choose between advancing a career and starting a family, as reflected by work-life balance becoming an increasing priority of young attorneys when selecting a workplace. A recent initiative of the Young Lawyers Division is its Parental Leave Task Force — a group focused on informing the membership of the rights and responsibilities of young lawyers looking to take parental leave, as well as providing resources, templates and support for young attorneys across the state as they look to implement or improve parental leave policies at firms of all sizes.

The Parental Leave Task Force distributed a survey to attorneys across the state. Lawyers from law firms, public government entities, and other non-profit and for-profit organizations responded. In looking at all participants' responses, the results showed that more than 52 percent of workplaces do not have a written parental leave policy for employees. More than 80 percent of law firms with fewer than 20 attorneys did not have a written policy in place. About one-half of all survey respondents' employers did not provide any form of paid leave for parents. Limitations in firm size, work distribution and billing expectations were cited as leading obstacles in implementing parental leave policies. While the Parental Leave Task Force and the Young Lawyers Division recognizes that change can't happen overnight, we believe Iowa can do better.

As its flagship project, the Parental Leave Task Force is pleased to present articles outlining the current rights of employees seeking to take parental leave and the

responsibilities of their employers. These resources are not meant to serve as legal advice to our members, but rather as guides for young attorneys to know their baseline protections and to best partner with their employers to ensure a smooth plan for parental leave and transition back into the workplace. They are now all available on iowabar.org/YLDresources (scroll to bottom).

This is just the beginning, and we would love your help. The Parental Leave Task Force welcomes any feedback about additional articles and resources that would be helpful for young attorneys. Together, we will continue

to gather information about existing policies across the state, lobby employers for more aggressive leave policies for all parents and develop additional resources to help employers implement paid parental leave policies. We look forward to what's to come.

Sincerely,

Torey Cuellar

*Chair, Parental Leave Task Force
President-elect, ISBA Young Lawyers Division*

Following is a series of articles intended to inform practicing young attorneys of their basic rights related to parental leave. Subjects include rights under the Family Medical Leave Act, pregnancy and parenthood anti-discrimination laws, workplace breastfeeding and pumping rights and regulations and information on short-term disability policies. There is also a checklist of considerations to make when selecting a workplace or preparing to start a family.

All articles were written by Parental Leave Task Force Members Amy Beck, Torey Cuellar, Halley Ryherd and Mark Van Heukelom.

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Pregnancy and Parenthood Anti-Discrimination Laws

Both federal and state laws provide certain protections against employment discrimination for pregnant women and for women who have previously given birth.

Pregnancy Discrimination Act (PDA)

The federal Pregnancy Discrimination Act states that employment discrimination “on the basis of pregnancy, childbirth or related medical conditions” is a form of illegal gender discrimination. This law prohibits employers and prospective employers from discrimination against women for pregnancy or maternity-related matters. This includes explicit discriminatory policies (such as a prohibition on hiring pregnant women) as well as implicit, unwritten forms of discrimination (such as the systematic unfavorable treatment of pregnant women or working mothers). The PDA only applies to employers with 15 or more employees.

Covered employers may not make discriminatory decisions with respect to hiring, promotion or work assignments for pregnant, potentially pregnant and formerly pregnant women. As examples, employers may not require women to give notice of pregnancy and may not require women to take time off for pregnancy or childbirth. This law also protects mothers with young children from workplace discrimination relating to the woman’s real or perceived childcare responsibilities.

Iowa Civil Rights Act

The Iowa Civil Rights Act, which applies to employers with just four or more employees,

similarly prohibits employment discrimination on the basis of gender and pregnancy. Under this law, pregnancy is classified as a temporary disability and must be treated similarly to other forms of temporary disability for purposes of health care coverage, benefits and other employment matters.

Iowa employers must provide reasonable accommodations necessary for pregnant employees to perform major job functions, unless doing so would pose an undue hardship to the employer. Iowa employers also must not restrict a pregnant employee’s rights to take unpaid leave under federal or state law.

Iowa law also requires employers to provide six to eight weeks of medical leave for pregnancy, childbirth and related medical conditions (even if an employee does not qualify for FMLA leave). This medical leave does not have to be paid.

Rights Under the Family Medical Leave Act (FMLA)

The Family Medical Leave Act was passed federally in 1993, and mandates that employers meeting certain criteria make unpaid, job-protected leave available to qualifying employees. FMLA leave may be an option for you if your place of employment has no formal parental leave plan for the birth or adoption of a child.

Is my workplace obligated to offer me FMLA leave?

To fall under FMLA obligations, private employers must have at least 50 employees within a 75-mile radius (if there are multiple locations). Public agencies, such as state and federal governmental departments, and public

schools, are also obligated to offer FMLA leave.

Am I qualified to receive leave under FMLA?

Men and women are equally entitled to take FMLA leave. Employees that qualify for FMLA leave must meet three criteria:

1. They have been employed by a qualifying company for 12 months prior to accessing leave; these months do not have to be consecutive, but the break in employment cannot exceed seven years;
2. Have worked over 1,250 hours in the previous 12 months (averages roughly 24 hours per week);
3. Be located within a 75 mile radius of at least 50 other company employees

How long can I take FMLA leave?

Qualifying employees may take up to 12 weeks of FMLA leave in a fiscal year.

What is the process for taking FMLA Leave?

Generally, you must provide your employer 30 days notice of your intent to take FMLA leave; in cases of emergency, employees should notify their employers as soon as possible. Employers must respond to the request and provide the employee with an eligibility notice if they qualify for leave within five business days.

What life events qualify for FMLA leave?

Relevant to the Parental Leave Task Force, FMLA leave may be taken after the birth of a child, or after the adoption or foster placement of a child. Both women and men may elect to take FMLA, but it must be taken within one calendar year of the birth or placement, and must be taken in an uninterrupted block, unless the employer agrees to an alternate arrangement. In other circumstances, employees may elect to take FMLA leave in instances of serious illness or injury of themselves or qualifying family members.

Can I combine paid leave with FMLA leave?

