



THE

Volume 77 Number 7 August 2017

# IOWA LAWYER

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**NICOLLE SCHIPPERS SPREADS  
THE WORD ABOUT THE CHANGING  
PROFESSION OF LAW**

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### Why do so few lawyers handle federal workers' compensation cases?

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### How does a law firm find a good cybersecurity company?

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## ABOUT THE COVER



Nicolle Schippers stands in front of the entrance to ARAG legal insurance inside the Capital Square building in downtown Des Moines. She is in-house counsel for the company, and she also holds the title "Legal Industry Advocate." You will read more about that role beginning on page 6.

Schippers serves on the ISBA Board of Governors, representing District 5C, and was named Outstanding Section Chairperson as the most recent past-Chair of the Corporate Counsel Section.



# NEW IOWA JURY INSTRUCTIONS NOW AVAILABLE

The newest updates to the Iowa Jury Instructions are now available online and in hard copy form.

The ISBA's Jury Instructions Committee approved three new changes to the civil instructions, all related to constructive discharge from employment. Approved changes to criminal instructions cover leaving the scene of an accident, dissemination of obscene materials to minors and assault causing serious injury.

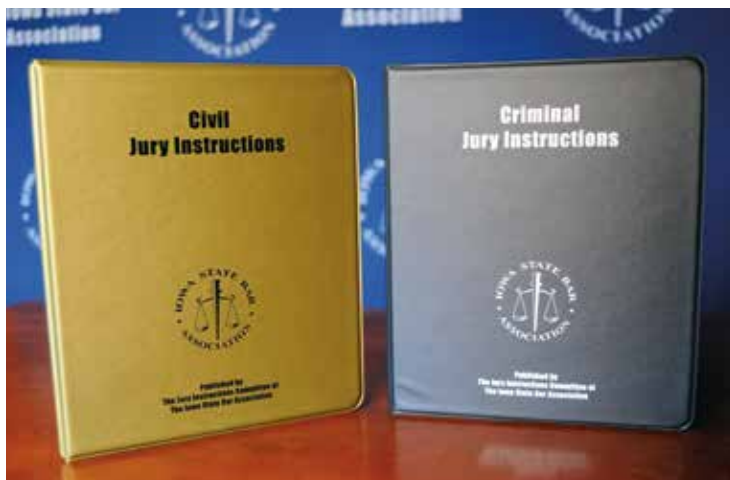
Instructions can be downloaded at no cost in both Word and PDF formats by ISBA members, and hard copies can be purchased for \$75 through the ISBA online store on iowabar.org.

When purchased, the jury instructions come with the following:

- Three ring notebook (8" x 9"). Great size for carrying in a briefcase to court.
- Divider tabs for more than 20 chapters.
- Model civil jury instructions total more than 540 pages. Criminal jury instructions total more than 400 pages.

To access the updated jury instructions, please visit:

[www.iowabar.org/JuryInstructions](http://www.iowabar.org/JuryInstructions).



*Incorrect biographical information ran in the July 2017 issue of The Iowa Lawyer about the new Chair of the Criminal Law Section. See below corrected information:*



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Des Moines.

## A day in the life of lawyer Nick Slick

**N**ick Slick smiles to himself. He has a good thing going and he knows it. After struggling early in his career, he has figured out how to maximize the efficiency of his legal practice by taking advantage of free or reduced cost benefits available through the ISBA. Now he gets more done in less time and at lower cost

It's 7:40 a.m. as Slick stops at a Starbucks drive-through. Waiting for his coffee, he uses the Clio app on his cell phone to quickly check his calendar for appointments and upcoming deadlines. He has a work comp hearing at 9:30, a client meeting

at 11:30 and a contract to draft by the end of the day. Still using the Clio app, he pulls up the client's contact information and calls to confirm the appointment. While driving to the office, Slick and the client spend 10 minutes discussing business. Clio tracks the call minutes and enters a charge in the client's billing file. Throughout the day, Slick will use Clio to seamlessly record and charge time spent on various client matters.

