



THE

Volume 76 Number 3 April 2016

# IOWA LAWYER

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practice of  
family law**

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# This Iowa Lawyer

*The Iowa Lawyer Magazine began following Diane Dornburg's family in her "Lawyer by Day" 2008 feature. She has raised 10 children. Here is what she had to say on the occasion of this issue's celebration of the work of Iowa's family and juvenile lawyers:*

I am a stepparent, adoptive parent, grandparent, foster parent, guardian – everything but a birth parent.

The people in my family have experienced nearly every kind of trauma imaginable. They lost their parents to death, mental illness, addiction, incarceration, deportation. They were uprooted from lives they knew and plunged into uncertainty. They overcame obstacles with courage and positive attitudes. They are strong, mature, responsible, caring people; each with their own stories, each their own person. I am so blessed to be a part of their lives.

This family is beyond my best imagination of what I could have planned or designed.

***"Our love made us a family."***

**— Diane Dornburg**



Isabelle



Phoebe



Kyle



Sammy



Zack



Lance Corporal Edson Bonilla,  
United States Marine Corps



Bryan and Edson

Photo Credit – Bryan Bonilla.

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ISBA Family and Juvenile Law Section Chair Lora McCollom shares the top 10 things that she learned during her term. Her list begins with remarks that recognize exceptional contributions to the section's efforts and includes her thoughts on how to elevate the practice of family and juvenile law within the legal profession.

By Lora McCollom, McCollom Law Firm P.L.L.C. in West Des Moines, Iowa



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**Seven questions with Judge Chad Kepros**

Judge Chad Kepros, Sixth Judicial District of Iowa, shares his thoughts on his 20-year legal career and new perspectives from the bench in this conversation with *The Iowa Lawyer Magazine*. Every lawyer can benefit from reading his insights on advocacy and problem solving, excellence in practice and the unique opportunities in family law.



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By Iowa Justice For Our Neighbors Regional Attorneys Ann Naffier and Brynne Howard

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**ABOUT THE COVER**

Diane Dornburg has led the family law group at Carney Appleby Law in Des Moines, Iowa, for more than a decade. She was photographed with her granddaughter Sydney at the Greater Des Moines Botanical Garden, March 17. Dornburg is chair of the ISBA Family and Juvenile Law Section's Legislative Committee. On page 11, she writes about finding families' strengths in "Parenting coordination." Her impact on and passion for her practice is reflected throughout this issue that celebrates the work of Iowa's family and juvenile lawyers. *Thanks to Eldree Baer at the Greater Des Moines Botanical Garden. Special thanks to Bryan Bonilla for his creative contributions.*



# Iowa Supreme Court Family Law Task Force update

By Matt Brandes

In his 2015 State of the Judiciary, Chief Justice Mark Cady made the following observations about the work of our courts:

“In order to be the best court system in the nation, the Iowa Judicial Branch must work with attorneys to ensure that access to justice is available to all Iowans. Access to justice should be important to all attorneys, and Iowans, because legal representation is tied to deeply held values that lie at the core of our democratic society – equality, fairness and justice.”

That same year, our supreme court established the Family Law Case Processing Reform Task Force (FLTF). Since our December 2015 report in this publication, the FLTF work groups have completed reports in the areas of access to courts, alternative dispute resolution, family law case processing, spousal support, and standards for court-appointed professionals. Last January, the FLTF spent a day reviewing and discussing those reports.

The FLTF is now considering immediate recommendations to the Supreme Court and what areas should be studied further. As the FLTF work is still preliminary, there are no specific details we can share at this time. The FLTF Steering Committee will meet again on April 1, to continue the discussion begun in January.

In May, the FLTF will submit a report to the Supreme Court with recommendations for the court to review. The Supreme Court will decide what recommendations are ready for immediate consideration during its administrative term and likely set those for a period of public comment. Other recommendations may be set for additional study, including public input, before further consideration.

In developing its recommendations, the FLTF is attempting to be true to Chief Justice Cady’s call for civic leadership by the judicial branch at the time FLTF was formed. It is the goal of the FLTF to develop recommendations for the Supreme Court that promote a fully informed public that understands and acts in its own best interests, not special interests. By doing so, the FLTF intends to provide recommendations that will help Iowans see the court system as serving our democracy and meeting its obligations to be the best court system it can be.



**Matt Brandes** is a member of the firm Simmons Perrine Moyer Bergman P.L.C., in Cedar Rapids, Iowa. He serves as co-chair of the Iowa Supreme Court Family Law Case Processing Reform Task Force.

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## Helping Iowa families, making access to justice a reality

When the legislature adopted no fault dissolution, there was an increased need for legal assistance. Dissolution of marriage, spousal support, child support and child custody cases are no longer infrequent. These cases, and the financial impact that results, are now part of everyday life and a significant portion of the judicial branch workload.

Last year, 38,231 family cases were filed in Iowa's district courts. Among those cases were: 8,563 dissolutions of marriage with children; 5,915 dissolutions of marriage without children; 1,039 modifications of dissolutions; 4,385 administrative support cases involving child support recovery; 1,881 adoption cases; 4,977 paternity cases; and 6,753 civil domestic abuse cases. In addition, 8,564 child welfare cases were filed in juvenile court, including 4,842 child in need of assistance cases and 1,989 termination of parental rights cases.

Family law and child welfare cases constitute nearly 24 percent of the workload of all full-time judges, and a substantial percentage of these cases involve one or more self-represented parties.

District court judges in the First, Second, Third, Fourth, Seventh and Eighth Judicial Districts hear the pro se cases on the regular docket. The late Senior Judge William Thomas initiated a family law pro se docket in Linn County to help resolve pro se family law cases. Judge Fae Hoover-Grinde continues the tradition in Linn County. Judge Marsha Bergan was instrumental in the coordinated effort between The University of Iowa College of Law, Iowa Legal Aid and the Iowa Legal Aid Volunteer Lawyers Project that established the monthly pro se clinic in Johnson County. A similar clinic is held in Linn County on a bi-monthly basis. The clinics help pro se litigants navigate the dissolution process. Also, in the Fifth Judicial District, Senior Judge Artis Reis dedicates her service to hearing these cases.

There are significant numbers of family law cases at the VLP office in Polk County and probably every other county that are waiting for lawyers to accept. Polk County Bar Association Executive Director Carol Philips estimates that 70 percent of the Polk County VLP cases are family law cases. Estimates are that only 15 percent of volunteers will accept these cases. It is believed that similar numbers exist throughout our state.

The ISBA is leading Iowa's development and implementation of an interactive pro bono website. The website is being developed as part of an American Bar Association Pro Bono Committee Initiative and was pioneered by the Tennessee Alliance for Legal Services and the Tennessee Bar Association. We secured lawyer professional liability insurance for participants. You will be able to access the new website from your desk and questions will be available for you to answer when you sign in. The website creates new opportunities to narrow the justice gap. We look forward to sharing more about the website with you as we prepare for the initial launch this fall.

As you can see, there are a variety of opportunities to help families and alleviate our district court dockets if you are willing to accept an assignment. Please take time from your regular practice to help make access to justice a reality for the people of our state.

**Bruce L. Walker**

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ISBA Family and Juvenile Law Section leaders past and present, from left to right, Daniel Bray (past chair), Alison Werner-Smith (incoming council member), Lori Klockau (past chair and current ISBA Board of Governors District 6 Representative) and David Cox (vice chair) and ISBA ADR Section Council Member Elizabeth Araguás with ISBA President Bruce Walker at the Iowa Old Capitol Building in downtown Iowa City.

# The top 10 things I've learned (or learned to appreciate) as chair of the family and juvenile law section

By Lora McCollom

As I close out my term as ISBA Family and Juvenile Law Section Chair, I would like to share the top 10 things I've learned (or learned to appreciate) during my term.

- 10. Our legislative team is amazing.** Jim, Jenny, Doug, and Shannon work themselves to the bone for our organization. Diane Dornburg, chair of our section's legislative committee, is equally as amazing. Not until I was elected vice chair and became more involved in the legislative side of things, did I understand the overwhelming volume of work that goes on during the legislative session. If you happen to run into Jim, Jenny, Doug, Shannon, or Diane, please stop and thank them for their dedication to the ISBA and for their hard work on our behalf.
- 9. Strategic planning works.** In 2010, our section created a strategic plan that included two-year rotations in leadership: the vice chair and the chair each serve two-year terms. Four years seems like a long time, but it flies by. Most importantly, though, it provides continuity, both from year to year and from chair to chair. As part of our strategic plan, we also streamlined our committee structure, which has helped us be more organized and efficient in all aspects of our section. The revised structure also allows us to focus on the areas where we can best serve our members.
- 8. It pays to be in the right place at the right time.** In October 2014, Justice Tom Waterman asked me to co-chair the Supreme Court's Family Law Case

Processing Reform Task Force along with Matt Brandes. The FLTF arose out of a resolution passed by the ISBA Family and Juvenile Law Section in August 2014 and adopted by the Board of Governors in September 2014. When my dad asked me how I was chosen as co-chair, I told him it was because I was chair of the section. He pointed out that I happened to be in the right place at the right time (which, frankly, rarely happens to me). Regardless of how I got here, it has been an eye-opening experience and I am honored to serve as co-chair. I have had the opportunity to meet some amazing people from around the state and around the world, and I am very excited for the FLTF's continued work with the Supreme Court to improve the ways that both lawyers and the courts serve Iowa's families.

- 7. Winning isn't everything.** In law school, many of us are taught (programmed?) to fight and to win. However, fighting in family law cases often destroys families. Also, family law does not lend itself to win-lose situations – especially not when kids are involved. As family law lawyers, we need to reconsider what it means to represent a client: Is our goal to get our client the best overall outcome possible, or do we need to win on every little issue? In order to best represent our client, do we need to prepare targeted discovery that addresses the issues in the case, or do we need to send the same boilerplate discovery that gets sent in every case?

Does our client win if all of the assets are used up for attorney fees?

- 6. The work we do changes lives.** This is probably something I have always realized, but it has become even clearer to me in my work as co-chair of the FLTF. We must remember that as family law practitioners, we have a unique opportunity to lead people toward a certain path by how we treat them and by how we approach their cases. It is up to us to guide them to the path that will provide them with the most opportunities to succeed after their cases are over.
- 5. Family law attorneys are people too.** I've often joked that I should ask Raygun to make a t-shirt with this phrase. For more than 20 years, I've had people say to me things like, "Oh, you just do family law?" as they look at me over the tops of their glasses. Or, "Couldn't you get a job at a firm?" One of my close friends describes family law attorneys as "the red-headed step-children of the legal world." The reality is that we work hard and we do our very best to represent our clients. Our clients are people who literally place their lives in our hands. This leads me to my next point.
- 4. We need to elevate the practice of family law.** We do some of the most difficult, yet some of the most important, work in the legal profession. The truth is, we deal with (mostly) good people, often at the absolute worst time in their lives. We manage clients with mental illness and with substance abuse issues, and we de-escalate families in crisis. We shepherd our clients through the legal process and try our best to put them in a position to move forward with their lives. We are versatile – after all, every stipulation we write touches on many other areas of law (tax, insurance, real estate, debtor/creditor, probate, contracts, and the list goes on), and we are prepared to deal with all of those issues for our clients.

How do we elevate the practice? We remind ourselves of the importance of



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3. **A coin may have two sides, but it is still the same coin.** My teenagers continually remind me that there are two sides to every story, but nowhere is that old adage more applicable than in the practice of family law. Not only does it relate to the principle that each client has his or her own "story" about the relationship, but it also relates to the principle that family law cases do not always necessitate litigation. The rise of mediation and collaborative divorce over the last 15 years has already taught us that every case doesn't require a trial. The use of arbitration is growing. Again, this leads me to my next point.
2. **Iowa needs to continue to roll with the changes.** The practice of family law is changing, across the country and around the world. Although the laws have not necessarily been amended, both the process and the approach to helping clients navigate process are evolving. (Remember the initial resistance that accompanied the idea of mediating divorce cases 15 years ago?) Many clients are seeking private resolution options in order to avoid the delay and the expense that often accompany litigation. Parties are hiring lawyers to perform unbundled services rather than hiring lawyers to represent them through the entire process. We, both lawyers and the court system, need to re-think our approach to providing services to our clients and to self-represented litigants. Fortunately, our supreme court is open to innovations and improvements tailored to enhance our existing court system.
1. **Iowa lawyers are The. Best.** As I've had the chance to meet people from across the state during my time as chair of the section, I am regularly reminded just how lucky we are to be Iowa lawyers. The civility among Iowa

lawyers is second to none (and believe me, lawyers in other states know this). It is such an advantage to practice in a state with merit selection of judges so we don't have to worry about contributing to judges' election campaigns or about political posturing invading the integrity of our courts. And, we are blessed with hard-working and dedicated lawyers, judges, educators and court staff who are all committed to helping the Iowa legal system be the very best.