According to the U.S. Department of Labor’s Wage and Hour Division, “the law permits an employee to elect, or the employer to require the employee, to use accrued paid vacation leave, paid sick or family leave for some or all of the FMLA



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leave period.” The eligibility notice provided by the employer must include notice of the right to use paid leave, and if the employer will require you to use paid leave during the requested FMLA period.

Will I be paid during my FMLA leave?

FMLA leave is unpaid, and qualifying employees will not be compensated during leave. However, employers are obligated to continue paying their portions of health and dental insurance carried by the employee. An employer’s eligibility notice must include your right to maintain benefits, and detail any premiums to be paid by the employee associated with their insurance.

Short-Term Disability and Parental Leave

If your employer does not provide paid parental leave or you do not qualify for FMLA leave, short-term disability may be a feasible option for a mother who gives birth. Short-term disability benefits for the birth of a child are not available for biological fathers.

Short-term disability insurance replaces part of your income if you are unable to work for a short period of time due to a disability. Having a baby is usually regarded as a

temporary disability. If you successfully apply and qualify for benefits, you may receive a portion of your income for six to eight weeks after you give birth.

A short-term disability insurance policy may be part of your existing taxable benefits through your employer. Your employer may also have optional short-term disability plans available through and administered by third party insurance companies. Sometimes your employer requires that you work a certain amount of time for the company before you qualify for such benefits. You will want to check with your benefits administrator or human resources manager to determine if you are already covered or need to elect coverage prior to your pregnancy. Even if your employer provides the policy, it is the insurance company that decides whether or not you are eligible for short-term disability benefits.

If your employer does not offer short-term disability insurance or you would like a different plan, you can purchase your own policy through an insurance company. Just as it is with other insurance policies, your short-term disability policy may vary in terms of cost, coverage and financial benefit. You also likely need to purchase and elect your benefits before you become pregnant to be covered. It is important to research potential plans and carefully read the details of each policy.

Short-term disability policies differ for each policy, but most do not cover your full salary while you are unable to work due to having a baby. A majority of plans cover about two-thirds of your regular salary. Benefits typically begin the day after giving birth, and may continue for up to eight weeks. Complications or health issues from childbirth may extend benefit payments.

An employer-sponsored disability policy may require you use all of your sick and vacation time before your short-term disability benefits are paid. If you also qualify for FMLA leave time, most employers will require that you take your FMLA leave at the same time as the short-term disability leave period.

Workplace Breastfeeding and Pumping Rights and Regulations

Generally, large employers are required to give new mothers both time and space to pump breast milk during the workday. Employees are not required to be compensated for time devoted to pumping.

Federal “Break Time for Nursing Mothers” Law

Enacted in 2010, the “Break Time for Nursing Mothers” law is the definitive law on pumping at work. This law requires employers subject to the Fair Labor Standards Act (FLSA) to provide basic accommodations for breastfeeding mothers at work. Applicable employers must provide “reasonable break time for an employee to express breast milk for her nursing child for one year after the child’s birth each time such employee has need to express the milk.” This law does not specify the frequency or duration of breaks that a nursing mother may take.

Employers must also provide nursing mothers “a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public”

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for the purpose of pumping breast milk. Employers cannot require nursing mothers to use a restroom for pumping, even a private or single-person use restroom. Employers may create a temporary lactation area, and the area does not need to be devoted solely to pumping activities so long as it is made available for pumping when needed by nursing mothers.

This law does not require employers to compensate employees for breaks taken for the purpose of pumping breast milk. However, employees who are otherwise entitled to paid breaks are permitted to use paid breaks for the purpose of pumping. Moreover, employers must compensate an employee for pumping time unless the employee is “completely relieved from duty.”

Importantly, employers with fewer than 50 employees are not subject to the Break Time for Nursing Mothers law if compliance with this law would impose “undue hardship.” If your employer fails to comply with this law, you may contact the Department of Labor at 866-487-9243.

Iowa Breastfeeding Laws

Iowa does not have any state-level laws pertaining to breastfeeding and pumping at work. Iowa does have two breastfeeding laws:

1. A breastfeeding mother may be excused from jury duty upon request; and
2. A breastfeeding mother is permitted to breastfeed her own child in any public place.

(On the YLD resources page online, there are sample proposed orders and motions related to the need to pump breast milk during a trial or hearing.)

Questions and Considerations About Parental Leave

There are many aspects of parental leave that need to be discussed with an employer prior to taking leave to plan for job protection, compensation, duty coverage and a smooth transition back to work. While certainly not exhaustive, answering the following questions prior to leave will prepare an employee and employer for parental leave.

As with any important meeting, an employee should take and keep notes from any conversations with an employer about parental leave rights and preparations. One should confirm all information, deadlines and dates in writing after a discussion to ensure all parties are on the same page.

Pay

- Is there a paid parental leave policy? How much of my pay will I receive? For how long?
- Do I qualify for unpaid leave? How much?
- Do I qualify for FMLA?
- What is the maximum amount of time away, including unpaid time, that is allowed? How long will the company keep my job for me?
- Can I use any vacation/sick leave in addition to FMLA or paid parental leave? How does that work? Do I have to use one before the other?

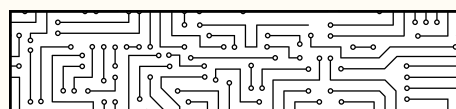
- Do I have any flexibility in how I use that time? Do I need to use it right after the baby is born/adopted?
- Can I use vacation/sick time I have not earned yet if needed?
- Is there a leave pool or request system if I run out of days?
- Is it any different for my spouse if he/she works for the same organization?
- Will any salary raises be impacted by parental leave?
- Will any year-end bonus or other incentive-based pay be impacted by parental leave? How?
- Will parental leave impact my partnership track? How?

Short Term Disability

- Is there short-term disability coverage? For how long and what percentage of pay?
- What are the other terms of my short-term disability coverage?
- Do I have to use short-term disability benefits first if they're available?
- How do I apply for short-term disability?
- Is there a waiting period before I can collect short-term disability benefits?