At the office by 8 a.m., Slick checks email. He has a message from a potential client, who obtained his contact information through the Find-a-Lawyer link on the ISBA website, [www.iowabar.org](http://www.iowabar.org). As a general practitioner, Slick is listed with Find-a-Lawyer under several practice areas. He calls the potential client to obtain additional information. Concerned he might have a conflict of interest, Slick checks the ISBA's online ethics database. After satisfying himself that he can undertake the representation, he calls the client back to schedule a 3 p.m. appointment. He enters the client's contact and billing information in Clio. Next, he uses the Worldox document management system to modify a past engagement letter and to open an electronic file folder for the new matter.

To prep for the 9:30 hearing, Slick uses Fastcase, the ISBA's free legal research tool, to review Iowa's work comp statute and key work comp decisions by the Iowa courts. He leaves for the hearing early, knowing he can finish the review by using the Fastcase mobile app on his phone.

By 10:45, Slick is back at his office computer. He sees several messages on the ISBA Litigation Section's listserv. A member of three of the ISBA's 24 practice sections, he finds great practical value in each section's listserv. The listservs put him in daily contact with lawyers around the state who provide insights useful in dealing with all manner of issues. Slick also has a "case law update" email from the ISBA. He takes pride in knowing the latest developments of Iowa law. Skimming the summaries of decisions released that

morning, he sees one that relates to a matter he is working on and links to the full opinion.

At 11:00, Slick uses templates available through IowaDocs on the ISBA website to prepare an affidavit of surviving spouse and a certificate of change of title. He needs these for his 11:30 meeting. Iowa Docs gives him instant access to over 500 interactive legal forms created and endorsed by the ISBA.

Slick needs a few more hours of CLE, so after the client meeting he decides to have lunch at his desk while watching one of the ISBA's hour-long video courses. He chooses a course on family law because the new client coming in at 3 p.m. has a family law matter. To further prepare for the afternoon meeting, he returns to the practice manual section of IowaDocs and reviews relevant portions of the family law manual.

At 1:30, Slick gets a call from an attorney he met at the ISBA annual meeting. She will be moving to Davenport. If she can't find a suitable position, she is considering hanging her own shingle and has questions about the costs involved.

Slick suggests she begin by checking out the ISBA Career Center. He also recommends that she contact Reynolds & Reynolds, the Bar's preferred agent for health insurance, and Lockton Risk Services, the Bar's partner for professional liability coverage.

By 2:00, Slick is hard at work on a real estate matter. He finds everything he needs in the recently updated Title Standards available at no cost on the ISBA website.

At 3:00, Slick's new client arrives. They begin by going over the engagement letter, which calls for a retainer of \$1,000. Using LawPay, Slick is able to receive immediate payment of the retainer by credit card. (He also uses LawPay to accurately move funds between his trust and operating accounts.) When the meeting ends, Clio tracks the time spent and charges the new client's account.

At 4:30, Slick decides he has 15-20 minutes to answer a question posted on the ISBA's Free Legal Answers website. This website allows him to provide low-income Iowans with pro bono advice on a limited-scope basis, at a time of his choosing and without leaving his office.

Slick ends his day with a favorite routine—checking the status of his 401(k) retirement plan administered through the ABA Retirement Funds Program.

**You can be like Nick Slick! Get to know all the services provided as part of your ISBA membership by logging on to [iowabar.org](http://iowabar.org).**

**Stephen R. Eckley**

President, The Iowa State Bar Association  
[sreckley@belinmccormick.com](mailto:sreckley@belinmccormick.com), 515-283-4637



# Legal Industry Advocate Nicolle Schippers spreads the word about the changing profession of law

By Melissa Higgins, Communications Director

If you blink, you might miss her. Nicolle Schippers is a blur, a ball of energy, an attorney always on the go from one professional activity to the next. She travels around the country giving talks on cutting-edge legal topics like cyber security and the changing profession of law. Her job title at ARAG legal insurance in Des Moines is fitting: Legal Industry Advocate. She's also in-house counsel for the company, which is based in Germany but counts Des Moines as its North American Headquarters.

