Meet the ISBA’s 128th president
JOE FELLER
Getting back to basics

ALSO IN THIS ISSUE
• Red, white & blue judiciary
• Smooth transition of deanship expected at Drake Law School
• Graduate surprised to receive citizenship award
• Hard copy title standards manual back
WHO WOULD YOU BE WITHOUT YOUR REPUTATION?

MAKE SURE YOUR REPUTATION IS PROTECTED WITH MALPRACTICE INSURANCE FROM ATTORNEY SHIELD.

Call 1-800-510-8240
www.attorneyshield.com

Scan or visit www.attorneyshield.com to learn more about Attorney Shield.
President's letter: Who’s the toughest person you know? — Cook

Rural, county-seat practitioner assumes ISBA presidency — Boekman

A red, white and blue judiciary — Ahrends

Graduate surprised to receive American citizenship award

Letters to the editor

CLE opportunities

YLD president farewell — Russell

In memoriam

Secretary woes — Ipsa

2014 legislative summary: Bills of interest to the legal profession

Classified ads

Admission on motion

Kudos

Disciplinary actions

Member benefit highlight from Lockton Risk Services

Transitions

Committees, sections backbone of ISBA activities

Hard copy title standards manual back by popular demand

Smooth transition of deanship expected at Drake — Lolkus

Iowa State Bar Association Board of Governors

OFFICERS:

Joseph M. Feller, President
Sibley, 712-754-4654
Bruce L. Walker, President-Elect
Iowa City, 319-354-1104
Arnold “Skip” Kenyon III, Vice President
Creston, 641-782-7007
Dwight Dunkla, Secretary
Des Moines, 515-697-7867
Guy R. Cook, Immediate Past President
Des Moines, 515-245-4300

DISTRICT 1A
Steven J. Drahozal
Dubuque
Gary McKin
Guttenberg

DISTRICT 1B
Beth Hansen
Urbana
John Wood
Waterloo

DISTRICT 2A
Colin M. Davison
Garnett
Bruce Toenjes
Shell Rock

DISTRICT 2B
Victoria Felsmeyer
Ames
John Jordan
Boone
Jerry Schwurr
Fort Dodge

DISTRICT 3A
John M. Loughlin
Cherokee
Koos Mohr
Storm Lake

DISTRICT 3B
Deb Dejong
Orange City
Daniel Hartnett
Sioux City

DISTRICT 4
Kathleen Kohorst
Harlan
Robert Lavinston
Council Bluffs

DISTRICT 5A
Jane Rosen Hardy
Winterset
Beverly Wietz
Guthrie Center

DISTRICT 5B
Roberta Chambers
Coralville

DISTRICT 5C
Willard “Bill” Boyd, III
Des Moines
Scott Brennan
West Des Moines
Stephen Eckley
Urbandale
Mark Godwin
Des Moines
Matthew Handfield
W. Des Moines
Dweta Hockett-Lark
Clive
Ron Koopmans
Des Moines
Thomas Levas
West Des Moines
Anjeta (Anju) Shunts
Des Moines
Donn Stanley, Jr.
Urbandale
Janice Thomas
Des Moines

DISTRICT 6
Matthew Brandes
Cedar Rapids
Lori Klockau
Iowa City
Robert Leinen
North English
Jonathan D. Schmidt
Cedar Rapids

DISTRICT 7
Randy Current
Clinton
Craig Oppel
Muscatine
Jan J. Russell
Bettendorf

DISTRICT 8A
Robert Brekenridge
Ottumwa
Roy J. Mitchell
Ottumwa

DISTRICT 8B
Brian Helling
Burlington

YLD OFFICERS:

Ams Hill, President
Urbandale, 515-558-0136
Joseph Goedken, President-Elect
Ottumwa, 641-682-5447
Reed McManigal, Secretary
Iowa City, 319-887-3688
Ian Russell, Immediate Past President
Davenport, 563-324-3246

ABOUT THE COVER

Joe Feller is the first president in 56 years from the northwest Iowa town of Sibley. In practice for 36 years, he is proud to say he is a rural, county-seat lawyer, and credits the ISBA for helping him in many different ways throughout his career. Now he’s ready to give back to the association. He plans to get “back to basics” during his presidential year. By that, he intends for the association to re dedicate itself to serving members, supporting the courts and access to justice, and urging members to be active in their communities. Learn more about Joe and what he wants to do as president in the article beginning on page 7.

IOWA LAWYER

July 2014
Who is the toughest person you know?

We can all think of someone — someone famous and someone not so famous — be it a friend, a family member, a professional colleague, or a sports hero.

For me, two come to mind. The famous one, Dan Gable, lost only one match in his entire high school and collegiate career — his last — and won a gold medal at the 1972 Olympics, while not giving up a single point.

The other one is not so famous. He was born on a Friday, six weeks early. His father was not there. He was traveling out of town. When his father arrived at the hospital, the first person to greet him on a quiet and dimly lit hospital floor was a Catholic priest. The doctors said the infant would not live four hours. When he did, they said he would not live the weekend.

He was in the pediatric intensive care unit on a ventilator. Due to his critical condition, he was transported to the specialists at the University of Iowa Hospitals and Clinics. The doctors said he would eventually need an organ transplant to survive.

On the sixth day of his life, he had a cardiac arrest. He was brought back to life by the physicians at the U of I. He spent many months in Iowa City in the pediatric intensive care unit. His mother drove from Des Moines to Iowa City and back each day. On the weekends, his father would come, sometimes riding with his buddies who were headed to Kinnick Stadium for Iowa football.

His father would hold him on the weekends. His mother would hold him during the week.

He would eventually return to Des Moines, but would spend time in the intensive care unit. When he was strong enough, he was able to come home. He was kept alive on a feeding tube inserted through his nose. He would be on the feeding tube for the next two years.

When he was 17 months old, the doctors determined he was ready for a transplant. His father donated his left kidney for the transplant. The surgery was conducted by famed Minnesota surgeon, Dr. John Najarian, who performed the operation on both.

The organ transplant was a success. He took a daily regimen of pills to prevent rejection. As he grew stronger he pursued his innate love of all sports, particularly baseball, and played hard. He never complained.

When he was in kindergarten at Greenwood Elementary in Des Moines, he began to reject his father’s kidney. By six he was on dialysis to stay alive. He had a line in his chest implanted to allow access by the dialysis equipment to clean his blood for four hours, three times a week. He never complained.

Even though the young boy had a line surgically implanted in his chest, it did not stop him from playing baseball. When he was on dialysis he spent the hours watching the Chicago Cubs and sometimes the Atlanta Braves. The many hours in the dialysis chair watching baseball allowed him to acquire knowledge of the game far beyond his years. The young lad continued on dialysis for almost two years. He never complained.

Just after his eighth birthday he won the organ lottery. A match was found for him for a second organ transplant. An organ was donated by a young man who had been killed in an accident in Minnesota.

The second organ transplant was a success. With all organ transplants, however, the process was not a cure, but a form of treatment for the illness the boy had been born with, polycystic kidney disease.

For the next 10 years, he continued to play baseball and live life to the fullest. He had one speed — full throttle. He took up wrestling in high school, a sport he would eventually compete in at the varsity level and letter in. He was also a member of the Guts Club, limited to those team members who had never missed a practice. Throughout the years he continued to take his daily anti-rejection medicines and other pills, more than 22 pills a day. He never complained.

During his senior year of high school he began to reject the second transplanted organ and by March of his senior year he was being kept alive on dialysis — four-to-five hours a day, three days a week. He would eventually take the special training to do home dialysis. A dialysis machine was outfitted in his room with electricity and plumbing. He dialyzed every day in his bedroom. Each session he would put in the large two needles in his leg himself to connect his body to the machine. He remained on dialysis with the prospect it would be the nature of his life. He
never complained. While on dialysis he saw the need to bring public awareness to children with renal failure. He began building the framework for a non-profit foundation. His goal was to bring awareness to children on dialysis and to provide them with entertainment and educational material while they were on dialysis and see that this was spread to dialysis centers throughout the United States. He formed a foundation called TheGutsGearFoundation.org.

In July of 2012, after nearly 16 months on dialysis, incredibly and improbably he won the organ lottery again. He would receive an unprecedented third organ transplant.

The organ came from California. The donor gave away all the organs he could, except his other kidney. That kidney had a cancerous lesion and was not suitable for donation.

Just before the third organ transplant surgery was to begin, the doctors notified the young man the organ he was to receive also had a cancerous lesion, but that it had been removed. The doctors asked the young man if he wished to proceed with the transplant nevertheless. He thought about it only briefly, before telling the doctors “we have a deal.”

The third organ transplant was successful. The transplant was not quite the same as the two before, however. His energy never raised to the level of what he had experienced from the previous organ transplants. Nevertheless, he was not on dialysis and went about his life as best he could.

About seven months after his third transplant, his lab work indicated he had a virus. The virus had come with the organ that had been transplanted. The virus was called CMV. It is treated with a strong medicine. Unfortunately, the young man’s body was resistant to the medicine that would treat this virus. The virus continued to grow in his body.

During this time he secured the job of his lifetime, bat boy for the Iowa Cubs. It was a job he loved. As the virus continued to grow, however, his strength wore down. He never complained.

Eventually, the doctors chose to see if an experimental drug would help turn back the growing virus. As the July 4th holiday was approaching, the young man finished his work at the Iowa Cubs and went to Chicago for a planned trip to see the Chicago Cubs play at Wrigley Field on July 6 and 7. He made the trip, and the Cubs won both games!

On the following Monday, July 8, he was to travel to Minnesota and begin his experimental drug treatment. When he arrived, the doctors said he was too sick to leave, but they would nevertheless begin the drug treatment. Within a few days, however, his condition worsened. He was transferred to the intensive care unit and was put on a ventilator the third day of his hospitalization. He remained on the ventilator struggling to stay alive until the virus finally took over. He died 11 days later, on July 21, 2013. He never complained.

The young man I have described, the toughest person I have ever known, was John R. Cook. He was my son.

“Gold medals aren’t really made of gold. They’re made of sweat, determination, and a hard-to-find alloy called guts.”

– Dan Gable

What is toughness?

The question got me thinking about what makes a truly tough lawyer.

Regrettably, many lay people and even some lawyers think toughness as a lawyer is akin to being mean, malicious, unreasonable, obstructional, unaccommodating — the “junkyard dog” comes to mind.

True toughness as a lawyer is none of those things. A tough lawyer is confident, passionate and persistent. Most important is persistence. Indeed, it is perseverance and passion to achieve a goal that defines toughness for me.

I truly tough lawyers have a clear goal they work towards. They don’t let short-term failures or negative feedback stop them from continuing the march toward their goal. Tough lawyers work on a schedule, not just when they feel motivated.

Motivation is fickle. Willpower comes and goes. But toughness isn’t about getting an incredible dose of inspiration or courage. It’s about building the daily habits that allow a person to stick to a schedule and overcome challenges and distractions over and over again. Tough people don’t have to be more courageous, more talented, or more intelligent, just more consistent.
Toughness isn’t about bravado or being meanspirited. It is about meeting challenges head-on and not shrinking from them. It’s about sticking to your values. It’s about honesty.

Research has shown that mental toughness — or “grit,” as it is sometimes called — plays a far more important role than anything else in achieving one’s goals. That’s good news, since none of us can do much about the genes we were born with, but we can all do a lot to improve mental toughness.

So in a word, toughness is perseverance.

The next time someone says “I want a really tough lawyer” or “Do you know a ‘tough lawyer’?” answer them by saying “Do you mean someone with perseverance, passion and grit?”

I’m sure in my own journey, I have fallen short many times on the standard of toughness I have described and expect of myself.

