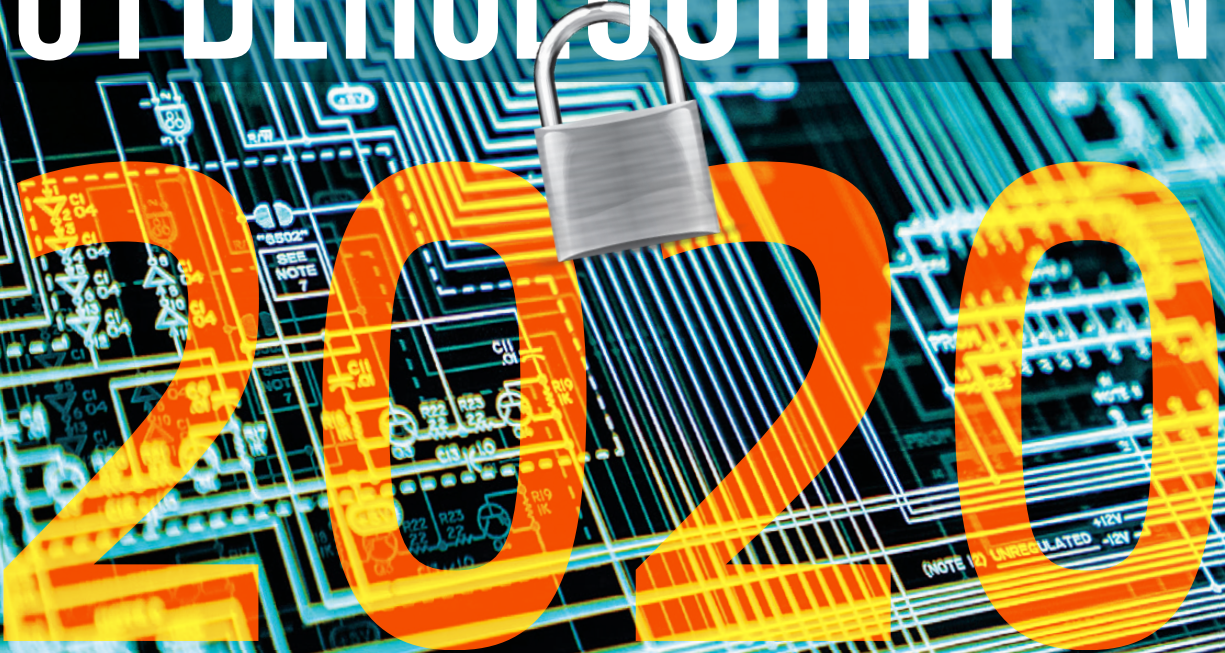




# THE IOWA LAWYER

November 2020 V80 N10

## CYBERSECURITY IN



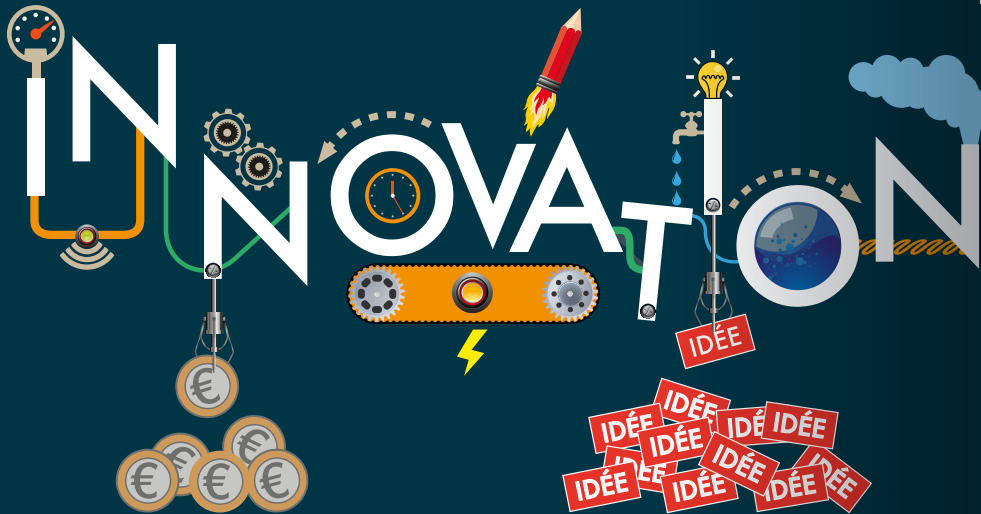
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18+



Professionals with STEM related degrees -  
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## IOWADOCS® PREPARES FOR TRANSITION TO NEW FORM CREATION PROGRAM

The Iowa State Bar Association is preparing for a major change coming later this year to its IowaDocs® platform. XpressDox will become the new provider that drives the creation of forms.

IowaDocs® is now over 20 years old and has always run under the HotDocs software, but with changes in HotDocs ownership, technology changes and the move to cloud computing, ISBA leadership believed it was in the best interest of IowaDocs® users to switch to a different engine.

"IowaDocs® is vitally important to our membership as a service to create forms in a timely, easy manner. After weighing all options, we felt this switch was the best way to continue delivering this service for our attorneys and their staffs," says Harry Shipley, ISBA assistant executive director.

The ISBA is asking IowaDocs® power users (attorneys and/or support staff) to assist in testing the new system in XpressDox before its official launch Dec. 1. If you are interested in doing so, or have questions in the meantime, please contact [support@iowadocs.net](mailto:support@iowadocs.net).

## ABA ISSUES NEW GUIDANCE FOR LAWYERS TO NAVIGATE CONFLICTS BASED ON PERSONAL RELATIONSHIPS

The American Bar Association Standing Committee on Ethics and Professional Responsibility on Oct. 7 released detailed recommendations for how lawyers should assess and respond to potential conflicts arising from client representation and relationships with opposing lawyers.

Formal Opinion 494 explores three categories of relationships — acquaintances, friendships and close personal relationships — to assist lawyers in determining what, if any, conflicts exist under ABA Model Rule of Professional Conduct 1.7(a)(2). The new opinion draws heavily from Formal Opinion 488, issued in September 2019, which addresses judges' personal relationships with lawyers or parties that might require disqualification or disclosure.

Recent ABA ethics opinions are available on the ABA Center for Professional Responsibility website at [www.americanbar.org/groups/professional\\_responsibility/](http://www.americanbar.org/groups/professional_responsibility/).

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# For the public good; or pro bono publico

LETTER BY ISBA PRESIDENT JERRY SCHNURR III

When we accept the privilege to practice law, we accept certain responsibilities, among those, to promote justice and to work to make justice accessible to all people equally. In fact, Rule 32:6.1 of the Rules of Professional Conduct provides that every lawyer in Iowa has a responsibility to provide at least 50 hours of legal services each year without fee or expectation of a fee to persons of limited means or to charitable, religious, civic, community, governmental and educational organizations in matters designed to address the needs of persons of limited means.

Another way to fulfill this responsibility is to provide services at no fee, or a substantially reduced fee, to individuals or organizations seeking to secure or protect civil rights, liberties or public rights. Finally, a lawyer may discharge the pro bono responsibility by providing financial support to organizations that provide free legal services to persons of limited means. Such financial support should be reasonably equivalent to the value of the hours that would have otherwise been provided in service.

October is traditionally the month in which we celebrate pro bono legal services. This year, we lawyers in Iowa not only celebrated pro bono service but also the life and legacy of Chief Justice Mark Cady by celebrating the first annual Mark S. Cady Day of Public Service. It has been a year since Chief Justice Cady's untimely death. While his death is painful, his life and work continue to bring hope and

justice to many. I suggest that it is in this spirit that we embrace public service as members of this noble profession.

Chief Justice Cady always seemed to approach his work on the court, from District Court, to the Court of Appeals to the Iowa Supreme Court, with integrity, humility, sincerity, dignity and kindness. I was able to talk to him over the years about being a judge. He always came back to the theme of the importance of equal access to the fair administration of justice for all.

Chief Justice Cady's work reflects his deep commitment to justice for all Iowans. He worked to establish the Iowa Access to Justice Commission to find ways to overcome barriers some Iowans face when trying to access the Iowa justice system. He was a champion of reforms that are aimed at improving juvenile justice. He challenged us as a profession to face our implicit biases to improve the administration of justice in a fairer way. He worked to expand Iowa's specialty business, family, veterans and drug courts. The efforts in many of these areas have resulted in people getting help they need and becoming productive citizens in their communities.

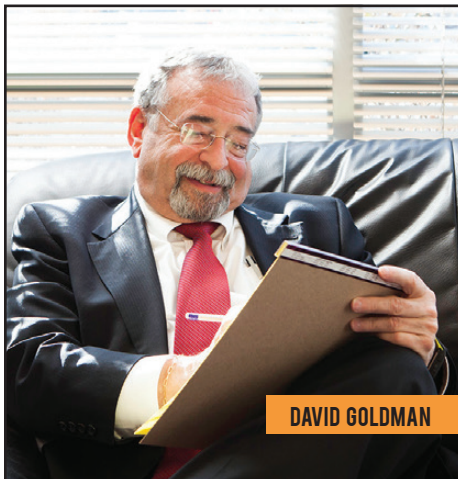
Perhaps one of the most important things he did, in my view, was to take the court on the road when he became chief justice in 2010. There had just been an aggressive campaign in the retention election to remove three justices on the Iowa Supreme Court in response to the Varnum decision. Taking the court on the

road opened the court to Iowans so that people could see actual cases argued. It was a successful effort to demystify the court's work and provide important civics education. The people of Iowa are better off because they have a better understanding of how the judicial branch works.

I hope you took the opportunity to participate in one of the many projects of public service offered for Cady Day of Public Service. Some of the projects included a Voting Rights CLE, Asylum Advocate Training, Expungement and Employment Barriers Clinic, Free Clinic for Financial and Medical Powers of Attorney and Living Wills, food drives, blood drives, Polk County Courthouse Historical Research Project, random acts of kindness and many more. You can see pictures of some of the events on page 30 as we recognize participants in our "Spotlight on Service" feature.

Even if you were unable to take part in any planned activities on Cady Day, perhaps you can sign up with the Volunteer Lawyers Project through Iowa Legal Aid. This program serves an average of 2,000 low-income Iowans each year who do not have the ability to hire and pay for a lawyer. Simply fill out the Volunteer Lawyers Project registration form at [www.probono.net/iowa](http://www.probono.net/iowa). Iowa Legal Aid provides support, research and technical assistance for volunteers. Work with the Volunteer Lawyers Project will give you the opportunity to make the justice system accessible for someone who would not otherwise be able to get access to justice. And you will have a grateful client. *Isn't providing justice why so many of us become lawyers in the first place?*

I hope you will make pro bono service a fundamental part of your life as an Iowa lawyer. It will improve our justice system, our state, our profession and each one of us. Finally, our participation in pro bono service will be a fitting tribute to the life and service of Chief Justice Mark Cady.



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# CYBERSECURITY ESSENTIALS FOR LAW FIRMS

Hackers are capitalizing on 2020's chaos to ramp up their attacks. Here's how your office can spot and fix the holes in your defenses.

By Trevor Meers, Director of Partnerships and Content at Pratum

Nobody needs one more crisis to anticipate in 2020. But in a hacker's view, pandemics, protests and derechos presented big expansion opportunities. Ransomware attacks, one of the most popular forms of hacking, are up about 700 percent in 2020.