Benefits

- How is my health insurance paid for while I'm on leave?
- Are my benefits paid at 100 percent? If not, what percentage will I need to pay?
- Does leave impact my flexible spending accounts?
- If I take unpaid leave, is there a minimum amount of days I have to work to keep that insurance?
- Will I still be covered by my life insurance while on leave? If the leave is unpaid, how do I continue to pay for coverage?



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- Do I accrue vacation days/sick days while on leave?
- Do I accrue retirement fund contributions while on leave?
- What happens if I have medical complications and need to leave earlier than planned?
- If I did have to leave early, would that count as part of my parental leave?

Logistics

- What forms do I need to complete prior to parental leave?
- When is the FMLA form due (if applicable)?
- When are vacation/sick request leave forms due?
- Is there a form for short-term disability?
- How do I make changes to my health insurance to add my child and/or spouse? What is the deadline for making changes to my health insurance? What is the cost associated with changing?
- How can I change my beneficiaries on any insurance policy? When is the deadline to do this?
- How will my work be distributed while I'm gone? Who will monitor it?

Return To Work

- How will I be updated about work upon my return?
- Who will maintain my calendar while I'm on leave so I am caught up when I return?
- What can be done if I have a medical issue that prevents me returning to work as planned?
- What if my child is sick and I do not have sick time remaining?
- What if I am sick and I do not have any sick time remaining?
- Can I work from home for a period of time?
- Can I bring my child to work for a period of time? Can I use flex-time?
- Any other benefits for new parents?

Lactation

- Where is the locked lactation room?
- If it is my office, will a lock be added to the door?
- Can we communicate that others should not enter if my door is closed?
- Will outlets/power adapters be installed, if needed? How will windows be covered?
- How will milk be stored/kept cool?

Parental Leave Policy Survey

A survey was sent to all Iowa attorneys requesting responses on parental leave policies. This data below is based on responses provided by attorneys who work for private law firms.

70%

of law firms
DO NOT have a formal written
parental leave policy.

75%

of law firms have
ONLY FMLA or NO paid leave
available at all.

71%

of law firms with more
than 20 attorneys HAVE a formal
written parental leave policy.

83%

of law firms with
fewer than 20 attorneys
DO NOT have a formal written
parental leave policy.

6%

of firms OFFER paid
paternity/spousal leave.

(This survey was conducted by Parental Leave Task Force Member Aaron Blair.)



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PATIENT ONE

MENTAL HEALTH AND THE CRIMINAL JUSTICE SYSTEM

By Lauren Calef and Ben Kenkel*

"EVERY CIVILIZED COUNTRY HAS A HOSPITAL FOR THESE PEOPLE, WHERE THEY ARE CONFINED, MAINTAINED AND ATTENDED BY ABLE PHYSICIANS, TO ENDEAVOR TO RESTORE THEM THEIR LOST REASON."

— FRANCIS FAUQUIER, ROYAL GOVERNOR OF VIRGINIA

The criminal justice system has increasingly been tasked with the responsibility of confining, maintaining and attending to the mental health needs of Iowa's citizens. In 2017, one-third of the prison population in Iowa suffered from a serious mental illness. This figure, when combined with the 24 percent of inmates suffering from "other Chronic Mental Illness," means over 50 percent of Iowa's inmates suffer from a form of mental illness.

Often, the responsibility for initially identifying and diagnosing mental health needs falls to the prosecutor, defense counsel and the judges of Iowa's court system. The growing mental health responsibility placed on Iowa's court personnel has highlighted structural challenges in the court

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M&A Team, l-r: Paul Juffer, CPA, JD Geneser, CPA, Eric Engstrom, CPA/ABV, CFA



system's ability to address mental health, and why a new approach is needed. A recent examination of one individual's struggle with mental illness while defending criminal charges illustrates how ill-equipped courts are to serve as Iowa's primary mental health provider.

PATIENT ONE

Patient One is a 64-year-old male resident of an assisted-living facility. He was charged with Assault on a Peace Officer in violation of Iowa Code section 708.3A(1) after the facility called police when the nursing staff struggled to get Patient One to comply.

When the officer arrived at the residential facility, he was notified Patient One was "causing a problem with the nursing staff." The officer did not come with back-up and it is unclear whether the officer inquired about Patient One's mental health history.

Patient One's initial reaction to police presence was to yell at the officer to get out and leave him alone. At this point Patient One had not committed a criminal offense. The officer refused to leave, aggravating Patient One's mental state and leading to

louder yelling and screaming directed at the officer. The confrontation escalated and resulted in Patient One "[taking] a stance as if he was going to come at [the officer]."

In response, the officer elected to draw his taser and use it on Patient One. The confrontation with nursing staff

and the officer was sufficiently aggressive for the police officer to arrest Patient One, adding another chapter to an already extensive history of court appearances.

At Patient One's initial appearance for his assault charge, his diagnosis was apparent. Patient One identified himself as "John E. Baron" — a false name — on

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both his preliminary hearing waiver and application for court-appointed counsel. He continued to fill out the form with nonsensical responses such as “alive and well” for date of birth and “spring” for date the document was completed. Despite indicators that Patient One was experiencing symptoms associated with his mental health diagnosis, current competency procedures led the court to accept the patient’s waiver of preliminary hearing, set bond at \$1,000 cash or surety, set arraignment and accept Patient One’s declination of counsel. It also allowed Patient One to elect to self-represent.

Medical staff at the jail recognized Patient One’s mental illness and began civil commitment proceedings. Patient One has been the subject of a number of court-ordered psychiatric commitments beginning in his late twenties, including three commitments to local hospitals within the last two years. A cursory examination of his medical history would reveal a diagnosis of schizophrenia in Patient One’s mid-20s following his mother’s untimely death. The medical diagnosis included increasing

instances of delusional thoughts with lengthening periods of growing severity.

Unfortunately, the current system in place does not foster communication between the two systems — criminal and civil commitment cases — and Patient One continued through both systems with no relief of his criminal charges as his mental health issues were extensively outlined in civil commitment proceedings. Finally, four months after his case began, Patient One’s defense counsel filed an application for competency examination and court proceedings were suspended. It would be another six months, 10 months after the interaction that led to his charges at the residential facility Patient One called home, before his criminal case was finally dismissed.