So, thank you for the opportunity to serve! Special thanks to our section

council for their hard work and to the ISBA staff for everything they do. Please join us for the Family Law Track at the annual meeting in June and at our Annual Family Law Seminar in October!



**Lora McCollom** is a collaborative attorney and mediator at McCollom Law Firm, P.L.L.C. in West Des Moines. She serves as Chair of the ISBA Family and Juvenile Law Section, co-chair of the Iowa Supreme Court Family Law Case Processing Reform Task Force, and vice chair of the Iowa Board of Law Examiners.

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# Seven questions with Judge Chad Kepros

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In a conversation with The Iowa Lawyer Magazine, Judge Chad Kepros, Sixth Judicial District of Iowa, shares his thoughts on his 20-year legal career and new perspectives from the bench. He is past chair of the ISBA Family and Juvenile Law Section.

## Why did you choose to practice family law as an attorney?

I have always viewed family law as the most important work lawyers can do. Going into law school, I knew that I wanted to be a family law lawyer. It is an area of practice where people are changing the whole course of their lives, their finances and the lives of their children. So, a family law lawyer has an opportunity to make a real impact – and a responsibility to make the impact positive.

Contrary to how some people see it, I think family law is a very hopeful and optimistic area of practice. People usually see a family law lawyer at their worst after a lengthy period of struggle in their personal relationships. The lawyer has the opportunity to help move them from their worst to something much better, so that they can solve problems and have a life that works.

## How can parties in family law matters have the best chance of getting what they want in court, or before they get to court for that matter?

When parties get good legal advice regarding the rules and what is important,

they are more likely to be able to tell their story in a way that focuses on the facts that are relevant and more likely to get what they want.

Parties should not go to court for “the principle of the thing.” People often feel victimized by their spouses or significant others because the relationship did not match up to their expectations. It is easy to feel victimized – sometimes rightly so – but people will generally do better in court if they go there to solve problems, rather than to vindicate themselves. The one thing everyone should be able to agree upon – with the help of a good advocate – is that it never makes sense to go to court for the privilege of losing. So, parties should consider whether what they want is within the range of reason. If it is they are much more likely to be credible and successful in telling their stories and getting what they want.

## What is the “range of reason” in family law? Why is it important?

Little in family law is completely black and white. The range of reason is the reasonable range of options that are available on an issue based on the facts of the situation as applied to the law that exists. If both parties see the range of reason, and will operate within it even if they dislike it, then there is usually going to be some overlap where they can reach an agreement, and eliminate the risks and costs of trial. When trial is necessary, if both parties see the range of reason and present their cases within that range, there is less risk to both parties of a surprising result and both parties are more likely to be successful.

Operating in the range of reason does not require that counsel abandon zealous advocacy. Rather, zealous advocacy is more likely to be effective when the parties, and their counsel, understand what is reasonably possible under the facts.

## Why do you make a distinction between advocacy and problem solving when describing the best approach to family law?

Effective problem solving is a core component of good advocacy. In order to be a good problem solver, the lawyer must first discover the facts and inform the client. Only then will a lawyer be an

effective advocate. Sometimes lawyers will immediately start advocating for what the client says he or she wants, without first discovering and informing, which is almost never good advocacy.

A common theme that I see from the bench is that there is an expectation by some lawyers and many pro se parties that agreement can be reached without the work of first exchanging information. The problem is that when lawyers skip the first two steps – to discover and advise – they do not understand the facts of the situation and cannot help the client tailor his or her expectations to something that will actually solve the problem and be attainable. The reason to gather the facts is to get yourself and the client informed so that the client can make good decisions for which you can advocate. Effective advocacy in family law requires both good information and a focus on problem solving.

## How can new lawyers become excellent family law attorneys?

Family law is an area where attorneys need to know at least a little about a lot of different areas. Like anything, it takes practice and a commitment to keep learning. Law school on its own does not prepare law students to be good family law lawyers, so a new lawyer needs to seek out additional resources and experience. There are many opportunities for family law-specific CLE. Likewise, The ISBA Family and Juvenile Law Section welcomes all new lawyers and encourages new lawyers to treat family law as an area of practice that is difficult and important. The biggest benefit to getting involved in something like the ISBA Family and Juvenile Law Section is the associations that you form with other lawyers practicing in the area – they will be friends and resources to you throughout your career.

The other difficulty for family law lawyers, especially new lawyers, is that family law requires litigation and counseling skills in equal measure. It is not enough to be good in a court room. Clients in family law matters are often at their worst, and an important part of the lawyer’s job is to help them move to something better so that they can solve their problems. Lawyers need



to understand that sometimes the issue that the client is presenting is not the real issue, so that the lawyer can help the client re-focus and change the dynamics that have previously prevented success. If clients won't or can't make that move, they are not likely to solve their problems in either settlement or trial. Successful family law lawyers need to have a diverse skill set to be good problem solvers, good counselors and good litigators.

### **How would you describe the best presentations that you see in family law cases in court?**

The best presentations tell a story, and give the judge the information necessary to get to solutions that are within the range of reason. The best presentations are the ones that focus on problem solving and make seemingly complex things simple. The best presentations come from lawyers who are obviously prepared but who are also able to pivot as new issues arise without being bound to a fixed

script. The best presentations come from lawyers who understand – and get their clients to understand – that just because you can do something doesn't mean you should.

### **To what extent can judges participate in problem solving in family law matters?**

Whether you are a family law lawyer or a judge, you are helping to provide the parameters for two new families. As a judge, I approach the analysis of family law matters in much the same way that I did as a family law attorney and mediator. The difference is that I do not have the same opportunity to help parties get to an agreed resolution. Instead, I'm simply deciding; but the analysis of the issues is much the same. What are the facts? What is the law? What is the range of reason? What is the best way to package the various issues to get there? How will doing so solve the short-term and long-term problems?

The judge in a family law case is also a problem solver. However, the parties

and attorneys can do it better. The parties are the ones who are expert on their own lives, and the lawyers can help them express their expertise to get what they want and need. The parties are the ones who can identify what is most important to them – not just on the big stuff but the details that make their lives work. Their attorneys can help them get informed so that they can make good choices. I try to do a good job in fashioning orders that help solve problems within the limits of the law, but I am never going to have the same level of expertise on a person's situation as the person living that situation.

Lawyers have a tremendous opportunity to help parties solve their own problems and a responsibility to help clients relay their expertise to the court when trial is necessary. The more effective the lawyer is in relaying the client's expertise on his/her own life, the more likely that the judge's order will help in solving the problems.



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# A children's mental health system is finally on its way

By Jerry Foxhoven

For more than three decades, child advocates and mental health advocates have been concerned about the lack of a children's mental health system in Iowa. Over the past few years, mental health reform has been taking place in Iowa in an attempt to bring quality mental health services to all Iowans, regardless of location or economic status.

In the past, adult mental health services were the responsibility of each individual county. The adult mental health system has been transformed into a system using regions instead of counties. This has allowed counties to work together to pool resources and design a comprehensive mental health system for their areas of the state. This wasn't possible under the old system where every county was forced to "sink or swim" on its own. All reports seem to be that this new approach, while still developing, is going very well.

Recently, Gov. Terry Branstad ordered the closure of two of the state's mental health institutions for adults. One of those institutions did not have a psychiatrist and the other was faced with the retirement of the psychiatrist on staff there. There is a severe shortage of psychiatrists in Iowa, which makes a robust mental health system almost impossible. Iowa ranks 41st among states in the number of practicing psychiatrists. The shortage of child psychiatrists is even more severe. Branstad has begun to address this problem by proposing funding to support residencies for psychiatrists in Iowa. One expert has indicated that doctors who serve their residencies at one of Iowa's two medical schools have a 75-80 percent chance of staying in Iowa. While this may take some time to increase the number of psychiatrists

in Iowa, it is a great step in advancing comprehensive mental health services in Iowa.

In the last session, the Iowa Legislature ordered that a workgroup be created to examine Iowa's systems for children's mental health and well-being, the Children's Mental Health and Wellbeing Workgroup, and to report to them with specific recommendations prior to the beginning of this session. I was selected to co-chair that workgroup and assigned to head the children's mental health subcommittee. Our group (made up of a diverse group of youth, providers, parents, educators, legislators and child and mental health advocates) conducted a comprehensive review of Iowa's current mental health system and made recommendations to create a children's mental health system in stages. The first step of that proposal is currently before the Iowa Legislature.

The proposal begins by addressing the need for a crisis system for children's mental health. Funding is proposed to support two lead entities in two geographic areas of the state to collaborate with groups in their respective areas to design a children's mental health crisis system for their areas. It is anticipated that similar opportunities will be offered to other parts of the state in future years. Any design will require specific crisis services to be available and the collection of data for the future design of a comprehensive children's mental health system as well



Jerry Foxhoven (top right) and other leaders of the Children's Mental Health and Well-Being Workgroup presented their final report to legislators at the Iowa State Capitol last February.

as a review of the necessary funding for full implementation of the crisis system. Additionally, gaps in our system that either cause youth to come back into crisis or prevent an appropriate "handoff" when youth are no longer in crisis must be identified.

The Children's Mental Health and Wellbeing Workgroup's proposal is a well-planned and gradual implementation of a comprehensive children's mental health system for Iowa. By starting with a crisis system, the youth who have the most immediate needs will be helped, and the foundations for a comprehensive system will be identified to maximize the success on implementation of that system. The proposal appears to have bipartisan support in the legislature and can be an important first step toward creating a children's mental health system in Iowa.



Jerry Foxhoven is the Executive Director of Clinical Programs at the Drake University Law School.

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# Parenting coordination

By Diane Dornburg

## Finding families' strengths

The parents I work with in parenting coordination are committed to being the best parents they can possibly be and know they need help navigating the bumps – and sometimes bitter conflicts – along the way. They already have a court order for custody and parenting time. They have agreed to use a parenting coordinator to resolve ongoing issues rather than continuously go back to court. Together we identify their strengths and then work to solve problems collaboratively. As a neutral professional, I provide guidance and expect accountability as they raise their children according to their agreed or court-ordered parenting arrangement.

## Focus on the children

When families divide, it is easy to get lost in the emotions, the relationships and the entrenched family dynamics. The children know the problems and they don't want to be in the middle, they don't want to be the family peacemaker or arbitrator. A parenting coordinator helps parents focus on the children's needs, identify communication and behavior patterns and learn new skills for listening and for resolving conflict.

## The family decides

One of the goals of parenting coordination is to provide an alternative to court for resolution of post-decree conflicts. Sometimes the parents agree and the court orders that the parenting coordinator can decide specific issues that don't change the basic custody and visitation orders. Delegation of decision-making to a parenting coordinator is probably the most controversial and

least important element of parenting coordination. A more important role is helping parents implement their parenting plans and facilitating resolution of disputes. Parenting coordination can help families stay out of court as they learn to solve problems that could never be fully resolved by judicial decision.

## Trained professionals

All the parenting coordinators in the Central Iowa Parenting Coordinators group are family law mediators with additional training in parenting coordination through a nationally recognized program such as the Association of Family and Conciliation Courts. Some are lawyers, others are mental health professionals. All follow the AFCC Guidelines for Parenting Coordination and the rules of our individual professions. Most of the lawyers charge about \$200 per hour for our PC services.

## Most rewarding

Families come in struggling, in pain and anger, in conflict. Helping them discover their strengths and remember their shared values and goals, guiding them in developing insight and new skills and watching them move toward growth, healing and even forgiveness – that is the most rewarding, best thing I do as a lawyer.



**Diane Dornburg** is passionate about helping families. She has headed the family law group at Carney Appleby Law in Des Moines, Iowa, for more than a decade. She handles all types of family law cases, is a family law and elder/probate mediator, a collaborative lawyer and a parenting coordinator.