So, in the interest of smart business planning, let's picture one more ugly turn of events in this wild year: You're a patent attorney, and a hacker dupes one of your employees into clicking a link in a bogus e-mail. The bad guys quickly gain access to your network and cloud storage. They encrypt all your data and demand a ransom payment to unlock it.

But you've planned ahead! You recover everything from backups. Peace settles back over the office (after a reminder at the next staff meeting to watch out for fake e-mail.) You've survived a phishing attack and data breach without absorbing any real recovery costs, which average about \$100,000 for small to midsize businesses.

But within a few days, a client calls with bad news. Someone tipped them off that

some of their key patent information is for sale to the highest bidder on the web.

Dollars, it turns out, aren't the best way to measure the cost of a data breach.

"You can imagine the kinds of data we have at a law firm," says Derek Kilbride, information security officer at Nyemaster Goode, P.C. in Des Moines. "If things like that did get out, that's our name. People trust us. That's something you can't put a price on."

For many small organizations, that intangible cost actually proves fatal. The National Cybersecurity Alliance reports that 60 percent of small companies are out of business within six months of being hacked.

## HOW TO START LOCKING THE GATES

If you've never had a third party evaluate your organization's digital security, you almost certainly have hacker-friendly gaps. And even if you're not convinced that you need a security review, your clients may be. Companies face a growing thicket of privacy regulations ranging

from the well-known HIPAA to recent arrivals like GDPR (the European Union's data privacy standard). That means you may have to prove your security posture each year to win and retain key clients.

In this two-part series, we'll cover what you need to know about the critical steps in evaluating your organization's information security. This month, we cover information security risk assessments, which review your overall policies and data usage and summarize the risks you face. Next month, we cover the technical scans and tests that put your systems under the spotlight to identify all the places a hacker could sneak in.

Kilbride uses all of these tools each year at Nyemaster Goode. "With risk assessments, vulnerability scans and penetration tests, it's all about learning what you don't know about your environment," he says. "It's always good to have someone that does this all the time point out issues that you have overlooked or didn't realize were issues."

And here's the good news in this story about bad actors: Most information security fixes are fairly quick and inexpensive. Your first assessments will probably show that a few policy changes and software updates will close the biggest gaps. In one of Pratum's recent tests, for example, our tester infiltrated the client's system and created fictional new users who could access key data. That's a big problem. But the company's IT leader fixed it by changing a system setting.

So, while the risks and terminology involved with cybersecurity can be daunting, the fixes don't have to be.

## THE FIRST STEP: INFORMATION SECURITY RISK ASSESSMENTS

Start by hiring a third-party cybersecurity expert to conduct an information



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security risk assessment. This comprehensive survey evaluates your organization's data usage and policies, highlighting what's working well and listing risks that need further evaluation. The entire process takes about one month, including about a day of staff time as the consultants interview key stakeholders in your organization to clarify your policies and procedures.

Many times, a firm's work requires risk assessments. They are mandated, for example, by federal regulations such as the Sarbanes-Oxley Act (SOX), the Gramm-Leach Bliley Act (GLBA) and (HIPAA). The Payment Card Industry–Data Security Standards (PCI-DSS) also require merchants of all sizes to perform due diligence in assessing their technology operations risk.

At the end of the assessment, you will get a report highlighting threats specific to your work and data handling. The report clearly explains the risk that each vulnerability creates for your organization, helping the IT team frame the concerns in business terms that let non-technical leaders make informed decisions about next steps.

An information security risk assessment includes the following steps:

### 1. Initial analysis

Before meeting with your team, the consultants request documentation that helps them understand the organization's data usage and existing policies. The consultant will also review your organization's business model, industry, type of clients and more to tailor their review to your situation.

### 2. Fieldwork

Consultants typically meet with stakeholders who can describe how you handle identifiable client data, as well as data related to finance, HR, billing and IT. During interviews with your designated representatives, the consultants learn how information comes into and out of your organization and what policies you use to protect it. Typical questions cover topics such as how often you require employees to change their passwords and what files each employee can access.

The more details that the team shares with the consultants, the more they can target recommendations to your specific vulnerabilities and choose the applicable industry benchmarks to use.

"Open discussions are big," says Megan Soat, Pratum's director of security

services. "We really want the executive in charge of the risk assessment to tell everyone on their team to be honest with us. You're not going to get in trouble for what you're telling us. If the IT team, for example, knows they're not handling something properly and won't tell us, the organization won't get the true value out of the assessment."

Soat says the IT team often discovers things about their own organization when they sit in on interviews with other employees. "They learn things like an employee saying they have an application on their system that IT didn't even know about," Soat says.

### 3. Reporting

After gathering information, the consultant prepares an executive summary of the findings, which includes a list of information security threats ranked by risk level. This becomes your guide for fixing the issues.

One of the most common issues involves access controls. In many organizations, every employee has access to everything in the system. Even if you trust your employees, this wide-open access gives hackers an all-access pass if they

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## COMMON RISKS REVEALED BY ASSESSMENTS

Here are a couple of issues Pratum's consultants commonly help law firms identify and solve.

**HIGH RISK:** The organization does not have a vulnerability management program. There is no current process for identifying and remediating vulnerabilities found in the network infrastructure, server operating systems, applications or databases. High risk vulnerabilities may be left unaddressed and exploited by attackers to gain unauthorized access to systems and data.

**MODERATE RISK:** Confidential and sensitive information in legal case files is currently being stored in unlocked filing cabinets in unmonitored areas (i.e. hallways). The likelihood of personally identifiable information being stored in unmonitored areas is very probable. Unauthorized disclosures of this information are imminent, even between different attorneys and their respective cases.

## YOUR INFORMATION SECURITY TOOLKIT

Every organization should have the following documents as part of their overall information security approach:

- E-mail Use Plan
- Patching Schedule
- Disaster Recovery Plan
- New Hire Setup
- Employee Separation Checklist
- Bring Your Own Device Policy
- Information Technology Policy

## KEY ELEMENTS IN EVERY INCIDENT RESPONSE PLAN

Are you ready to respond to a breach? A solid incident response plan includes the following elements:

- List events considered to be incidents, such as intrusions on the network or accidental exposure of data.
- Identify the incident response team, including a clear leader.
- Identify channels employees can use to report suspected incidents.

compromise anyone on your team. The solution? Limit each employee's access to only the information they absolutely need to do their jobs. If a hacker gets that person's credentials, they have the equivalent of a key to one office, not keys to the entire facility.

Most organizations also need to beef up their incident response plan, Soat says. "Everyone should have a plan for how to contain a breach and what experts to call for help. Most organizations don't. If it takes time to get all that together when something happens, it increases the cost in terms of money and reputation."

Final reports from Pratum rate each of your organization's risks on one of three levels:

**High:** The finding creates a large exposure that could result in a loss of system control, access, application control and/or exposure of customer data via the compromise of administrative accounts and/or other system functions. It could also create an issue with confidentiality and/or integrity, resulting in many user accounts being compromised, or restricted system functions being accessed.

**Moderate:** The finding does not directly lead to a compromise but could be used in conjunction with other techniques to compromise accounts, or to perform unauthorized activity in the environment.

**Low:** The finding creates limited exposure for compromise of user accounts, or unauthorized access to data due to configuration issues, outdated patches and/or policy.

## 4. Remediation

With the report and "risk register" complete, the consultant will guide your team on how to fix the weaknesses. This typically means adopting the best practices in a set of industry-standard controls. The final report's list of risks includes spots where you can assign remediation tasks to specific team members with due dates, ensuring that you plug the gaps in a timely fashion.

## 5. Repeat

Think of risk assessments like financial audits: You'll need one annually to keep up with new threats and changes within your organization. New security questions arise each year because of routine IT adjustments such as moving data to the cloud, reconfiguring your firewalls or adopting a new application.

"This isn't a one and done," Pratum's Soat says. "You should be starting to build a risk management program off this, if you don't already have one."

Next month, we'll explain vulnerability scans and penetration tests, the hands-on testing that examines whether the policies you think you're following are really working.



**Trevor Meers** leads Pratum's content development and partner relationships and has covered technology as a journalist for more than 20 years. Pratum (pratum.com) is an information security services firm based in Ankeny. The company helps small-to-midsize businesses nationwide solve information security challenges based on risk, not fear. Pratum does not sell hardware or software, keeping its focus on objective security consulting services.

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# ATTACHED

## by RANSOMWARE? Five steps to recovery

By Dmitry Dontov, CTO, Spin Technologies, <https://spin.ai>



**R**ansomware has been noted by many as the most threatening cybersecurity risk for organizations, and it's easy to see why: In 2019, more than 50 percent of all businesses were hit by a ransomware attack – costing an estimated \$11.5 billion. In the last several months, major consumer corporations, including Canon, Garmin, Konica Minolta and Carnival, have fallen victim to major ransomware attacks, resulting in the payment of millions of dollars in exchange for file access.

While there is a lot of discussion about preventing ransomware from affecting your business, the best practices for recovering from an attack are a little harder to pin down.

While the monetary amounts may be smaller for your organization, the importance of regaining access to the information is just as high. What steps should you take for effective ransomware recovery? A few of our best tips are below:

### 1. INFECTION DETECTION

Arguably the most challenging step for recovering from a ransomware attack is the initial awareness that something is wrong. It's also one of the most crucial. The sooner you can detect the ransomware attack, the less data may be affected. This directly impacts how much time it will take to recover your environment.

Ransomware is designed to be very hard to detect. When you see the ransom note, it may have already inflicted damage across the entire environment. Having a cybersecurity solution that can identify unusual behavior, such as abnormal file sharing, can help quickly isolate a ransomware infection and stop it before it spreads further.

Abnormal file behavior detection is one of the most effective means of detecting a ransomware attack and presents the fewest false positives when compared to signature-based or network-traffic-based detection.

The issue with a "signature-based" approach is this method requires the ransomware to be known. If the code is

available, software can be trained to look for that code. This is not recommended, however, because sophisticated attacks are using new, previously unknown forms of ransomware. Thus, an AI/ML-based approach is recommended, which will look for behaviors such as rapid, successive encryption of files and determine there is an attack happening.

Effective cybersecurity also includes good defensive mechanisms that protect business-critical systems like email. Often ransomware affects organizations by means of a phishing email attack or an email that has a dangerous file attached or hyperlinked.

If organizations are ill-equipped to handle dangerous emails, this can be an easy way for ransomware to make its way inside the walls of your organization's on-premise environment or within the cloud SaaS (Software as a Service) environment. With cloud SaaS environments in particular, controlling third-party applications that have access to your cloud environment is extremely important.

### 2. CONTAIN THE DAMAGE

After you have detected an active infection, the ransomware process can be isolated and stopped from spreading further. If

this is a cloud environment, these attacks often stem from a remote file sync or other process driven by a third-party application or browser plug-in running the ransomware encryption process. Digging in and isolating the source of the ransomware attack can contain the infection so that the damage to data is mitigated. To be effective, this process must be automated.

Many attacks happen after-hours when admins are not monitoring the environment and the reaction must be rapid to stop the spread of the virus. Security policy rules and scripts must be put in place as a part of proactive protection. Thus, when an infection is identified, the automation kicks in to stop the attack by removing the executable file or extension and isolate the infected files from the rest of the environment.