WHAT DOES PATIENT ONE REPRESENT?

Patient One’s struggles with psychotic auditory hallucinations and delusions, combined with a history of non-compliance with treatment, immediately raises constitutional and practical concerns regarding his ability to assist or contribute to his own

criminal defense. But, because the current criminal prosecutorial system presumes mental competence, drawing the court’s attention to mental health concerns requires defense counsel to prove a negative — the absence of mental competence — without the benefit of the state’s resources or the court’s power to compel. This is a herculean task, which frequently must be undertaken without the benefit of assistance from the client, and oftentimes must be weighed against a criminal defendant’s refusal to admit he or she struggles with mental health.

Unfortunately, his experience with the criminal justice system is not an isolated occurrence due to current procedures and systems in place. A better approach is necessary to preserve the rights of the accused, ensure individuals suffering from mental health receive the treatment they need and more efficiently utilize budgetarily-strained court and judicial resources. Practical changes at multiple levels within the criminal justice system could change the trajectory for an individual with mental illness that becomes engaged in

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the criminal justice system.

First, better training for dispatch and law enforcement to improve the initial encounter with law enforcement. Better communication between dispatch and the officer regarding Patient One and his mental health diagnosis would have allowed the officer to enter the encounter with an awareness of possible behaviors and an opportunity to employ tactics to deescalate the situation and remove the need for physical force.

Second, improved communication between the parallel systems of criminal court and civil competency proceedings would allow the criminal court to know of a defendant's mental health diagnosis supporting avoidance of length and unnecessary involvement within the criminal justice system for individuals needing treatment and not criminal rehabilitation. This communication complies with HIPPA and state law.

Third, the courts should inquire into a defendant's mental health each time a client appears. Open communication between defendants and courts support appropriate

responses and services. Each district should work to maintain an up-to-date inventory of available resources and foster open communication between districts to support improved resource access across the state. The mindset should be an openness to evaluate periodically and strive for improvement.

Finally, for comprehensive reform, the legislature must get involved. Reconciliation between the language in Iowa Code sections 229 and 812 is necessary and only within the power of the legislature to adjust. Under the current system and procedures, there is a disincentive to address mental health issues early and competently at the beginning of a case. This places a strain on the criminal justice system and inappropriately mixes individuals experiencing symptoms of mental illness into the jail population, shifting the burden to the department of corrections. Changes to systems and procedures are necessary to divert individuals experiencing mental illness to the appropriate help and systems they need.

*This article was written by **Lauren Calef** and **Ben Kenkel** based on the research of Professor Robert Rigg at Drake University Law School. Professor Rigg's full article on Patient One can be found in Volume 16 Issue 1 of the Indiana Health Law Review titled *Patient One: An Exploration of Criminal Justice and Mental Health*.

Calef and **Kenkel** are third-year law students at Drake University and serve as Professor Rigg's research assistants. As part of their research positions, they assist with the Iowa Sentencing Project and Criminal Law edition of the Iowa Practice Series.



Calef is scheduled to graduate May 2020 and plans to practice in Marquette, MI.



Kenkel is scheduled to graduate December 2019 and will be remaining in Des Moines to practice.



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GET TO KNOW
JEFF WRIGHT
THE STATE PUBLIC DEFENDER

By **Melissa Higgins**,
Communications Director

Jeff Wright was appointed by the governor as State Public Defender on March 1, 2019, to replace Larry Johnson, Jr., who became the Director of the Iowa Department of Inspections and Appeals.

Jeff Wright comes from the trenches. He got his start out of law school doing contract court-appointed criminal defense work, the same work he now oversees as State Public Defender.

"When I came out of Drake University Law School (in 2006), there weren't a lot of jobs. So, you went where you could find work. For me, that was private practice criminal defense – a lot of it court-appointed," said Wright.

"You can gain a lot of experience and meet a lot of people by doing this kind of public service work. I got in front of judges very quickly," he said. "If it hadn't been for taking those kinds of cases early on in my career, I never would have been in this position."

Wright practiced criminal defense and juvenile work as founding partner at Carr & Wright Law Office in Des Moines. During those 12 years of private practice, a specific case sticks with him. He was questioning law enforcement on the stand about a client's arrest, and he asked if police officers did any forensic testing at the scene (fingerprint or otherwise). The officer responded no, because it wasn't serious enough since the charge was only a misdemeanor. Wright responded that his client could go to jail for up to a year.

"You know who it is important to? My client," Wright recalls asking the officer on the stand.

"Every single case that you have ... you need to remember that it's a person's life that is impacted," he remembers being the lesson he learned that day.

Wright oversees a staff of approximately 220 people – most of them attorneys tasked

with upholding the public's constitutional right to criminal legal representation. His first priority was a major technological upgrade, which he says was desperately needed for the important work they do.

"To completely revamp an entire department's technology is a pretty big undertaking, so that's the area where we moved things forward first," he said.

Wright moved all digital storage to the cloud, which freed up the need for servers and saved each of the 17 SPD field offices enough money to reinvest in upgrading computers and other equipment.

"My hope is that by giving them better technology, they can be more efficient," he said. "I come into this position with the idea that just because we've always done something is not a reason to continue it. So, we're looking at everything. We won't change just for change's sake, but we're looking at everything to see how to make things more efficient," he said.

Wright also oversees the more than 750 contract attorneys around the state who are assigned the spillover indigent defense work that the full-time state public defenders can't take. He is aware of the widespread perception that the contract billable rate is not sufficient for these court-appointed attorneys, but he doesn't know if the state budget will allow for any additional increases. So, he maintains a view that there has to be more motivation to this job than just a paycheck.

"There has to be an underlying idea that what you're doing is protecting people – those charged and the system as a whole. This understanding is very motivating. That sort of work will wear on you if you

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WHAT DOES STATE PUBLIC DEFENDER JEFF WRIGHT VIEW AS THE KEY TO SUCCESS?