But when we get knocked down we should all strive to be tough enough to get up and keep fighting. The tough lawyer knows how to overcome the inevitability of obstacles and adversity. We can all be tougher and we can be tougher together.

Presidential roundup

As I reflect upon my year as president of the oldest voluntary bar association in the country, I must thank all those who have come before me in this great organization. Specifically, I wish to thank Bob Waterman and Cindy Moser who held this post before me. They were great supporters and provided guidance for me as I took the gavel. I also want to thank the fine bar staff of the ISBA, Executive Director Dwight Dinkla, Assistant Executive Director Harry Shipley, and Communications Director Steve Boeckman are outstanding. As I have said many times at the bar office, the ISBA outperforms its assets.

I would be remiss if I did not also thank the person I have referred to frequently as “the keeper of the flame,” Dr. David L. Brown, Esq. David has provided invaluable counsel and advice during my term as president. I also want to thank my family and my firm for giving me this opportunity. It is one I will never forget.

Among the successes we can count in the past year as a bar are the improved public outreach of the ISBA, the work of the Blue Ribbon Committee on Legal Education and Licensure, the return of luster to our annual meeting, and advancements in technology and the digital law office, just to name a few.

It has been my great privilege and honor to serve as your 127th Iowa State Bar Association president. I cannot thank all of you enough for this experience.

Best wishes to Joe Feller of Sibley, our new ISBA president. I am confident Joe will be a great leader of our organization.

As always, feel free to reach out to me at any time with any comments, complaints, or suggestions. I welcome them. My email: gcook@grefesidney.com.

Best regards,

Guy R. Cook

---

Keeping it simple.

Only in Iowa can you be part of a unique partnership like Title Guaranty. Our attorney/abstractor system brings together local resources for a simple, affordable and secure system. And all excess revenue helps first time Iowa homebuyers.

Only in Iowa — and only with Title Guaranty.

TITLE GUARANTY

800-432-7230 • 515-724-4900
www.iowatitleguaranty.gov
**Rural, county-seat practitioner assumes ISBA presidency —**

**Joe Feller plans to focus on ‘Back to Basics’ during his presidential year**

*By Steve Boeckman, Communications Director*

The ISBA’s 128th president leaned back in his office chair. “I’ve been very fortunate to practice in a rural, county-seat town,” he says. “It was a great place to raise our children (he and his wife Jane, a public health nurse working in Worthington, Minn., have four), and it is nice to walk uptown and greet people you know along the way.”

Joe Feller arrived in Sibley, county seat for Iowa’s Osceola County and the highest point in Iowa at 1,670 feet, in August 1978 to join the firm of Koopman & Kennedy. He was hired in the spring of that year to join the firm prior to his graduation from the Creighton University School of Law and successful completion of the bar exam in June. But he had planned to delay his arrival for a few months while he wrapped up his father’s protective coatings business in Waukon on the opposite end of the state. The business was sold in the Fall of 1978.

He had made weekend trips to Waukon from Omaha throughout his last semester of law school to help with the family business after his father suffered a number of heart-related illnesses beginning in December 1977. However, a phone call from Frank Kennedy, his uncle, on July 25, 1978, telling him that Harold “Pete” Koopman had died unexpectedly forced him and Jane to hasten their move to Sibley.

Thirty-six years later, Joe is a solo practitioner in the town of nearly 2,800. His uncle Frank retired three years ago. He operates a general practice, although these days the focus is largely on probate, real estate and other transactional matters. Donna Henrichs, his assistant who actually has been with the firm longer than he has, helps him keep everything on schedule.

**Why would a solo practitioner, county-seat lawyer run for ISBA president?**

The 61-year-old, oldest of six children, ticks off a number of reasons. Jokingly, he says that he has time “to squeeze bar work into his schedule” now since all the kids are grown and gone, his wife works out of town, the dog is dead and he’s not obligated to attend any more sporting events or other school activities.

Besides that, it’s time for Sibley to have another bar president, he laughs. The last president was Louis Corcoran who served from 1958-59.

In a more serious vein, however, he says his public service work during his life is not yet over. As a member of the greatest service profession ever, he believes there are things he can do for others, not for himself. There are still some things he’d like to accomplish before his final deadline.

Actually, Joe has a long history in Sibley and in the law. His great, great grandfather, P.A. Cajacob, was a member of the county board of supervisors when the Osceola County courthouse was built in 1902. His paternal grandfather, Edward F. Kennedy, was a lawyer there until being appointed as a district court judge. His uncle Frank came to Sibley to take over his grandfather’s practice.

And, he wanted to be a lawyer from the time he was a child. In fact, he says his first clients were his classmates in junior high school at St. Patrick’s Catholic school in Waukon. He would accompany them to the principal’s office to plead their cases with the principal when they got into trouble.

His love of the law and the assistance he received over the years from the ISBA has helped him formulate his goals for his presidential year. Those goals center around the theme “Back to Basics.” So many changes are occurring in the legal world that “we need to go back, examine our mission and continue on as the best voluntary bar association in the country,” he explains.

As he sees it, “we need to re-examine why we exist as an organization and re-dedicate our mission” to: 1) Serving the members, 2) supporting the legal community and justice system in the state, and 3) serving the community at large.
Serving the members

Because the committees and section councils do all the hard work for the bar, Joe plans to rely on them to produce the tools needed to help members be successful lawyers. Specifically, he is challenging the committees and section councils to:

1) Update their presence on the ISBA website. The bar has worked hard in the last couple of years to improve the website.

And, it’s a fantastic tool, he says.

“What we need to do now is to follow up with each section council and committee to produce literature, white papers, videos, interesting articles and other tools on the subject matter of their councils or committees. These would be educational tools that would be available right on the website,” he says.

2) Prepare legislative proposals in advance and put them on the website prior to being considered by the ISBA Board of Governors. That way, members involved in other sections have a chance to review the proposals being presented.

While it is board policy to ask the proponent of a proposal what other sections think, it would be important for those councils themselves to let the board know if they agree or disagree. Of course, then both sides can be represented at a meeting of the BOG and the board can make an informed decision.

He also wants section councils to help develop new legal forms that can be incorporated into IowaDocs®.

“These committees and sections have been doing good work for years,” he says. “The results are evident with all the forms we have on IowaDocs®, our jury instructions — just go down the list. I think if we can work on these basic items, we can produce more tools for our members to be better lawyers.”

Supporting the legal community and justice system

Part of the bar’s mission is to support the justice system in the state. This includes supporting the courts and other measures that ensure access to justice for all.

“We will continue to facilitate the work of the supreme court,” he says. “We will support full funding of the courts, and participate and support various court reforms and improvement initiatives such as the fast track litigation rules that are coming out.

“We will also continue to defend the court against unwarranted criticism,” he says.

As part of supporting the court, a big portion of the bar’s mission is to facilitate access to justice, Joe says.

“I’ve asked the Access to Justice Committee to look at three different issues this year — the legal access job corps program that the current ABA president is promoting, legal services for undocumented persons statewide and the issue of human trafficking,” he says.

The legal access job corps program, sometimes referred to as a “low bono” program, matches underemployed attorneys with people who can’t afford to pay the full rate. Joe has asked the committee to study the ABA report and to look at other state programs that have started low bono projects.

He has also asked the Access to Justice Committee to review the problem of providing legal services to undocumented persons. The goal is to determine what role the ISBA should play in the issue.

“Quite possibly we could partner with other organizations, or maybe we can just raise awareness of the issue,” he says.

With regard to human trafficking, it takes place in Iowa and it’s often unrecorded, he says. Individuals are exploited for labor, sex and other purposes through force, coercion and other means. Again, the question is what can the ISBA do, and should the association be partnering with other organizations?

Joe says the opportunities he has had as a bar leader to attend national meetings have made him aware that the cost of going to law school has a real impact on the delivery of legal services, and introduced him to ideas: other states are trying to reduce the problem. The low bono concept being promoted by the ABA president has some possibilities. It would employ new attorneys who can’t find a job, and it could help provide legal assistance to people of limited means who don’t seek legal advice.
when they have a legal problem.

As far as other matters — undocumentéed persons and human trafficking — “we see that all over the place,” he says. “We have people working all over the state of Iowa who are undocumentéed. When they get into a situation, they are afraid to ask for help because they are undocumentéed. I think this committee can investigate that situation and recommend what role, if any, we can play in trying to bring awareness to their needs.

“And, the same for human trafficking. That’s really a huge problem, and something we should do something about. Other organizations are bringing awareness of that issue to us. Where are we? We’re not at that table.

“We are the lawyers Iowa depends on,” he continues. “And, so if there’s an issue out there, a lot of times we are the explainers-in-chief. We aren’t going to sit in our offices and ignore the plight of society. We have a responsibility as part of our mission — at least in my view — to discuss these issues and to bring awareness to the problem.

“I’m not sure what our role will be. I’m looking to the committee to investigate and make suggestions because the BOG will decide how the bar is going to be involved, if at all. From the very least, we will raise awareness. And maybe we can join other partners. But I don’t know what the solutions are at this point. That’s why we will rely on the committee.

“I’m very interested in using my position to raise the issue because I think we have an obligation to look out for the rights of all people. As a bar association, we cannot ignore these types of issues that affect our society.”

Serving the community at large

“We will also continue to encourage our members to become active leaders in their communities and help tell the story about what they are doing,” he says.

Ongoing projects

There are issues that have carried over from previous administrations that he plans to continue working on because, as he puts it: “A president’s term is just a nanosecond in the life of the bar association.” Chief among those ongoing projects is the diploma privilege: “I’m 100 percent in support of the committee’s recommendations and will do what I can to help explain the advantages of the proposal,” he says.

In addition to the diploma privilege, the ISBA will continue to raise awareness about courthouse security. And, if there is anything the association can do to assist members in full implementation of EDMS, it will try to do that.

Joe also plans to work closely with the Rural Practice Committee to promote the summer internship program for law students. Committee members are going to be asking members to consider bringing a law student into their offices for the summer, he says.

He also is interested in helping new members succeed. With that in mind, he is very interested in supporting the new YLD mentoring project, which is expected to be presented to the BOG at its September meeting.

Finally, there’s the issue of transitioning in and out of practice for lawyers planning to retire and new lawyers wanting to get started.

“I will be interested, during my term, to see if maybe we can bring back the Master Lawyer Committee to see if the bar can be a resource center for lawyers who are contemplating retirement in the next few years and are looking for someone to come in and work with them,” he says. “It’s always a better transition to have that new lawyer in your office for a few years as you step away from the practice.”

In his inaugural speech shortly after receiving the gavel from outgoing president, Guy Cook, Joe stated what probably sums up his feelings about the ISBA presidency.

“It is with great honor that I accept the challenge of serving as the 128th president of the best and oldest voluntary bar association in the country,” he stated. “This is a responsibility of the highest degree, and I represent to you that I will devote all my energy during the next year to the mission of the ISBA.”

Joe stirrs vegetables on the grill on the back patio of his home. Grilling is one of his favorite leisure-time activities.
“[A] brighter future for Iowa is told by the cases that have become pieces of the mosaic of today’s understanding of justice and equality.”

—Chief Justice Mark S. Cady, 2011 State of the Judiciary

The Fourth of July, or Independence Day, is traditionally a day to celebrate the beginning of our great country, but there is even more to celebrate in Iowa this year. The Fourth of July also marked the 175th anniversary of the Iowa Supreme Court’s first published opinion, In the Matter of Ralph, 1 Morris 1 (1839), and what an opinion it was. The Iowa Supreme Court outlawed slavery in the territory of Iowa 18 years before the United States Supreme Court upheld the practice of slavery in Dred Scott v. Sandford, 60 U.S. 393 (1857), and 26 years before the passage of the 13th Amendment in 1865. Not only was In the Matter of Ralph the first tile in the “mosaic” of Iowa’s “understanding of justice and equality,” but the opinion has served as a 175-year-old loadstar for “justice and equality” in the state and continues to provide guidance as seen in one of Iowa’s recent additions to the mosaic, Varnum v. Brien, 763 N.W.2d 862 (Iowa 2009).