In her role with ARAG, Schippers gets to meet lawyers from all over the country. And she sees her mission as trying to convince them that change can be good.

"We are the only service organization that is out there that has not changed as an industry," she explains. "I have heard some joke that lawyers even missed the Industrial Revolution."

Helping attorneys modernize their practice is one of the side missions of ARAG. But the real purpose of this company is to help people understand that when they have a civil legal need, having an attorney is the best way to secure a more favorable outcome.

ARAG is an acronym of the original parent company name, which means "legal protection insurance" in German. It began in 1935 as legal protection for car drivers and has grown to offer legal protection for all situations in life. ARAG's clients are other companies, who offer legal insurance to employees as a payroll deduction benefit, similar to medical or dental insurance. The company has 600 clients in North America, including nine in Iowa. Those include companies like Unity Point Health, Waldinger Corporation and IMT.

Still, many in the U.S. are unfamiliar with the concept of legal insurance, though it's quite common in European countries. Schippers says her counterparts in Germany sometimes don't understand why it's not more common practice for Americans to have legal insurance. To them, that causes an access to justice issue in the U.S. According to recent data, only 24 percent of people who have civil legal needs end up seeing a lawyer.



Schippers is the Associate General Counsel and Legal Industry Advocate at ARAG Insurance Company in Des Moines. She is posed outside the Capital Square building, the current location for ARAG.

# Nicolle Schippers

In addition to her work as corporate counsel at ARAG, Schippers also served five years in the Air Force as a Judge Advocate General (JAG), during which time she held the roles of criminal prosecutor, family law attorney, claims and tax attorney and defense counsel.

## Q: WHEN DID YOU MAKE THE DECISION TO JOIN THE MILITARY AND WHY?

**A:** Several members of my family were in the military, so I have always felt a draw to be in the military based on my experience through them. Specifically, my uncle was in the Air Force and I spent many vacations visiting him on various Air Force bases and was always intrigued by military life. As I started applying for law schools, I explored the Air Force and what being a JAG entailed. As I met other JAGs in law school, I became certain that this would be a great opportunity for me. I knew I wanted to get hands-on experience right out of law school and be able to try a variety of types of law so I could better understand with what type of practice my passion and skills aligned.

## Q: HOW HAS YOUR EXPERIENCE BEING INVOLVED IN THE MILITARY HELPED YOU IN YOUR PRACTICE OF LAW?

**A:** I have a more global knowledge of many areas of law because of the military. I was also taught early-on how to be a leader and communicate with and advise other leaders. This skill gave me the confidence at an early age, not only in my legal skills but also in my leadership skills, which has been vital to my success as a corporate attorney. I owe my success as an attorney and a leader to the Air Force and those incredible military members who served as my mentors and friends.

## Q: WHAT WAS IT LIKE SERVING AS AN ATTORNEY IN THE AIR FORCE? WHAT KIND OF CASES DID YOU WORK ON AND WHO WERE YOUR CLIENTS?

**A:** My experience as an attorney in the Air Force was absolutely incredible. The skills, confidence, leadership, mentorship, world/global knowledge and passion for our country that I gained through my time in the Air Force has shaped my entire professional and personal life. There was no typical day for the five years I spent in the Air Force (both at Beale and Spangdahlem Air Base in Germany). Examples of my experience included: personal property cases, multi-million-dollar claims against the government, criminal trials (I served as prosecutor and also spent two years as defense counsel), estate planning, tax preparation, advice on a variety of issues such as divorce and landlord/tenant, advising the commanders on military law, and many other military-specific legal issues that came my way. My clients were all Air Force - either military members, commanders or the government.

“They don’t understand why there is an access to justice gap. They wonder why the U.S. is ranked 94th among all nations for access to civil justice, tied with Kenya and Egypt. Everyone over there (Europe) has legal insurance; it’s just like medical insurance. It’s just something they have,” explains Schippers.