“Working hard and being nice to people. Treat literally everyone you meet with respect. Problem-solve in a way that makes people come away glad to have worked with you. It’s so much more effective.”

just see it as a paycheck,” he explained.

Prior to assuming the role of State Public Defender, Wright served as chair of the Iowa Board of Parole beginning in January 2018.

“This allowed me to experience the criminal justice system from a different angle. What you’re focusing on is the rehabilitation of people after they’ve been in the system. You can see the impact of the sentences and the way people handle them, as well as the impact of the services available to help them. It was a good way to see the system from both sides,” he said.

Wright says he has always had an interest in public policy and public service, even before going to law school. He likes that he now gets to approach the legal system on this macro level.

“I miss the courtroom from time-to-time, but being able to look at things from a policy perspective is much more interesting to me,” he said.

Wright is married with two boys, ages seven and 11, and being involved in their activities with his wife takes up most of the family’s spare time. He enjoys coaching their Little League teams because, he proclaims “baseball was my first love.” He played baseball at Morningside College before attending law school.

Wright has also tried his hand at politics – running for statehouse and city council seats. But after losing several races, he calls himself “a very unsuccessful politician” and instead wants to focus on helping others get into positions where they can enact public policy changes.

“I got here because I had mentors and friends who helped me along the way. That works in Iowa. We have people who work hard and others who help them. I’d like to help good-hearted people who want to put good into the world,” he said.

WRIGHT ON THE ROAD

State Public Defender Jeff Wright travels frequently to Iowa’s public defender field offices and other counties throughout the state and is interested in meeting with as many private indigent defense contract attorneys as possible during these visits.

To check on his travels or coordinate a future meeting with Wright, contact Elisabeth Huston at the State Public Defender’s Office: ehuston@spd.state.ia.us.

Features Jeff Wright



PHOTO ABOVE: State Public Defender Jeff Wright speaks to the ISBA Board of Governors during the September 2019 quarterly meeting.



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TRANSITIONS

A. Brandon Sanchez, Bryan E. Shusterman, Christopher J. Giitter and Daniel Segura have joined Heidman Law Firm in Sioux City and Whorley Heidman Law Firm in Sheldon.



SANCHEZ

Sanchez earned his J.D. from Valparaiso University in 2007, and previously practiced in Rockford, Illinois. His general practice includes creditors' rights, collections, family law, juvenile law, criminal law and general civil law.



SHUSTERMAN

Shusterman earned his J.D. from the University of Iowa College of Law. His general practice includes business law, real estate law, and wills, trusts, estate planning and probate law.



GIITER

Giitter earned his J.D. from the University of Nebraska College of Law. His general practice area includes agricultural law, business law, municipal law, real estate law, and wills, trusts, estate planning and probate law.



SEGURA

Segura earned his J.D. from the University of Nebraska College of Law. His general litigation practice includes torts, contracts and landlord tenant law.



CHAMBERLAIN

Andrew Chamberlain has joined Bradley & Riley PC, practicing complex litigation based primarily in the Chicago office. He is a 2016 graduate from the University of Virginia Law School, after which he served as a law clerk for U.S. District Court Judge Gordon J. Quist of the Western District of Michigan, and practiced for two years at Willey & Chamberlain LLP. Bradley & Riley PC is based in Cedar Rapids and Iowa City, but launched a Chicago office in 2017.



BIRD

Danica L. Bird has joined Meardon, Sueppel & Downer P.L.C. of Iowa City as an associate attorney. Bird received her J.D. from the University of Iowa College of Law in 2019, and her practice will focus on criminal law, family law, labor and employment, litigation, and estate planning and probate.



TOENJES ZANDER

Rachel Toenjes Zander recently joined the Davis Brown Law Firm as a Special Counsel in the Business Division. Toenjes Zander is an experienced environmental law attorney who joins the firm after four years with the U.S. Environmental Protection Agency in Chicago. She advises clients in regulated industries in their compliance with state and federal environmental regulations and statutes.



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RASTELLI

Dickinson, Mackaman, Tyler & Hagen P.C. has announced the formation of a new practice to support Iowa's growing technology sector: the Emerging Technology Group. Aimed at helping businesses innovate, compete and thrive, the purpose of the practice group is twofold: to provide legal guidance to emerging tech-based companies as they become established and grow, and to assist existing companies who are looking to implement new technologies into their operations to increase efficiency and ultimately win new business. The practice group is comprised of attorneys Emily McGovern and Andrea Rastelli, both of whom have experience working with entrepreneurs and startups, who bring their technical knowledge and advanced training.

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IN MEMORIAM

John Fletcher, 91, of Des Moines, died Oct. 11. Fletcher was born in 1928 in Cedar Rapids. He served in the U.S. Air Force as a second lieutenant during the Korean War and received his J.D. from the University of Michigan, then accepted a position with the firm of Gamble, Riepe & Pierce in Des Moines. He adored the law and would have stayed at his desk until he was carried out. Except for a stint working with his friend in the oil business, he worked as a lawyer consistently until his retirement at age 72.

William Royce (Bill) Shuttleworth, 92, of Cedar Rapids, died Oct. 28. Shuttleworth was born in Cedar Rapids in 1926. In December 1944, he enlisted in the U.S. Navy. He received his J.D. from Yale Law School in 1953, then joined the law firm of Elliott, Shuttleworth and Ingersoll that his father Craven helped found in the 1920s. He became a partner in the firm and remained one until he became "of counsel" in the late 1990s. He was also legal counsel for Coe College in Cedar Rapids.

ON THE MOVE

The Iowa Economic Development Authority (IEDA) and Iowa Finance Authority (IFA) will now be housed together. Offices will be closed temporarily in early December to facilitate the move to 1963 Bell Avenue, Suite 200, Des Moines, IA 50315.



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REGIS CATHOLIC WINS STATE MOCK TRIAL TROPHY

The state championship round of the 2019 Iowa Middle School Mock Trial Tournament was held Nov. 21 at the Iowa Judicial Branch Building in Des Moines, between Cedar Rapids Regis Catholic Middle School and Cedar Rapids Harding Middle School. After trying the criminal murder case of "State of Iowa v. Coco St. Clair," Regis (playing the

part of the defense) came away with the championship trophy.