Another way organizations can help protect themselves and contain the damage should an attack occur is by purchasing cyber liability insurance. Cyber liability insurance is a specialty insurance line intended to protect businesses (and the individuals providing services from those businesses) from internet-based risks (like ransomware attacks) and risks related to information technology infrastructure, information privacy, information governance liability

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Partner



## THE STATE OF RANSOMWARE 2020

- Fifty one percent of organizations were hit by ransomware in the last year. The criminals succeeded in encrypting the data in 73 percent of these attacks.
- Twenty six percent of ransomware victims whose data was encrypted got their data back by paying the ransom.
- Ninety four percent of organizations whose data was encrypted got it back. More than twice as many got it back via backups (56 percent) than by paying the ransom (26 percent).
- Paying the ransom doubles the cost of dealing with a ransomware attack. The average cost to rectify the impacts of the most recent ransomware attack (considering downtime, people time, device cost, network cost, lost opportunity, ransom paid, etc.) is \$732,520 for organizations that don't pay the ransom, rising to \$1,448,458 for organizations that do pay.
- Cybersecurity insurance pays the ransom. For those organizations that have insurance against ransomware, 94 percent of the time when the ransom is paid to get the data back, it's the insurance company that pays.
- Most successful ransomware attacks include data in the public cloud. Fifty nine percent of attacks where the data was encrypted involved data in the public cloud.

*(Data from results of an independent study of 5,000 IT managers across 26 countries, commissioned by Sophos)*

and other related activities. In this type of attack situation, cyber liability insurance can help relieve some of the financial burden of restoring your data.

### 3. RESTORE AFFECTED DATA

In most cases, even if the ransomware attack is detected and contained quickly, there will still be a subset of data that needs to be restored. This requires having good backups of your data to pull back to production. Following the 3-2-1 backup best practice, it's imperative to have your backup data in a separate environment from production.

The 3-2-1 backup rule consists of the following guidelines:

- Keep 3 copies of any important file, one primary and two backups
- Keep the file on 2 different media types
- Maintain 1 copy offsite

If your backups are of cloud SaaS environments, storing these "offsite" using a cloud-to-cloud backup vendor aligns with this best practice. This will significantly minimize the chance that your backup data is affected along with your production data.

The tried and true way to recover from a ransomware attack involves having good backups of your business-critical data. The importance of backups cannot be stressed enough when it comes to ransomware. Recovering from backup allows you to be in control of getting your business data back and not the attacker.

All too often, businesses may assume incorrectly that the cloud service provider has "magically protected" their data. While there are a few mechanisms in place from the cloud service provider (CSP) side, ultimately, the data is your responsibility as part of the shared responsibility model of most CSPs.

### 4. NOTIFY THE AUTHORITIES

Many of the major compliance regulations that most organizations fall under today, such as PCI-DSS, HIPAA,

GDPR, and others, require that organizations notify regulatory agencies of the breach. Notification of the breach should be immediate, and the FBI's Internet Crime Complaint Center should be the first organization alerted. Local law enforcement should be informed next. If your organization is in a governed industry, there may be strict guidelines regarding who to inform and when.

### 5. TEST YOUR ACCESS

Once data has been restored, test access to the data and any affected business-critical systems to ensure the recovery of the data and services have been successful. This will allow any remaining issues to be remedied before turning the entire system back over to production. If you're experiencing slower-than-usual response times in the IT environment or larger-than-normal file sizes, it may be a sign that something sinister is still looming in the database or storage.

### RANSOMWARE PREVENTION V. RECOVERY

Sometimes the best offense is a good defense. When it comes to ransomware and regaining access to critical files, there are only two options. You either restore your data from backup if you were forward-thinking enough to have such a system in place, or you have to pay the ransom. Beyond the obvious financial implications of acquiescing to the hacker's demands, paying is risky because there is no way to ensure they will actually provide access to your files after the money is transferred.

There is no code of conduct or contract when negotiating with a criminal. A recent report found that some 42 percent of organizations who paid a ransom did not get their files decrypted.

Given the rising number of ransomware attacks targeting businesses, the consequences of not having a secure backup and detection system in place could be catastrophic to your business. Investing in a solution now helps ensure you won't make a large donation to a nefarious organization later. Learning from the mistakes of other organizations can help protect yours from a similar fate.

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# A REAL-LIFE CYBER SCAM STORY FROM AN IOWA ATTORNEY

By Elissa M. Holman

**A**ttorneys beware! We are a new law firm, and we were almost duped into this scam. We wanted to bring awareness to the situation because it is rather sophisticated.

We recently encountered a sophisticated scam in which a client claimed he had worked for a Fortune 500 company, that he was sexually assaulted and harassed by his female supervisor (that was an immediate family member of the CEO), and that he was wrongfully terminated after reporting the sexual assault and harassment to the employer's vice president of human resources department. The client then claimed that he had entered into a \$148,500 severance agreement with his employer, but the employer failed to remit the \$148,500 severance check. This scam is particularly cunning because the client provides upfront the following documents: (1) his employment offer letter; (2) his termination letter; (3) a signed severance agreement; and (4) a string of emails in which the employer acknowledges it has an obligation to pay \$148,500 pursuant to the severance agreement and it has failed to do so. The severance agreement and the email exchange are allegedly from the vice president of H.R., CFO and CEO of the corporation; a Google search confirms that those persons are indeed officers of the corporation.

The client is seeking services from a firm to write a demand letter to one or all of the officers demanding compensation to bring the matter to a resolution. Once a settlement is achieved, the client asks the firm, per the contingency agreement, to send the percentage owed to him via wire. In this instance, we demanded \$1.485M. We sent the demand via email and overnight mail, requiring a signature from corporate headquarters. The email addresses of the corporation did and still appear legit. The CFO of the corporation confirmed receipt and

informed us that he will be reviewing our demand. One day later, the CFO sent us an email communicating that a settlement check had been sent and requested confirmation of receipt, so the file could be closed. We obtained the FedEx envelope that was from corporate headquarters and was actually billed to its headquarters. The envelope contained a letter on corporate letterhead with an apology to our client and a cashier's check for \$1.2M, from U.S. Bank. There was no release, agreement or discussion about the amount. We looked carefully at the documents sent to us. The logo on the letterhead appeared to be stretched ever so slightly. The punctuation was off. There were misspellings on the cashier's check. We quickly determined it was a fake cashier's check.

The next morning, we contacted the corporate headquarters of the Fortune 500 company to verify the email address that we had for the vice president of H.R., CEO and CFO. The email addresses were nearly exact, except the email address we had included the addition of "inc" at the end of the corporation. At this point, we knew that we had a fake case with a client who had been playing the role of the client and the officers of the corporation. We have contacted local law enforcement, the Iowa Attorney General's office, FBI, Secret Service, The Iowa State Bar Association and the Office of Professional Regulation.

If we would not have caught this scam, we would have deposited \$1.2M in our trust account. Tellers at financial institutions are unable to place a hold on cashier's checks, unless they catch or believe it be fraudulent. Once the funds had "cleared" our trust account, which would have likely been the next day, we would have wired out \$792,000 to our client. It would have taken several days for the cashier's check to have been discovered to have been a

fraud. At that point, the "client" would have been long gone. We would have ended up with a series of problems resulting from this matter, relating to our IOLTA, our relationship with the bank, financial obligations, among other things. Please be aware this scam is extremely sophisticated.

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**MARINES**

# FIVE THINGS TO KNOW ABOUT *the 15th Amendment*

By Henry Hamilton III

This year marks the 150th Anniversary of the 15th Amendment to the United States Constitution. Prior to the 15th Amendment, the right to vote was largely restricted to white males over the age of 21. The 15th Amendment not only granted African-American males the right to vote, but it was one of the initial steps in the long journey towards universal suffrage in the United States.

Here are five things to know about the 15th Amendment:

## **1. Iowa played a pivotal role in the passage of the 15th Amendment.**

On Feb. 3, 1870, Iowa made history when the Iowa legislature approved the 15th Amendment and ensured its ratification. The amendment required approval by three-fourths of the states, which at the time meant 28 of the then 37 states. Iowa was the 28th state to approve the amendment.

Alexander Clark, a civil rights activist who recruited African-American males to fight for the preservation of the Union during the Civil War, famously argued that “he who can be trusted with an army musket ... shall also be trusted with that boon of American liberty - the ballot.” In 1868,

Iowa voters agreed. The constitutional amendment allowing African-American males the right to vote was approved by 56.5 percent of the state’s voters.

## **2. The 15th Amendment was the product of major debate and significant compromise.**

The 15th Amendment was the last of the three Reconstruction Amendments. Following the Civil War, states ratified the 13th Amendment outlawing slavery, and the 14th Amendment providing birthright citizenship and equal protection of the laws to all citizens, including people who were formerly enslaved.

Even after passage of these amendments, there was still work to be done to ensure that African-Americans had full participation in American democracy. As Frederick Douglas eloquently observed: “Slavery is not abolished until the black man has the ballot. While the legislatures of the South retain the right to pass laws discriminating between black and white, slavery still lives there.”

Congress debated several versions of the 15th Amendment. Some of the more progressive versions sought to extend the right to vote to African-American males, while also seeking to prohibit voting qualifications based upon education or wealth requirements. Proponents of the more progressive versions feared that states would use education and wealth requirements as proxies to disenfranchise African-American voters.

In the end, a more moderate version of the 15th Amendment was passed. The 15th amendment provides: Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude; Section 2. The Congress shall have power to enforce this article by appropriate legislation.

The 15th Amendment extended the right to vote to millions of African-American men who

otherwise may have been prohibited from voting simply because of the color of their skin. While important to recognize what the 15th Amendment accomplished, it is also important to reflect on what the 15th Amendment did not accomplish.

The 15th Amendment did not provide a universal right to vote. In fact, Americans still do not enjoy a constitutional right to vote. The 15th Amendment only provided that to the extent the federal government and states provided the right to vote, the right to vote could not be restricted because of race.

The 15th Amendment did not guarantee women the right to vote. Women were not extended the right to vote until passage of the 19th Amendment in 1920. On that point, African-American women would not effectively enjoy voting rights until passage of the Voting Rights Act of 1965.

The 15th Amendment did not grant 18-year-olds the right to vote. Eighteen-year-olds would not enjoy the right to vote until passage of the 26th Amendment in 1971.

Importantly, the 15th Amendment did not prohibit states from restricting the right to vote because of education, wealth, property or other so-called “facially neutral” qualifications. As feared, states exploited these omissions to disenfranchise African-American voters.

## **3. The 15th Amendment has had significant impact, but its immediate success was short-lived and for many decades thereafter it was largely ineffective in securing voting rights for African-Americans.**

Congress quickly passed laws empowering the federal government to ensure the constitutional guarantees of the 15th Amendment by criminalizing efforts to suppress the African-American vote. These laws increased African-American participation in the electoral processes.

Prior to the 15th Amendment, there were no federally elected African-American officials, and only a handful of state and local officeholders. African-Americans



ISBA Vice President Henry Hamilton III is pictured speaking at the second annual Meeting at the Monument event on Oct. 8. The Iowa National Bar Association sponsors this event to celebrate diversity in Iowa’s legal community and recognize Iowa lawyers for their role in advancing civil rights and equality.

began serving in the U.S. Senate and the U.S. House of Representatives soon after ratification of the 15th Amendment. From 1870-1900, 22 African-Americans had the honor of serving in Congress; another 700 African-Americans served in state legislatures.

The successes were short-lived. The 15th Amendment fell victim to U.S. Supreme Court action and exploitation of its internal weaknesses.