## IN MEMORIAM

**David Binegar**, 61, of Davenport, Iowa, died Feb. 1.

Binegar was born in Tuscola, Illinois. He earned his J.D. from the University of Iowa College of Law in 1979. Binegar maintained a private practice in Davenport for 35 years. During that time he also served six terms as a judicial magistrate for Scott County.

**James Carter**, 81, died Feb. 27 in Cedar Rapids, Iowa.

Carter was born in Clarksville, Iowa. He earned his J.D. from the University of Iowa College of Law in 1960. Carter then practiced in Cedar Rapids with Shuttlesworth & Ingersoll, P.L.C., until his appointment to the Iowa District Court in 1973. In 1982 he was appointed to the Iowa Supreme Court, where he served for 24 years.

**Jim Cmejrek**, 71, died Jan. 30 in Hilton Head, South Carolina.

Cmejrek was born in Fenton, Iowa. He earned his J.D. from the University of Iowa College of Law, while playing as starting center for the football team. He practiced in Washtenaw County, South Carolina, for 47 years.

**John F. Davis**, 97, died in Urbandale, Iowa.

Davis was born in Des Moines, Iowa. He received his B.A. from the University of Iowa in 1942 and his J.D. from Harvard Law School in 1948. John served in the U.S. Air Force Reserve for 30 years and retired as a colonel. He practiced law in Des Moines for 40 years while also serving as Justice of the Peace in Bloomfield Township for one term and mayor of Fort Des Moines. During his retirement he also audited courses at Drake University.

**Paul D. Dunlap**, 85, died Feb. 17, 2015 in Urbandale, Iowa.

Dunlap was born in Douglas, Nebraska. He earned his J.D. from the University of Nebraska, Lincoln, then served in the U.S. Navy during the Korean War. In 1961 he bought Houghton State Bank, which he later incorporated into the Hawkeye Bancorporation. Paul served as president there for 30 years.



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# Justice For Our Neighbors: Representing immigrant families in Iowa

By Ann Naffier & Brynne Howard

A growing number of families in Iowa find themselves in need of immigration legal services in order to keep their families safe and together. In some cases, immigration law and family law become closely entwined while finding resolutions to families' legal issues.

Twenty years ago in Iowa, immigration practitioners were few and far between. Today, the legal landscape is catching up with the reality of families, and Iowa has many high-quality immigration attorneys throughout the state. However, money and geography are still barriers to access to legal immigration services. A typical immigration case (if there were such a thing as a "typical" case) is almost always very complicated, and can take anywhere from 10 to 100 attorney hours to complete. This makes the price of immigration representation often steep, even when an attorney's hourly rate is extremely reasonable. Most immigration attorneys are located in urban areas in Iowa, leaving many families with immigration issues who live in rural Iowa far from assistance.

Iowa Justice For Our Neighbors (JFON) is a small non-profit organization that is dedicated to providing immigration legal services to low-income Iowans throughout the state. All JFON legal services are free.

At JFON we encounter family-related legal issues in many ways, including the following:

## Refugees

Iowa has a long history as a welcoming place for refugees from all corners of the world. Before refugees make it to Iowa, they

must demonstrate that they are unable to return to their country of origin due to past persecution or a reasonable fear of future persecution based on their race, religion, national origin, political opinion or membership in a particular social group.

Once demonstrating they meet the requirements to be granted refugee status and completing extensive processing abroad that includes background checks, interviews and medical examinations, a refugee can be resettled in a new home country.

Refugees in Iowa continue to have immigration legal needs even after they are resettled here. Often refugees have been forced to leave behind some or all members of their immediate family, sometimes including a spouse or children. The immigration laws provide for immediate family reunification if the refugee spouse in the U.S. files a petition for their spouse or minor children within two years of entering the United States. "Immediate reunification" under our current immigration system means something like one to two years' time.

Often refugees are unaware of the requirement to file within two years of entry and wait to file for family members until after they have obtained legal permanent resident (LPR) status and the two years have passed. At that time refugees can still file to bring their relatives but the process then can take as long as 2-5 years.

## Family-based immigration

One of the few ways people other than refugees can immigrate to the United States is through their family members.



Iowa Justice For Our Neighbors Regional Attorneys Brynne Howard and Ann Naffier (far left and center) cover JFON regional intake clinics and supervise special projects, while attorney April Palma (right) specializes in the representation of unaccompanied minors.

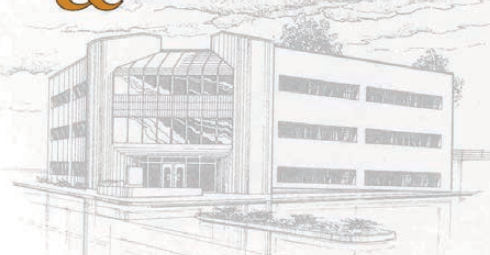
Family members who are U.S. citizens, for example, can file immigration applications for their spouses, children, parents and siblings. A typical immigration scenario we encounter is when a U.S. citizen falls in love with and marries an undocumented immigrant. The citizen spouse must file an I-130 Petitioner for Alien Relative for the immigrant spouse which takes about six months to process. But this is just a first step. Often the couple will then need to file a waiver, which is another form with another fee, and packed with evidence, including long, detailed affidavits, to show how the citizen spouse will suffer extreme hardship if the immigrant spouse cannot obtain legal status in the U.S. Finally, if the couple's waiver is approved, the immigrant spouse will have to return to his or her home country for an interview at the American Consulate there. The whole process generally takes about two years, and is extremely stressful for all involved, including the attorney.

## Domestic violence

Domestic violence is an area where immigration and family law often intersect. Perpetrators of domestic violence often use their spouse or partner's immigration status as a way to further the abuse and control of the victim. Under traditional family-based immigration, the U.S. citizen or LPR spouse files the initial petition for his or her immigrant spouse and must also complete paperwork demonstrating his or her financial support of the spouse.

An abusive U.S. citizen or LPR spouse may choose not to file the necessary paperwork or may withdraw filings. Failing to complete immigration paperwork can leave the immigrant spouse in a highly vulnerable position which can impact that person's willingness and ability to seek help and to flee from the abusive situation. Abusers

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commonly threaten to report their immigrant spouse to immigration authorities and often mislead the victim into believing that law enforcement will not protect them due to their immigration status.

Fortunately, under the Violence Against Women Act (VAWA), some immigrant victims of abuse can obtain legal permanent resident status without the assistance or knowledge of their abusers. In order to qualify, the immigrant victim must show that she married a U.S. citizen or legal permanent resident in good faith, that she resided with the spouse, that she has suffered battery or extreme cruelty by the U.S. citizen or LPR spouse and that she is a person of good moral character. In some circumstances, VAWA protections can also extend to immigrant parents who have been abused by a U.S. citizen or LPR son or daughter or to immigrant children who have been abused by a U.S. Citizen or LPR parent.

JFON commonly works with domestic violence agencies, community and church groups and civil legal service providers (like Iowa Legal Aid) to help victims of domestic violence qualify for legal immigration status under VAWA.

### Immigration and family law intersection

Although immigration law is federal law, our clients' immigration cases are often profoundly affected by state-level family law and other legal processes. For instance, a woman who is eligible for immigration relief through VAWA must be careful about the timing of a divorce, if she has decided to end the marriage with her abuser. Divorcing too early could endanger her immigration status. The fact that Iowa is a common-law marriage state can have a huge impact (sometimes good, sometimes very bad) on an immigrant's potential legal status.

Other areas of state law can also have immigration consequences. Some unaccompanied minors have found hope and homes through Iowans who have become their legal guardians; however, if the wording of the guardianship orders is not very specific, those minor children could forfeit immigration remedies that would otherwise be available to them. State criminal convictions can have profound consequences for immigrants' legal status. JFON strongly encourages any attorneys who represent immigrant clients to ask them about their immigration status, and to consult with an attorney who specializes

in immigration law to be sure the result of representation will not adversely affect the client's immigration status.

### You can do it

Although representing an immigrant in family law proceedings can be complicated, JFON encourages attorneys to not be afraid of taking on immigrant clients. Just like other Iowans, immigrants need divorces, custody orders, and other family law representation. Occasionally, we have been asked whether it is ethical to represent non-U.S. citizens, and particularly undocumented immigrants. In fact, all people living in the United States, even the undocumented, have the constitutional right to Due Pro-

cess, including legal representation.

JFON attorneys can attest to the fact that meeting, working with, and legally representing immigrant clients is interesting, eye-opening, and deeply rewarding.



**Ann Naffier** serves as ISBA Access to Justice Vice Chair. She is a graduate of Drake University Law School. Prior to law school, Naffier worked as an immigration legal services director for national nonprofit organization for more than a decade.



**Brynne Howard** is a graduate of Drake University Law School. She is also a JFON Church and Community Worker. While in law school, she worked as a case manager for JFON.



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# A new trend in family law: Collaborative divorce

By Laura Parrish

A small group of family law attorneys, primarily in the 5th and 6th Judicial Districts, have practiced collaborative law for several years. More recently, family law attorneys in other parts of the state have recognized the benefits.

Collaborative divorce practice has several key elements which significantly distinguish it from the typical divorce litigation process. First, there is a voluntary, free and open exchange of information between the parties. Second, both parties must sign a pledge not to litigate the issues in their case. In the event that the case would proceed to court, the collaborative agreement requires the attorneys in the case to withdraw. Third, all professionals involved (this may include attorneys, financial professionals, child specialists or divorce coaches, etc.) make a commitment to assist parties in reaching an agreement without having to resort to judicial decision making. Fourth, a key element of collaborative practice is that there is a balanced commitment to respect both parties' shared goals.

Collaborative divorce is intended to great-

ly reduce, if not eliminate entirely, the degree of adversity between the parties. Both parties and all professionals involved are part of the collaborative team. The mindset of "us vs. them" is eliminated. It is a voluntary process that both parties must agree to and both of their attorneys must be collaboratively trained. The parties share experts, and discovery is intended to occur in a free flowing manner, rather than through strict use of interrogatories, requests for production of documents, depositions, or other such discovery tools. Outside experts, such as financial advisors or child specialists, are jointly retained by the parties. The result of this shared discovery and use of experts? Lower cost.

The collaborative process has been found to be extremely successful and rewarding, both for the parties who utilize it, as well as the professionals that participate in the process. Parties typically have a much higher level of satisfaction with an agreement that they themselves developed, through mutual effort with their spouses, as opposed to an order entered by a court after an emotional, time consuming and expensive trial. The ability of the parties to control the process is enhanced and they are able to proceed on an agreed upon timeline rather than a timeline controlled by the demands on the court's docket.

Multiple opportunities for training are available for attorneys interested in becoming collaborative family law lawyers. The two-day training focuses on the principles of collaborative law, in addition to the development of a basic plan to set up collaborative law practice. There

## COLLABORATIVE DIVORCE PROCESS

- STEP 1**  
Initial consultation with individual attorneys
- STEP 2**  
Decision by each spouse to proceed with collaborative divorce and selection of collaborative attorneys
- STEP 3**  
Attorneys plan for first collaborative meeting  
Spouses may select divorce coaches
- STEP 4**  
Each attorney-client pair meets to sign representation agreement and identify goals and concerns
- STEP 5**  
First 4-way meeting  
Collaborative participation agreement  
Identify goals  
Initial agreements: substantive and procedural  
Identify other team professionals: child specialist, financial specialist, coach  
Assignments
- STEP 6**  
Debriefing by whole team, attorney-client pairs and professionals to review and adjust
- STEP 7**  
Divorce tasks completed by spouses, professional team members and lawyers
- STEP 8**  
Follow-up meetings to reach agreements, identify additional information or team members needed, complete assignments
- STEP 9**  
Drafting documents
- STEP 10**  
Final meeting to sign documents and determine responsibilities for completion
- STEP 11**  
Lawyers file documents  
Obtain court approval  
Tie up loose ends  
Debrief

Chart courtesy of  
Diane Dornburg©

are a multitude of resources available to collaborative professionals from those who are already involved in collaborative practice, as well as from the various collaborative professional organizations. If you are interested in learning more about collaborative practice, I encourage you to seek out a training opportunity in your area of the state.



**Laura Parrish** is incoming vice chair of the ISBA Family and Juvenile Law Section, past president of the ISBA YLD, past president of The Iowa State Bar Foundation Fellows and a current member of the ISBA Administrative Committee. She is an attorney at Miller, Pearson, Gloe, Burns, Beatty, & Parrish, P.L.C., in Decorah, Iowa.