So, ARAG works to expand this practice. With current operations in 17 countries, the company employs 3,800 people, including about 180 people in Des Moines. The Des Moines North American headquarters was originally founded in 1973 as a division of Midwest Mutual Insurance Company, but was purchased by ARAG in 1989.

ARAG contracts out to 12,000 attorneys across the U.S. to provide the legal services for its customers. These attorneys are spread across all regions and practice areas. There are 140 network attorneys in Iowa, with room to grow for any interested ISBA members.

Part of Schippers’ role with the company involves making sure that the attorneys to whom ARAG refers customers to are as client-centered as possible.

“We really do consider it a partnership because we want you to provide the best

## Drake Law

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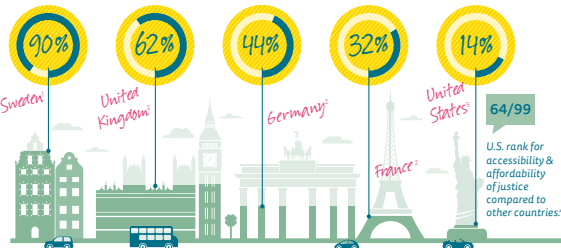
# Legal Insurance

# 101



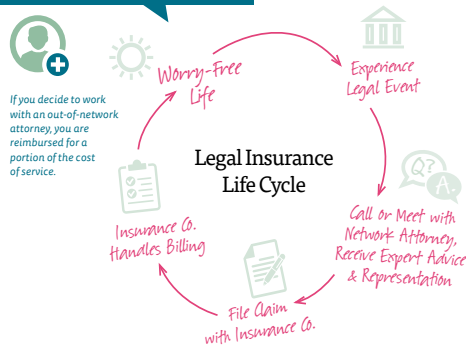
## What Is It?

Legal Insurance provides coverage for fees associated with everyday legal events.



People with Legal Insurance Around the Globe  
(Stand-Alone & Add-On Policies)

## How Does It Work?



## Why Have It?

87% of people with legal insurance feel it reduces their stress.<sup>7</sup>

### Legal Insurance Checklist

When choosing a legal insurance provider, make sure you compare policy features to find the right one for you.

- ✓ Does the policy have 100% paid-in-full coverage, or just discount services?
- ✓ Does the policy cover meetings with attorneys, or just phone calls?
- ✓ Does the insurance provider ensure attorneys are credentialed?
- ✓ What legal issues are covered by the policy? What are NOT covered?

Attorney fees for most legal events are 100% paid-in-full.

AVERAGE LEGAL FEES	Without LEGAL INSURANCE	With LEGAL INSURANCE
Attorney Fees	\$323 hourly <sup>5</sup>	\$0
Debt Collection Issues	\$2,717	\$0
Neighbor Dispute	\$1,534	\$0
Driving Privilege Protection	\$2,584	\$0
Standard Will Preparation	\$969	\$0

### About ARAG

ARAG® ([www.ARAGlegal.com](http://www.ARAGlegal.com)) is a leader in legal insurance. It provides people with affordable and reliable legal counsel for everyday life matters. The company has an international premium base of more than \$2 billion and protects 15.5 million individuals and their families worldwide.

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<sup>1</sup> SeeNews Competitive Intelligence. Legal Expenses Insurance Report – European Market Overview. Bulgaria. SeeNews, Sept. 2013.  
<sup>2</sup> Faure, Michael G. and De Ma, Jeff P.B. "Comparing Third Party Financing of Litigation and Legal Expenses Insurance" Journal of Law, Economics and Policy, Vol. 8, No. 3, 2012.  
<sup>3</sup> "Prepaid Legal Services Find Growing Acceptance." American Prepaid Legal Institute. 2015. <http://www.aplsl.org/news/archae.cfm?ID=78>  
<sup>4</sup> Agrast, Mark David, Juan Carlos Botero, Joel Martinez, Alejandro Ponce, & Christine S. Pratt. The World Justice Project Rule of Law Index 2014. Washington, D.C.: The World Justice Project, 2014.  
<sup>5</sup> Based on "The Survey of Law Firm Economics: 2014 Edition." The National Law Journal and ALM Legal Intelligence, July 23, 2014.

service, but also be successful in your practice, beyond just our referrals," she said.