The Regis team consists of: Theo Brock, Isabelle Doyle, Quincey Johnson, Joe Mettenburg, Liam Murphy, Joe Semelroth, Davis Robe, Emma VonKampen; and coaches Jim Efting and Tim Semelroth.

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ISBA CLE CALENDAR

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Dec. 13

E

Federal Practice Seminar
Embassy Suites
Des Moines

Dec. 17

E

**eCommerce and
Intellectual Property
Law Seminar**
In-person or Live Webinar

Dec. 18

**Defending Sex Crimes:
The Registry and Other
Considerations**
Live Webinar

Dec. 19

E

**Be a Strong Voice for
Justice: Ethical Advocacy
for Yourself and Others**
In-person or Live Webinar

Dec. 20

E

**Ideas for Improving
Mental Health
Through Self-Care**
Live Webinar

Dec. 27

E

**Conflicts of Interest,
Confidentiality and Other
Ethical Conundrums for
Government Attorneys**
In-person or Live Webinar

Dec. 30

E

Lawyer Wellness
Live Webinar

Dec. 31

E

**The Attorney-Client
Relationship: A Review of
the Rules and Cases**
In-person or Live Webinar

Jan. 22

**Use of Mental Health
Professionals in
Family Law**
Live Webinar

E Contains ethics credit



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DISCIPLINARY OPINIONS

LICENSE REVOKED

Case No. 19-1032: Iowa Supreme Court Attorney Disciplinary Board v. Tina Hassane Muhammad, on review from grievance commission report and recommendation, Iowa Court rule 36.21(1).

(This summary comes from the opinion authored by Justice Appel)

Tina Hassane Muhammad was a licensed Iowa lawyer who graduated from law school in 2015 and was admitted to the Iowa bar in 2016. At issue was whether her deposit of \$7,500 advanced by a client into a personal account amounts to theft as alleged.

The Iowa Supreme Court Attorney Disciplinary Board sought revocation of the lawyer's license to practice law. The board alleged that Muhammad violated Iowa Rules of Professional Conduct 32:8.4(b)

(criminal acts) and 32:8.4(c) (honesty, fraud, deceit, and misrepresentation). Specifically, the Board alleged Muhammad used the \$7,500 expense retainer for purposes other than for the specific purpose for which it was paid as set forth in the Agreement; and Muhammad did not have a colorable future claim to the \$7,500, as it was for the specific purpose of paying expenses. Instead she knowingly converted the funds in violation of Iowa Code §§ 714.1(2) and 714.2(2). The Board also alleged a series of trust account violations. Specifically, the Board alleged violations of Iowa Rules of Professional Conduct 32:1.15(a) (holding funds in separate accounts), 32:1.15(c) (depositing advance legal and expense fees in trust account), 32:1.15(d) (safekeeping and prompt delivery of property), and 32:1.15(f) (complying with chapter 45 of the Iowa Court Rules).

After a hearing, the Iowa Supreme Court Grievance Commission concluded that the lawyer received the funds for expense purposes in connection with a potential legal claim but that the funds were deposited into the lawyer's personal account. The commission also found that the lawyer did not have a colorable present or future claim to the funds. After balancing aggravating and mitigating factors, the commission recommended the lawyer's license be suspended for one year. But after a de novo review, the Iowa Supreme Court decided to revoke the lawyer's license to practice law. Under the caselaw cited in the opinion by Justice Appel, revocation of license is virtually automatic when a lawyer converts client funds. Muhammad may apply for readmission after a period of at least five years after demonstrating she is of good moral character and worthy of readmission to the bar.



eCommerce and Intellectual Property Law Seminar

December 17

8:30 AM - 4:30 PM

In-person (ISBA Building) or Live Webinar

SEMINAR HIGHLIGHTS

- Hot Topics in Ethics of Trademark Practice
- Strategic Considerations for Design Patents in Your IP Portfolio
- Anatomy of a Hack
- Automation and Legal Practice
- Hot Topics in Ethics of Patent Practice

iowabar.org/ecommerce

"FOURTH BAR" REVAMP DRAWS BIG CROWD

"With many seasoned attorneys retiring and new attorneys hanging out their shingles, we thought it would be a great idea to make introductions and encourage mentorship within our bar association."

— Dawn Landon, the new co-president of the "Fourth Bar."



Approximately 100 attorneys and judges attended the kickoff "Fourth Bar" meeting in Council Bluffs on Thursday, Oct. 24. The Fourth Judicial District Bar Association recently resurrected its regular get-togethers, and at this October meeting elected two co-presidents: Attorney Amanda Heims from Amanda Heims Law in Council Bluffs, and Dawn Landon from the Sell Law Firm PLC in Glenwood.

"A strong district or local bar association encourages collegiality and mentorship in this digital era. We don't want attorneys to lose touch with the importance of conversation and friendship in this difficult profession," said Landon. "I am excited to

be a part of something truly special in the Fourth Judicial District."

Local judges have committed to supporting this effort and at least one of the district court judges will be at every meeting to give updates and take questions. The group plans on having one meeting in Council Bluffs every other month and one meeting in one of the other eight counties on the off-months. Each county will have a "host" office and a "host" judge.

"Our District is nine counties strong, with Pottawattamie being the largest. However, many attorneys in the other eight counties were feeling disconnected. This new bar association combining the Pottawattamie

County Bar Association with the Southwest Iowa Bar Association will hopefully lead to a sense of community within our profession," explained Landon.

One of the ISBA's goals is to give assistance in resurrecting these bar get-togethers. Attending the Fourth District Bar meeting from the ISBA were President Bill Boyd, Vice President Anjie Shutts, ISBA Executive Director Dwight Dinkla and Assistant Executive Director Harry Shipley.

"I think it is critical to the survival of our profession that we are collegial and get to know everyone we work with," said Deb Petersen, who represents the Fourth District on the ISBA Board of Governors.