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# Lawyers as peacemakers

By Kim Stamatelos

**“It is not enough to win a war;  
it is more important to  
organize the peace.”**

**—Aristotle**

Invested in the grievance stories that can be magnified by their lawyers, family law clients often become repeat customers. Whether through initial actions, modifications or contempt proceedings, family law practice can be steady business for the lawyer, but often leaves festering wounds for the families we represent.

Hard fought family cases can also hurt family lawyers. Our suffering clients call us non-stop, email us long diatribes, even show up at our offices unannounced and agitated. Fueling the fire by delivering scathing interrogatories or through biting cross-examination can wear on an advocate’s mind, body and spirit.

In response, family lawyers are starting to expand their practices to focus on peacemaking. What makes a lawyer a peacemaker?

1. ***They practice law with connection and authenticity.*** Peacemakers do not think it makes them less of a lawyer because they refuse to heap more hurt on hurting people, especially when children are involved. Active listening, compassion and empathy are key skills used by peacemaking lawyers. “Patience is the greatest attribute of a peacemaker,” says Dick Calkins, a longtime advocate of peacemaking law.

2. ***They use proactive early intervention.*** Peacemakers recognize that the parties will still have to work together even after the legal intervention, so they set a tone of healing instead of aggression at the outset of a case. Whether through mediation, collaborative law, or simply meeting with the other lawyer to discuss the case, peacemakers agree to customize a strategy that works for both clients. They look for ways to streamline the legal process instead of letting it be driven only by statutory deadlines or rules.
3. ***They use an interdisciplinary approach to conflict.*** Family lawyers are expected to be lawyer, counselor, financial advisor, parenting coach, communication expert, real estate analyzer and retirement guru. Peacemakers recognize the best use of the lawyers’ time is for legal advice, drafting and interfacing with the judge. They involve specialists including therapists, child development experts, financial advisors, realtors and social workers to assist in developing a comprehensive plan for the family. Adding these experts means the family has a highly specialized team often providing lower overall cost for comprehensive decision making. Lawyers focus on what they do best, and minimize the stress of trying to solve all of their client’s problems themselves.
4. ***They take the long view and encourage clients to do the same.*** Author of the ABA bestselling book “Lawyers as Peacemakers” J. Kim Wright puts it this way: “*The upheaval of divorce can be very emotional and uncomfortable. It is easy to succumb to the emotions of the moment and strike out,*

*do some damage, hurt you because you hurt me. Reacting provides short-term satisfaction and guarantees long-term conflict. Peacemaking focuses on the long view, aligning with long-term values and goals. What relationship do these parents want to have in five, ten, twenty years? Who goes to the first day of school? Who will celebrate the team championship with your daughter? Will you dance at your son’s wedding or boycott because your ex will be there? The long view isn’t easy, but it is the path that focuses on the well-being of your child, not the emotions of the moment.”*

5. ***They are creative in their approach to conflict.*** Each case is viewed as a unique set of circumstances requiring a customized approach of creative problem solving. Lawyers are creative people, but in traditional practice they aren’t encouraged to “think outside the box.” Peacemakers unleash creative thinking without feeling intimidated in putting forth a unique idea that isn’t borrowed from the standard stipulation template. Often, the biggest impediment for peacemaking lawyers is the other lawyer. If opposing counsel makes aggressive moves or promotes themes of “fight to win,” or “let’s let the judge decide,” it frustrates peacemaking opportunities. Being a peacemaker doesn’t mean you sing kum-by-ah and get eaten alive in litigation. It means you see the peacemaking approach as a higher calling because it results in much better outcomes and is more satisfying to your clients and to you.

A new lawyer fully trained in peacemaking skills recently told me, “My hope is that one day clients will view all family lawyers as peacemakers.”

I may not see that total shift in the practice of family law during my lifetime, but each day I practice and teach with the belief that new lawyers will.



Kim Stamatelos teaching Polk County Bar Association Mediation Program students (from left to right) attorney Christopher Rottler, attorney Toni Helton and Drake University Law School Student Stephanie Sailer at The Iowa State Bar Association in January.



Kim has been recognized as a “pioneer” bringing mediation to the state of Iowa. She is a graduate of Drake University Law School where she is an adjunct member of the faculty. Stamatelos is a lawyer and mediator operating in West Des Moines, Iowa.

# Limited scope representation in family law

By Charles L. Pierce



Soon after passing the bar in 2002, I was assigned a case to review in the Iowa Legal Aid office in Dubuque. The client was coming up on the 60-day deadline to file a motion to set aside default judgment. The client had the requisite grounds to file the motion, but I needed more information before our office could make a decision about full representation. At that time, special appearances were not allowed in Iowa. As a result, our office had to make a decision on being in or out of the case before there was sufficient information to make a decision.

Fast forward to today, limited scope representation has become a regular part of our family law practice. Iowa Rule of Professional Conduct 32: 1.2(c), effective July 1, 2005, allows attorneys to provide limited scope representation to clients when “reasonable under the circumstances and the client gives informed consent.” Limited scope representation allows our office to leverage our resources to help many more family law clients than we would otherwise be able to help. In these cases, we use limited scope retainer agreements that spell out the scope of our legal services.

Clients are hit with a wave of deadlines at the beginning of a family law case: answers, requests for admission, interrogatories, requests for production, initial disclosures, children in the middle, temporary matters hearings, affidavits, child support guidelines and mediation. Many clients are overwhelmed and really have no idea what they should do after they are served a petition. They may not understand that a failure to respond to a request to discovery can sink their case. Many are not able to timely respond due to the effects of trauma, disabilities, illiteracy or just plain confusion.

## Completing forms

Some clients have the ability to use the self-help divorce forms. For those clients, walking them through the forms and the divorce process provides them with enough help to complete their cases. The client must understand the limits of the representation and that there will not be assistance beyond help in filling out the forms. This is usually a long-term commitment, but each client meeting is limited to help in filling out the forms needed at that stage of the divorce. In this situation, the client fills out the section of the form that indicates an attorney helped.

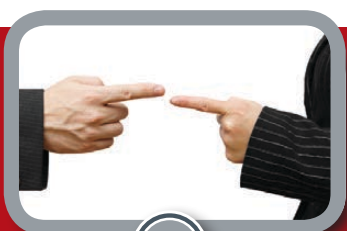
If the clients are computer literate and have an email address, they can use EDMS. But some clients are unable to use EDMS and therefore must request an exemption from e-filing. We provide forms to help clients get an exemption.

## Providing drafting assistance

When an attorney provides drafting assistance, the disclosures set out in Iowa R. Civ. Pro. 1.423, must be included on the document itself. Drafting legal documents such as answers to a petition are helpful so that clients can avoid default. Drafting responses to a request for admissions, responses to interrogatories or a request for productions allow clients to avoid having facts admitted or can avoid sanctions for failure to respond. Setting aside a default judgment allows clients to actually participate in a case, instead of losing custody to mistake or confusion.

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Law students, volunteer attorneys and Iowa Legal Aid staff, as well as court administrators and judges, are all instrumental to the success of monthly clinics in Johnson County that help self-represented litigants navigate the judicial system. The clinics assist clients in completing forms in divorce cases where there are no children, filing the cases, presenting motions to a judge and bringing the cases to conclusion through entry of a decree. Pictured, from left to right, at the March clinic are William McClure, Ryan Monk, Lorraine Gaynor, Nils Johnson, Alle McNorton, Alex Hofer, Teri Keifer, Matthew Cubin, Simone Frierson, Amber Jannusch and Charles Pierce.

### Representing on a discrete issue

Temporary matters hearings are much more involved than answers or discovery responses. But the time frames are about the same. Limited scope representation can be critical in this situation to help with drafting and filing affidavits and child support guidelines, as well as representing at the temporary matters hearing. At times, a limited appearance in temporary matters is almost unavoidable and compelled, where, for instance, a protective order hearing is continued to a temporary matters hearing date. A limited scope appearance is filed at the same time as the other temporary matters documents and a notice of completion is filed after a decision is entered. Providing this legal assistance early in the case ensures that a judge can hear the client's story in a more structured fashion.

Although attorneys have expressed concerns that once in a case, a judge may not let them out, that has not been our experience. In fact, having an attorney's assistance for even part of a case seems to improve the likelihood that a case will be resolved before trial.

On the other hand, sometimes it may be appropriate to provide multiple limited scope representations in a case, from drafting the answer to appearing at temporary matters hearings.

Use of limited scope representation helps clients avoid the serious consequences of failing to timely respond to court filings: default judgments and sanctions. Limited scope representation helps clients get through the initial wave of deadlines so they focus on initial disclosure, attending children in the middle and participating in mediation. Whether help is provided in filling out forms, drafting documents or filing a limited appearance, it gives clients time to get their bearings, helps move the case along and gives clients assistance in navigating the sometimes overwhelming world of a family law case.



**Charles L. Pierce** joined Iowa Legal Aid as a staff attorney in 2002. He assists clients in the areas of family, consumer, administrative and housing law. He earned his J.D. from the University of Iowa College of Law in 2002.

# Thanks to speakers

## February

### Increasing Diversity in the Courts and the Application/Interview Process

Feb. 8, 2016

#### Sponsored by the Diversity and Inclusiveness Committee

Heather Palmer, Deputy Workers' Compensation Commissioner with the Division of Workers' Compensation

Hon. Romonda Belcher, District Associate Judge, District 5C

Hon. Arthur Gamble, Chief Judge, District 5C

Hon. Christopher McDonald, Iowa Court of Appeals

Hon. David Porter, District Court Judge, 5C

Hon. Mary Tabor, Iowa Court of Appeals

Justice David Wiggins, Iowa Supreme Court

### Section 102 and Prior Art: Navigating the Expanded Scope of Prior Art and AIA Exceptions (Part 1)

Feb. 16, 2016

#### Sponsored by The Iowa State Bar Association Intellectual Property Law Section

Jason Sytsma, Shuttleworth & Ingersoll

Anthony D. Del Monaco, Finnegan Henderson Farabow Garrett & Dunner

Doris Johnson Hines, Finnegan Henderson Farabow Garrett & Dunner

Thomas L. Irving, Finnegan Henderson Farabow Garrett & Dunner

### Welcome to Iowa: What Every Iowa Lawyer Needs to Know About Language Access and Cultural Awareness

Feb. 23, 2016

#### Sponsored by the Diversity and Inclusiveness Committee

Emily Chafa, Iowa Workforce Development, Unemployment Insurance Appeals Bureau

Amber Shanahan-Fricke, Babich Goldman

### 2016 Construction Law Seminar

Feb. 25, 2016

#### Sponsored by The Iowa State Bar Association Construction Law Section

Bradley Beaman, Bradshaw, Fowler, Proctor & Fairgrave, P.C.

Stephen Marso, Whitfield & Eddy, P.L.C.

Sean O'Brien, Bradshaw, Fowler, Proctor & Fairgrave, P.C.

Ben Roach, Nyemaster Goode, P.C.

Roger Stone, Simmons, Perrine, Moyer, Bergman, P.L.C.

John Templer, Whitfield & Eddy, P.L.C.

### Recent Administrative Law Decisions

Feb. 26, 2016

#### Sponsored by The Iowa State Bar Association Government Practice Section

Rick Autry, Attorney, Iowa Employment Appeal Board



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# Probate Mediation Pilot Program

By Kristen Hall

**“Old age isn’t for sissies.”  
—Bette Davis**

Our aging population is growing rapidly. Individuals over 65 currently make up 13 percent of the U.S. population and that number is predicted to jump to 20 percent over the next 10-20 years as baby boomers age.

This aging population looks very different than it did a generation ago. We tend to be living and working longer. Medical advances allow some of us to stay healthy and active, but degenerative diseases like Alzheimer’s and other dementias affect one in nine Americans. Increasing healthcare costs and the desire to keep a loved one in the home as long as possible means more family members are taking on the role of caregiver. In 2012, 15.4 million caregivers provided an estimated 17.5 billion hours of unpaid care.

This generation is also more likely to have experienced divorce and remarriage at some point in their lives which means they are entering their golden years with a very different family situation than their parents had. They may not have a spouse or children who live close enough to help

out when they start to decline. They may have a blended family and children or step children with very different ideas on how to take care of “their” parent.

All of these factors have contributed to an increase in contested guardianships and conservatorships and litigated probate matters. Members of the ISBA’s Probate Section are reporting an increase in these issues across the state. Often the issues, and the subsequent hearings, are about emotional rather than legal disputes.