ARAG provides its attorney partners resources and information about how to improve their businesses, including customer service survey results. The company surveys every customer after every interaction with an attorney, and it also surveys its attorneys once a year. One of the main problem areas Schippers sees, that she works with attorneys on during seminars and conferences, is client communication.

"One of my main talking points to attorneys is this: Think of yourself as a consumer. Would you give someone \$5,000 for a service without knowing what you're going to get out of it? Of course not, you expect good customer service," Schippers said.

Also in her role with ARAG, Schippers gets to teach lawyers about ways to improve their practices with technology. She speaks on this topic around the country, such as the ABA Tech Show in Chicago earlier this year.

"There is so much efficiency you can build into your practice, even by implementing simple things," she said. "There are so many things technology can do to allow you to be the attorney you want to be."

Schippers talks to attorneys about how technology is driving how consumers want services –when they want them, how they want them and where they want them. This impacts how attorneys deliver legal services in the future.

"Incorporating technology into your practice can be as simple as making your website more interactive and simple. Think of how you want services as a consumer. Are you providing services in a way you would want to receive them?"

She has been with ARAG for 10 years, and is thankful that this job has given her a platform and voice to speak to Iowa attorneys and beyond.

"ARAG and its mission allow me, as an attorney, to make a difference in peoples' lives and help them to see the value of the legal system and attorneys," she said. "It is exciting to see the changes that are happening in the legal system as we work together to bridge the access to justice gap and I encourage us all to be a part of shaping the future."

## Changing homes: ARAG on the move

New location: 500 Grand Avenue, Des Moines – the former Downtown School on the southwest corner of 5th & Grand, located directly across Grand Avenue from the Wellmark YMCA.



- ARAG will move into the new space in November 2017 (estimate).
- The structure will be renamed and branded The ARAG Building.
- ARAG is leasing more than 41,000 square feet on multiple levels. Every inch of it is being demolished and rebuilt.
- ARAG will occupy 14,403 square feet of skywalk space.
- The exterior will have a new street level presence with 12-foot glass store fronts and modern improvements.
- The space will feature an 8,400 square-foot mezzanine and 18-foot exposed concrete ceiling.



# Why do so few lawyers handle federal workers' compensation cases?

By Michael P. McCready

A new client calls your office. He explains how he was injured on the job. You figure, "great, a new worker's compensation case!"

After listening further, the client tells you he works for the U.S. Postal Service. A federal employee. You immediately stop the conversation and tell the client you don't handle federal workers' compensation cases, and what's more, you don't know anyone who does. The client hangs up and is left on his own.

But why is it that so few lawyers handle federal workers' compensation cases? There are 2.1 million federal civilian employees. That is a huge potential client base, larger than the working age population of 20 states!

There are no court appearances in federal workers' compensation cases. All proceedings are done telephonically and almost all documents are uploaded electronically. Because it is based on federal law, you can represent clients all over the country, and in fact, all over the world. There are no state restrictions to practicing law with federal workers' compensation cases. Finally, many federal agencies are at a high risk of sustaining work-related injuries.

Employees of such federal agencies as the United States Postal Service (USPS), the Veterans Health Administration (VA), the Transportation Security Administration (TSA) and the Department of Homeland Security (DHS) are all covered under federal workers' compensation. Given these factors, there should be a lot of lawyers who handle federal workers' compensation cases. But there aren't. Why?

First, there are no contingency fees in federal workers' compensation. In fact, federal law makes it a misdemeanor to charge an injured federal worker a contingency fee. Therefore, all work



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for federal employees must be billed by the hour with detailed descriptions of the work performed and the time spent. Traditional workers' compensation and personal injury lawyers are not accustomed to keeping track of time and billing clients. Additionally, contingency lawyers will charge a percentage of the recovery, which is forbidden in federal cases.