However, Iowa’s recent addition to the mosaic brought with it an unprecedented challenge to the balance of judicial independence in the state that sent shockwaves throughout the country. Unlike Article III federal judges, who hold their office for life during good behavior, many state judges, including the ones in Iowa, are chosen through a variety of judicial selection systems, which, in part, leaves judicial independence vulnerable. At this point you may be wondering, I hope, why so many states have chosen to leave judges without the full armor of judicial independence and what can specifically be done in Iowa to ensure another 175 years of judicial opinions.

The first question can be answered by reviewing the historical dichotomy surrounding judicial independence. One preeminent example is the grappling between Federalists and Antifederalists during the formation of the federal judiciary. In Federalist No. 78, Alexander Hamilton thought “[t]he complete independence of the courts of justice [was] peculiarly essential in a limited Constitution” and believed “[p]eriodical appointments, however regulated, or by whomsoever made, would, in some way or other, be fatal to [a judge’s] necessary independence.” On the other hand, Antifederalists were concerned there would be no way to correct the errors of judges and thought their power was in many cases superior to that of the legislature. While Article III ultimately encapsulated the Federalists’ wishes for the judiciary, the debate over judicial independence did not start or stop here. Challenges to judicial independence predate the framing of the Constitution or even the July 4th, 1776, signing of the Declaration of Independence.

The origins of the debate over judicial independence date back to the royal colonies where the colonists had become increasingly suspicious of the British Crown’s exercise of appointment and removal power over colonial judges. Judges in the royal colonies held their office during pleasure, not during good behavior, which meant judges could be removed for defying the Crown’s wishes. In addition, colonists disfavored the Crown’s fee-based compensation scheme for colonial judges because it incentivized...
Compassed President Andrew Jackson’s vision for voter control over all aspects of government. Andrew Jackson’s presidency, and what later became known as the Jacksonian period, ushered in a new era of enthusiasm for popular elections—including the judiciary.

During the Jacksonian period, many states that had previously appointed judges with tenure passed constitutional amendments requiring popular election or appointment of judges. In 1812, Georgia became the first state in American history to use popular elections to select judges. Georgia’s swift shift to judicial elections was primarily driven by two United States Supreme Court decisions that Georgia citizens viewed as the unpopular workings of unchecked judicial power. In the first decision, *Chisholm v. Georgia*, 2 U.S. (2 Dall.) 419 (1793), the court held federal courts had the power to hear disputes between private citizens and states even if the state had not voluntarily waived its sovereign immunity—a decision that was shortly thereafter abrogated by the passage of the 11th Amendment. In the second, *Fletcher v. Peck*, 10 U.S. (6 Cranch) 87 (1810), the court declared the Georgia legislature’s act of repealing the Yazoo Land Act void because it violated the Contracts Clause of the United States Constitution, which happened to be the first time the court had ever invalidated a state law as unconstitutional.

Although judicial elections were slow to catch on at first, by the early 1860s nearly two-thirds of the states in existence used them, but judicial elections were not without problems. For one, the politics surrounding judicial candidates in judicial elections increasingly led to unqualified candidates and corruption. In many cases, bar associations could only hope the elections produced judges with some level of legal ability. Moreover, judicial elections had the added effect of transforming judges into judicial representatives because they could be removed without impeachment.

Supporters of judicial elections had originally thought that allowing judges to be subjected to the popular will of the people would allow them to command more power and prestige. However, as Roscoe Pound famously observed, “[p]utting courts into politics and compelling judges to become politicians . . . had[d] almost destroyed the traditional respect for the bench.”

One proposed alternative to the shortcomings of judicial elections was to copy Article III and provide state judges with life tenure, but widespread conviction that judges should be subject to some form of accountability made the idea inoperable. In 1913, another proposal came from Albert M. Kales, a Northwestern University law professor. His proposal involved a non-political commission composed of members of the bar that would nominate the best-qualified candidates for judicial office. After the candidates were nominated, the popularly elected chief justice would select one of the nominees. The nominee would then serve for an initial fixed term but would run unopposed in a retention election for any subsequent terms.

In 1926 and 1931, both Harold Laski, a British political scientist, and the Grand Jury Association of New York advanced proposed modifications to Kales’ judicial selection system respectively. Laski proposed the executive have the power to select the nominee instead of the chief justice while the Grand Jury Association of New York proposed the non-political commission include lay citizens. Both proposals were incorporated into the American Bar Association’s 1937...
recommendation of the so-called Kales–Laski system of judicial selection. It proposed the following:

(a) The filling of vacancies by appointment by the executive or other elective official or officials, but from a list named by another agency, composed in part of high judicial officers and in part of other citizens, selected for the purpose, who hold no other public office.

(b) If further check upon appointment be desired, such check may be supplied by the requirement of confirmation by the State Senate or other legislative body of appointments made through the dual agency suggested.

(c) The appointee shall after a period of service be eligible for reappointment periodically thereafter or go before the people upon his record with no opposing candidate, the people voting upon the question, Shall Judge _____ be retained in office?

Missouri became the first state to adopt the American Bar Association’s proposed Kales–Laski system of judicial selection and retention in 1940. What we now refer to as the Missouri plan or the merit plan has been adopted by many states in its entirety or in a modified form to allow for the involvement of the legislature or an executive commission. Iowa adopted the Missouri plan, or the merit plan, in 1962 and continues to use it today.

At least until 2010, this system has seemingly maintained the delicate balance between judicial independence and judicial accountability that has been the subject of much discussion and debate throughout history. However, the 2010 retention election served as a shot across the bow to remind Iowa’s bench and bar that elections are still political by nature and depend upon an informed electorate for interests in judicial independence to be adequately balanced. United States Supreme Court Justice Stephen Breyer stumbled across some troubling findings while writing his book, Making Our Democracy Work: A Judge’s View, in 2010. He notes “only one-third of all Americans can name the three branches of government (two-thirds can name a television judge on ) . . . and three-quarters of our population does not understand the difference between a judge and a legislator.” Near the end of his book, Justice Breyer surmises that “[a] public that does not understand the judiciary, its role in protecting the Constitution, and the related need for judicial independence may act in ways that weaken the institution.” His conclusion seems spot on.

Iowa’s current judicial selection system appears to be here to stay for the same reasons throughout history that I have highlighted. However, there are steps we can take and many have already been taken—such as Iowa’s traveling appellate courts—to ensure Iowa’s judiciary remains one of the best in the country. For example, when you celebrate Independence Day and 175 years of Iowa Supreme Court scholarship, take time to tell a friend or a neighbor about Iowa’s judiciary and how its independence truly rests in their hands.

* Aaron W. Ahrendsen is a 3L at Drake University Law School and is currently working as a law clerk at Hopkins & Huebner, P.C.
Receiving the ISBA’s American Citizenship award at his high school graduation in late May was a surprise for Edson Bonilla, Des Moines.

The 17-year-old Hoover High School graduate said he had no idea he was going to win an American Citizenship award. There were three winners in his class of 200-plus graduates; he was the last one announced.

Edson isn’t the typical student. His mother, a single parent, was arrested for possession of narcotics in June 2012. The Iowa Department of Human Services took him and his eight-year-old brother, Kevin, and placed him with Des Moines Family Law attorney Diane Dornburg, and his brother with his biological father in Des Moines.

He has known Diane since he was little, mostly because his younger cousin Isabella (“Bella” for short) has lived with her most of her life.

He doesn’t know where his father is. He was from Mexico and lived in California where Edson lived until he was four years old when his mother moved to Denver to be near Edson’s uncle. Now, Edson doesn’t know if he’s still in California or if he has moved back to Mexico.

He may not be the typical student, but he has made the best use of opportunities presented to him. He enrolled in the Science Bound program through the Des Moines Public Schools when he was in eighth grade. The program is designed for students who major in STEM (science, technology, engineering and math) courses, and gives them an opportunity for a full scholarship to Iowa State University.

Edson received the full scholarship. However, he received permission to delay his entrance into ISU for a semester while he completes his boot camp and school of infantry training in the U.S. Marine Corps and enters the Marine Reserves.

“When I was younger, I always wanted to join the military,” he says of his decision to go into the Marine Corps, before starting college. “I was always fascinated by it.”

As he approached his 17th birthday last year, he sent information to all of the military branches. The morning after his 17th birthday, a Marine recruiter in dress blues knocked on the door of Diane’s house and asked to talk with him. He decided to join the Marines because “they were the first to come to me.”

He says his mom was “very proud, and very supportive,” although he couldn’t see her full reaction due to the nature of the prison communications system. Diane was also “very supportive,” he says. As his legal guardian, she had to sign the permission forms in order for him to join.

“Diane has raised 10 kids, and she has always told us to do wanted we wanted to do,” he says.

Edson suspects his decision to join the Marines played a role in his receipt of the American Citizenship award. He was the only one in his class to join the Marines. However, he also took a government course when he was a junior in high school and made an A. Ditto for his economics courses. Government and economics are two subjects he especially likes.

After he returns from his Marine Corps training the week of Thanksgiving, he’ll head to ISU to start his college classes when the second semester begins in January. He’ll most likely major in biopsychology with perhaps an economics minor.

Regardless, the journey he has already made and the road he expects to travel in the future illustrate the intent of the ISBA's American Citizenship awards that are made possible by the financial support of the Iowa State Bar Foundation. Those awards are given annually to students graduating from high school who are chosen by the school faculty based upon their demonstrated possession of “truly outstanding qualities of American Citizenship,” not scholastic, popularity or athletics. According to the rules governing who receives the award, the student “should be active in student and community activities and be a reliable and upstanding individual.”

Attorney members in each community award a certificate and pin to the selected student during high school commencement exercises. Some county bar associations also provide a financial or other type of gift with the award.
Mr. Cook:  
I read with interest your letter in the March (yes, I’m late) edition of the Iowa Lawyer, “What kind of lawyer are you?” I have managed litigation for several insurance carriers nationwide and would agree wholeheartedly with your comments. My “measuring stick” of lawyers was the late Ted Duffield who provided me with SO MANY insights as to what to look for in selecting counsel, many/most of those being outlined in your letter. My feelings for Ted mirror those you have for Ray Rosenburg and made me pause during last evening as I read your letter and pondered how lucky I’ve been to interact with those type of lawyers since my graduation from the Iowa Law School.

My career has let me experience working on litigation in all 50 states and I can honestly say that the quality of the legal system, the lawyers and the Bar Association of the State of Iowa take second to NO other state!! As the ISBA’s Member Mark says, I am a PROUD IOWA Lawyer!

Thanks for serving the Association and for your insights.

Brent A. Bates, JD/CPCU  
Senior Vice President/Director of Claims  
Hortica Insurance & Employee Benefits  
Edwardsville, Ill.

Mr. Cook:  
I read with interest your letter in the March (yes, I’m late) edition of the Iowa Lawyer, “What kind of lawyer are you?” I have managed litigation for several insurance carriers nationwide and would agree wholeheartedly with your comments. My “measuring stick” of lawyers was the late Ted Duffield who provided me with SO MANY insights as to what to look for in selecting counsel, many/most of those being outlined in your letter. My feelings for Ted mirror those you have for Ray Rosenburg and made me pause during last evening as I read your letter and pondered how lucky I’ve been to interact with those type of lawyers since my graduation from the Iowa Law School.

My career has let me experience working on litigation in all 50 states and I can honestly say that the quality of the legal system, the lawyers and the Bar Association of the State of Iowa take second to NO other state!! As the ISBA’s Member Mark says, I am a PROUD IOWA Lawyer!