When a strong matriarch or patriarch starts to decline it can create a power vacuum in the family. Siblings end up running to court because they can no longer run to Mom or Dad to be the referee. The judge can appoint one family member as the guardian or conservator, but without other resources available to resolve future issues or improve communication skills, this cycle just repeats and every conflict sends family members running back to court hoping for a different decision.

With this information in mind, the ISBA Probate Section, in collaboration with Judge Craig Block and the Polk County Bar Mediation program, formed a committee to develop a probate mediation pilot program in Polk County. This pilot program proposal was approved for

a three-year trial period by the Iowa Supreme Court and went into effect March 1. Under this program, all contested probate matters are eligible for referral to mediation if the court determines it is in the best interest of the parties and judicial efficiency.

Contested estate cases are heavily influenced by the grief being experienced by the parties. A sudden death, difficult last illness, or the sudden appearance of an alternate will can all push parties already teetering on the emotional edge with grief over the brink into conflict. Sometimes there are significant assets involved, such as the many family farms that will be passed down over the next 10-20 years, but sometimes the items in contention are purely sentimental. A chipped teapot with no monetary value may be priceless to the child who remembers having tea parties with mom when he or she was little.

In contested guardianship and conservatorship matters, the elder who is in need of care and assistance often ends up caught in the middle of feuding family members. Probate mediations are conducted as facilitated family meetings and involve relationships to be maintained beyond the conflict at hand. The focus on collaboration and creative problem solving allows us to help families come up with a new plan that will ensure the elder is taken care of and provide participants with tools to work together more productively. Each side will come in with an opinion of the best outcome, but rather than just choosing one or the other, the final mediated outcome may be something that neither side has considered before.

We are encouraged by the efforts to initiate this pilot project and hope that this program will be successful and inspire similar programs throughout the state.



Attorneys who completed the first probate mediation training for the probate mediation pilot program in Polk County last March. The training was part of the Polk County Bar’s Mediation Program and took place at the ISBA in the Iowa State Bar Foundation Continuing Legal Education Center.



**Kristen Hall** is ISBA ADR Section vice chair. She is a compassionate and collaborative attorney in Des Moines. Her practice focuses on estate planning, elder and divorce mediation and collaborative divorce. She conducts trainings and presentations on mediation, conflict resolution and servant leadership. Hall earned her J.D. from Drake University Law School.



# Elder mediation: An affordable, effective option for Iowa elders and their families

By Liz Araguás

By 2040, 83 of Iowa's 99 counties will have at least a 20 percent population of citizens ages 65 and over. In 2000, only 30 of Iowa's counties held that distinction. Iowa currently ranks fourth in the nation in terms of percentage of total population over 75 and over 85 years old.

The longer lifespan and increased care choices for aging and elderly adults make decision making more complicated for individuals and families. One survey by the National Conversation Project, a nonprofit that works to help families discuss end of life planning, found that more than nine out of 10 elderly adults think it's important to talk about end-of-life plans, but less than three out of ten actually do. This is the communication gap that elder mediation, also known as aging issues mediation or elder decision mediation, is designed to fill.

Elder decision mediations may focus solely on one issue, such as whether the elderly loved one should be driving, or several issues at once, such as living situations, care arrangements, financial planning and more. Mediation is particularly appropriate in elder care disputes because it is a future-focused, confidential environment where everyone involved is encouraged to share their concerns. This is a stark contrast to the other forums available to families in these sorts of crises. For example, many times where adult children are presented with the erratic or potentially dangerous behavior of a senile parent, the only enforceable actions available are a

mental health commitment or a contested guardianship. These proceedings are often embarrassing for the family and harmful to the parent-child relationship, not to mention a matter of public record.

Outside of the court system, the non-mediation remedies for elder decision making conflict are equally discouraging. Social services are overloaded and often off-limits to families above the wage requirements. Most nursing homes and hospitals are unable to handle the complicated family dramas that can play out as people age and their needs become more diverse. Further, many mediation-appropriate disputes arise before a nursing home or hospital is involved. Mediation supplies a critically important forum for these families to address concerns and make the best plans for their elderly loved ones. The personal and private nature of mediation also lends itself to repairing important parent and child relationships before it is too late.

At the close of the elder mediation session, the mediator may draft an agreement based on the family's discussion. This agreement may include specific "to-dos" for family members, such as care giving tasks shared among several children. Each family member will have the opportunity to individually review and sign the agreement.

Although these agreements are informal contracts within the family, and not (in most cases) presented to a judge, the compliance rate is very high. A project conducted in the Alaskan courts found that participants were satisfied with the agreements reached in elder mediation 91 percent of the time. Further, mediated elder disputes completely resolved the parties' issues in "all but a handful of cases."<sup>3</sup> One four-state

study found that mediation in contested guardianship cases was successful in 75 percent of cases.<sup>4</sup>

Fortunately for Iowa families, the Iowa judicial system has recognized the value of the elder mediation process. A pilot project is underway in Polk County to gauge the effectiveness of elder mediation in contested guardianship and conservatorship cases.

If you or one of your clients are involved in an aging-related dispute, there is help available now. Many of the mediators throughout Iowa are already trained to assist in elder mediation cases. The Iowa Association of Mediators (IAM), in conjunction with the Iowa Department on Aging, conducted a training for mediators and other eldercare professionals in the summer of 2014. IAM continues to certify elder mediators, and specifically lists elder mediators on its website. Other regional mediation organizations, such as Mediation Services of Eastern Iowa, also maintain lists of qualified elder mediators.

For help finding an elder mediator near you, contact your local mediation program, your local Area Association on Aging office, or one of the statewide mediation associations.



Watch a question and answer video about probate mediation, now available on the ISBA Elder Law Section page under the "Resources" sub-heading. The video, filmed March 4, features ISBA Elder Law Section Chair Gregory Kenyon and ISBA ADR Section Vice Chair Kristen Hall.

<sup>1</sup> <http://www.iowadatabase.org/Publications/older2015.pdf>

<sup>2</sup> [https://www.iowaaging.gov/sites/files/aging/documents/States%20Ranked%20by%20Age%20Group%20\\_2012%20Estimates.pdf](https://www.iowaaging.gov/sites/files/aging/documents/States%20Ranked%20by%20Age%20Group%20_2012%20Estimates.pdf)

<sup>3</sup> Carns, Teresa W. "Alaska's Adult Guardianship Mediation Project Evaluation." (2009). Web. <<http://www.ajc.state.ak.us/reports/adultguard.pdf>>.

<sup>4</sup> Butterwick, Hommel, and Keilitz. "EVALUATING MEDIATION AS A MEANS OF RESOLVING ADULT GUARDIANSHIP CASES." The Center for Social Gerontology, Inc. (2001). Web. <[http://www.tcs.org/mediation/SJI\\_01.pdf](http://www.tcs.org/mediation/SJI_01.pdf)>.



**Liz Araguás** is an Attorney and Mediator with Mears Law Office in Iowa City. Liz is an Iowa Association of Mediators certified family and aging issues/elder mediator. She serves as a Board Member for Mediation Services of Eastern Iowa. Her general practice includes an emphasis in family law and mediation. She serves English and Spanish speaking clients in Johnson and Muscatine Counties and the surrounding areas.

## TRANSITIONS



Anderson

**Alex J. Anderson** has joined the City of Cedar Rapids as an assistant city attorney in Cedar Rapids, Iowa. Anderson received his J.D. from the University of Iowa College of Law in 2014.



Bergus

**Laura E. Bergus** has become a partner at Hayek, Moreland, Smith & Bergus L.L.P. in Iowa City, Iowa. She maintains a general practice with emphasis on civil litigation, business formation, estate planning and family law. Laura is a member of the Dean Mason Ladd Inn of Court and was recognized in 2012 for her pro bono service by the Iowa Supreme Court.

**Jeffrey A. Krausman, Howard O. Hagen, Ronald L. Mountsier, Amy D. Plummer and Benjamin D. Bruner** have been elected to the board of directors at Dickinson, Mackaman, Tyler & Hagen, P.C., in Des Moines, Iowa. The five-person management team develops and executes the overall strategic planning for the firm.

**Krausman** began his career with the Iowa Public Relations Board, then went into private practice in 1977. He now focuses on employment law and education law.

**Hagen** has counseled banks for over 25 years, including 20 as counsel to the Community Bankers of Iowa and he currently serves as a member of the American Bar Association Banking Law Committee.

**Mountsier** maintains a general practice including taxation, business law, corporate law, wills, trusts, estate planning and probate law.

**Plummer** served as chair of the firm's recruiting committee for three years and currently practices in corporate law, banking law, mergers and acquisitions, business formations, e-commerce and intellectual property law and publishing law.

**Bruner** maintains a general practice including real estate and corporate law.



Krausman



Hagen



Moutsier



Plummer



Bruner



Hill

**Amos E. Hill** joined Mercer (a Marsh & McLennan company) in Urbandale, Iowa, as a contract manager. Hill received his B.B.A. in finance from the University of Iowa Tippie College of Business in 2006 as well as his J.D. and M.B.A. in 2009 from Drake University. Prior to joining Mercer, Hill spent six years in private practice.

**Dawn R. Boucher, Liz Johnson and Nicole Merrill** have joined Iowa Workforce Development as administrative law judges in Des Moines, Iowa.

**Boucher** spent nine years in private practice prior to joining Iowa Workforce Development. She also served as an adjunct professor at Hamilton College and as a law clerk for the Second Judicial District.

**Johnson** worked for three years at the Iowa Civil Rights Commission before her selection. She has also spent time working for the Iowa Department of Revenue and the United States Bankruptcy Court for the Northern District of Iowa.

**Merrill** also worked for the Iowa Civil Rights Commission prior to joining Iowa Workforce Development. After graduating from Drake University in 2008 she practiced at a small general practice firm before working as an attorney with the Iowa Coalition Against Sexual Assault.



Boucher



Johnson



Merrill

**Abbey C. Furlong and Samuel J. Skorepa** have become partners at Lane & Waterman, L.L.P., in Davenport, Iowa.

**Furlong** graduated from the University of Iowa College of Law in 2010. She practices primarily in professional malpractice, employment law and products liability. Furlong serves on the Board of Directors for the Child Abuse Council and Davenport Family Homes and is Chair of the Scott County Bar Association's Barrister's Ball Committee.



Furlong



Skorepa

**Skorepa** graduated from the Creighton University School of Law in 2010. He focuses primarily on estate planning, probate and trust administration and real estate matters, while also advising corporations and non-profits. Skorepa serves as Secretary on

the Board of Directors for the Center for Alcohol and Drug Services, is a United Way Young Leader

and Tax Preparer for the IRS Volunteer Income Tax Assistance (VITA) Program.



Morales

**Angela Morales** was promoted to counsel at the Des Moines, Iowa office of Faegre, Baker, Daniels, L.L.P. She practices primarily in financial services litigation, appellate litigation and employment litigation. She was also named to Faegre Baker Daniels' Pro Bono Honor Roll in 2014.



Natwick

**Jacob B. Natwick** was named partner at the Heidman Law Firm in Sioux City, Iowa. He has been a member of the firm since 2010 and maintains a general practice including corporate structuring and financing, real estate, taxation, estate planning, copyright and trademark, agricultural law, and bankruptcy.



Sandegren

**Jason Sandegren** joined SouthLaw, P.C., as an associate attorney in the Des Moines, Iowa office. He obtained his B.A. from Coe College in 2011 and his J.D. from Drake University in 2013. Sandegren's practice focuses on representing financial institutions and creditors' rights in real estate finance and mortgage foreclosure.



Schippers

**Nicole Schippers** was promoted to associate general counsel and legal industry advocate at ARAG Legal, in Des Moines, Iowa. She has served as counsel for ARAG since 2007. Schippers is currently chair of the ISBA Corporate Counsel Section, President of the Group Legal Services Association (GLSA), a Fellow of the American Bar Foundation, and a member of the Association of Corporate Counsel (ACC) Board of Directors.



**SouthLaw, P.C.**, moved its corporate headquarters. The new location is now in Overland Park, Kansas, while the remittance address remains unchanged.



# Disciplinary ACTIONS

## Attorney Doe No. 792 Supreme Court Decision – Feb. 5, 2016 Privately Admonished

Attorney Doe was admitted to the Iowa bar in 1997. After passing the bar, Attorney Doe moved to Los Angeles and spent 10 years as a financial analyst. His law license became inactive in 2000. In 2007, Attorney Doe moved back to Iowa. This action stems from email communications from Attorney Doe to an Iowa district court judge.