Second, although being able to represent clients nationwide is a positive, when it comes to collecting an unpaid fee for work performed, it is a serious limitation. You can't be suing people all over the country who do not pay your fee. For this reason, most federal workers' compensation lawyers charge an upfront retainer. Imagine being injured on the job, perhaps not being paid, and having to send a retainer to a lawyer to represent you in a workers' compensation case. The contingency tort system is designed to allow everyone access to the courthouse, regardless of economic means. In federal workers' compensation cases, only those who pay their lawyers have representation.

Third, assume a client has paid a retainer and you have kept detailed billing records. You are not allowed to transfer the retainer to your operating account until

the client has approved the bill. Yes, that's right; you don't get paid if the client disapproves of the bill, even if you do the work. In a contingency case, you take the risk that you may not win, and if a contingency lawyer fails to make a recovery, there is no fee. In federal workers' compensation, you can do the work, and win or lose, you may not get paid if a client does not approve of your fee.

Fourth, any compensation received by an injured federal employee is sent directly to the worker, not his or her attorney. In traditional contingency fee practice, you immediately send a notice of attorney lien or letter of representation to protect your right to get paid. Usually, the settlement check is made payable to the lawyer and the client. Not in federal workers' compensation cases. The check is made payable to the client and mailed directly to the client. As you can imagine, this severely hampers a lawyer's ability to get paid, and reinforces the need for a retainer. Because the check is mailed to the client, case loan companies will not provide a case advance to pay a retainer.

It should be obvious from the above discussion of federal workers' compensation why there are so few lawyers handling these cases. The federal government justifies these procedures by proclaiming they want the injured worker to receive as much of the recovery as possible, not an attorney. The prohibition against contingency fees is also meant to protect federal employees from being "overcharged" for legal services. The assurance that attorneys' fees and the claimant's recovery are kept separate is part of that protection. But, what they have done is essentially cut lawyers out of the federal system and deprived federal workers the ability to have legal representation for their injuries.

It's a very sad system and it is heart-breaking to hear the stories of

these workers. Too often, people come to us because they tried to appeal it on their own and now are losing their houses because they have gone so long without any kind of a pay check. They finally borrow money from a relative so that we can help them and we are successful, but when they receive their back pay that they should have received all along, it is without interest or any kind of penalties. Also, they do not receive attorney's fees back when they win. While the system is flawed and the workers are at a disadvantage, we are here to help them fight for what they deserve. These are people who got hurt doing their jobs. They should be compensated while they heal and for any permanent injury they suffer. These cases are often easily fixed with the help of an attorney and a doctor, but the claims examiner denies them, and most people cannot fight them alone.

If an injured federal worker contacts your office, you have a few choices. First, you can refer them to a lawyer who handles federal workers' compensation, with the caveat that they will need to pay a retainer; second, you can handle the case yourself, either with or without a retainer; or third, you can handle the matter pro bono. If you handle it yourself without a retainer, you may be handling it pro bono anyway for the reasons set forth above. But, injured federal workers deserve legal representation. If you ever have questions regarding federal compensation, feel free to contact our firm at [www.federalcompensation.com](http://www.federalcompensation.com).

Michael P. McCready practices with the firm McCready, Garcia & Leet. He can be reached at: 10008 S. Western Ave., Chicago, IL 60643, or via email at [Michael@McCreadyLaw.com](mailto:Michael@McCreadyLaw.com). The firm's website is: [www.FederalCompensation.com](http://www.FederalCompensation.com)

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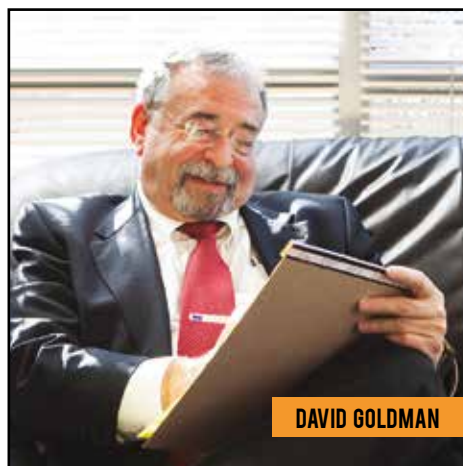
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References Available On Request