Thanks for serving the Association and for your insights.

Brent A. Bates, JD/CPCU  
Senior Vice President/Director of Claims  
Hortica Insurance & Employee Benefits  
Edwardsville, Ill.

Mr. Cook:  
I read with interest your letter in the March (yes, I’m late) edition of the Iowa Lawyer, “What kind of lawyer are you?” I have managed litigation for several insurance carriers nationwide and would agree wholeheartedly with your comments. My “measuring stick” of lawyers was the late Ted Duffield who provided me with SO MANY insights as to what to look for in selecting counsel, many/most of those being outlined in your letter. My feelings for Ted mirror those you have for Ray Rosenburg and made me pause during last evening as I read your letter and pondered how lucky I’ve been to interact with those type of lawyers since my graduation from the Iowa Law School.

My career has let me experience working on litigation in all 50 states and I can honestly say that the quality of the legal system, the lawyers and the Bar Association of the State of Iowa take second to NO other state!! As the ISBA’s Member Mark says, I am a PROUD IOWA Lawyer!

Thanks for serving the Association and for your insights.

Brent A. Bates, JD/CPCU  
Senior Vice President/Director of Claims  
Hortica Insurance & Employee Benefits  
Edwardsville, Ill.

Mr. Cook:  
I read with interest your letter in the March (yes, I’m late) edition of the Iowa Lawyer, “What kind of lawyer are you?” I have managed litigation for several insurance carriers nationwide and would agree wholeheartedly with your comments. My “measuring stick” of lawyers was the late Ted Duffield who provided me with SO MANY insights as to what to look for in selecting counsel, many/most of those being outlined in your letter. My feelings for Ted mirror those you have for Ray Rosenburg and made me pause during last evening as I read your letter and pondered how lucky I’ve been to interact with those type of lawyers since my graduation from the Iowa Law School.

My career has let me experience working on litigation in all 50 states and I can honestly say that the quality of the legal system, the lawyers and the Bar Association of the State of Iowa take second to NO other state!! As the ISBA’s Member Mark says, I am a PROUD IOWA Lawyer!

Thanks for serving the Association and for your insights.

Brent A. Bates, JD/CPCU  
Senior Vice President/Director of Claims  
Hortica Insurance & Employee Benefits  
Edwardsville, Ill.

Mr. Cook:  
I read with interest your letter in the March (yes, I’m late) edition of the Iowa Lawyer, “What kind of lawyer are you?” I have managed litigation for several insurance carriers nationwide and would agree wholeheartedly with your comments. My “measuring stick” of lawyers was the late Ted Duffield who provided me with SO MANY insights as to what to look for in selecting counsel, many/most of those being outlined in your letter. My feelings for Ted mirror those you have for Ray Rosenburg and made me pause during last evening as I read your letter and pondered how lucky I’ve been to interact with those type of lawyers since my graduation from the Iowa Law School.

My career has let me experience working on litigation in all 50 states and I can honestly say that the quality of the legal system, the lawyers and the Bar Association of the State of Iowa take second to NO other state!! As the ISBA’s Member Mark says, I am a PROUD IOWA Lawyer!

Thanks for serving the Association and for your insights.

Brent A. Bates, JD/CPCU  
Senior Vice President/Director of Claims  
Hortica Insurance & Employee Benefits  
Edwardsville, Ill.

Mr. Cook:  
I read with interest your letter in the March (yes, I’m late) edition of the Iowa Lawyer, “What kind of lawyer are you?” I have managed litigation for several insurance carriers nationwide and would agree wholeheartedly with your comments. My “measuring stick” of lawyers was the late Ted Duffield who provided me with SO MANY insights as to what to look for in selecting counsel, many/most of those being outlined in your letter. My feelings for Ted mirror those you have for Ray Rosenburg and made me pause during last evening as I read your letter and pondered how lucky I’ve been to interact with those type of lawyers since my graduation from the Iowa Law School.

My career has let me experience working on litigation in all 50 states and I can honestly say that the quality of the legal system, the lawyers and the Bar Association of the State of Iowa take second to NO other state!! As the ISBA’s Member Mark says, I am a PROUD IOWA Lawyer!

Thanks for serving the Association and for your insights.

Brent A. Bates, JD/CPCU  
Senior Vice President/Director of Claims  
Hortica Insurance & Employee Benefits  
Edwardsville, Ill.

Mr. Cook:  
I read with interest your letter in the March (yes, I’m late) edition of the Iowa Lawyer, “What kind of lawyer are you?” I have managed litigation for several insurance carriers nationwide and would agree wholeheartedly with your comments. My “measuring stick” of lawyers was the late Ted Duffield who provided me with SO MANY insights as to what to look for in selecting counsel, many/most of those being outlined in your letter. My feelings for Ted mirror those you have for Ray Rosenburg and made me pause during last evening as I read your letter and pondered how lucky I’ve been to interact with those type of lawyers since my graduation from the Iowa Law School.

My career has let me experience working on litigation in all 50 states and I can honestly say that the quality of the legal system, the lawyers and the Bar Association of the State of Iowa take second to NO other state!! As the ISBA’s Member Mark says, I am a PROUD IOWA Lawyer!

Thanks for serving the Association and for your insights.

Brent A. Bates, JD/CPCU  
Senior Vice President/Director of Claims  
Hortica Insurance & Employee Benefits  
Edwardsville, Ill.

Mr. Cook:  
I read with interest your letter in the March (yes, I’m late) edition of the Iowa Lawyer, “What kind of lawyer are you?” I have managed litigation for several insurance carriers nationwide and would agree wholeheartedly with your comments. My “measuring stick” of lawyers was the late Ted Duffield who provided me with SO MANY insights as to what to look for in selecting counsel, many/most of those being outlined in your letter. My feelings for Ted mirror those you have for Ray Rosenburg and made me pause during last evening as I read your letter and pondered how lucky I’ve been to interact with those type of lawyers since my graduation from the Iowa Law School.

My career has let me experience working on litigation in all 50 states and I can honestly say that the quality of the legal system, the lawyers and the Bar Association of the State of Iowa take second to NO other state!! As the ISBA’s Member Mark says, I am a PROUD IOWA Lawyer!

Thanks for serving the Association and for your insights.

Brent A. Bates, JD/CPCU  
Senior Vice President/Director of Claims  
Hortica Insurance & Employee Benefits  
Edwardsville, Ill.

Mr. Cook:  
I read with interest your letter in the March (yes, I’m late) edition of the Iowa Lawyer, “What kind of lawyer are you?” I have managed litigation for several insurance carriers nationwide and would agree wholeheartedly with your comments. My “measuring stick” of lawyers was the late Ted Duffield who provided me with SO MANY insights as to what to look for in selecting counsel, many/most of those being outlined in your letter. My feelings for Ted mirror those you have for Ray Rosenburg and made me pause during last evening as I read your letter and pondered how lucky I’ve been to interact with those type of lawyers since my graduation from the Iowa Law School.

My career has let me experience working on litigation in all 50 states and I can honestly say that the quality of the legal system, the lawyers and the Bar Association of the State of Iowa take second to NO other state!! As the ISBA’s Member Mark says, I am a PROUD IOWA Lawyer!

Thanks for serving the Association and for your insights.

Brent A. Bates, JD/CPCU  
Senior Vice President/Director of Claims  
Hortica Insurance & Employee Benefits  
Edwardsville, Ill.
YLD Justice Fore All Golf (Central)
Thursday, July 24
Otter Creek Golf Course • 4405 NE Delaware Ave. • Ankeny, IA 50021

SCHEDULE
Registration: 11:00 a.m.
Boxed Lunch on Golf Cart: 11:30 a.m.
Shotgun Start: 12:00 p.m.
Reception & Awards: Directly following golf

This ISBA Young Lawyers Division outing is a four-person best ball format golf outing with a “shotgun” start including two beverage tickets for each participant, prizes for the top three teams, individual hole prizes, and plenty of all around good fun. You can sign up as a single, pair, or even three and the ISBA will try to fill the rest of the team with players who do not have a team of four. All of the profits earned through player fees and hole sponsorships from this event will go directly to the ISBA Public Service Project to support its programs and activities. Participating is an excellent opportunity for you to support the ISBA Public Service Project and access to justice throughout Iowa.

REGISTRATION FORM: YLD JUSTICE FORE ALL GOLF (CENTRAL)

Name: _____________________________________________________________ Phone #_________________________________________
Address: ___________________________________________ City, State, Zip: _________________________________________________
E-mail: _______________________________________________________________
Sponsor’s Name: ___________________________________________________________________________
Partner (one name): ______________________________________________ or
Team (three names): ______________________________________________    ________________________________________________

Registration Fees:
Individual Players __ $90 each
Bronze Sponsors (does not include any golf participants) __ $300
Silver Sponsors (includes two free golf participants) __ $600
Gold Sponsors (includes four free golf participants) __ $900

Lunch and prizes included in registration fee. All sponsorships include hole or prize sponsorship and special recognition.

Method of Payment: ___ Check enclosed ___ Check Number
Make checks payable to The Iowa State Bar Association
___ Master Card ___ Visa ___ American Express

Credit Card #: __________________________________________ Exp. Date: __________
Cardholder Signature: _____________________________________________

Registration deadline: Your entry fee and registration must be received no later than July 18, 2014. No refunds after the entry deadline.
Return registration form to: ISBA CLE, 625 E. Court Avenue, Des Moines, Iowa 50309 or fax (515) 243-2511
For questions: Contact Jay Syverson at jpsyverson@nyemaster.com or phone (515) 645-5510
2014 Solo & Small Firm Conference
August 14-16 • Honey Creek Resort, 12633 Resort Dr., Moravia, IA 52571

Thursday, August 14
4:30 - 5:30 p.m.  Registration
6:00 p.m.  Welcoming BBQ Reception on the Patio (families welcome)

Friday, August 15
7:30 a.m.  Registration  (families welcome)
8:00 a.m.  Breakfast  (families welcome)
9:00 - 10:45 a.m.  The Practice vs. The Business - Your Freedom Lies in Understanding the Difference
9:00 - 10:45 a.m.  The Value of Strategic Planning - Making the Practice Work for YOU Instead of Vice Versa
Speaker: Robert Clements, E-myth Benchmark/Henderson Business Brokers
10:45 - 11:00 a.m.  Break
11:00 - 11:45 a.m.  Reaping the Financial Benefits-Selling or Transitioning a Practice  (Business)
Speaker: Robert Clements, E-myth Benchmark/Henderson Business Brokers
12:00 - 12:45 p.m.  Lunch  (included in registration - families welcome)
12:45 - 1:30 p.m.  Making your Point - Communication with Clients, Counsel, and Staff
Speaker: Kyle Price, Dale Carnegie Training
1:30 - 2:30 p.m.  Keeping up - Using Laptops and Tablets at Hearings
Speaker: H. Edwin Detlie, Detlie Law Firm
2:30 - 2:45 p.m.  Break
2:45 - 3:45 p.m.  Bringing it Home - Fee Agreements and Collections
3:45 - 5:00 p.m.  Rainmaking - Practice Development Using the Internet
Speaker: Jeremiah Terhark, Webspec Design, LLC
5:30 - 7:30 p.m.  Small Groups & Reception on the Patio

Saturday, August 16
8:00 a.m.  Breakfast  (families welcome)
9:00 - 11:00 a.m.  Doing it Right - Ethics Considerations
Ethics Committee Representative(s)
1:00 p.m.  Guided fishing and hiking tours plus boat rental available for attendees and their families
(The ISBA is not responsible for costs associated with fishing tours or boat rentals)

Register online at www.iowabar.org/event/2014SoloSmallFirm or return form on following page.