In a series of rulings, the Supreme Court held that the 15th Amendment did not grant Congress the power to curtail efforts by private citizens that suppressed the voting rights of African-Americans. What did this mean? Well, it meant that Congress had little authority to prevent private actors – the Ku Klux Klan, white supremacists and related militias – from interfering with African-American voters.

Emboldened by the Supreme Court rulings, these groups engaged with impunity in wholesale domestic terrorism against African-American voters and their white allies. From 1887-1968, 3,446 African-Americans were lynched. For African-Americans in large parts of the nation, voting or even attempting to register to vote was fraught with signifi-

cant risks, including death.

The Supreme Court also held that facially neutral restrictions on the right to vote were legal, even though these restrictions disproportionately impacted African-Americans. States took advantage of these rulings and exploited the weaknesses of the 15th Amendment. States utilized poll taxes, educational requirements, literacy tests, grandfather clauses and understanding clauses to disenfranchise African-American voters.

Poll taxes posed significant economic barriers for African-Americans since until recently African-Americans had largely not been paid for their labor and did not have significant opportunities to accumulate wealth.

Educational requirements and literacy tests disproportionately disenfranchised African-Americans. Until 1867, several states had anti-literacy laws explicitly prohibiting the teaching of reading and writing to enslaved persons. Even in states where education of African-Americans



ISBA Vice President Henry Hamilton III, ISBA President Jerry Schnurr and Iowa National Bar Association President Paxton Williams pose in front of the "Monumental Journey" sculpture in Des Moines at the Oct. 8 Meeting at the Monument event.

was legal, African-Americans were segregated, provided inferior facilities, supplied outdated learning materials, if any materials at all, and otherwise subjected to unequal educational opportunities.

Additionally, tests were not equally administered. Election registrars were endowed with full discretion to determine who did or did not meet these facially-neutral qualifications, and oftentimes their decisions were not appealable. African-Americans were given more

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difficult tests, or registrars simply ruled that African-Americans failed the tests, while ruling that similarly-situated white voters passed the tests.

The combined effect of the Supreme Court rulings, domestic terrorism perpetuated by white militias and the employment of discriminatory tests and poll taxes, drastically suppressed the African-American vote by making it illegal, life threatening or otherwise more difficult to vote.

African-American voter registration and turnout plummeted, particularly in the South. In Louisiana, more than 130,000 African-Americans were registered to vote in 1896; by 1904, the number of registered voters dropped to 1,342. In Alabama, in 1900, more than 180,000 African-Americans were registered to vote; by 1903, the number decreased to 3,000. By 1940, only three percent of eligible African-Americans were registered to vote in the South. The lower numbers of registered voters had predictable consequences. For instance, from 1881 through 1967, no African-Americans served in the U.S. Senate.

## 4. The greatest legacy of the 15th Amendment is the Voting Rights Act of 1965.

Congress enacted the Voting Rights Act of 1965 pursuant to its authority under the 15th Amendment. The Voting Rights Act, arguably the most effective civil rights law ever passed, outlawed discriminatory tests, reinforced prohibitions against race discrimination in voting and, most important, set up a pre-clearance process to combat recalcitrant states and subdivisions.

Since the late 1950s, the federal government had been undertaking increasingly progressive efforts to counter ongoing and widespread voter suppression. Congress passed the Civil Rights Acts of 1957, 1960 and 1964 to battle unlawful voter discrimination. These efforts were largely ineffective.

A state or municipality would employ a discriminatory election scheme. The federal government would successfully sue the state or municipality. The court decision, however, would be issued too late to impact the election at issue, or even impact the next two or three subsequent elections employing the same scheme. Furthermore, states found to have violated voting rights laws would simply tweak prior unlawful schemes and force the federal government into lengthy litigation once again.

This cat-and-mouse game ensued until passage of the Voting Rights Act.

The Voting Rights Act declared enough is enough. The Act required covered jurisdictions – largely states and subdivisions that had engaged in racially discriminatory voting practices -- to submit proposed voting changes to the U.S. Department of Justice or the Federal District Court for the District of Columbia. The DOJ or the D.C. Federal District Court would have to ensure that the proposed changes would not discriminate against African-Americans before the changes could take effect.

The Voting Rights Act worked. Voter registrations in Mississippi increased from less than 10 percent of the eligible African-American voters in 1964 to nearly 60 percent in 1968. In Alabama, voter registrations increased from 24 percent of the eligible African-American voters to 57 percent of eligible African-American voters. In Virginia, registrations increased from 38 percent of eligible African-American voters to 55.6 percent. By 1970, almost as many African-Americans were registered to vote in Alabama, Mississippi, Georgia, Louisiana, North Carolina and South Carolina as had been in the entire century before 1965.

## 5. The protections of the 15th Amendment are under attack again.

In 2013, the Supreme Court ruling in *Shelby County v. Holder* (570 U.S. 529), essentially eliminated the pre-clearance process. Covered jurisdictions, including states with notorious histories of racial discrimination, were relieved of the obligation to submit voting changes to the DOJ or the D.C. Federal District Court before implementation.

States wasted little time enacting measures carefully calculated to suppress African-American voters. Among other actions, states gerrymandered voters, enacted strict Voting ID requirements, reduced early voting opportunities, purged voter rolls and implemented pay-to-vote schemes. The Fourth Circuit Court of Appeals opined that North Carolina's "new provisions target[ed] African-Americans with almost surgical precision."

States maximized opportunities to surreptitiously increase waiting times at polling locations in largely African-American communities. A 2019 study by researchers from UCLA, Carnegie Mellon University and the University of Chicago found "substantial and significant evidence of racial disparities

in voter wait times." The same study cited evidence indicating that approximately three percent of voters will leave polling locations without voting when experiencing lengthy voting lines.

Lengthy voting lines inflict wounds to our democracy which do not readily heal. A 2018 Harvard study indicated that lengthy voting lines actually serve to deter voter participation in subsequent elections. Approximately two to three percent of voters experiencing long delays will cite voting delays as a factor for not voting in the next election cycle.

Reasons for increased wait times in African-American neighborhoods include: concentrated use of dilapidated election machines, too few or poorly trained election workers, insufficient number of ballots – requiring more ballots to be located and delivered to African-American wards, burdensome absentee ballot requirements, too few ballot drop-off locations and the closing of polling locations resulting in an increasing number of voters assigned to a decreasing number of polling locations.

The Leadership Conference on Civil and Human Rights reported that between 2014 and 2018, jurisdictions relieved from preclearance by the ruling in *Shelby County v. Holder* utilized 1,173 fewer polling locations, despite overall increased voter turnout.

As we continue to celebrate the 150th anniversary of the 15th Amendment, the 100th anniversary of the 19th Amendment and the 55th Anniversary of the Voting Rights Act of 1965, we should look back in appreciation at how far we have progressed as a nation. At the same time, we must remain steadfast in our efforts to protect equal access to "the boon of the American liberty – the ballot." We will not become that more perfect union by accident. It will take work.



**Henry Hamilton III** is a Federal Administrative Law Judge for the U.S. Social Security Administration in Des Moines. He serves as Vice President of The Iowa State Bar Association.

The views and opinions expressed are the personal views and opinions of the author and do not reflect the views and opinions of any past, present or future employer.

# HOW TO BE AN ANTIRACIST

Say his name, “GEORGE FLOYD!”  
Say her name, “BREONNA TAYLOR!”  
Say his name, “WILLIAM GREEN!”

We heard the chants. We saw the protests on television. Perhaps we even protested peacefully.

I did. Last spring, I walked with students and faculty from the Drake Law School as well as with members of the National Bar Association and The Iowa State Bar Association. We wanted to support the Black Lives Matter movement.

After my participation in the peaceful march, my interest in the Black Lives Matter movement continued. I discovered the book, *How to Be an Antiracist*, by Ibram X. Kendi, Ph.D.

Dr. Kendi is an educator. In 2016, he won the National Book Award for the nonfiction work, *Stamped from the Beginning*. Currently, the author serves as the Director of the Center for Antiracist Research at Boston University.

Professor Kendi presents an innovative method for eradicating racism and obtaining racial justice. He advocates widespread policy changes for society. The author asserts: The minds of individuals will support racial equity, once **policy** changes are effectuated.

The author describes both terms, “racist” and “antiracist.” The focus of his descriptions is upon policy. In Chapter 1, at page 14, the author writes:

**RACIST:** One who is supporting a racist policy through their actions or inaction or expressing a racist idea.

**ANTIRACIST:** One who is supporting an antiracist policy through their actions or expressing an antiracist idea.

Dr. Kendi defines a racist policy as “[A]ny measure that produces or sustains racial inequity between racial groups” (Chapter 1, page 18). “An antiracist policy is any measure that produces or sustains racial equity between racial groups” (Chapter 1, page 18). The author opines social policy is either generating or fortifying racial inequity or racial equity (Chapter 1, page 18). To support his opinion, the professor cites the following example concerning global warming:

“Do-nothing climate policy is racist policy, since the predominantly non-White global south is being victimized by climate change more than the White global north, even as the Whiter global north is contributing more to its acceleration. Land is sinking and temperatures are rising from Florida to Bangladesh. Droughts and food scarcity are ravishing bodies in Eastern and Southern Africa, a

region already containing 25 percent of the world’s malnourished population. Human-made environmental catastrophes disproportionately harming bodies of color are not unusual; for instance, nearly four thousand U.S. areas – mostly poor and non-White – have higher lead poisoning rates than Flint, Michigan” (Chapter 1, page 21, citing, “Climate Change Will Hit Poor Countries Hardest, Study Shows,” The Guardian, Sept. 27, 2013; “Reuters Finds 3,810 U.S. Areas with Lead Poisoning Double Flint’s,” Reuters, Nov. 14, 2017).

In his book, Dr. Kendi writes there are three states of consciousness. The consciousness states are akin to attitudes. There are segregationist ideas, assimilationist ideas and antiracist ideas. A person with segregationist ideas believes there are permanently inferior racial groups. The perceived inferior racial groups will never be developed. A person with segregationist ideas supports policies that isolate racial groups.

A person with assimilationist ideas believes racial groups are culturally or behaviorally inferior to the racial group in power. A person with assimilationist ideas supports programs to develop the culture or behavior of the perceived inferior group.

A person with antiracist ideas believes all racial groups are equal. An antiracist person accepts differences among racial groups. An antiracist person promotes and embraces policies that eliminate racial inequality.

Professor Kendi invites the reader to explore antiracist ideas and to throw away outdated notions about race. The author traces policies such as “The War on Crime,” “The War on Drugs” and the “The 1994 Crime Bill.”

Dr. Kendi discusses the negative effects those biracial policies had on judicial inequality. While sponsors of such laws may have had the best of intentions when passing legislation, racial disparity often resulted. The author explains the disparate impact the legislation had on certain racial groups.

The book touches upon some of the most heinous components of American society. For much of the book, the tone is bleak. Portions are depressing. Nevertheless, the author holds onto a message of hope. Professor Kendi ends on an optimistic tone. He concludes:

“But racism is one of the fastest-spreading and most fatal cancers humanity has ever known. It is hard to find a place where its cancer cells are not dividing and multiplying. There is nothing I see in our world today, in our history, giving me hope that one day antiracists will win the fight, that one day the flag of antiracism will fly over a world of equity. What gives me hope is a simple truism. Once we lose hope, we are guaranteed to lose. But if we ignore the odds and fight to create an antiracist world, then we give humanity a chance to one day survive, a chance to live in communion, a chance to be forever free” (Chapter 18, page 238).