# Q&A with new ISBA Vice President Bill Boyd



Willard L. Boyd III (Bill) was elected in June as the new vice president of the ISBA. He is a member of

Nyemaster Goode's Business, Finance and Real Estate Department and practices in the areas of corporate law, regulatory law and commercial law. Prior to joining Nyemaster Goode in Des Moines, Bill practiced with a law firm in Washington, D.C.

Bill received his B.A. from the University of Michigan and his J.D. from the University of Iowa College of Law.

## Q: Talk about your early involvement in the ISBA.

A: I first became involved with the ISBA by participating in three different sections: Trade Regulation, Health Law and Business Law. I have been most active in the Business Law Section. I have worked on the Business Law Manual (newest edition will soon be released). In addition, I have participated in various Business Law Section committees that have worked on proposed legislation. The ISBA does a great job promoting affirmative legislation in many different areas of the law. This promotion helps ensure that our state has up-to-date and relevant statutes. I have benefitted greatly from involvement in these ISBA sections and have been able to meet and work with many other attorneys in the state who work in the same area.

## Q: You have also been serving as the Chair of the Strategic Planning Committee, at the request of Past President Skip Kenyon, over the last year. What have you learned through this process?

A: Working with the Strategic Planning Committee has been a great learning experience for me. As part of the process, the committee surveyed and interviewed members and non-members and other



Bill Boyd addresses the Board of Governors at their winter meeting, discussing the work of the Strategic Planning Committee, which he chaired. The Committee unveiled a new Mission and Vision Statement, which you can read on page 12.

constituencies including the judicial branch and law schools. Surveying this broad field provided a better understanding of challenges and best practices that one day may inform the direction of the ISBA and the legal profession. The committee serves as a means to garnering information and

relative viewpoints. We have learned from the feedback that the ISBA needs to be responsive to the needs of its constituents, and increasingly to the interests of rural and small practices, government and in-house attorneys, and new attorneys who are facing different challenges.



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**Q:** What do you see as the biggest challenge facing the ISBA?

**A:** I would say one of the biggest challenges involves demographics. Iowa's population is changing and becoming more diverse. At the same time, we are projecting a decline in the number of attorneys (and ISBA members). These changes present new and different challenges to practicing law throughout the state. With the Board of Governors' work on a strategic plan, the ISBA should be positioned well to serve its membership,

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the legal community and the community as a whole to successfully respond to the challenges of Iowa's changing landscape.

**Q:** Why have you decided to stay in Iowa to practice law?

**A:** Although I enjoyed working in Washington, D.C. early in my career, I am very happy being back in Iowa practicing law. My time in D.C. gave me a better appreciation of being an attorney in Iowa. In addition, I appreciate opportunities to be involved in various community activities including a number of nonprofit boards.

**Q:** A lot of Iowa attorneys might be familiar with your father, Sandy Boyd. He was a former UI Law School professor and later president at Iowa. The law school building is named after him. Did he influence your decision on becoming an attorney?

**A:** Growing up in a household with a parent as a law professor, I heard a lot about the law and its benefits. During the 1960s and 1970s, there were various social justice issues discussed on the UI campus and I remember being impressed with the importance of the law in addressing these issues. One summer, our family went to Europe where my dad served as a U.S. representative to The Hague working on a convention on international administration of estates of foreign nationals. We visited the Peace Palace, the home of the World Court, and witnessed the world-wide engagement of law, which influenced me greatly.