2014 Two Person Best Shot Golf Tournament
August 16
Lunch (11:30 a.m.) • Golf (12:30 p.m. with cash bar & awards following)
Honey Creek Resort, 12633 Resort Dr., Moravia, IA 52571

On August 16, the final day of the Solo & Small Firm Conference, the ISBA’s Two Person Best Shot Golf Tournament will be taking place at The Preserve on Rathbun Lake, Honey Creek Resort’s scenic golf course.

The Preserve is a perfect blend of great golf and natural landscapes It is sure to treat every golfer with an experience not easily forgotten. Multiple tees make for an adequate challenge for the low handicapper and an enjoyable experience for those less competitive. Come see for yourself and spend the day at The Preserve.

Register online at www.iowabar.org/event/2014TwoPersonGolf or return form on following page.
REGISTRATION FORM: SOLO & SMALL FIRM CONFERENCE

Name: ____________________________ Member #: ______ Phone # ________________________
Address: ____________________________ City, State, Zip: ________________________________
E-mail: ______________________________

EARLY-BIRD REGISTRATION FEES (ends August 13)

____ YLD Members - $225
____ ISBA General Practice Section Members - $235
____ ISBA Members - $250
____ Non-ISBA Members - $335

SOCIAL ACTIVITIES

Attending Thursday’s Welcoming BBQ Reception?  □ Yes □ No   # of Guest(s): ______
Attending Friday’s Breakfast?  □ Yes □ No   # of Guest(s): ______
Attending Friday’s Lunch?  □ Yes □ No   # of Guest(s): ______
Attending Friday’s Patio Reception?  □ Yes □ No   # of Guest(s): ______
Attending Saturday’s Breakfast?  □ Yes □ No   # of Guest(s): ______

I’m interested in the following recreational activities?  □ Fishing Tour   □ Hiking Tour   □ Boating
The ISBA is not responsible for costs associated with fishing tours or boat rentals.

Method of Payment:    ___ Check enclosed      Check Number ____________
                          ___ Master Card      ___ Visa      ___ American Express      ___ CLE Season Pass
Credit Card #:_____________________________________________________  Exp. Date:  ______________
Cardholder Signature: ______________________________________________

Cancellation policy/Walk-in registration fee: Registration refunds will be issued only if written notification is received by the Bar Office by August 7, 2014. Written notification can be mailed, faxed, or e-mailed to the Bar Office. Walk-in registration fee will be an additional $50 (fee will begin on August 14, 2014)

REGISTRATION FORM: TWO PERSON BEST SHOT GOLF TOURNAMENT

Name: ____________________________ Member #: ______ Phone # ________________________
Address: ____________________________ City, State, Zip: ________________________________
E-mail: ______________________________

REGISTRATION FEE (entry deadline is August 8)

$85 per player (includes lunch, green fees, cart rental, driving range, prizes, and trophies)

Partner’s Name: ____________________________ or check here ___ to be paired with one.

Method of Payment:    ___ Check enclosed      Check Number ____________
                          ___ Master Card      ___ Visa      ___ American Express
Credit Card #:_____________________________________________________  Exp. Date:  ______________
Cardholder Signature: ______________________________________________

Cancellation policy/Walk-in registration fee: Registration refunds will be issued only if written notification is received by the Bar Office by August 1, 2014. Written notification can be mailed, faxed, or e-mailed to the Bar Office.
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
YLD president farewell

From Ian Russell, Past YLD President

I was recently reminded that I will be a “has been” soon, as my Young Lawyers’ Division Presidency comes to an end during the ISBA Annual Meeting. By the time of this letter’s publishing, I will be well into “has been” status. Importantly, my status does not matter.

The YLD, while made up of individuals, is the true definition of a group that’s whole is greater than the sum of its individual parts. The YLD will be stronger next year under Amos Hill’s leadership than it was this year, even stronger the next year under Joe Goedken’s leadership, and stronger yet the following year under Reed McManigal’s leadership. The YLD is an evolving, growing body that does great things for our bar and our great state of Iowa.

This great “whole” is the result of truly remarkable individual contributions from YLD executive council members over the last year. The YLD organized more events than ever to benefit young lawyers and put them in positions to learn from each other, senior lawyers and judges. Mick Connelly organized a reception in Sioux City and a social hour where attendees included an Iowa Supreme Court Justice, several judges from the district, the clerk of court and several young lawyers. Laura Folkerts arranged two events in Waterloo, one including lunch with the judges. Nicole Rognes Olson organized a breakfast event for young lawyers and judges in Mason City, and a lunch is planned for the near future. Patrick McElvea organized a social event that also secured donated toys for the local Toys-for-Tots program. Ashley Leyda organized two district meetings in the Ottumwa area. There were other events, whose exclusion is the result only of limited column inches, not unworthy contributions.

YLD Executive Council member Nate Mundy played an active role in the committee that examined changes to the state public defender rules. Sam Jones and Abhay Nadipuram organized outreach events in Iowa City, Des Moines, and Omaha, Neb., to put young lawyers in touch with law students. President-elect Amos Hill became the first Iowan to be appointed to a leadership role in the ABA YLD in several years. And, Tom Hillers and Nile Hicks created a new YLD litigation section committee that will become an invaluable resource for young lawyers. Tom’s and Nile’s work resulted in a system to alert young lawyers of all civil jury trials in the state every week to give them an opportunity to hone their litigation skills through watching experienced trial lawyers.

Leslie Behaunek and Christina Lesko brought the YLD Publicity Committee into the 21st century. The YLD now has an active Facebook page, and our website is updated frequently and quickly. The ISBA Staff have been invaluable. Their questions and suggestions are welcome.

The YLD also provides opportunities for CLE throughout the state. The summer seminar planned by Catlin Slessor is a popular event in Okoboji, especially for lawyers in Northwest Iowa. The YLD continues its Nuts and Bolts seminars and Bridge the Gap. And, the YLD organizes and runs the ISBA Public Service Project.

The YLD, while made up of individuals, is the true definition of a group that’s whole is greater than the sum of its individual parts. The YLD will be stronger next year under Amos Hill’s leadership than it was this year, even stronger the next year under Joe Goedken’s leadership, and stronger yet the following year under Reed McManigal’s leadership. The YLD is an evolving, growing body that does great things for our bar and our great state of Iowa.
counsel, help, and patience have contributed to every single thing the YLD has done over the past year, and on behalf of all young lawyers, we appreciate your efforts.

YLD President-elect Amos Hill, Secretary Joe Goedken, and Past President Laurie Parrish have kept the YLD running over the past year. Their efforts cannot be overstated.

President Guy Cook, President-elect Joe Feller, Vice President Bruce Walker have been great advocates for the YLD. Their willingness to include young lawyers in the goings-on at the “big bar” level is something I know will continue, and benefit all involved.

While each of the individual efforts noted above were happening, I was able to spend my time meeting lawyers and judges throughout the state, at many of the events described above. I spoke to the newly admitted lawyers in September and May. I had the opportunity to meet with Governor Branstad, and the leadership of both parties in both houses of the Iowa legislature. I saw four amazing mock trial teams that were in the finals, and I was able to speak to high school students who wrote winning essays for the Know Your Constitution Program, along with their teachers, including a teacher from Tama who was a teacher of mine in high school.

Finally, as a point of presidential privilege, I must recognize the individual contributions of my family. My wife and sons have been incredibly patient, supportive and understanding of my being what one of my sons described as an “out-of-town daddy.” Without them, I would have missed this opportunity of a lifetime.

These outstanding individual efforts will continue. And the YLD, as a whole, will continue to grow, improve and evolve. Its whole will continue to be the product of the sum of individually great efforts. I will always be honored to have played a small individual role in the great whole that is the YLD.

PATTNERSON LAW FIRM, L.L.P
Mediations and Arbitrations

Jeffrey A. Boehlert
Personal injury, employment claims, business and commercial disputes
Member, American Academy of ADR Attorneys, AV Rated, 34 years litigation experience
jboehlert@pattersonfirm.com

Patrick V. Waldron
Specializing in workers’ compensation and civil litigation
Member of American Academy of ADR Attorneys, AV Rated, 17 years of civil litigation and workers’ compensation experience
pwaldron@pattersonfirm.com

515-283-2147
505 Fifth Avenue, Suite 729
Des Moines, IA 50309
www.pattersonfirm.com

The Blue Book
From compiling to printing to final delivery, we maximize our resources to provide a directory that allows customers to reach you faster and more efficiently. And with over 70 years of publishing expertise we can minimize your effort to accelerate the exposure of your professional business listing across the state. The IOWA LEGAL DIRECTORY can help you reach a bigger market.

A bigger market is out there...
...you too can reach it with the Blue Book

To order your copy or to be included in the next edition contact us at 1-800-447-5375
Legal Directories Publishing Company, Inc. - www.LegalDirectories.com

IN MEMORIAM

Alanson “Lany” Elgar, 86, died May 2 at Meth-Wick Community in Cedar Rapids.

Alanson was born in Mount Pleasant. He graduated from Iowa Wesleyan College in 1949 and earned his law degree from Drake University Law School in 1951. He practiced law with his father and later his brother at Elgar Law Office in Mount Pleasant until 2003 when he became Of Counsel with the Whitfield & Eddy Law Office in Des Moines. He retired in 2008 after practicing law for 57 years.

Alanson “Lany” Elgar, 86, died May 2 at Meth-Wick Community in Cedar Rapids.

Alanson was born in Mount Pleasant. He graduated from Iowa Wesleyan College in 1949 and earned his law degree from Drake University Law School in 1951. He practiced law with his father and later his brother at Elgar Law Office in Mount Pleasant until 2003 when he became Of Counsel with the Whitfield & Eddy Law Office in Des Moines. He retired in 2008 after practicing law for 57 years.
Secretary woes

*By Russ Ipsa*

Our regular business hours have always been 8 a.m. to 4:30 p.m., but my new secretary was being undependable and irresponsible. She was rolling in at 8:30 a.m. or so every morning and would slip out early every afternoon — usually by 4:00 p.m. It was time for me to straighten this out, so I scheduled a meeting with her at 3:00 p.m. on a Friday. I was ready for conflict. It was time to get the office back on track.

“Well, come on in,” I said as she came into my office. “I thought we would have a little talk about the hours for the office — and for you.”

“I figured you’d notice and would want to have a little discussion about it,” she said.

“Yes, a little discussion,” I said with some trepidation. “I thought we should talk this over. It seems you have been coming in at 8:30 a.m. and leaving by 4:00 p.m. every day, when you know that our office hours are 8 a.m. to 4:30 p.m.”

“I know. I think this has been an effective strategy, don’t you?” she asked.

I was perplexed. “Strategy? What strategy?”

“Well, as you know, I have been taking this marketing class, and I decided to put what I have learned into practice,” she said.

“And, what have you learned?”

“Because lawyers sell a service and not a product, people don’t understand what they are getting and why the fees are so high,” she said with a smile. “It’s the hard work and personal attention that impresses clients the most.”

“I get that. But what has that got to do with your hours?”

“It’s all about perception, you see,” she said excitedly. “I’m able to tell clients that you are always the first in and the last out of the office. You even beat me here every day.”

“Well, that’s true, unfortunately, but how is that a marketing strategy?”

“Clients see that you are a hard worker — you go the extra mile. Anyone can have a secretary open up the office and do all of the work, but you give clients the extra attention.”

“I do, but that is not by choice, you know.”

“It doesn’t matter. The point is that clients see you as the kind of lawyer that they deserve — the kind they are willing to pay for.” At this point, she pulled out an Excel spread sheet. “Now just look at the revenue we have been experiencing for the past six months — the time since I came here. Look, I’ve even produced a graph showing the revenue curve.”

I was, frankly, surprised. It looked like our revenue had grown by 10 percent in the past six months. I couldn’t explain it. It didn’t seem like I had any big surge in the past.