It is the final message of hope that comforts me despite the chants of say his name, say her name, say his name.



**Miki McGovern** is a retired Deputy Workers' Compensation Commissioner. She currently serves on The Iowa State Bar Association Board of Governors and is a member of the ISBA Diversity and Inclusiveness Committee.



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# ZOOM LEARNING *for law students and lawyers*

Q&A with law student Matthew Nuzum and Judge Celeste F. Bremer, JD, EdD



**A**s part of the COVID-19 safeguards, we have all had to adapt to using Zoom or other online platforms to conduct business and for our educational programming. We've now experienced remotely conducted court hearings and, in some jurisdictions, even Zoom jury trials. Iowa law schools have adopted a hybrid delivery method: some classes in person, with part of the classwork online, and other classes totally "virtual." Now Iowa lawyers have many online CLE choices, by webinar or other remote learning methods. But before the legal community made this shift to online learning, some law students chose this system for their law degrees, including the author Matthew Nuzum.

With the increase in online delivery of educational programs, the authors thought that Iowa lawyers might want to know more about online learning, whether it is for an entire law degree or the occasional CLE. What follows is a Q&A exchange between the two authors.

**Judge Bremer:** What do online law classes look like? Thinking back on my law school and graduate school experiences, I am not sure I would be disciplined enough to take in that much information online – whether by video or classwork. Why did you choose to attend law school remotely?

**MN:** I chose to apply at Mitchell Hamline at first because it was one of the few nearby schools that accommodated working students. After 15 years of working in the high-tech business world, I wanted to shift my career into a new direction. Purely online law schools will not qualify a graduate to practice in most states, so the curriculum satisfies ABA requirements by doing two-thirds of the teaching live and in-person while the remainder is online. Some electives are offered 100 percent online and Mitchell Hamline still offers fully in-person degree programs as well. For me, the classroom experience is condensed down to two weeks per semester, allowing me to sit in the same seats as the students attending the fully in-person program, but giving me the flexibility to do a large part of the work around my full-time job.

**Judge Bremer:** What types of formats are used for law school classes? How does that compare with the average CLE webinar?

**MN:** There are several formats. One is "synchronous," which is a traditional classroom style of teaching but moved into a virtual environment. Zoom is commonly used, leading to the jocular reference by law students that they now attend Zoom School of Law. In this format, each student joins the class at a particular time with web camera turned on. The professor sees all the students and lectures as if everyone were together in the same physical space.

This format makes it easy to translate a traditional classroom into a virtual classroom. While more convenient for the instructor, it is probably the most difficult for students. The reality is that students are not attending class in a controlled environment. Much like trying to practice at home instead of in the law office, there are distractions and life intervenes. It is hard to be as engaged online as you are in a classroom. This is not a slight against schools using this format — they've had to adapt quickly — but I predict online legal education will evolve beyond it.

On the other end of the spectrum are online versions of a correspondence course. Written or prerecorded lectures are posted online, and students work asynchronously, or on their own time. This allows them to work or take care of family obligations as needed, and then their knowledge is measured by a test or project at the end of each course. This offers more freedom but also requires diligence and good time-management skills.

There is an in-between style that most of my classes use. My school has been doing online legal education since 2015 and has created programs specifically targeting students like me who balance school with a full-time job, or maybe in an area underserved by a law school. My classmates are spread from Guam to Germany, with one

based on a submarine. Many are in the Midwest, but there is a large number from New York and Texas as well. Therefore, the program has been adapted to accommodate students with diverse schedules.

This format includes a week of synchronous content at the beginning of the course and another week at the end. Initially, these were done in-person, with the students traveling to St. Paul, Minnesota, to attend class for the week. These intensive classes had a mixture of traditional lecture format and experiential seminars. For example, at the beginning of the semester, you could expect to be called on in class, while at the end of the semester you may be expected to, at short notice, appear in a mock trial to ask for a temporary restraining order. There were also group negotiation projects, oral arguments and presentations by attorneys and judges who participated in notable complex cases and trials, such as the I-35 bridge collapse in Minneapolis.

During the weeks between the synchronous classes, the content is delivered online. The online classes can be synchronous; however, they are all recorded so students can watch at different times. Instead of cold calling on students using the Socratic method, each week students prepare a deliverable related to the material. Your weekly assignment may be a memo; a discussion post, where students interact with each other in writing; a video recording of the student giving an opening statement or arguing a position based upon the case law; or an essay. I find these weekly assignments to be far more instructive than the Socratic method, and they ensure that all of the students take part in class every week.

For example, I will never forget week



five of torts class—the professor gave a hypothetical and required a written response by Wednesday explaining how a court should decide the matter. I loved torts and quickly wrote out a “bullet-proof” argument supporting my view. On Thursday, the professor sent the class a note telling us that we now had until Friday to refute our earlier position. At first, I thought it was hopeless, but then I found a flaw in my reasoning and turned in a great response. This event sticks in my mind as the point where I really understood the phrase, “it depends.”

**Judge Bremer:** That is a good example of why experiential learning helps people make meaning from an abstract idea. It sounds like you have to be disciplined to be able to get this additional work done while taking online classes. You can’t just sit through a lecture and hope you will not be called on. What are some of the challenging aspects of online classes?

**MN:** Foremost, I miss seeing people. I think we can all relate to this. In the news, companies talk about going 100 percent virtual and exclaiming how productivity has held up and work/life balance has improved, but there is an important human element to face-to-face interaction that we haven’t mastered in a virtual setting yet.

Those first few weeks after each of the in-person components had a charged element of comradery that fades over time. Now, when it comes to group projects, everything is scheduled, which works, but it lacks that element of spontaneity of seeing someone in the library or on a break when we might just brainstorm ideas or debate a point. There’s a different emotional component to a meeting in the hallway or an alcove versus online meetings scheduled in Outlook.

To counteract the loss of face-to-face interaction I pick up the phone and call people spontaneously – sometimes with an agenda and sometimes just to check in and chat. This gets to another challenge faced by lack of a physical law school or classroom—the fear of bothering people. If you pass a professor or colleague in the hall and ask them a question, they may stop and talk to you, or they may ask you to meet them at a more convenient time later. For many of us, that doesn’t feel intimidating in a face-to-face environment. But in a virtual environment, it seems we are forced to use more cumbersome communication methods, particularly emails, where it is harder to judge a person’s intent or response.

I worked for years with overseas colleagues, and there is a time and place

for a well-crafted email. But if we’re not careful, they can get quite verbose, and sometimes it feels like too much work for something simple. This puts us into an awkward position. We have three choices: put in the effort to write the email, potentially bother someone with real-time communication or just skip it. Individuals may use social media, or they may text each other, but again, other things are competing for your time. Schools are still working on integrating tools that allow for more spontaneous and casual communication between students and faculty.

**Judge Bremer:** What do you like about having all online classes? Has this allowed you to progress faster or taken longer to get your degree?

**MN:** I love the flexibility in adapting to my schedule, and online coursework fostered an extremely diverse cohort. There is a wider range of ages, experience and backgrounds in my cohort, including some students in their early 20s, and others who have retired from successful former careers or who are transitioning to a legal career. Some of my classmates are dentists, nurses, farmers, a few CPAs, journalists, a television newswoman, several military personnel, an economist and more. We all come from a variety of backgrounds and hold a wide range of viewpoints. The online program allows many who might not be able to attend law school a chance to pursue their dreams and their passions. I hope that traditional “bricks and mortar” law schools will be able to open up to a more diverse population if they stay with the delivery of classes by distance learning.

I also enjoy the hands-on work and experiential learning that Mitchell Hamline builds into its curriculum. From the very beginning, we’ve written memos, essays and online debates. I’ve talked to students from other schools who have few or no deliverables until the final exam. I don’t mind the high-value exam, which we still have, but I personally learn best through trial-and-error and the more frequent preliminary assignments that give us the chance to experiment and apply new knowledge.

**Judge Bremer:** As the legal profession shifts to an online platform to safely conduct business, and most universities have had to shift to online platforms to deliver coursework, do you feel that your experience has prepared you for a Zoom-based practice?

**MN:** I’m excited that I chose an innovative delivery system before it was forced

on me. Law practice has been moving toward this change for a while, but has been cautious about protections for client confidences and has questioned how “professional” an online relationship might be. COVID-19 was the catalyst that forced everyone to rethink how we do things and whether we will ever return to “normal.” Law students graduating in the coming years will help the profession transition to the next era. Today’s virtual classrooms have demonstrated that the tools and methods adopted in response to a pandemic can be scaled up to meet the needs of clients in courtrooms and law offices.



**Matthew Nuzum** is a third-year student at Mitchell Hamline Law School. He completed an internship with the U.S. Courts during the fall of 2019.



**Judge Celeste F. Bremer** is a U. S. Magistrate Judge for the Southern District of Iowa. She has her Doctorate in Adult Education and teaches judges through the Federal Judicial Center.

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# Upcoming CLE

## NOVEMBER

- NOV. 16** Silver Linings: New Opportunities for Online Mediation
- NOV. 16 - 17** Corporate Counsel Institute **E**
- NOV. 17** Drug Testing in Child Welfare Cases: Chemistry, Methodology and Legal Implications
- NOV. 18** Unemployment Insurance Appeals During COVID-19
- NOV. 19** Safe Harbors and Calm Seas: Navigating Risk in Law Practice **E**
- NOV. 19 - 20** Labor and Employment Law Seminar **E**
- NOV. 23** Kids, Custody and COVID-19

## DECEMBER

- DEC. 2 - 4** Bloethe Tax School **E**
- DEC. 11** Federal Practice Seminar **E**
- DEC. 14** Well-Being and Substance Issues During COVID-19 **E**
- DEC. 17** Ethical Multigenerational Interactions: Challenges and Opportunities **E**
- DEC. 21** Drug Testing from a Parent Perspective
- DEC. 31** Avoiding the Ditches of Zealous Advocacy: A Review of the Rules and Cases **E**



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### Labor and Employment Law Seminar

Nov. 19 - 20 | Live Webinar

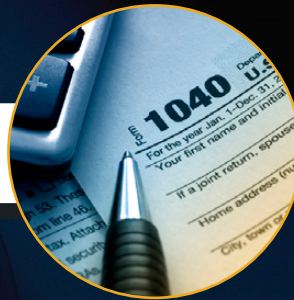


Employers are faced with frequent labor and employment concerns that require knowledgeable counsel in a constantly changing and competitive economy. The annual Labor and Employment Law Seminar is designed to provide the necessary information on hot topics in HR and employment law needed to provide proper instruction.

**CLE CREDIT:** 6.75 state hours which includes 1 ethics hour (approved)

### Bloethe Tax School

Dec. 2 - 4 | Live Webinar



The three-day Bloethe Tax School is the CLE for Iowa's tax professionals and one attendees look forward to all year. This year's program includes discussions on form 1040, recent legislation impacting farm returns, partnership audit rules, financially distressed clients, casualties for ag clients, Title XIX issues and more.

**CLE CREDIT:** 15 state hours which includes 1 ethics hour (pending)

### Federal Practice Seminar

Dec. 11 | Live Webinar



Whether new to federal practice or an experienced attorney, brush up on the basics and more at the 2020 Federal Practice Seminar. Attendees will hear from Gilbert King, Pulitzer Prize-winning author of "Devil in the Grove" as well as from members of the federal judiciary during multiple panel discussions.