Upon his return to Iowa, Attorney Doe hired a Polk County attorney to represent him in a dispute with a former employer. The attorney-client relationship broke down and Attorney Doe filed an arbitration claim with the Polk County Bar Association Fee Arbitration Committee. The committee ruled in Attorney Doe's favor, though it did not grant him the full relief to which he believed he was entitled. Thereafter, Attorney Doe appealed the ruling to district court. When Attorney Doe again did not receive the ruling to which he believed he was entitled, he sent a late-night ex parte email to the presiding judge accusing him of unethical behavior, engaging in a cover-up and abusing his judicial power.

Upon reactivating his Iowa law license, the Iowa Supreme Court Disciplinary Board filed a complaint against Attorney Doe alleging violations of Iowa Rule of Professional Conduct 32:3.5(b) (ex parte communications) and 32:8.2(a) (false statements concerning the qualifications or integrity of a judge).

In its analysis, the court first found that the statements made by Attorney Doe in his email to the judge were not entitled to First Amendment protection. The court found the allegations of unethical behavior were not supported by the record below, and it was not objectively reasonable for Attorney Doe to have made the comments to the judge.

The court then turned to whether the statements made in the email violated rule 32:8.2(a). The court analyzed prior cases in which false statements were made regarding judges or legal officers and found that while Attorney Doe's statements were unprofessional, "the email did not hinder the fair and independent administration of justice." Thus, the court found that the board had failed to prove a violation of Rule 32:8.2(a).

The court did find, however, that the board had demonstrated a violation of rule 32:3.5(b) for sending an ex parte email to the judge. The email was sent during proceedings while the judge still had jurisdiction over the matter. Further, the email itself acknowledged that it was ex parte.

As a result of the ex parte communication with the judge in violation of rule 32:3.5(b), and after considering the mitigating factors, the court issued a private admonition of Attorney Doe.

## Jamie F. Deremiah Des Moines, Iowa Supreme Court Decision – Feb. 26, 2016 Indefinite Suspension no less than 90 days

Jamie F. Deremiah has practiced in Iowa since 2008. Deremiah worked in several professional settings before

becoming of counsel with a Des Moines area law firm. This is his first disciplinary action. This action arose from one event.

The court upheld the board's finding that Deremiah violated Rule 32:8.4(b) when he domestically assaulted his girlfriend. In arriving at their decision, the court examined whether the court had the ability to discipline an attorney for a domestic assault. In the past, the court has held lawyers accountable through the "moral turpitude" clause of the previous professional conduct rules, which no longer exists in the model rules of professional conduct adopted by Iowa.

The court opined, however, that the rule is broad enough to include offenses not directly related to the practice of law. The Iowa Supreme Court ultimately adopted the factors used in *In re White*, 815 P.2d 1257 (Or. 1991) to determine when criminal conduct violates Rule 32:8.4(b):

The lawyer's mental state; the extent to which the act demonstrates disrespect for the law or law enforcement; the presence of absence of a victim; the extent of actual or potential injury to a victim; and the presence or absence of a pattern of criminal conduct.

815 P.2d at 1265.

The court then relied on Iowa precedent to affirm that domestic assault can violate Rule 32:8.4(b). In its opinion, the court found that although Deremiah was intoxicated, and potentially "blacked out," he could still differentiate from right and wrong. The court also found that the use of violence to settle a dispute was the antithesis of the rule of law and thus undermined the entire purpose of the law. Citing a myriad of authorities, the court opined that, among other things, an attorney who commits an act of violence may cause the public to question whether the system itself is worthy of respect. Further, Deremiah's act of trespass evidenced a lack of respect for the sanctity of the home and the privacy interest associated with it. Additionally, there was clearly a victim who suffered serious injuries as a result of Deremiah's actions. Finally, the court considered whether the domestic assault and trespass had a bearing on Deremiah's legal practice. The court determined that as a family law lawyer, Deremiah must be able to recognize and effectively deal with situations involving domestic abuse and that an attorney who engages in domestic abuse may be less effective at screening and addressing similar incidents of abuse experienced by clients.

When considering an appropriate sanction, the court was clear that the purpose of the sanction was not to punish a criminal act. The court found that the aggravating circumstances in this case arose from the case itself, mainly that the victim suffered notably physical injuries, psychological harm from an assault in her bedroom, and the assault was domestic in nature. The court also noted the escalating nature of Deremiah's actions from an incident in April. As for mitigating factors, Deremiah did not have a history of prior discipline, he accepted responsibility for his actions, seemed genuinely remorseful and he engaged in robust efforts to deal with his substance abuse issues. Ultimately, Deremiah was suspended indefinitely without the possibility for reinstatement for 90 days.

## KUDOS

The Iowa State Bar Association congratulates the following individuals for recognition they received.



Bylund

**Jacob Bylund**, partner at Faegre Baker Daniels, L.L.P., for being selected as a 2016 BTI Client Service All-Star. Attorneys are identified for selection exclusively through client nomination for providing superior service. Bylund leads the firm's food and agriculture industry team from the Des Moines, Iowa, office.



Cartmill

**Nola Cartmill**, shareholder at Belin McCormick, P.C., in Des Moines, Iowa, for being named a member of the National Black Lawyers Top 40 under 40, as well as to the Des Moines Business Record's Top

40 under 40 for 2016. The National Black Lawyers is an invitation-only organization that extends membership to a select few attorneys from each state who exemplify superior leadership, reputation, influence and stature. Cartmill practices in the areas of employment law, complex commercial litigation, trial practice and family law.



Giles

**Jason Giles**, an attorney at Nyemaster Goode, P.C., in Des Moines, Iowa, for being selected as a 2016 BTI Client Service All-Star. Attorneys are identified for selection exclusively through client nomination

for providing superior service. Giles practices primarily in business and commercial transactions.



Malheiro

**Sharon Malheiro**, a senior shareholder and former board president at Davis, Brown, Koehn, Shors & Roberts, P.C., in Des Moines, Iowa, for receiving the Richard S. Arnold Award for Distinguished Service from

the United States Court of Appeals for the Eighth Circuit. Malheiro's nomination included notes about her civil and human rights work over the course of her career. Her work can be seen in many of the major cases affecting civil rights of Iowans including Varnum v. Brien declaring the Iowa Defense of Marriage Act unconstitutional.

# IOWA STATE BAR ASSOCIATION — 2016 Affirmative Legislative Program

Bill No./Subject	Description	Status
<b>HSB 578</b> 2014 Amendments to Uniform Voidable Transactions Act (Current IA Code Chapter 684, "Fraudulent Transfers")	The Uniform Fraudulent Transfer Act was approved by the Uniform Law Commission in 1984. It has not been revised or updated since its original approval. Iowa adopted the Act, which is presently found in IA Code Chapter 684. In 2014, the Uniform Law Commission adopted amendments to update the Act, which are being proposed to update IA Code Chapter 684 as follows: <ul style="list-style-type: none"> <li>• Change the name of the Act from "Uniform Fraudulent Transfer Act" to "Uniform Voidable Transactions Act".</li> <li>• Choice of Law- Provide that a claim for relief is governed by the local law of the jurisdiction in which the debtor is located when the transfer is made or obligation is incurred.</li> <li>• Evidentiary Matters- Provide uniform rules on allocation of burden of proof and standards of proof relating to operation of the UVTA.</li> <li>• Delete the special definition of "Insolvency" for partnerships.</li> <li>• Revise provisions relating to defenses available to a transferee or obligee.</li> <li>• Clarifies that the UVTA applies to transactions in which a series organization engages.</li> <li>• Replace references to "writing" with "record."</li> </ul>	3/16/2016 - Scheduled for Senate Debate; passed 49-0 and will be sent to Governor Branstad.
<b>SSB 3076</b> Benefit Corporations	Amends IA Business Corporation Act (Chapter 490) to authorize formation of "Benefit Corporations", which are formed not only for the purpose of shareholder profitability but also for a social purpose or public benefit.	Referred to Senate Judiciary Committee. Will not advance this session.
<b>HF 2359 /SF 2283</b> Corrective amendments to IA Business Corporation Act (Code Chapter 490)	Amends Code Sections 490.1320(1) and .1320(3)(a) and (b), "Notice of Appraisal Rights", to replace references to "part" and "chapter" with references to "division."	3/10/16 - Both bills placed on unfinished business calendar.
<b>SF 376</b> Calculation of Probate Court Costs	Relates to how the clerk of probate court determines and collects charges in connection with services provided in probate matters. Excludes from the determination of court costs property over which the court lacks probate jurisdiction and for which the clerk renders no services. Specifies that for purposes of calculating the costs for other services performed by the court in the settlement of the estate of any decedent, minor, person with mental illness, or other persons laboring under legal disability, the value of such a person's personal property and real estate is equal to the gross assets of the estate listed in the probate inventory minus, unless the proceeds of the gross assets are payable to the estate, joint tenancy property, transfers made during such person's lifetime such as to a revocable trust, and assets payable to beneficiaries.	Bill is being redrafted as a Ways & Means Bill.
<b>SF 2112</b> Uniform Fiduciary Access to Digital Assets Act (UFADAA)	Adopted by the Uniform Law Commissioners in July 2014, the Act ensures that legally appointed fiduciaries can access, delete, preserve, and pass along a person's digital assets (i.e., documents, photographs, e-mail, and social media accounts) as appropriate.	Senate amended and passed on 2/22/16, 49-0. Referred to House Judiciary Committee on 2/24/16.
<b>HF 2335/SF 2184</b> Notice Under the Iowa Trust Code; IA Probate Code Amendment; Iowa Uniform Power of Attorney Act Technical Corrections	This proposal does the following: <ul style="list-style-type: none"> <li>• Amends Iowa Trust Code by inserting new Section 633A.1109 ("Methods and Waiver of Notice"), which provide for notices to trust beneficiaries and notices of judicial proceedings. The Trust Code currently provides for notice provisions for creditors, heirs and surviving spouses, but otherwise, notice provisions default to the Iowa Rules of Civil Procedure. The proposed amendment would address such notices except as otherwise provided.</li> <li>• Amends Iowa Probate Code Section 633.389 to simplify notices regarding sale of property.</li> <li>• Makes several technical corrections to Iowa Code Chapter 633B, "Iowa Uniform Power of Attorney Act."</li> </ul>	3/10/16 - Both bills placed on unfinished business calendar.
<b>SSB 3032</b> Attorney Fees and Court Costs in Action to Quiet Title After Request for a Quitclaim Deed.	Updates Code Section 649.5, which relates to attorney fees and court costs for a party who succeeds in an action to quiet title and who requested a quitclaim deed from the party holding an apparent adverse interest prior to bringing the action to quiet title. Brings the dollar amounts closer to current market rates and maintains the moving party's ability to request attorney fees.	Referred to Senate Judiciary Committee. Will not advance this session.
<b>HHF 2326/SF 2150</b> Forcible Entry & Detainer Actions After Forfeiture of Real Estate Contracts	Makes changes to procedures for eviction after forfeiture of a real estate contract. Grants statutory authority under Code Chapter 648 for a vendor in a real estate installment contract to seek Forcible Entry & Detainer action against holdover vendee who fails to vacate after forfeiture proceedings are complete, while affording holdover vendees proper due process. Allows small claims magistrates to hold preliminary hearings in forfeiture cases and to enter judgments of removal only if the defendant defaults or appears and does not raise facts which would constitute a defense to eviction. Provides that a judgment of eviction also operates against persons holding under the defendant, such as subtenants, the defendant's children, and persons living on the premises by permission of the defendant.	3/10/16 - Both bills placed on unfinished business calendar.
<b>SF 220</b> Expert Witness Fees	Amends Code Section 622.72 to remove the \$150 per day cap on expert witness fees and to permit the district court to assess as costs a fair and reasonable expert witness fee in an amount not to exceed \$2,500 for the expert's time testifying at trial or in depositions used at trial.	Senate passed 48-2 on 3-10-15. Referred to House Judiciary Committee 3-11-15. No further action.
<b>SF 2232</b> Redemption from Tax Sale of Property Owned by Persons with Disabilities	Remedies issues arising from Iowa Court of Appeals decision <i>Firestone v. FT13</i> (Filed 4-30-14) relating to redemption issues arising from ownership of property by minors or persons of unsound mind.	Senate passed on 2/23/16, 50-0. Referred to House Judiciary Committee on 2/24/16.
<b>HSB 577/SSB 1248</b> Requirements for Timely Filing of Releases or Satisfactions of Mortgages	Remedies ambiguities and inconsistencies in existing statutes & provides remedies for failure of mortgagees to issue releases of mortgages.	Bills referred to House & Senate Judiciary Committee respectively. Placed on hold by ISBA for further work.
<b>HF 2282/SF 2060</b> Appointment of Guardian Ad Litem (GAL) for Minor Child in Adoption Proceedings	Amends Code Section 600.5 to require an adoption petition to state whether a GAL should be appointed for a minor child to be adopted, and if not, the reasons why a GAL should not be appointed. Adds New Code Section 600.6A which requires the Court, prior to ordering a hearing on the adoption petition, to make a determination of the need for a GAL for a minor child to be adopted and, in writing, appoint or waive the appointment of a GAL for purposes of the adoption proceeding in the order setting the adoption hearing.	3/10/16 - Both bills placed on unfinished business calendar .
<b>SSB 3103</b> Clarification of Roles in Child Representation	Amends Code Section 598.12 to clarify roles of child's attorney, guardian ad litem, and custody investigator. Existing 598.12 provisions for child representation are not compliant with ABA standards for child representation.	Referred to Senate Judiciary Committee. Approved by Senate subcommittee.