FEDERAL PRACTICE SEMINAR



iowabar.org/federalpractice



December 13

8:30 AM - 4:30 PM

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SEMINAR HIGHLIGHTS

- Article III Judges Panel
- Navigating Different Generations and Leveraging the Talents of Your New Attorneys

- U.S. Magistrate Judges Panel
- Tips for Judicial Advocacy
- Ethics of Settlement
- Fireside Chat with Dean Jerry Anderson

CLE CREDIT:

6.25 state hours which includes 1 ethics hour

BECOME A LEADER IN THE ISBA

SECTION COUNCIL AND COMMITTEE APPLICATION PROCESS OPEN UNTIL FEB. 1

Do you wish to be a leader who makes a difference in the legal profession? To make new connections and further your career? The Iowa State Bar Association is currently accepting applications to serve on section councils and committees for 2020-2021.

A list of sections and committees are included on this page. They span many practice and interest areas. These small but incredibly influential groups are the lifeblood of our association. It is through them that we are able to provide the services that are important to our members. You may help put together CLE programs, propose legislation, create manuals and practice guides, or help the ISBA serve its members in countless other ways and shape the future of the organization.

As president-elect, I will make the appointments for the coming fiscal year. Please go to iowabar.org/SectionSignUp to submit an online application for up to three section councils or committees. These are due by Feb. 1. Each application will be evaluated and we will announce appointments in the spring, which will

become effective at the annual meeting in June 2020 when sections and committees have their organizational meetings. An orientation will take place before the annual meeting.

Please join me in serving the legal profession and the people of Iowa.



Thank you,
Jerry Schnurr
ISBA President-elect

COMMITTEES

- Access to Justice
- Annual Meeting
- Appellate Practice
- Diversity & Inclusiveness
- Federal Practice
- Innovations
- Iowa Jury Instructions
- Law Practice Management
- Legal Forms
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- Military and Veterans Affairs
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- Wellness

SECTIONS

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- Construction Law
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- eCommerce
- Elder Law
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- Solo and Small Firm
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- Taxation
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7th Iowa Civil Rights Symposium and 4th Build It Right Iowa Conference



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Key Note Speaker: Jennifer Harvey

Author of *Raising White Kids: Bringing Up Children in a Racially Unjust America*

Topics Include:

- Joseph Jones, Executive Director of The Harkin Institute, discussing 30 years under the ADA
- Review of Current Discrimination Law
- Housing Design and Construction
- Panel on Investigating Discrimination Claims
- Panel on Assistance Animals in Housing

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A DASH OF DATA SECURITY, A SPRINKLE OF SECRECY

THE RECIPE FOR PERFECT PASSWORDS

By Myskal Kanietova & Tara van Brederode,
Iowa Supreme Court Attorney Disciplinary Board

We've all experienced the frustration of staring at a computer or telephone screen, trying to remember the password to access a website or app. Is it the "usual" password for this one? Is it capitalized this time? Is there a "1" because it required a number, or an "@" because it required a special character? Which Netflix password did we select when trying to reclaim the account from our teens and their friends?

Our attorney ethics rules impose upon us the requirement of "competence," and comment 8 to Rule 32:1.1 requires that we "keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology...." Yet we feel far from competent when we forget, once again, how to log into The Iowa State Bar Association's website, or the Judicial Branch's Electronic Document Management System (EDMS), or Twitter. And sadly, many of the passwords we choose are not unique and are far too easy to guess.

While technology experts recommend having different passwords for every account, it is simply too hard to remember different passwords, and we end up using the same password for several (or all!) accounts. Concern for the privacy of our own data, and our ethical obligation to protect that of our clients (see Rule 32:1.6, Confidentiality), demands a better solution.

Password managers like LastPass or 1Password are options for many people, but we have found them cumbersome to use across devices and operating systems. And because each requires a master password, there's still likely to be a scramble of letters on a sticky note attached to a computer monitor or lost in a drawer.

Here's where a "password recipe" will change your life. And once you give it some thought (and let your favorite poems or songs or catchphrases rattle around in your brain for a day or two), it's easy, strong and memorable.

PHRASE: WONDERFUL DAY

EXAMPLE	Iowa Courts	Facebook	Amazon
WEBSITE	www.iowacourts.gov	www.facebook.com	www.amazon.com
PASSWORD	W5onderful_Dayos	W6onderful_Dayak	W5onderful-Daymn

PASSWORD RECIPE

1. Take a piece of paper
2. Think of a phrase (either a few words together, or the first letters of a longer series of words)
3. Write a formula
4. Write the website name
5. Apply the formula
6. Destroy the piece of paper (or eat it!)

SAMPLE FORMULA

- If the first letter of the website is a vowel
— enter 5 after the first letter
- If the first letter of the website is a consonant
— enter 6 after the first letter
- If the third letter of the website is a vowel
— enter — after the first word
- If the third letter of the website is a consonant
— enter _ after the first word
- Enter second and last letter of the website at the end of the phrase

Using the recipe/formula-style password takes a bit of attention initially, but it will become easy over time. Application of the recipe ensures that you will always have different passwords for different websites. Even if one account is compromised, all of your other accounts, and your own and your clients' personal data, will stay safe.



Myskal Kanietova is a legal assistant with the Attorney Disciplinary Board. She completed a law degree in Kyrgyzstan, is currently pursuing a master's degree in business analytics and is a slow marathon runner.



Tara van Brederode is the administrator of the Attorney Disciplinary Board. She was previously the executive director of the Legal Aid Society of Story County and is a speedy knitter.