“This is working perfectly,” she said. “I have implemented a marketing strategy that has increased our revenue by 10 percent with no additional cost to you. Isn’t this great?”

“Well, I’m not sure that it is related to your hours, is it?” I asked.

“What else has changed?” she asked.

“Name one other thing that is different.”

Well, I guess we can’t argue with data. “Sure. Look at the data. It’s going to sound fair to me,” I said.

“Then let’s give it a try,” I said. “Anything else?”

“Well, only one other thing,” she said with a grin. “This marketing strategy goes way beyond the normal legal secretary duties, so I think I should be compensated for the extra work. Say, an increase of 10 percent in my salary. That’s not bad when I came up with an idea that increases revenue by 25 percent.”

“Well, I suppose that’s fair,” I said. "When do you want to start the new system?"

She looked at her watch. “Well, it’s 3:30 p.m. right now, so let’s start it right away, and I’ll head out right now. We can wait with the pay raise until next week.”

“Sounds fair to me,” I said.

The meeting didn’t go quite like I expected, but who can argue with success?

*Russ Ipsa is an Iowa attorney and member of the Iowa State Bar Association. Most of the time, he thinks he is a successful practitioner but always enjoys his legal career.*
2014 Summary in Brief
2014 Regular Session, 85th Iowa General Assembly
Special to the Iowa State Bar Association

LAWMAKERS PASS BILLS DURING 2014 SESSION

BUSINESS, LABOR, and INSURANCE
• Business Corporation Act and provisions impacting shareholders. SF 2200
• Credit Union regulations. SF 2205
• Unclaimed life insurance death benefits. SF 2342
• Insurance producer duties and responsibilities. HF 398

CIVIL and JUVENILE LAW
• Juvenile delinquency records, sealing. SF 383
• Real property co-ownership presumptions. SF 2091
• Iowa Uniform Power of Attorney Act. SF 2168
• Wills and probate, miscellaneous provisions. SF 2169
• Consumer security breach notice requirements. SF 2259
• Adoption investigations and reporting requirements. SF 2276
• Housing cooperative and condominium legal instruments. SF 2312
• Land, scope and nature of use restrictions. SF 2315
• Vapor and alternative nicotine products regulation. HF 2109
• Miller Trusts. HF 2159
• Garnishment and levy notices to a judgment debtor. HF 2387
• Volunteers on state lands, liability protection. HF 2397
• Guardianship transfers in a child in need of assistance proceeding. HF 2421

CRIMINAL LAW and PUBLIC SAFETY
• Fraudulent practice offenses. SF 2092
• Domestic abuse protective orders, pets and companion animals. SF 2118
• Sexually violent predator, civil commitment. SF 2211
• Elder abuse. SF 2239
• Contagious or infectious diseases, criminal transmission. SF 2297
• Underage alcohol possession or consumption and property owners. SF 2310
• Human trafficking, sex offenses, and statute of limitations. SF 2311
• Cannabidiol oil, medical use. SF 2360
• Search warrants involving global positioning devices. HF 475
• Unmanned aerial vehicles. HF 2289
• Sexual exploitation by a person issued a coaching authorization. HF 2474

TAXES
• Military retirement pay tax exemption. SF 303
• Child and dependent care individual income tax credits. SF 2337
• Compressed natural gas and liquefied natural gas, excise tax. SF 2338
• Real property redevelopment tax credits. SF 2339
• Solar energy system tax credits. SF 2340
• Renewable energy tax credit requirements. SF 2343
• Disabled veterans, additional homestead credit. SF 2352
• Internal Revenue Code reference updates. HF 2435
• Farmer tax credit programs. HF 2454
• Reserve peace officer and emergency volunteer income tax credits. HF 2459
• Adoption expenses income tax credit. HF 2468

TRANSPORTATION
• Special minor’s license and driving to extracurricular activities. SF 2228

CLASSIFIED ADS

PUBLISHER’S NOTE: E-mail submissions to the CLASSIFIED ADVERTISING section are requested. They save keystrokes, thus cutting down on our production time, and help to ensure accuracy. Please follow the style of the ads appearing here, indicate the classification where you want your ad to appear and state how long the ad is to run. Each ISBA-member private law practice receives two free insertions annually, except for “Positions Available” ads. Those ads must be posted in the ISBA’s Career Center to qualify for publication in the magazine. Once posted in the Career Center, they will be published in the magazine one time for each posting. Corporate and government attorney members of the association receive the same free privileges for their business, non-employer-related ads. If you have questions, call Steve Boeckman at 515-697-7869. E-mail your copy to communications@iowabarr.org. The number appearing in parentheses after each ad indicates the date the ad will be pulled from the magazine. (AE) refers to paid ads. (TF) indicates internal or “house” ads that run indefinitely. Deadline for submissions is the first of the month prior to the month of publication.

COMMERCIAL ADVERTISERS: For rates, or to place an ad, contact Alex Larson (515) 238-4406; alex@larsonent.com.

POSITIONS AVAILABLE

WORK COMP SECRETARY — Ahlers & Cooney in Des Moines is seeking a secretary in their Workers Compensation department. Five years of work comp or related experience is preferred. Must be proficient in Microsoft Suite programs. Applicant should be highly organized. Apply by email info@ahlerslaw.com (8-14)

LITIGATION ATTORNEY — Shuttleworth & Ingersoll, an established “AV” rated firm located in Cedar Rapids with a strong and growing civil, commercial and medical malpractice litigation practice, is seeking an attorney with at least two years of experience in litigation. Excellent academic credentials and strong interpersonal and writing skills required. The firm offers competitive compensation and excellent benefits. Confidential inquiries, including resume and cover letter, detailing experience, are requested. They save keystrokes, thus cutting down on our production time, and help to ensure accuracy. Please follow the style of the ads appearing here, indicate the classification where you want your ad to appear and state how long the ad is to run. Each ISBA-member private law practice receives two free insertions annually, except for “Positions Available” ads. Those ads must be posted in the ISBA’s Career Center to qualify for publication in the magazine. Once posted in the Career Center, they will be published in the magazine one time for each posting. Corporate and government attorney members of the association receive the same free privileges for their business, non-employer-related ads. If you have questions, call Steve Boeckman at 515-697-7869. E-mail your copy to communications@iowabarr.org. The number appearing in parentheses after each ad indicates the date the ad will be pulled from the magazine. (AE) refers to paid ads. (TF) indicates internal or “house” ads that run indefinitely. Deadline for submissions is the first of the month prior to the month of publication.

ASSOCIATE ATTORNEY — Davis & Gelshenen LLP, in Des Moines, a multi-state plaintiffs’ personal injury law firm seeks an associate for a Des Moines office. Preference given to applicants also licensed in Nebraska. Prior civil litigation experience is preferred but not required. The applicant should be prepared to have immediate client contact. Apply by email with resume and cover letter to Daniel Davis at ddavis@dgattorneys.com (8-14)

ASSOCIATE ATTORNEY — Norelius & Nelson, P.C., an AV rated firm in beautiful rural western Iowa, is looking for associates in tax planning and compliance, litigation, collections, real estate or any other area of the law. We want self-motivated individuals with a passion for the law and a passion for life. If you are highly motivated in a particular area of the law, we will help you build your practice in your chosen area of the law. Apply by email to: bnelson@denisonlawyers.com (8-14)

ASSISTANT LITIGATION DIRECTOR Assistant litigation director for Iowa Legal Aid. Strong preference for location in Des Moines. The assistant litigation director is an executive level staff position, responsible for administering the implementation of Iowa Legal Aid’s mission to provide high-quality legal services to low-income Iowans. This person will work closely with the executive director and the two deputy directors but will work under the direct supervision of the deputy director for litigation. Apply by email to: dgroenenboom@iowalaw.org (8-14)

DEPUTY DIRECTOR — Deputy director based in Iowa Legal Aid’s administrative office in Des Moines. The deputy director is an executive level staff position, responsible for administering the implementation of Iowa Legal Aid’s mission to provide high-quality legal services to low-income Iowans. Apply by email to: dgroenenboom@iowalaw.org (8-14)

HEALTH ASSOCIATE — Dorsey & Whitney LLP’s Health Care group is seeking a highly-motivated healthcare associate with one to three years of experience for its Des Moines office. The position will focus on transactions and regulatory compliance healthcare work (e.g., drafting and negotiating contracts, Medicare and Medicaid compliance advice, and HIPAA advice). Successful candidates will have one to three years of health law experience, superior academic credentials, and very strong communication, writing, research and analytical skills. A background in the healthcare industry and Iowa bar admission is preferred. The candidate must have a strong knowledge base in the business and regulatory aspects of health law, including Stark, Anti-Kickback, licensing and nonprofit laws, and strong contract drafting skills. Apply by visiting our careers page on our website: recruiting.dorsey.com/dorsey/attorneysjobsmain.html (8-14)

EXPERTS

ARCHITECTURE AND CONSTRUCTION EXPERT WITNESS — Architect, and Contractor, 34 years experience. Available to assist plaintiff or defense attorneys. Specializing in:

- **Building Codes**

- **Industry Standards**

- **Usual and Customary practices**
  Safety – Owner – Contractor relations
  Undocumented agreements/Change
orders/Cost overruns
Workmanlike craftsmanship – Construction methods

**Licenses, Affiliations and Memberships:**
John G. Kujac, NCARB • 515-795-4001 john@kujac.com • www.kujac.com  

**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 and an Employee Assistance Professional (EAP). We cannot help unless you call — 515-277-3817 or 800-213-1533 — or message (in confidence) 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.  

**SPACE AVAILABLE**

**OFFICE SHARE** — Office sharing arrangement or possible associate position available in Dubuque. Our office is located in a contemporary setting within one block from the Dubuque County Courthouse. Please contact Stuart Hoover at 563-588-1970 or via e-mail at shoover@blairfitzsimmons.com.  

**OFFICE SPACE** — Excellent small firm location on 50th Street in West Des Moines, 100 yards from I-255 entrance. Approximately 1,000 – 2,000 square feet available. For information, call Laurie at 515-223-6600.  

**OFFICE SPACE** — Available for one to two attorneys. Office located in the Midland Building at 206 6th Avenue, adjacent to the Polk County Courthouse with skywalk access. Rent includes receptionist, copier, fax, internet, conference room, kitchen, gym access. Please contact Michael Horn at (515)285 2330 or dmlaw1@qwestoffice.net.  

---

**KUDOS**

The ISBA congratulates the following individuals for recognition they have received:

**David M. Woodke,** senior partner at Woodke & Gibbons, PC, LLO, in Omaha, Neb., for being selected for induction as a Fellow of the National Academy of Distinguished Neutrals. This academy is an association whose members consist of mediation professionals distinguished by their hands-on experience in the field of civil and commercial conflict resolution. Membership is by invitation only and limited to attorney mediators who have proven experience in the field.

**Matt McDermott,** a litigator with Bellin McCormick, PC, in Des Moines, for completing the 2014 Boston Marathon in 2:52:46, his second fastest marathon time. McDermott averaged a 6:36-minute mile over the 26.2-mile course, which allowed him to finish 1,211th among more than 36,000 registered competitors, and earned him a spot in the top three percent of marathon runners in America.

**Angela West,** a shareholder with Nyemaster Goode, PC, in Des Moines, for being recognized as one of the Top 250 Women in Litigation by Benchmark Litigation. The decision to feature a distinguished female litigator was based primarily on targeted research completed during the US Benchmark Litigation review process. Peer review and overall depth of her litigation career were important elements during this research. West was also recognized in 2012 2013.

---

The following individuals applied for admission on motion to the Iowa Bar.