**CLE CREDIT:** 7 state hours which includes 1.5 ethics hours (pending)



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- The Year in Ethics Opinions
- ITG: Commercial Services Overview and Residential Update
- Ethics During COVID-19
- The State of Diversity and Inclusion in the Legal Profession



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# Thank you to the speakers for ISBA-sponsored CLEs through the month of October.

## **Navigating Life and the Legal Profession as a Young Lawyer: A Panel Discussion – Oct. 2**

Dillon Besser, RSH Legal, PC  
Lewis Field, Hills Bank and Trust Company  
John M. Loughlin, Loughlin Law Firm  
Megan Merritt, Shuttleworth & Ingersoll, PLC  
Kristen Shaffer, Shuttleworth & Ingersoll PLC

## **How Redlining Has Created the Racial Wealth Divide in Iowa – Oct. 5**

Eric Burmeister, Executive Director, Polk County Housing Trust Fund

## **2020 Fundamentals of Federal Practice Seminar – Oct. 6**

Alex Barnett, Lane & Waterman LLP  
Leslie Behaunek, Nyemaster Goode, P.C.  
Gina Christensen Messamer, Parrish Law Firm  
Ryan Fisher, Bradley & Riley PC  
Brad Hansen, Federal Public Defender  
Magistrate Judge Stephen Jackson,  
U.S. District Court for the Southern District of Iowa

Chief Magistrate Judge Kelly Mahoney,  
U.S. District Court for the Northern District of Iowa  
Frank Severino, Chief Deputy Clerk of Court,  
Southern District of Iowa  
Josh Weir, Dornan Lustgarten & Troia, PC, LLO  
Judge CJ Williams, U.S. District Judge for the Northern District of Iowa

## **Open Meetings/Public Records in the Time of COVID-19 – Oct. 9**

Zach Goodrich, Legal Counsel, Iowa Public Information Board  
Margaret Johnson, Executive Director, Iowa Public Information Board

## **Drug and Alcohol Testing 101 – Oct. 19**

Gary Bucher, Mid-Iowa Testing

## **Family Law Seminar – Oct 21-23**

Hon. Paul Ahlers, Iowa Court of Appeals  
Hon. Kimberly Ayotte, District Associate Judge, District 5  
Amy Carpenter, CASA  
Jennie Cole-Mossman, LIMHP, CPC, JBS International, Inc.

David Cox, Bray & Klockau PLC  
Brian Crotty, HDH Advisors LLC  
Diane Dornburg, Iowa Center for Children's Justice  
Hon. Richard Doyle, Iowa Court of Appeals  
Kendra Erkamaa, Triangle Financial Services Inc.  
Mark Fisher, Howes Law Firm PC  
Lori Frick, DHS  
Prof. Josephine Gittler, University of Iowa  
Melony Gravenish, Parent Partner  
Hon. Sharon Greer, Iowa Court of Appeals  
Hon. Fae Hoover-Grinde, District Court Judge, District 6  
Andrew Howie, Shindler Anderson Goplerud & Weese PC  
Hon. Chad Kepros, District Court Judge, District 6  
Hon. Henry Latham, District Court Judge, District 7  
Hon. David May, Iowa Court of Appeals  
James Meade, Meade Law Office  
Alex Momany, Howes Law Firm PC  
Thomas Mayes, Iowa Department of Education  
Julia McCormick, LW Advisors  
Andrea McGinn, The Law Shop by Skogerson McGinn LLC

Evans, Miller, Zimmerman & Evans, PLC  
Ellen Ramsey-Kacena, Office of the Attorney General of Iowa  
Penny Reimer, Neighborhood Law Group. P.C.  
Megan Rosenstiel, Gilbert & Cook  
Christine Sand, Wild Baxter & Sand PC  
Jenny Schultz, Kids First  
Julie Schumacher, Iowa Court of Appeals  
Anne Sheeley, Polk County Clerk of Court  
Anjela Shutts, Whitfield & Eddy  
Susan Stevens Chambers, Mediator, Attorney at Law  
Ashley Tollakson, Tollakson Law  
Lisa Turner, Clerk of Court, Trial Court Supervisor of the Juvenile Division  
Tara van Brederode, Assistant Director/Administrator, Iowa Supreme Court Attorney Disciplinary Board  
Stacey Warren, CashattWarren Family Law P.C.

## **Slowing the Avalanche: Gain Control of Your Email Before it Buries You – Oct. 26**

Erin Lee Schneider, Assistant Dean for Student Services, Drake University Law School

## **The Limitations and Pitfalls of Hair and Sweat Testing to Detect Drug Use – Oct. 27**

David A. Kidwell, PhD

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# BOARD OF GOVERNORS FALL QUARTERLY MEETING

The following is a summary of actions from the Sept. 24 virtual meeting.

Members of the ISBA Board of Governors (BOG) approved resolutions and recommendations submitted by committees, sections and others at the fall ISBA BOG quarterly meeting. BOG members heard a variety of reports including the ISBA Young Lawyers Division's presentation on its survey of July bar exam test takers.

## ACTIONS

### Resolution approved by the ISBA Board of Governors:

- Support of state funding for Civil Legal Services recommended by the Legal Access Committee.

### ISBA Section recommendations for the 2021 ISBA Affirmative Legislative Program were approved as follows: *Probate, Trust & Estate Planning*

- Proposal to amend Iowa Code section 633.31 to clarify which estate assets should and should not be included in the calculation of court costs for decedents' estates.
- Proposal to amend Iowa Code section 633.4604 to clarify the identities and powers of all currently acting trustees and provide a method of execution consistent with currently accepted methods in other circumstances.
- Proposal to amend Iowa Code section 633A.4703 to ensure that the trust and probate codes provide the same abatement procedures for surviving spouses who do not take elective shares.
- Proposal to adopt the Uniform Custodial Trust Act to facilitate estate planning for testators and trust settlors and management of property for adults who may not be qualified to manage new assets.
- Proposal to amend provisions of Iowa Code chapter 633 enacted in 2019 to clarify and remove inconsistencies related to adult guardianships and conservatorships.
- Proposal to amend Iowa Code chapter 232D regarding minor guardianships and make the Uniform Proceedings Jurisdiction Act in Iowa Code chapter 633 applicable to chapter 232D, subject to ratification by the ISBA Administrative Committee and contingent upon agreement by the Probate, Trust, and Estate Planning and Family Law Sections by Oct. 9.
- Proposal to amend Iowa Code section 611.22 to ensure that a decedent's liability pursuant to litigation is not

given a higher priority for payment than any other claim under section 633.425, and that any additional assets to which a decedent becomes entitled after death as a result of litigation are not exempt from obligations to which estate assets are subject.

### Additional actions approved:

- The 2021 ISBA Affirmative Legislative Program standing legislative positions.
- ISBA sponsorship of a 21-Day Racial Equity Building Challenge for members recommended by the Diversity and Inclusiveness Committee.
- Release of 2020 Judicial Performance Evaluation Results.
- Appointments of Melvin Shaw and Timothy Krumm to the Iowa Legal Aid Board of Directors.
- Reappointments of Cindy Moser and Mike Mahaffey to the Iowa Legal Aid Board of Directors.

## REPORTS

### President's report

ISBA President Jerry Schnurr III provided governors with a detailed list of his activities including notes from meetings and the topics discussed with various groups.

Schnurr noted that at the September and December 2019 ISBA BOG meetings, there were presentations on developments with regard to alternative legal models including the concept of limited practice legal professionals and non-lawyers' ownership of law firms. ISBA Immediate Past President Bill Boyd submitted an update highlighting some recent developments around the United States.

### Dialogue with Iowa Supreme Court Chief Justice Susan Christensen

Iowa Supreme Court Chief Justice Susan Christensen provided an overview of the supervisory orders issued since March 14, 2020, to minimize the impact of coronavirus/COVID-19 on the services the judicial branch provides to Iowans.

Justice Christensen emphasized the importance of the collaboration between The Iowa State Association of Counties and the Iowa Judicial Branch to adopt a checklist of COVID-19 protective measures so members of the public and state and county employees

could safely return to Iowa's courthouses. She traveled to Black Hawk and Scott Counties before the resumption of jury trials and Calhoun County after jury trials resumed to learn how the COVID-19 procedures worked in each county. She provided highlights on efforts by the Jumpstart Jury Task Force and noted that additional information is available on the Iowa Judicial Branch website.

### Legislative counsel's report

ISBA Legislative Counsel Jim Carney highlighted opportunities, priorities and potential legislation for the upcoming session and noted that there will be many new legislators. The legislative team reviewed the proposals in the 2021 ISBA Affirmative Legislation Program and the standing positions on caps on damages, civil justice reform, funding for legal services, indigent defense, the Judicial Branch budget, jury nullification, opposition to legalization of title insurance, full funding for the Iowa Secretary of State's Office, full funding for the Office of the Public Guardian, support and funding for child abuse prevention and treatment efforts, opposition to Marsy's Law and opposition to absolute immunity.

The ISBA's legislative team reported on the FY2021 budget and upcoming October and December Revenue Estimating Conference meetings. ISBA Assistant Legislative Counsel Doug Struyk remarked on Iowa's high rank in financial health in comparison to other states despite cuts in the FY2021 budget.

### ISBA executive director's report

ISBA Executive Director Dwight Dinkla and ISBA Assistant Executive Director



Chief Justice Susan Christensen provides updates to Board of Governors members regarding her COVID-19-related supervisory orders.

Harry Shipley provided governors with information on membership trends and efforts underway to help with membership renewals. Their report also included information on the conversion of IowaDocs® from Hotdocs to XpressDox, and Trustifi, the email security and encryption service available to members. In addition, they noted that declines in revenue currently fall within the 2020-21 budget projections which take the uncertainty of the impact of the COVID-19 virus on the ISBA and the legal community into account.

**YLD president's report**

YLD President Torey Cuellar provided highlights of YLD efforts related to racial equity, diversity and inclusion, professional development, disaster relief and connection to law schools. In addition, the YLD distributed a survey via the YLD listserv and law schools to examine the effectiveness of safety measures in place to provide personal safety for exam takers and areas for improvement. Matthew Scott and Emily Schott, examinees, provided their first-hand experiences of taking the July bar exam in-person. Cuellar summarized notable results from the 65 responses to the survey; one respondent reported a positive COVID-19 test within 14 days of taking the exam and multiple respondents reported that they developed symptoms.

**Law school deans**

Drake University Law School Dean Jerry Anderson reported on the composition of the new law school class and noted that for the first time there will be a spring start option. The law school currently has a hybrid class model. Anderson updated the governors on plans for the inaugural Chief Justice Mark S. Cady Day of Public Service on Oct. 23.

University of Iowa College of Law Dean Kevin Washburn provided highlights on the composition of the Class of 2023 and

the arrival of eight new faculty. Since March, the college of law continues to work and teach from virtual offices, though some classes have an in-person option. Washburn reported that an Iowa Law Antiracism Committee formed in June and noted efforts that are underway.

**ABA delegate report**

ABA Delegate David L. Brown is currently vice chair of the Standing Committee on the Federal Judiciary (FJC) of the American Bar Association. The FJC evaluates the professional qualifications of all nominees to the Supreme Court of the United States, circuit courts of appeals, district courts (including territorial district courts) and the Court of International Trade. Brown noted that nominees are evaluated on the basis of their competence, temperament and integrity.