Bill No./Subject	Description	Status
<b>SSB 3033</b> Waiver of 90-Day Waiting Period in Dissolutions	Allows for waiver of 90-day waiting period at the court's discretion upon the agreement of the parties. Current Code Section 589.19 requires a 90-day waiting period before the court can grant a decree dissolving a marriage unless grounds of emergency or necessity exist which satisfy the court that immediate action is warranted or required.	Referred to Senate Judiciary Committee. Will not advance this session.
<b>HF 2270/SF 2062</b> Amendment of Code Section 232.2(39) Definition of "Parent"	Amends the definition of "parent" to include a father whose paternity has been legally established by operation of law. The Iowa Supreme Court in <i>In re J.C.</i> , 857 N.W.2d 495 (Iowa, 2014) determined that a legal father of a child (not a biological parent but father whose paternity was established by operation of law by marriage to the mother) was NOT a necessary party to a Child in Need of Assistance proceeding. This proposal makes the legally established parent a necessary party and conforms the definition of "parent" in Code Section 232.2(39) with the Bridge Order statute [Section 232.103A(1)(b)].	3/10/16 - Both bills placed on unfinished business calendar.
Codify Formula for Division of Defined Benefit Plans	The case of <i>In re Marriage of Benson</i> provides a formula for division of a defined benefit plan. This proposal amends Code Section 598.21(6) to codify the formula.	Placed on hold by ISBA for further drafting work.
<b>HSB 525/SSB 3029</b> Uniform Child Support Payment Processing	Child support payments are processed differently depending on the type of case and the existence of an income withholding order. This proposal amends Code Section 598.22, Chapters 252B & 252D so that all child support payments will be paid into the Collections Services Center (CSC).	HSB 525 referred to House Judiciary Committee. SSB 3029 referred to Senate Judiciary Committee. Neither bill will advance this session.
<b>HF 2378</b> Appeal Deadline for Private Termination of Parental Rights Actions	Amends Code Section 600A.9(2) to reduce the 30-day appeal deadline for private termination of parental rights (TPR) actions to a 15-day appeal deadline to be consistent with Chapter 232, which governs TPR actions initiated by the State.	Approved by House Judiciary Committee and placed on House Calendar on 2/22/16. Funneled.
<b>SF 2233</b> Uniform Deployed Parents Custody & Visitation Act (UDPCVA)	Approved by the Uniform Law Commission in 2012, the UDPCVA addresses issues of child custody and visitation that arise when parents are deployed in military or other national service.	Passed House Judiciary Committee 3/9/16.
Proceedings to Establish Paternity	Amends Code Section 600B.8 to allow fathers to file an action to establish paternity consistent with the Iowa Supreme Court's decision in <i>Callender v. Skiles</i> , 591 N.W.2d 182 (Iowa 1999). Updates Code Chapter 600B.	Placed on hold by ISBA for further drafting work.
<b>HF 2117</b> Student Loan Deduction	Allows a person to deduct the full amount of interest paid on a student loan for income from Iowa income tax purposes.	Referred to House Ways & Means Committee.

Updated 3/21/16

### In addition to the legislative proposals above, The Iowa State Bar Association supports the following positions as a part of its 2016 Affirmative Legislative Program:

- Full funding of indigent defense and adoption of legislation providing for an automatic, periodic increase in indigent defense fees.
- Full funding of the Judicial Branch.
- Full funding for Legal Services.
- Full funding for the Office of Substitute Decision Maker to protect the interests of Iowans who have no one else to manage their financial and health care needs.
- Child abuse prevention and treatment efforts and funding for child abuse prevention and treatment.
- Opposition to the legalization of title insurance.
- Opposition to any proposal to restrict lawyer abstracting under Iowa Title Guaranty.
- Opposition to absolute immunity legislation.



## GARY G. MATTSON

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AV-RATED

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# ISBA CLE Calendar

Visit [www.iowabar.org/calendar](http://www.iowabar.org/calendar) for more information on any of our upcoming CLE opportunities.

**April 18**

**Top Ten Tips for Unemployment Insurance Appeal Hearings (Live Webinar)**

**April 19**

**Guide to Calculating Damages in Patent Infringement (Live Webinar)**

**April 22**

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

**April 28**

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

**April 29**

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

Register for both the Juvenile and Criminal Law Seminars and save \$30 on the total registration fee.

**April 29**

**62nd Annual Spring Tax Institute  
The University Club  
Iowa City**

**May 3**

**Legal Ethics in Cyber Space – Are You Maintaining Legal Confidences and Secrets? (Live Webinar)**

**May 4 - 6**

**Bench-Bar Conference  
Hotel Blackhawk  
Davenport**

**May 17**

**Patent Strategies: Surviving in a Post #Alicestorm (Live Webinar)**

**May 20**

**Government Practice Seminar  
ISBA Headquarters  
Des Moines**

**June 7**

**Recent Developments in Trade Secret Law (Live Webinar)**

**June 13 - 15**

**Annual Meeting  
Community Choice Credit Union  
Convention Center  
Des Moines**

## 62nd Annual Spring Tax Institute

Friday, April 29

The University Club, Iowa City

**Topics:** Criminal Tax; Collection Due Process Proceedings; Tax Controversy in Iowa; Recent Development in State Tax Law; Affordable Care Act Reporting Requirements; Circular 230 and Tax Ethics; and Federal Tax Controversy and the Tax Court with the Honorable Cary Pugh (U.S. Tax Court).

*Co-sponsored by the University of Iowa College of Law CLE Programs and the ISBA Taxation Section.*



# Bench-Bar Conference

May 4-6

Hotel Blackhawk • 200 E. 3rd St. • Davenport

CLE Credit (approved): 8.25 state hours which includes 1 ethics hour

## Wednesday, May 4

2:30 - 3:30

3:30 - 3:45

3:45 - 4:15

4:15 - 4:30

4:30 - 5:30

6:00 - 8:00

### Registration

### Warm-Up by Conference Co-Chairs

Speakers: Hon. Thomas Waterman, Justice, Iowa Supreme Court and Matthew Novak, Lawyer

### Welcome by Conference Co-Sponsors

Speaker: Bruce Walker, President, The Iowa State Bar Association and Hon. Jeffrey Neary, President, Iowa Judges Association

### Greetings from Academia

Speakers: Ben Ullem, Dean, Drake University Law School and Gail Agrawal, Dean, University of Iowa College of Law

### Keynote Remarks: Iowa's Edge - a Culture of Excellence

Speaker: Hon. Mark Cady, Chief Justice, Iowa Supreme Court

### The Role of Leadership in Professional Ethics

Speaker: Nick Critelli, Lawyer

### Iowa Court of Appeals Reception

(Figue Art Museum, 225 W. Second St., Davenport)

## Thursday, May 5

7:00

8:30 - 10:00

10:00 - 10:15

10:15 - 11:45

12:00 - 1:00

1:30

6:30

7:30

8:30

### Fun Run and Walk

### The Art of Today's Trial: Techniques to Switch Up Your Game

Moderator: Hon. John Wright, Trial Judge

Panelists: Michael Bush, Lawyer; Hon. Marlita Greve, Chief Judge; Martha Shaff, Lawyer; Kent Simmons, Lawyer; and Robert VP Waterman, Lawyer

### Break

### Strengthening Iowa's Trial Courts (Small Groups)

**Luncheon (provided with registration)** - Excellence Through Teamwork (Chief Judges)

### Sports, Touring and Arts

**Iowa Supreme Court Reception** (Hotel Blackhawk)

**Iowa Supreme Court Banquet** (Hotel Blackhawk)

### A Career Retrospective on Iowa's Edge

Speaker: Hon. Mark Bennett, Federal Trial Judge

### Bench-Bar Awards

Presenters: Conference Co-Chairs

## Friday, May 6

7:00

8:30 - 10:00

10:00 - 10:15

10:15 - 11:15

11:15 - 12:00

### Fun Run and Walk

### Access to Justice: An Iowa Edge - Diagnosing and Dealing with Barriers

Moderator: Anjela Shutts, Lawyer

Hon. Brent Appel, Justice, Iowa Supreme Court; Matthew Brandes, Lawyer; Brian Farrell, Lecturer, University of Iowa College of Law; John Goerdts, Assistant State Court Administrator; Chris Luzzie, Lawyer, Iowa Legal Aid; Brett Toresdahl, Director, ISBA Public Service Project; and Hon. Cheryl Traum, Associate Court Judge

### Break

**Taking Home the Message About Access** (Small Groups)

**What Happened Here?** (Small Group Reports)

**Bench-Bar Drawings** (must be present to win)

Presenters: Conference Co-Chairs

### Adjourn after Bench-Bar Drawings

For more information or to register, visit [www.iowabar.org/event/2016BenchBar](http://www.iowabar.org/event/2016BenchBar)

# 2016 Annual Meeting

June 13-15

Community Choice Credit Union Convention Center  
Des Moines

## CLE SCHEDULE - MONDAY, JUNE 13

9:00 - 11:10 - Ethics Track  
9:00 - 2:00 - Elder Law Track  
9:00 - 5:00 - Ag Law Track  
9:00 - 5:00 - Family Law Track  
1:00 - 5:00 - Judges Tracks  
1:00 - 5:00 - Litigation Track  
1:00 - 5:00 - Court Reporters Track

## CLE SCHEDULE - TUESDAY, JUNE 14

8:00 - 9:00 - Plenary Session  
8:00 - 4:20 - Judges Tracks  
8:30 - 4:20 - Court Reporters Track  
9:10 - 10:10 - Litigation Track  
9:10 - 12:00 - Mixed Bag Track  
9:10 - 5:00 - Probate Track  
10:30 - 3:10 - Case Law & Ethics Track  
1:00 - 5:00 - Juvenile Law Track  
2:30 - 5:00 - Litigation Track

## CLE SCHEDULE - WEDNESDAY, JUNE 15

8:00 - 10:50 - Access to Justice Track  
8:00 - 10:50 - Commercial and Bankruptcy Law Track  
8:00 - 11:40 - Court Reporters Track  
8:00 - 3:40 - Federal/Litigation Track  
8:00 - 5:00 - Mediation/Collaborative Law Track  
11:00 - 12:00 - Plenary Track  
1:30 - 3:00 - Cyber Security Track  
1:30 - 5:00 - Real Estate Track

## Registration Form: 2016 Annual Meeting

Judges, law clerks and judicial branch staff attorneys will receive registration information from the Judges Association

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

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

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

This year's Annual Meeting is going paperless. A link to the materials will be e-mailed to attendees prior to the event.

### REGISTRATION FEES:

Prices below reflect the early-bird registration fees. Registering after June 9 will result in a \$50 late fee being added on to your registration fee amount.