Anyone with questions or comments should contact: Dave Ewert at the Office of Professional Regulation, 1111 East Court Avenue, Des Moines, IA 50319. Phone: 515-725-8029.
Disciplinary Actions

Jeffrey K. McGinness, Iowa City
Suspension of license to practice law
with no possibility of reinstatement
for six months
March 21, 2014

Justices Waterman and Mansfield took
no part in this decision

The Grievance Commission of the Supreme Court of Iowa recommended that Jeffrey McGinness have his license suspended for six months. The recommendation came after a hearing on the complaint filed by the Iowa Supreme Court Disciplinary Board alleging violations of “Iowa Rules of Professional Conduct 32:3.1(a)(1) (knowingly making false statements to a tribunal), 32:8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation), and 32:8.4(d) (conduct prejudicial to the administration of justice).” After the sanction was recommended, McGinness appealed, admitting the misconduct but arguing a suspension of no more than three months was appropriate.

The facts of the matter were not disputed. McGinness went to the University of Iowa as an undergraduate, and continued at the university for law school, graduating in 2001. He spent several years working for a Chicago law firm, before returning to Iowa in 2007 and joining a firm in Cedar Rapids. During his time with the Cedar Rapids firm, McGinness represented a plaintiff in a civil matter filed in Polk County District Court. Five days before his client was to be deposed on June 18, McGinness realized he had failed to serve discovery requests upon the opposing party’s counsel.

Rather than admitting his mistake or attempting to move the deposition date, McGinness took a dishonest path. He sent emails to opposing counsel demanding answers by the next day to discovery requests, and when told by opposing counsel that none had been received, he emailed discovery requests to the opposing counsel with falsified certificates of service dated March 21. Suspicious, opposing counsel reviewed embedded metadata in the discovery requests and found that the documents had in fact been created in June, not March. A handwriting expert also concluded that the signature of McGinness’ assistant on the falsified certificates of service was forged.

When confronted by opposing counsel, instead of confessing, McGinness took the story even further. He stated he specifically recalled preparing and signing the documents in March and that his secretary signs many certificates of service each week and was unable to recall signing that specific one. A motion for sanctions was filed by the opposing counsel, and McGinness hired his own expert, at his own cost, to defend his position.

At the hearing on the sanctions motion, McGinness continued “to maintain the lie, [and] to embellish.” When the district court stated an opinion on the tainted service certificates, McGinness continued to defend his position and create arguments to support it to the court. However, the district court did not believe McGinness, finding he “intentionally and knowingly affixed false certificates of service to discovery requests to cause unnecessary delay in the progression of litigation.” The district court went on to say that “McGinness’ behavior is so shocking and egregious that it is hard even to know what to say about it,” and referred to the conduct as “elaborate, calculated, and premeditated deceit.” Sanctions were granted and McGinness was ordered to pay $5,152 to opposing counsel and $2,348 to the Iowa Judicial Branch.

Soon after, McGinness admitted his conduct to his firm. He withdrew from the firm and began a solo practice. The district court forwarded its recommendation to the commission, his lack of prior discipline, and his cooperation, because as noted, that only occurred after the order had been filed and after McGinness was contacted by the board about a complaint filed against him.

In reviewing McGinness’ allegation that the suspension was too harsh, the court noted that past cases “show a range of sanctions for misconduct involving dishonesty where lawyers have made misrepresentations.” The cases cited ranged from two months to a year, and the court noted that ultimately, “the level of sanction is individually crafted based upon the nature of the violation and the mitigating and aggravating circumstances.”

In addition to the other aggravating factors noted by the commission, the court specifically commented on McGinness’ persistence in continuing his lies and the fact he only backed down after the district court issued its order imposing sanctions. In looking at mitigating factors, the court discounted remorse and cooperation, because as noted, that only occurred after the order had been filed and after McGinness was contacted by the board about a complaint filed against him.

The court did consider and note that McGinness’ community service and lack of prior discipline were mitigating factors. After taking all this into consideration, the court held that the six-month suspension was appropriate and that “[t]he seriousness of the violation simply outweighs … the mitigating circumstances.” As stated by the court, “[f]or citizens generally, and this court particularly, rely upon the honesty and integrity of lawyers to ensure the fair operation of our adversary system of justice.”
Member benefit highlight: Lockton Risk Services*

CNA, Lockton Risk Services’ endorsed carrier, insures more lawyers than any other carrier. For more than 50 years, CNA has been serving law firms with risk management solutions that help reduce the risks of practice management, and insurance that helps cover a firm and its attorneys. With products and services designed for lawyers by experienced professional risk consultants, CNA’s broad portfolio includes professional liability, general liability, cyber liability, property, employment practices liability, and an industry-leading P&C package for small law firms. Some of the products CNA offers Lockton Risk Services’ clients include:

**Lawyers’ Toolkit 3.0 — A guide to Managing the Attorney-Client Relationship**

The Lawyers’ Toolkit was designed by CNA to assist attorneys in creating documents that will enable them to better manage their interactions with potential and actual clients. Documentation of the scope of the representation and the mutual responsibilities of both the attorneys and their clients can often be a deciding factor in determining the responsibilities of both parties. The toolkit provides sample documents that are designed to establish client expectations, reduce client misunderstandings, improve client communications, and provide opportunities for additional services.

**The Conflicts Conundrum — Avoiding and Managing Conflicts of Interest**

Conflicts of interest are one of the leading causes of legal malpractice lawsuits and disciplinary grievances against attorneys. While ethical rules have been developed to help attorneys recognize and avoid such situations, these rules can be complex and bewildering to even the most experienced practitioner. The consequences for attorneys who fail to take the appropriate measures can be severe and may include a legal malpractice lawsuit or grievance, forced disqualification from a representation, monetary payments, reputational damage, increased insurance premiums and, in a worst-case-scenario, even loss of one’s license to practice law. This guide helps explain the ethical requirements regarding conflicts of interest and offers some practical advice for avoiding and managing such conflicts in one’s law practice.

**Client Intake Procedures: Avoiding problematic clients**

How does a lawyer or law firm create an effective client intake system? The answer will depend upon various factors, including but not limited to the law firm’s size, revenues, practice areas, and client base. Nevertheless, common areas of concern that all law firms should consider when creating or upgrading their client intake protocols can be identified. The purpose of this guide is to highlight those areas and suggest techniques that lawyers and law firms may implement to protect themselves from potentially dangerous representations.

---

*The ISBA partners with Lockton Risk Services who uses CNA as an endorsed carrier. For information regarding Lockton Risk Services visit www.locktonrisk.com/iowabar/ or contact 800-679-7154 or ISBAinsurance@locktonaffinity.com.

---

**TRANSITIONS SUBMISSIONS ONLY BY E-MAIL**

Copy deadline for Transitions is 30 days before the month of publication. Please follow the same style published here and keep submissions short and to the point. For new hires and promotions, the name of the law firm is not as important as the individual involved, so mention the lawyer first. Always submit a photo of the subject.

If it is to be digital, please use the “.jpg” format only. Make all submissions in plain text or Microsoft Word “.doc” format via e-mail to cfritz@iowabar.org and please do not expect late submissions to be published immediately. We need at least a 30-day interval before publication. Include office phone number and name of the person furnishing the copy. Questions? Call Chris Fritz at 515-697-7873.

Thank you for your assistance.
Committees, sections backbone of ISBA activities

(Editor’s note: Many ISBA presidents through the years have commented that the real work of the association is done by the committees and sections. Regrettably, the hard-working members of the committees and section councils seldom receive any recognition. The following is a list of the chairs of the ISBA’s 25 committees and 24 sections, along with their contact information. Please send them a message or give them a call with any suggestions you have for their work, or simply to say thank you for the work they are doing. An asterisk in front of the name indicates the individual is a new chair who will be serving for at least the 2014-2015 Fiscal Year.)

Committees

ACCESS TO JUSTICE
*Stephen Eckley, Chair
666 Walnut St., Suite 2000,
Des Moines, IA 50309-3989
sreckley@belinmccormick.com
515-283-4637

AMERICAN CITIZENSHIP
Patrick Murphy, Chair
38 First Ave. NW, PO Box 526,
LeMars, IA 51031
murphlaw@premieronline.net
712-546-8844

APPELLATE PRACTICE
Ryan G. Koopmans, Chair
700 Walnut St., Suite 1600,
Des Moines, IA 50309
rkoopmans@nyemaster.com
515-283-3173

ANNUAL MEETING
Christine R. Keenan, Co-Chair
1525 Airport Rd., Suite. 103,
Ames, IA 50010
ckr@icsmail.net
515-268-5601

Kathleen Law, Co-Chair
700 Walnut St., Suite. 1600,
Des Moines, IA 50309
klaw@nyemaster.com
515-283-3116

BAR INSURANCE
Philip D. Brooks, Chair
115 Third St. SE, Suite. 1200,
Cedar Rapids, IA 52401
pbrooks@simmonsperrine.com
319-366-7641

BENCH-BAR CONFERENCE
Matthew G. Novak, Co-Chair
10th Floor American Bldg., PO Box 74170,
Cedar Rapids, IA 52407
mnovak@phdlawfirm.com
319-366-7621

Hon. Thomas D. Waterman, Co-Chair
Judicial Branch Building, 1111 E. Court
Ave., Des Moines, IA 50319
thomas.waterman@iowacourts.gov
515-281-5175

DIVERSITY & INCLUSIVENESS
Anita L. Dhar, Chair
500 E. Court Ave., Suite 200, PO Box 10434,
Des Moines, IA 50306
adhar@gregesidney.com
515-245-4300

ECONOMIC DEVELOPMENT
John D. Shors, Chair
215 Tenth St., Ste. 1300,
Des Moines, IA 50309
johnshors@davisbrownlaw.com
515-288-2500

ETHICS & PRACTICE GUIDELINES
Nick V. Critelli, Jr.
317 Sixth Ave., Suite. 950,
Des Moines, IA 50309
nick@critellilaw.com
515-243-3122

FEDERAL PRACTICE
*Tim Hill, Chair
2007 First Avenue SE, PO Box 2804,
Cedar Rapids, IA 52406-2804
thill@bradleyriley.com
319-363-0101

INDEPENDENCE OF THE JUDICIARY
Dwight W. James, Chair
604 Locust St., Ste. 630,
Des Moines, IA 50309
dwightjames1@me.com
515-246-8484

IOWA JURY INSTRUCTIONS
Hon. Paul (Rick) R. Huscher, Chair
PO Box 7, Waukee, IA 50263
phuscher@aol.com
515-286-3859

IOWA LAW PAC
Thomas I. Henderson, Chair
317 Sixth Ave., Suite. 1200,
Des Moines, IA 50309
henderson@whitfieldlaw.com
515-288-6041

JUDICIAL ADMINISTRATION
Matthew C. McDermott, Chair
666 Walnut St., Suite. 2000,
Des Moines, IA 50309
mcmdermott@belinmccormick.com
515-283-4643

LAW PRACTICE MANAGEMENT
H. Edwin Detlie Jr., Chair
303 E. Second St., Ottumwa, IA 52501
detlie@pcsia.com
641-682-8119

LAWYERS HELPING LAWYERS
*Dan Moore, Chair
501 Pierce St., Suite 300, PO Box 3207,
Sioux City, IA 51102-3207
dmoore@berensteinlawfirm.com
712-252-0020

LEGAL FORMS
Kerrut Anderson, Chair
1900 Hub Tower, 699 Walnut St.,
Des Moines, IA 50309
kanderson@finleylaw.com
515-288-0145
MILITARY AFFAIRS
William P. Kelly, Chair
215 Tenth St., Suite 1300,
Des Moines, IA 50309
billkelly@davisbrownlaw.com
515-288-2500

PROFESSIONALISM
J. Campbell Helton, Chair
317 Sixth Ave., Suite 1200,
Des Moines, IA 50309
helton@whitfieldlaw.com
515-288-6041