**Consolidation and centralization of diversity and inclusion**

ISBA President-elect Anjie Shutts provided the governors with a presentation on the current state of diversity and inclusion in Iowa's legal profession and efforts underway. She noted that there are opportunities for the ISBA to consolidate and centralize diversity and inclusion activities. She described the Twin Cities Diversity in Practice Model. A proposal related to the presentation is planned for the next BOG meeting.

**ISBA Rural Practice Committee**

ISBA Rural Practice Committee Chair Phil Garland reported that the committee continues to seek out additional ways to



ISBA President-elect Anjie Shutts speaks at the podium during the September Board of Governors meeting on the topic of diversity and inclusion. President Jerry Schnurr is pictured on the right.

enhance the understanding by established rural attorneys of new attorneys, and by new attorneys of established rural attorneys. One such attempt is the use of an ISBA rural practice group on Facebook. The committee plans to reach out to legislators on the state and federal level and local organizations to help address legal deserts, find sources of funding to assist law school graduates and incentives for rural attorneys to hire them.

**Iowa Lawyer's Assistance Program**

Iowa Lawyer's Assistance Program (ILAP) President Dan A. Moore and ILAP Executive Director Hugh Grady provided governors with updates on efforts to serve Iowa lawyers, judges and law students who may be struggling with alcohol or drug addiction, depression, burnout or similar stresses in life. Members of the ILAP Board of Directors are available to share their experience, strength and hope with others, and Grady provides assistance including CLEs. They noted that all communications with ILAP are confidential.

**Well-Being Committee**

ISBA Well-Being Committee Chair Kathy Law and committee member Maggie White reported on their research and evaluation of employee assistance programs (EAP) available to bar association members in other states. The committee noted favorable aspects of the program available to New Mexico Bar Association members and obtained a quote from an Iowa service provider. White provided highlights from the committee's proposal to provide EAP services to ISBA members. She noted that EAP services do not require members to have insurance and that they may provide members with service options that are not otherwise available through their health insurance policies. More information regarding funds available in order to offer these types of services to members is anticipated in the coming months.



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# TRANSITIONS



**Nicholas P. Moreland** has joined the law firm of Lamberti, Gocke & Luetje, P.C. in Ankeny as an associate attorney. Moreland is a 2020 graduate of Drake University Law School. His practice will consist of mostly family law, business law, criminal law, estate matters, civil litigation and other general matters.



**Thomas M. Bright** has joined O'Connor & Thomas, P.C. in Dubuque as an associate. He received his J.D. from the University of Iowa College of Law. His practice will focus on estate planning, real estate, civil litigation, insurance defense, bankruptcy and appellate practice.



**Alexander LeSher** has joined Ahlers & Cooney, P.C. in Des Moines as a member of the firm's employment and labor law practice area. He will assist clients in the areas of student issues and employment law for both K-12 and higher education institutions. He received his J.D. from Drake University Law School in 2020.



**Julia Hartnett** joined Klass Law Firm in Sioux City as an associate attorney in September. Hartnett attended Creighton University School of Law and graduated in 2020. During law school, she served as an executive member of the Creighton Law Review.



**Joseph M. Hallman** has joined McKee, Voorhees & Sease, PLC in Des Moines as an intellectual property attorney in the mechanical and electrical practice areas. He earned a Bachelor of Science degree in Electrical Engineering from the University of Iowa. He received his J.D. from the University of Minnesota Law School and during that time clerked at MVS.



**Ben Lynch** has opened Ben Lynch Law, a general practice firm in Clive. Lynch built his career in personal injury and work comp litigation, and later as in-house counsel for a large real estate brokerage.



**Beatriz A. Mate-Kodjo** has joined Timmer & Judkins, P.L.L.C. in West Des Moines as an associate. She litigates employment discrimination and harassment cases. She also represents students in education discrimination cases against their colleges and universities, including students that have been sexually assaulted on campus. Prior to joining Timmer & Judkins, Mate-Kodjo was a Shareholder at Newkirk Zwagerman, P.L.C.



**Aaron Lindebak, Sean Corpstein and Ben Erickson** have been made partners at Grefe & Sidney, PLC in Des Moines.

**Lindebak** graduated from the University of Iowa College of Law in 2013. Prior to joining Grefe & Sidney, he clerked for Judge Mary Tabor at the Iowa Court of Appeals. His practice areas include civil litigation and appeals.



**Corpstein** graduated from the University of Iowa College of Law in 2015. Following graduation, he clerked for the Hon. Leonard T. Strand, chief district court judge of the Northern District of Iowa. His practice areas include civil litigation, white collar criminal defense, health law, qui tam, employment and representing small businesses.



**Erickson** is a member of the firm's litigation division where he represents businesses and individuals in a broad range of matters including personal injury, professional negligence, coverage disputes, bad faith,

defamation, breach of contract and workers' compensation.



**Shelby A. Mars** joined Bradley & Riley PC in Cedar Rapids as an associate attorney. She received her J.D. from the Stetson University College of Law in 2017. Mars clerked for the Honorable C.J. Williams in the United States District Court for the Northern District of Iowa from 2017 through 2019 and for the Honorable Michael P. Allen of the United States Court of Appeals for Veterans Claims from 2019 through 2020. She is licensed in Iowa and Florida.



**Abhay M. Nadipuram** has been named vice president and general counsel for Care Initiatives, a West Des Moines-based rehabilitation, skilled nursing, long-term care and hospice provider. Prior to joining Care Initiatives, Nadipuram was vice president for Government Relations and legal counsel at the Iowa Hospital Association and a civil litigator at the Davis Brown Law Firm.



**Andrew Nordyke** has joined Foss, Kuiken, Cochran and Helling, P.C. in Fairfield as an associate. Nordyke graduated from Drake University Law School in 2019 and spent the last year as an associate attorney with a law firm in Des Moines.



**J. Mason Bump** joined Sullivan & Ward, P.C. in West Des Moines as an associate. He received his J.D. from Drake University Law School. He previously worked at Bump & Bump, LLP in Panora and started his own firm before joining Sullivan & Ward. His practice will focus on contracts, corporate, litigation, real estate, international law and estate planning.

  
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**CORRECTION:** In the October Iowa Lawyer magazine, two associate hires at Ahlers & Cooney Law Firm were listed in the incorrect practice groups of the firm. The correct listing is as follows: Jeremy Masterson - Business Entities Practice Group; Charles Bottenberg - Trusts, Estates & Personal Taxation Practice Group.

# IN MEMORIAM

**Dean Dutton**, 95, of Des Moines, died Sept. 18. Dutton was born in 1925 in Red Oak. He served in the U.S. Army Air Corps during World War II, then in the Air Force Reserve during the Korean War and received his J.D. from Drake University Law School. He worked for eight years as co-founder and partner of the CPA firm, Denman and Dutton. In 1965, Dutton joined the Whitfield & Eddy Law Firm, serving as a tax attorney and partner for 33 years.

**Steven Gardner**, 61, of Ottumwa, died Oct. 2. Gardner was born in 1959 in Ottumwa. He received his J.D. from Drake University Law School. He practiced in Ottumwa his entire career, retiring from Deneffe, Gardner & Zingg P.C. in 2019. He was a member of The Iowa State Bar Association and the Iowa Association of Justice where he served on the board of directors. He also served on the board for the Salvation Army in Ottumwa for many years.

**Douglas Stephen Lash**, 72, of Omaha, Nebraska died Oct. 7. Lash was born in Council Bluffs. He received his J.D. from Creighton University School of Law and practiced law nearly 50 years in the Omaha and Council Bluffs area. After he was appointed in-house counsel for Knudson Construction in Council Bluffs, he elected to pursue his own practice specializing in construction,

real estate, contracts and tax increment financing projects. A memorial scholarship has been established for students graduating from high school in Council Bluffs who are interested in pursuing a career in the law. Donations can be made through the Pottawattamie County Community Foundation in the name of Douglas Lash.

**George William Sullivan**, 89, of West Des Moines, died Oct. 9. Sullivan was born in Des Moines in 1931. He served in the U.S. Army during the Korean War and received his J.D. from Drake University Law School. Sullivan was a partner at the Davis Brown law firm, where he worked as an attorney for over 25 years. He specialized in banking law, which combined his interests in both law and finance.

**Thomas J. Wilkinson Jr.**, 86, of Cedar Rapids, died Aug. 8. Wilkinson was born in Iowa City in 1934. He received his J.D. from the University of Iowa College of Law. He worked as a claims adjuster for Iowa National Mutual Insurance Company, then maintained a private practice for nearly all of his career. In 1963, he was appointed an Assistant Linn County Attorney. He focused his work on estate planning, corporate law and real estate.

## KUDOS



The judges of the United States District Court for the Southern District of Iowa have appointed Fredrikson &

Byron shareholder **Bridget R. Penick** to its Merit Selection Panel. The panel is responsible for reviewing all applicants and recommending to the district judges the five persons it considers best qualified to fill the vacancy created by the upcoming retirement of Magistrate Judge Celeste F. Bremer.

Penick, co-lead of Fredrikson & Byron's Des Moines office, is a litigator whose practice focuses on employment law.



Each year, the Institute for the Advancement of the American Legal System (IAALS) recognizes individuals and groups who

work toward building a legal system that is accessible, fair, reliable and accountable. One of the recipients of this recognition during the institute's 13th Annual Rebuilding Justice Award Celebration in October was the late **Chief Justice Mark Cady**, who led the Iowa Supreme Court from 2011 until his passing in 2019. As president of the Conference of Chief Justices, Chief Justice Cady championed the Family Justice Initiative—supported by IAALS—and efforts to refocus family courts on problem-solving and facilitating cooperation.



Whitfield & Eddy attorney **Kevin Reynolds** was inducted as a Fellow of the American College of Trial Lawyers (ACTL) on Sept. 25.

ACTL Fellowship is extended only by invitation, after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality.

Reynolds is a member attorney representing clients in litigation matters including products liability for almost 40 years.

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**Assistant County Attorney I** – Nobles County, Worthington, MN – The Nobles County Attorney's office seeks an assistant county attorney I to provide legal services, representation, prosecution and advice for Nobles County. Experience preferred but not required. Nobles County offers a competitive benefits package. We are a small office 60 miles east of Sioux Falls, South Dakota, looking for highly-motivated person interested in coming to a county of 20,000. *Application and complete job description/benefit sheet available at [www.co.nobles.mn.us](http://www.co.nobles.mn.us) or call 507-295-5201.*

**Attorney** – Legacy Law Firm, P.C., Sioux Falls, SD – Legacy Law Firm, P.C. is seeking a business and employment law and estate planning attorney to add to our team. One or more years of experience is preferred, along with strong academic credentials and excellent communication skills. *Qualified applicants interested in this opportunity should send a cover letter and resume to [felan@legacylawfirm.com](mailto:felan@legacylawfirm.com).*

**Attorney** – Miller, Pearson, Gloe, Burns, Beatty & Folta, P.L.C., Decorah, IA – Miller, Pearson, Gloe, Burns, Beatty & Folta, P.L.C. is seeking an attorney to join its rural, general practice in beautiful Northeast Iowa. Salary to be commensurate with experience and qualifications. *Send cover letter, resume and letters of recommendation to Miller, Pearson, Gloe, Burns, Beatty & Folta, P.L.C., 301 West Broadway, P.O. Box 28, Decorah, IA 52101, or email: [ifolta@millerlawdecorah.com](mailto:ifolta@millerlawdecorah.com).*

**Attorney** – Hopkins & Huebner P.C., Des Moines, IA – Hopkins & Huebner, P.C. is a full service law firm with offices in Des Moines, Adel and the Quad Cities. We are currently seeking to hire an attorney in our Quad Cities office. The firm is looking for an individual who can work well within a team structure, but can also work independently as the lead lawyer in litigated matters. *To apply, visit <https://careers.iowabar.org/jobs/14028333/attorney>.*

**Senior Litigation Counsel/Deputy Chief Litigation Counsel** – Kansas Corporation Commission, United States – Seeking an attorney to serve as senior litigation counsel/deputy chief litigation counsel. Actual job title will depend on commensurate experience. Responsibilities include but are not limited to: Evaluating issues and facilitating formulation of technical staff positions; coordinating preparation of testimony; preparing pleadings, motions and briefs. *To apply, visit <https://careers>.*

[iowabar.org/jobs/14024910/senior-litigation-counsel-deputy-chief-litigation-counsel](http://iowabar.org/jobs/14024910/senior-litigation-counsel-deputy-chief-litigation-counsel).