- |  |  |
|--|--|
| <input type="checkbox"/> ISBA Members - Admitted to practice prior to July 2011 (Full Seminar) - \$325 | <input type="checkbox"/> Non-ISBA Members (Full Seminar) - \$425   |
| <input type="checkbox"/> ISBA Members - YLD Members (Years 4 - 5) (Full Seminar) - \$225               | <input type="checkbox"/> Only Monday (Non-ISBA Members) - \$225    |
| <input type="checkbox"/> ISBA Members - YLD Members (Years 1 - 3) (Full Seminar) - \$125               | <input type="checkbox"/> Only Tuesday (Non-ISBA Members) - \$225   |
| <input type="checkbox"/> Only Monday (ISBA Members) - \$175  | <input type="checkbox"/> Only Wednesday (Non-ISBA Members) - \$210 |
| <input type="checkbox"/> Only Tuesday (ISBA Members) - \$175   | <input type="checkbox"/> Law Students - \$0                        |
| <input type="checkbox"/> Only Wednesday (ISBA Members) - \$160   |  |
| <input type="checkbox"/> Para Professional (Legal Assistants & Office Employees) - \$125               |  |

### SOCIAL EVENTS (If only attending complimentary events, you must register above for Annual Meeting):

- |  |   |
|--|---|
| <input type="checkbox"/> Creighton University Law School Luncheon (Monday, June 13)    | \$25 each \$ _____                        |
| <input type="checkbox"/> Drake University Law School Luncheon (Monday, June 13)        | \$25 each \$ _____                        |
| <input type="checkbox"/> University of Iowa College of Law Luncheon (Monday, June 13)  | \$25 each \$ _____                        |
| <input type="checkbox"/> Probate Track Luncheon (Monday, June 13)                      | \$25 each \$ _____                        |
| <input type="checkbox"/> Joint Presidents Reception (Tuesday, June 14)                 | Complimentary to Annual Meeting attendees |
| <input type="checkbox"/> Luau in the Lot Hosted by the YLD (Tuesday, June 14)          | Complimentary to Annual Meeting attendees |
| <input type="checkbox"/> 50-Year Member Luncheon (Tuesday, June 14)                    | \$25 each \$ _____                        |
| <input type="checkbox"/> Probate Section Luncheon (Tuesday, June 14)                   | \$25 each \$ _____                        |
| <input type="checkbox"/> Luncheon Honoring the Iowa Supreme Court (Wednesday, June 15) | \$25 each \$ _____                        |
| <input type="checkbox"/> ISBA Annual Awards Gala (Wednesday, June 15)                  | \$60 each \$ _____                        |

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

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

Credit Card #: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

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

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

Cancellation policy: Registration refunds will be issued only if written notification is received by the bar office by June 6, 2016. Written notification can be mailed, faxed, or e-mailed to the bar office.



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**ASSOCIATE ATTORNEY** – Deck Law, L.L.P., Sioux City, Iowa – Seeking an associate attorney to serve existing clients and build a client base of their own in a general practice firm consisting of five attorneys and three staff members. Must be willing to work in a variety of areas of law, but with a focus in family law, criminal defense, and civil litigation. 0-3 years of experience preferred as this is an entry-level position with advancement prospects based upon performance. Salary will reflect the entry-level nature of the position. Iowa bar admission required. Nebraska and/or South Dakota admission a plus and willingness to obtain admission to Nebraska and South Dakota required. We will consider recent examinees waiting for results. Send resume and cover letter to [tatum@decklaw.net](mailto:tatum@decklaw.net). (76-4)

**ATTORNEY** – Boliver Law Firm, Marshalltown, Iowa – Seeking an attorney to join its general practice with equal time on transactional law and litigation. The ideal candidate will possess the following qualifications: admitted in Iowa Bar for two or more years; some experience in family law, taxes and general litigation. Competitive compensation and growth opportunities. Please forward resume, in confidence, to [jboliver@boliverlaw.com](mailto:jboliver@boliverlaw.com) or [boliver@boliverlaw.com](mailto:boliver@boliverlaw.com) or mail to: Boliver Law Firm 2414 S. 2nd Street Marshalltown, Iowa 50158. (76-4)

**ASSOCIATE ATTORNEY** – Rinke Noonan Law Firm, St. Cloud, Minnesota – A growing firm with 26 attorneys seeks an associate to practice in the areas of environmental, natural resources, and agricultural law. This position's responsibilities include advising clients on environmental regulatory compliance, particularly in the areas of water law and wetland conservation compliance; representing clients in federal and state court

and before federal and state administrative agencies in a broad range of environmental, agricultural, property, and land use matters; advising and guiding municipal and local government clients, particularly watershed districts and public drainage authorities; and negotiating and drafting transactional documents related to a variety of environmental and agricultural-related matters. Interested persons should provide a resume, writing sample and law school transcript to: Rinke Noonan, Attention Ann Entenmann, P.O. Box 1497, St. Cloud, MN 56302. For more information, please review the firm's website at [www.rinkenoonan.com](http://www.rinkenoonan.com). (76-4)

**STAFF ACCOUNTANT** – Ahlers & Cooney, Des Moines, Iowa - Seeking a staff accountant to join the administrative team. The candidate should have a good general accounting background with the ability to grow and advance. Current and future duties of this position will include but not be limited to accounts receivable and accounts payable management, new account and conflict check monitoring, process expense reports, monitor library purchasing, process bi-weekly payroll including time and attendance administra-

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tion, calculate and monitor leave accruals, assist with year-end payroll tax filings, prepare bank reconciliations, assist in preparation of monthly and annual financial statements, oversee annual workers compensation audit, other duties as assigned. Send resume and cover letter to [info@ahlerslaw.com](mailto:info@ahlerslaw.com). (76-4)

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## CLASSIFIED ADS

**ASSOCIATE COUNSEL** – Farm Bureau, West Des Moines, Iowa - The associate counsel will provide legal assistance and solutions to problems and issues facing the companies within the scope of the matters assigned, and promote positive image and protection of the respective organization's corporate assets by advising, counseling and representing the Companies. The Associate Counsel will play a critical role in identifying and analyzing legislative and regulatory measures and developing and implementing policy recommendations and strategies that support the enterprises' interests. The position will establish strategic relationships with public policymakers, industry and trade associations and other external thought leaders. To apply, please visit [www.fbfscareers.com](http://www.fbfscareers.com). (76-4)

## PERSONAL

**IF DEPRESSION, STRESS, ALCOHOL OR DRUGS** are a problem for you, we can help. We are a non-profit corporation offering attorneys free help in a totally confidential relationship. We are the Iowa Lawyers Assistance Program. Under order of the Iowa Supreme Court, all communication with us is privileged and private. Our director is a former lawyer, a recovering alcoholic and drug addict. He is a trained substance abuse counselor. We

cannot help unless you call – 515-277-3817 or 800-243-1533 – or message (in confidence) [help@iowalap.org](mailto:help@iowalap.org). All you have to do is ask us to contact you. No other details are necessary. We will call you. The Iowa Lawyers Assistance Program also can provide speakers for local bar associations. Just ask. (TF)

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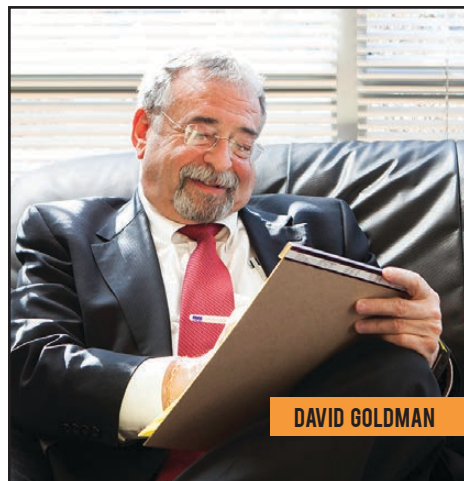
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# Finding mentors for family law practice

By Chad Eichorn

Prior to my career as an attorney I spent 10 years as a minister, not exactly the most common route to law practice. My desire to practice law was borne from seeing the tremendous negative impact that contentious divorces have on families and the burden the children of aging parents carry as they deal with the issues surrounding caring for loved ones with diminished capacities.

When I entered law school at Drake I was already married with children and had a professional career that I continued to be engaged in until I graduated. My schedule was tricky. I knew early on that after graduation I wanted to start my own practice, so in addition to my course work I read every book I could find on starting, building and managing a law practice. I was exceptionally fortunate to develop friendships with two other students who are now my partners, Charlie Bottenberg and Jeremy Masterson, who graduated a semester early and opened our firm in May of 2013. After I graduated, took and (thank goodness) passed the bar exam, I started practice in October 2013.

All the law school classes and books on starting a practice in the world cannot prepare a person for the challenges practicing law presents. I knew how to research and I knew how to cram a semesters worth

of knowledge into a three-hour series of essays, but I knew almost nothing about how to actually practice law. Luckily, I knew that I didn't know what I was doing, and my natural reaction was to ask for help.

The first thing I did after swearing in was to send out a series of emails introducing myself to other attorneys who practice family law and asked to set up times to eat lunch or get coffee. I did not see these people as opposing counsel, I saw them as colleagues and potential mentors. When we met I did not ask for referrals, I would not have known what to do with them if I had gotten many right away. What I needed was their experience, because I didn't have my own to draw from.

What I found was a collection of the most knowledgeable, professional and, most importantly, generous people I've had the good fortune to meet. My first



Attorney Chad Eichorn meets with ISBA Family and Juvenile Law Section Chair Lora McCollom at her West Des Moines, Iowa, office.

divorce case was against one of the most experienced, respected family law attorneys in the area, and it was ugly. I was hired a few days before a temporary matters mediation had been scheduled and fortunately opposing counsel would only use a handful of the very best mediators in town. After our successful mediation ended shortly after noon and I sent my client on her way, I asked for a few minutes of the mediator's time to get feedback on my lawyering during the mediation (a practice I continue to do after every mediation). I told her that it was my first mediation in my first family law case and that I was completely flabbergasted that we were able to reach an agreement. The mediator proceeded to give me the next three hours of her time and has become a tremendous mentor and friend. This is just one example of many. The relationships I have developed with these attorneys have been absolutely indispensable.

I tried to keep a handful of principles in mind while developing these relationships with attorneys. These principles would double as advice that I'd give any attorney looking to develop these sorts of relationships, regardless of how long they've been in practice.

1. **Be respectful of another attorney's time.** Especially as attorneys new to practice, we likely have more availability than the more seasoned attorney we're in contact with.

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Every hour they give us is an hour they can't spend on something else (like their own cases, their family, Netflix, sleep, etc.)

2. **Be grateful for their input and guidance and communicate that gratitude to them.** People like to be appreciated and unless we clearly communicate that we are grateful for their help, they won't know how we feel. This isn't exactly groundbreaking. Saying thank you goes a long way.
3. **Don't expect every relationship to flourish.** An attorney we are trying to develop a relationship with may not have room on their plate of us, or our personalities may not mesh well, or there are other issues that we'll never know about that don't allow them to help. I'd like to be able to say that everyone I engaged with naturally gravitated to me because I'm such a kind, handsome, sweetheart of a guy, but in reality many weren't able to fill this role and those that did probably did it (at least initially) out of a combination of pity and a desire not to have cases against an attorney who didn't have any idea what he was doing. We don't need everyone to be our mentor, we need the right one for us.

Attorneys have the ability to be examples of the pinnacle of professionalism, helping to provide guidance, clarity and stability for people in difficult circumstances. New attorneys need those who have already arrived at the summit to reach back and help us up.



**Chad Eichorn** is a partner at Masterson, Bottenberg & Eichorn, L.L.P. After spending more than 10 years in ministry and denominational administration, he earned his law degree at Drake University Law School.

## YLD Mentoring Program

The ISBA Young Lawyers Division officially launched the ISBA Young Lawyer Mentoring Program in late 2014 with the goals that the program would build collegiality, enhance professionalism, grow relationships and improve the legal profession in Iowa. The program was developed not as a strict plan participants must follow, but instead, as a series of guided discussions that are customizable to the needs of the mentee and the strengths and experiences of the mentor.

The first mentors and mentees were matched in June 2015, officially kicking off the Mentor Program. A mentor training webinar was conducted in July 2015, and a recording of the webinar is available on the ISBA website. All mentors and mentees, as well as potential mentors and mentees, are encouraged to watch the webinar on forming successful mentor relationships. Feedback from all involved with the program throughout this first year is welcome so that adjustments can be made if needed to help make future years even more of a success.

The next year-long program is set to begin in June. For questions regarding the mentoring program, contact the YLD Mentoring Committee at [mentorprogram@iabar.org](mailto:mentorprogram@iabar.org).

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