PUBLIC RELATIONS
Thomas I. Henderson, Co-Chair
317 Sixth Ave., Suite 1200,
Des Moines, IA 50309
henderson@whitfieldlaw.com
515-288-6041

RURAL PRACTICE
Philip L. Garland, Co-Chair
200 State St., PO Box 134,
Garner, IA 50438
garlandlawfirm@gmail.com
641-923-3792

*Samuel “Luke” Craven, Co-Chair
317 Sixth Ave., Suite 1200,
Des Moines, IA 50309
craven@whitfieldlaw.com
515-246-5588

*Amy Skogerson, Co-Chair
413 Grant St., PO Box 252,
Van Meter, IA 50261
amy@raccoonriverlaw.com
515-996-4045

Sections
ADMINISTRATIVE LAW
Susan A. Low, Chair
311 42nd St., Des Moines, IA 50312
salow@iabar.org
515-371-4741

AGRICULTURAL LAW
*Patrick Dillon, Chair
209 E. 1st St., Sumner, IA 50674
patdillon@50674law.com
563-578-1850

ALTERNATIVE DISPUTE RESOLUTION
*Earl Parsons, Chair
6611 NE 126th Ave., Elkhart, IA 50073
Earlmediator2@aol.com
515-491-7152

BUSINESS LAW
J. Marc Ward, Chair
699 Walnut St., Ste. 1600,
Des Moines, IA 50309
mward@dickinsonlaw.com
515-246-4526

COMMERCIAL & BANKRUPTCY
*Kristina Stanger, Chair
700 Walnut St., Suite 1600,
Des Moines, IA 50309-3899
kms@nyemaster.com
515-283-8009

CONSTRUCTION LAW
Kevin H. Collins, Chair
625 First St. SE, Suite 400,
Cedar Rapids, IA 52401
khcollins@nyemaster.com
319-286-7000

CORPORATE COUNSEL
Ann Michelson, Chair
1111 Ashworth Rd.,
West Des Moines, IA 50265
amichelson@guideone.com
515-267-5527

CRIMINAL LAW
Steven J. Drahozal, Chair
PO Box 1090, Dubuque, IA 52004
sdrahozal@drahozallaw.com
563-588-1940

eCOMMERCE
*Dennis Ogden, Chair
666 Walnut St., Suite 2000,
Des Moines, IA 50309-3989
dpodgen@belinnmccormick.com
515-283-4618

ELDER LAW
Gregory L. Kenyon, Chair
801 Grand Ave., Ste. 3700,
Des Moines, IA 50309
kenyon.gregory@bradshawlaw.com
515-243-4191

ENVIRONMENTAL & NATURAL RESOURCES
*Joseph Younker, Chair
One South Gilbert St.,
Iowa City, IA 52240-3914
jyounker@bradleyriley.com
319-466-1511

FAMILY & JUVENILE LAW
*Lora McCollom, Chair
4401 Westown Pkwy, Suite 208,
West Des Moines, IA 50266
lora@mccollomlawawiowa.com
515-974-6500

GENERAL PRACTICE
Samuel Kreamer, Chair
7155 Lake Dr., Suite 200,
West Des Moines, IA 50266
slkjdcpa@jranerkaw.com
515-727-0900

MEDIATOR TRAINING

RICHT M. CALKINS

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

- **Primary Mediator Class**
  August 4-8, 2014 (40 hrs. of CLE, 2 hrs. ethics) Des Moines, Iowa

Mr. Calkins has conducted his 40 hour course over 50 times throughout the Midwest. He has also trained law students throughout the nation, and internationally in Australia, United Kingdom and most recently in India.

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

For information, contact Susan Ewing at 515-283-0331 or amta@dwx.com.
Remembering their legacy

One of the best ways to remember a deceased lawyer is through a memorial gift to the profession to which he or she devoted an entire life. Surviving family members can point with pride to the accomplishments memorialized in a tangible form.

The Iowa State Bar Foundation is a fitting place for contributions made in the honor of a deceased member. There the gift will be used to support the Foundation’s charitable purposes for the advancement of the law and justice.

To memorialize a respected colleague, a spouse, a parent, a grandparent, or just a friend, send contributions to: The Iowa State Bar Foundation, 625 East Court, Des Moines, IA 50309. A representative of the Foundation will contact the family, acknowledge the gift, and a permanent record will be made.

For more information, contact The Iowa State Bar Foundation at the address above, or via phone at 515-697-7870, or e-mail at mhill@iowabar.org.
Hard-copy title standards manual back by popular demand

Includes new title standards added this spring

The eighth edition of the Iowa Land Title Standards, which includes the Spring 2014 updates, is available in hard copy, print form once again. In the following years after it was made available for members online only, attorneys continued to request the standards in print form, prompting the ISBA to make the hard copies available again.

Those interested in purchasing the standards in print form may do so from the online store located on the ISBA website. It is located in the “manuals” section of the online store. The electronic version will still be available to members online by going to www.iowabar.org, then navigating to “Practice Tools” on the gold navigation bar and clicking on “Title Standards.”

The purpose of the Iowa Land Title Standards is to encourage consistency among examining attorneys within the state of Iowa and to assist the examining attorney in the examination of abstracts of title.

The ISBA appointed a committee in 1941 to formulate and recommend the adoption of title standards. Fifty-seven standards were adopted in 1944. The Title Standard Committee, which falls under the Real Estate & Title Law Section lead by Franklin J. Feilmeyer, continues to update the standards and add new standards as the need arises. Members of the ISBA are encouraged to contact the committee if they are aware of recurrent title issues of general concern to members of the association which can be resolved by amendments or additions to the standards.

The ISBA Board of Governors approved the following revisions during the March 2014 meeting:

• **Title Standard 1.1** pertaining to attorney’s attitude in examining abstracts of title

• **Title Standard 1.9** pertaining to the necessity for an abstract to show a mortgage or similar security agreement, either satisfied or not satisfied, if more than 20 years old

• **Title Standard 3.3** pertaining to officer’s authority to execute instruments

• **Title Standard 7.7** pertaining to what is necessary to clear title to real property encumbered by a mortgage when an individual mortgagee is deceased

• **Title Standard 12.1** pertaining to when real property is held in partnership’s name, how it should be conveyed

• **Title Standard 15.3** pertaining to when real property is held in a limited liability company’s name

• **Title Standard 15.4** pertaining to what circumstances can a duly recorded Statement of Authority under Iowa Code § 489.302 be relied upon to establish the authority or lack of authority of persons signing on behalf of a limited liability company

• **NEW Title Standard 1.13** pertaining to the effect upon marketability of title of residential construction of a notice of commencement or of a preliminary notice posted on the Mechanic’s Notice and Lien Registry and shown in an abstract

• **NEW Title Standard 4.12** pertaining to where the record reflects that title to real estate is subject to an outstanding contract for deed, what showing is necessary to ensure a subsequent conveyance of the real estate is free and clear of the contract and includes all of the interest of the parties to the contract

• **NEW Title Standard 10.7** pertaining to what extent may Iowa Code § 614.14A be relied upon as a statute of limitations to bar claims seeking to invalidate a deed or real estate contract by a corporation, limited liability company, partnership, cooperative or association based on the allegation that the execution of the instrument was not authorized by the entity
Smooth transition of deanship expected at Drake Law School

By Ashlee Lolkus, Assistant Communications Director

The Drake University Law School has a new dean. Ben Ullem, an attorney at Whitfield & Eddy, P.L.C. in Des Moines, stepped into the role July 1 as Allan Vestal, the dean for the past five years, stepped down. Although the transition of deanship occurred a year ahead of schedule, the two met frequently in the past months to ensure there was no disruption to current projects.

Ullem, who served as an interim dean from 2008-2009, is projected to hold the permanent dean position for the next two years with plans to hit the ground running.

“There are some really important things going on in legal education,” Ullem said. Law schools seeing an enrollment decline nationwide, being one of them. “There is a vacuum being created as we speak,” he said in regard to the number of baby-boomers who are readying to retire. “Now is a great time for people to go to law school and we need to let them know that.”

He intends to focus on enrollment as well as fund raise, building scholarship funds that will help draw students to the Drake campus for their legal education.

“I'm really looking forward to getting back with a really fabulous group of faculty and staff,” he said. “They're highly principled and motivated, and their passion and goals are directed to teaching people how to be lawyers and be equipped to use their legal degrees in a myriad of different ways. It is a privilege and an honor to be dean of a great law school. I have a personal passion for Drake University in general and the law school in particular. My father graduated from Drake Law School, I did, and I hooded my daughter when she did... there's a long history and I want to be a part of continuing the tradition of educating really good lawyers who everyday make a positive difference in local communities and around the world.”

As a practicing attorney for many years, Ullem not only ramped up for his dean duties but has been careful to work closely with his partners and clients as changes occur.

“I have worked with my partners to transition my business,” he explained. He went on to say that he has communicated with all of his clients about his move and anticipates everything will go very smoothly. “I will miss working with my clients and partners, and although the practice of law has changed over the years, I've loved practicing law my whole career. I still do.”

Vestal, an Iowa City native, is content with his decision to resign early and has plans to use the next year sabbatical to continue working on his many projects including a writing project on Iowa constitutional conventions that he hopes to submit to a law review or possibly publish as a book. After his sabbatical, he will return to the college as a faculty member, most likely teaching core business law courses. He said he is looking forward to returning and sitting in the back of the room at faculty meetings for a change.

Vestal chuckled slightly when asked about his early resignation during an interview June 10. A May press release from the university newsroom, formally announcing his resignation, sparked conversation throughout the Iowa legal community, provoking concerns as to how serious health concerns really were for the dean. He said his health concerns were portrayed a bit more seriously than they actually were.

“The release made it sound like I was going to be dead in three months,” he said with a slight grin on his face, “and that isn’t true. The medical challenges I have are not life threatening.” He went on to say that his health situation was disruptive and meant that he wasn’t able to give the amount of
effort that he had hoped for the next year. Despite his resignation as dean, he feels the college will remain in good hands.

“I’ve known Ben the entire time I’ve been here,” Vestal said. “He was the interim dean before I came five years ago. Ben, at that time, did a wonderful job in keeping the law school on track. He was not one to just let things go on momentum. He initiated new proposals and put in place some policies that have been very helpful. I expect that pattern again, and under his leadership we will continue to make progress on a variety of fronts.”

Over the past five years, Vestal took part in a number of improvements in the college including selection of new, junior faculty members, the renovations to Cartwright Hall, the law school’s primary classroom, office, and student activity venue; and the establishment of policies put in place to help the college during this time of declining enrollment. However, during the interview he repeatedly reflected on the community of people.

“When you look back at a deanship like this, one of the biggest accomplishments has to be the people with whom you’ve gotten involved,” he said. “Drake is a very special place because of the people,” he continued. “The size of the student body and the size of the faculty is such that you really do have close working relationships with people. I’ve always been associated with smaller law schools and I think that is a very rewarding thing because you really get to know people... It’s one of the reasons I’m really looking forward to getting back to the classroom.”

Vestal went on to mention the importance of building relationships. “It is indicative of the good working relationship that the deans of the law schools have both with each other and also with the ISBA that we have productive [ISBA] Board of Governor meetings. It allows us to form things like the Blue Ribbon Committee on legal education... It’s hard for me to imagine a group like that to be productive in many of the states just because they don’t have the underlying good working relationship between the law schools with each other and with the bar, but we do.”

Both Vestal and Ullem recognize the importance of the relationships throughout the state. Both recognize the current and upcoming challenge of admissions. The two have a great relationship themselves which has, no doubt, contributed to what is expected to be a smooth transition at the Drake University Law School.
Working as Co-counsel with Iowa Lawyers on Personal Injury and Workers’ Compensation cases for over 25 years.