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Director of Advocacy/Staff Legal Counsel - Iowa Hospital Association, Des Moines, IA - The Iowa Hospital Association is seeking a dynamic individual to serve as Director of Advocacy/Staff Legal Counsel. Responsibilities include policy analysis of legislation before the Iowa General Assembly and Congress, evaluation of proposed regulatory changes to Iowa hospitals, and inhouse legal work including contract review and corporate compliance. *To apply, visit <https://careers.iowabar.org/jobs/13067427/director-of-advocacy-staff-legal-counsel>.*

Staff Attorney - Davenport Community Schools Project - Iowa Legal Aid, Davenport, IA - Iowa Legal Aid is seeking an energetic and creative attorney to join our new Davenport Community Schools Project. The successful candidate will be responsible for developing and implementing the project. Building upon the considerable groundwork already laid by Iowa Legal Aid staff, the new Staff Attorney will help launch the opening of the onsite legal clinic and build the project to full scale. *To apply, visit <https://careers.iowabar.org/jobs/13071978/staff-attorney-davenport-community-schools-project>.*

Attorney - SAGW, PC, West Des Moines, IA - Seeking a family law attorney with 1-2 years' experience. The ideal candidate would possess outstanding academic credentials and work experience and would have a strong work ethic. The successful candidate will be involved in the firm's family law matters. Please send a cover letter and resume to Megan Elgin, 5015 Grand Ridge Drive, West Des Moines, IA 50265 or by email to elgin@sagwlaw.com.

Civil Litigation Attorney - Newbrough Law Firm LLP, Ames, IA - Newbrough Law Firm, LLP, is seeking an experienced civil litigation attorney. Candidates should have at least two years of practice, primarily in civil litigation. Excellent research and writing skills are required, and trial experience is preferred. Iowa bar admission required. The ideal candidate would also possess a strong work ethic and dedication to serving the community. All applications will be handled confidentially. Send resume and cover letter to Newbrough Law Firm, LLP, Attention Nicole S. Facio, Personnel Partner, P.O. Box 847, Ames, IA 50010 or nfacio@newbroughlaw.com. Newbrough is an equal opportunity employer.

Assistant Dickinson County Attorney - Dickinson County Attorney's Office, Spirit Lake, IA - The Dickinson County Attorney is accepting application for a full-time Assistant County Attorney. Duties of the position include prosecution

of simple misdemeanor and indictable offenses, juvenile cases, and other duties as required. Salary is dependent upon qualifications and experience. Applicants will be subject to a background check and finalists will be required to complete a pre-employment drug screen and physical. To apply, please submit a cover letter, resume, and a list of three references to: Amy Zenor, Assistant Dickinson County Attorney, 1802 Hill Avenue, Suite 2509, Spirit Lake, IA 51360, azenor@co.dickinson.ia.us.

Corporate/Transactional Attorney - Shindler, Anderson, Goplerud and Weese, P.C., West Des Moines, IA - Shindler, Anderson, Goplerud and Weese, P.C. is seeking a corporate/transactional attorney with 0-5 years' experience. The ideal candidate would possess outstanding academic credentials and work experience and would have a strong work ethic. The successful candidate will be involved in the firm's corporate/transactional matters.

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Litigation Attorney – Crary Huff Law Firm, Sioux City, IA - Crary Huff Law Firm is seeking an experienced litigation attorney for its offices located in Sioux City and Dakota Dunes, South Dakota. Candidates should have at least three years of practice, primarily in civil

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IN BRIEF

YLD MENTORING PROGRAM NEEDS ADDITIONAL MENTORS



The Young Lawyers Division Mentoring Program is looking for attorneys to sign up as mentors to be matched with newly-licensed attorneys. Launched in 2014, the ISBA mentoring program was developed to build collegiality and better Iowa's legal profession. It is structured as a series of guided discussions customizable to the needs of the mentee and strengths of the mentor.

If you are interested in mentoring, please visit iowabar.org/mentorprogram. You may complete an application there.

If you have questions, contact YLD President-elect and Mentoring Committee Chair Torey Cuellar at toreycuellar@gmail.com.

SPOTLIGHT ON SERVICE

Pictured left to right: Brooke Earleywine, Youth Homes of Mid-America; Julie Schneider, Youth Emergency Services & Shelter; John Moorlach, C. Edwin Moore president-elect and attorney at Whitfield & Eddy Law; Zachary Gott, Iowa Homeless Youth Centers; Todd E. Babich, C. Edwin Moore past-president and attorney at Babich Goldman P.C.; Jamie Yowler, Iowa Homeless Youth Centers; and Dick Lyford, C. Edwin Moore and attorney at Dickinson, Mackaman, Tyler & Hagen P.C. Not pictured: Iowa District Court Judge Jeanie K. Vaudt, C. Edwin Moore. ▼



C. Edwin Moore Inn of Court

The C. Edwin Moore Inn of Court is a professional organization that promotes professionalism, civility and ethics among legal professionals. But the members also see great benefit in giving back to the community that has enriched their careers as attorneys and judges. That is why the group rallied donations from members in order to give 400 pairs of high-quality socks and mittens to Des Moines area homeless agencies.

The socks, many of them made of wool or wool blends, will supplement the cotton socks normally offered by the homeless agencies to those they serve. All of the

socks and mittens were purchased during “Socktoberfest,” the Fox River Woolen Mills Sock Sale that takes place each fall at the Mitchell County Fairgrounds in Osage.

Dick Lyford of Dickinson Law made the trip to Osage to purchase the socks. “The Socktoberfest sale is a fabulous way for us to buy quality items at great prices that in turn will benefit many homeless people,” said Lyford.

Lyford got the idea for this project while attending the sock sale and witnessing a woman purchase thousands of dollars-worth of socks. When he remarked that “she must know a lot of feet,” she responded that her church congregation planned to donate them.

“Besides frostbite in the winter, there are all kinds of problems with keeping feet healthy when you live outside and have no way to wash your clothes. So, new socks are a constant need for the homeless population,” said Lyford.

“With current estimates between 1,500 and 2,000 homeless people in the Des Moines area, this donation will help many of those people keep their feet warmer through the winter months and prevent cold weather-related foot issues,” said Jaime Yowler of Iowa Homeless Youth Shelters.

The donation was made in October to representatives from various homeless services agencies, including Iowa Homeless Youth Shelters, Youth Homes of Mid-America and Youth Emergency Services & Shelter (YESS), at the Dickinson Law headquarters. The C. Edwin Moore Inn of Court members say they plan to make this an annual tradition each fall before winter hits the homeless population.

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

Attention Iowa Litigators Need to schedule mediations?

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