**Immigration Attorney** – BrownWinick Law Firm, Des Moines, IA – Seeking a full-time qualified attorney with two-plus years of experience (primarily in business immigration law) to join our Employment Practice Group. Candidates must be proactive, detail oriented and organized. Candidates should have experience with employment-based immigrant and non-immigrant visas. Excellent academic credentials and writing skills required. Confidential inquiries, including cover letter, resume and law school transcript (unofficial is acceptable) should be directed to: *Tia Calhoun, Recruiting Coordinator, BrownWinick Law Firm, 666 Grand Avenue, Suite 2000, Des Moines, IA 50309, email: [tia.calhoun@brownwinick.com](mailto:tia.calhoun@brownwinick.com).*

**Director of Human Resources** – West Des Moines Community Schools, West Des Moines, IA – The West Des Moines Community School District seeks a collaborative leader to serve as director of human resources. The director of human resources administers activities designed to maintain effective and efficient personnel functions, district recruiting, induction and evaluation procedures for all staff, management of district personnel record system including employee physicals, mandatory training and licensure/certification, substitute teacher program and contract interpretation. *To be considered, please apply on our on-line application system ([www.wdmcs.org](http://www.wdmcs.org)).*

**Transactional Partner/Associate** – Phelan Tucker Law LLP, Iowa City, IA – Phelan Tucker Law LLP, an AV-rated Iowa City firm, is seeking an exceptional individual to join its active transactional practice. The ideal candidate will have significant experience with real estate and commercial transactions, real estate development, business entities and estate planning and estate/trust administration, with extraordinary communication and analytic abilities, as well as connections to the Iowa City area. Phelan Tucker is an equal opportunity employer and values a diverse team. *Please send resume and cover letter to Christine Gaudet at [gaudet@phelantuckerlaw.com](mailto:gaudet@phelantuckerlaw.com).*

**Litigation Partner/Associate** – Phelan Tucker Law LLP, Iowa City, IA – Phelan Tucker Law LLP, an AV-rated Iowa City firm, is seeking an exceptional individual to join its active litigation practice. The ideal candidate will have significant courtroom and discovery experience, extraordinary written and verbal communication skills, strong analytic abilities, as well as connections to the Iowa City area. Phelan Tucker is an equal opportunity employer and values a diverse team. *Please send resume and cover letter to Christine Gaudet at [gaudet@phelantuckerlaw.com](mailto:gaudet@phelantuckerlaw.com).*

**Law Clerk 3** – Iowa Judicial Branch, Des Moines, IA – Law Clerk 3 for Iowa Supreme Court Justice Brent Appel. This position is a clerkship opportunity beginning in Fall 2021. The law clerk will conduct legal research, draft memoranda, prepare case summaries and review opinions to assist the

justice with the disposition of cases. All applicants must complete an Iowa Judicial Branch Application for Employment. Applicants must also submit a resume, cover letter, transcripts, references and a writing sample. Mail application and supporting materials to: *Iowa Supreme Court, Attn. Hon. Brent Appel, Judicial Branch Building, 1111 E Court Ave, Des Moines, IA 50319. Or email application materials to: [Julie.Cosner@iowacourts.gov](mailto:Julie.Cosner@iowacourts.gov).*

**Law Clerk 1** – Iowa Judicial Branch, Dubuque, IA – The First Judicial District is seeking qualified applicants to fill a law clerk position. This is intended to be a clerkship opportunity beginning immediately. Location: Dubuque County Courthouse, Dubuque. Responsibilities: Drafts rulings and orders on judge's direction, researches substantive legal issues for judges, assists the administrative judge with the motion calendar, attends court proceedings at the request of the judge, performs other related work as required. *Submit the Iowa Judicial Branch Application for Employment, resume, writing sample and official transcript of law school grades to: [Linda.Nilges@iowacourts.gov](mailto:Linda.Nilges@iowacourts.gov).*

**Appellate Paralegal** – Iowa Judicial Branch, Des Moines, IA – The Iowa Judicial Branch is looking for a highly skilled paralegal for the appellate clerk of courts office. The ideal candidate has the ability to juggle multiple tasks and has a high attention to detail. In this role, the candidate would

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**Consulting Services for Not-for-Profits** – Dennis Groenenboom, who served as executive director of Iowa Legal Aid for over 25 years, is now offering assistance with mergers of not-for-profit organizations, executive search, organizational reviews including quality assessment and service delivery structure, funding diversification and policy compliance matters. For further information call 515-537-4242 or email [dgroenenboom4@gmail.com](mailto:dgroenenboom4@gmail.com).

**FREELANCE LITIGATION SERVICES** – Iowa-licensed attorney provides freelance litigation services to other lawyers and law firms on an hourly, as-needed basis – research, motions,

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## CASE NO. 20-0005: IOWA SUPREME COURT ATTORNEY DISCIPLINARY BOARD V. ERIC TINDAL

Filed Sept. 11, 2020

Attorney Eric Tindal obtained his Iowa law license in 2000. He worked 17 years at a general practice firm in Cedar Rapids before joining his current firm in Iowa City where he focuses on criminal defense.

The following is excerpted from the opinion by Justice Thomas Waterman issued on Oct. 9:

“Lawyers shouldn’t use default notices from the supreme court clerk as a tickler system for appellate briefing deadlines. Eric D. Tindal did so, and in 2018, we publicly reprimanded him for default notices he received in 16 appeals. We now decide the sanction for his default notices in another 13 appeals. Importantly, all but four of the new default notices at issue preceded his 2018 public reprimand.

The Iowa Supreme Court Attorney Disciplinary Board seeks ‘at least’ a two-month suspension. A division of

the Iowa Supreme Court Grievance Commission that heard the evidence recommends a one-month suspension. It is undisputed that Tindal cured all of the defaults without any appeal being dismissed, and he personally paid every penalty assessment. Tindal, by all accounts a competent criminal defense trial lawyer, has agreed to forgo handling court-appointed criminal and postconviction appeals. For these reasons, we impose a **second public reprimand** rather than suspending his license.”

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# Spotlight ON Service

## MARK S. CADY DAY OF SERVICE

The ISBA commends all members who participated in the various events that took place on Friday, Oct. 23, as part of the inaugural Mark S. Cady Day of Service, in honor of the late Iowa Supreme Court Chief Justice. Cady Day was organized by the ISBA, Drake University Law School and the Polk County Bar Association, with a goal to bring Iowa's legal community together to honor and celebrate Cady's legacy and commitment to public service, access to justice and civil rights.

Included on this page are photos of some of the many events that happened around the state.



Drake Law School, in partnership with the Iowa Natural Heritage Foundation, City of Des Moines Parks and Recreation, Blank Park Zoo and Trees Forever, removed invasive plants at Gray's Lake Park.



The Cady family was welcomed on the Drake University campus as the LifeServe Blood Drive began at the law school.



Members of the Fort Dodge high school football team recognized a teacher, coach, counselor, mentor or other adult who had been a champion for them throughout their school career and made an impact in their lives. Chief Justice Cady and his family were proud supporters of Fort Dodge football and continued to support the program long after their children graduated.



Attorneys and staff with the Dickinson Law Firm helped with food distribution and organizing at the Urban Dreams headquarters in Des Moines, among other projects.



The Marshall County Bar Association collected nonperishable food items for the Emergency Food Box.



Whitfield & Eddy law attorneys and staff helped Des Moines Parks and Recreation staff clean up a section of the Neal Smith Trail and the Birdland Marina area.

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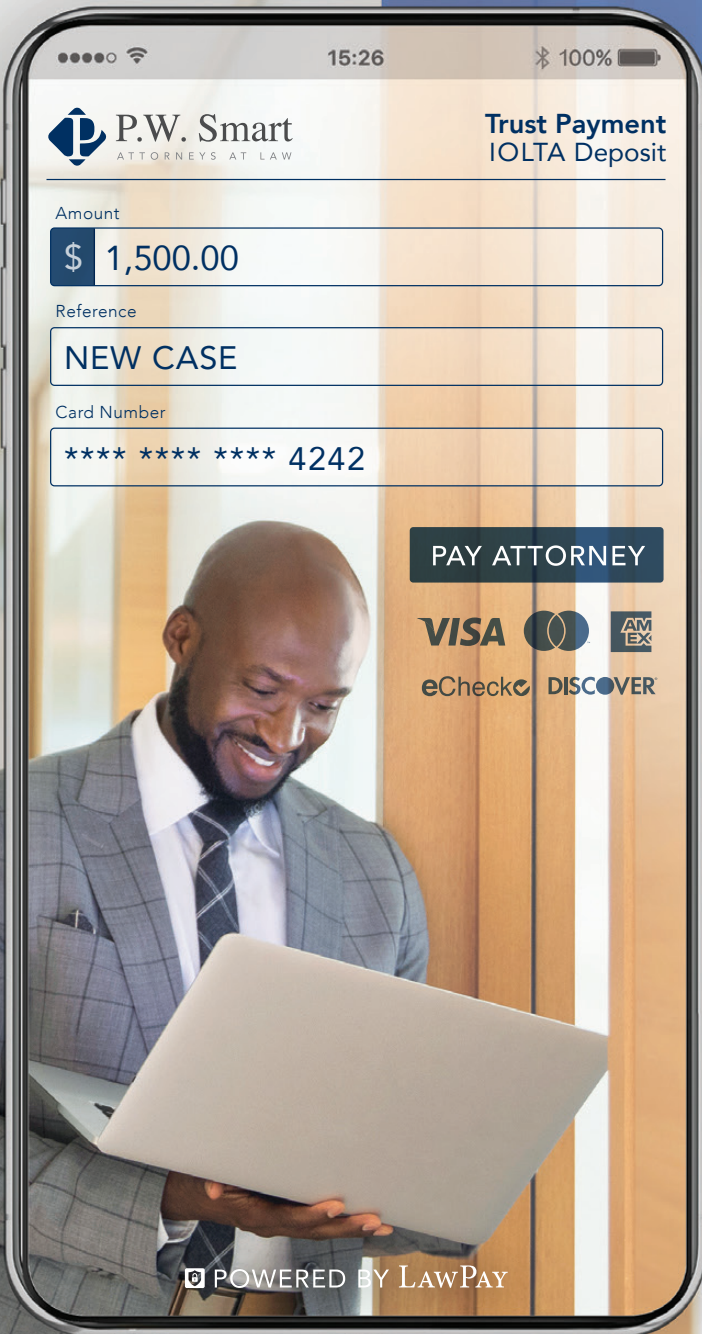
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