**Q:** What other bar association endeavors are you involved in?

**A:** In addition to ISBA activities, I am an active member of the Polk County Bar Association and the American Bar Association. I chaired two committees of the ABA Business Law Section, one involving nonprofit organizations and the other involving state and local bar relations. As part of my involvement in the ABA Nonprofit Organizations Committee, I co-edited the Guidebook for Directors of Nonprofit Corporations. What I have come to realize is that the nonprofit sector is underappreciated in terms of its scope and significance and there are many opportunities and challenges for attorneys in this field.

# The Iowa State Bar Association New Mission and Vision Statement

*Adopted by the Board of Governors  
June 21, 2017*

**Mission:** ISBA supports members and their service to clients, community, and the judicial system.

**Vision:** ISBA is a leading voice and trusted collaborator in helping its members serve their clients, the public, and the judicial system through engagement, advancements in law, innovation, and access to justice.

### Goals and Priorities:

#### Goal #1: Supporting Members in the Practice of Law Priorities:

1. Engaging members with one another and the ISBA.
2. Promoting diversity among members and in the profession.
3. Providing members with resources and information to achieve professional success.
4. Assisting members with practice advice and career development.
5. Supporting members in their practice in law firms, in-house, governmental bodies and otherwise.
6. Facilitating and advocating for legislation that produces clarity and stability to critical areas of statutory law.
7. Promoting the legal profession to students.
8. Promoting to the public the benefits of legal services provided by a lawyer over non-lawyers.

#### Goal #2: Enhancing the ISBA as the Premier Resource for Lawyers in Iowa Priorities:

1. Promoting effective communication and engagement with members.
2. Enhancing and promoting good governance practices throughout the ISBA.
3. Enhancing criteria for developing, offering, and evaluating CLE programs, services, and other ISBA priorities.
4. Ensuring financial solvency and administrative efficiencies.

#### Goal #3: Ensuring Judicial System Remains Fair, Impartial, and Accessible to All Priorities:

1. Advocating adequate funding for courts and legal services.
2. Supporting efforts of the Access to Justice Commission.
3. Fostering public respect and confidence in the judicial system and role of lawyers.

# The ISBA would like to thank the 2017-2018 mentors paired with a mentee as part of the Young Lawyers Division Mentoring Program

Naeda Elliott  
 Kate Kohorst  
 Deborah L. Petersen  
 Crystal L Usher  
 Benjamin P. Long  
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 Lori Chesser  
 Miki McGovern

Nicolle Schippers  
 Sasha L. Monthei  
 Joseph Moreland  
 Jennifer Bailey

Additional thanks to those attorneys who have volunteered to be a mentor, but have not yet been paired with a mentee.

The YLD Mentoring Committee will do another round of pairings after the September swearing-in ceremony for Iowa's newest attorneys.

If you are interested in serving as a mentor or mentee, please contact [mentorprogram@iabar.org](mailto:mentorprogram@iabar.org).

## Thanks to July speakers:

***Insurance Law for Young Attorneys (Live Webinar)***  
 July 17, 2017

Sponsored by The Iowa State Bar Association YLD Professional Development Committee  
 L. Craig Nierman, Phelan, Tucker, Mullen, Walker, Tucker & Gelman, L.L.P.

***Legal Issues Surrounding Website Domain Names (Live Webinar)***  
 July 12, 2017

Sponsored by The Iowa State Bar Association Intellectual Property Law Section  
 Allison Kerndt, Nyemaster Goode P.C.  
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# Meet IA Free Legal Answers volunteer attorney Miriam Timmer-Hackert



Miriam Timmer-Hackert is a volunteer attorney for the IA Free Legal Answers website, and she has answered more questions than any volunteer attorney to date. She currently serves as a mediator for child custody and divorce proceedings in Coralville. Timmer-Hackert spoke with The Iowa Lawyer magazine about her commitment to pro bono service and her experience volunteering via IA Free Legal Answers.

However, I find when I am typing it is easier for me to change our law-related words to words that anyone can understand.

## **Q:** What would you say to other attorneys considering volunteering for IA Free Legal Answers or any other pro bono opportunity available in their areas?

**A:** As lawyers, we have unique experience that can guide clients. Many times, when we are performing pro bono service, we see the same types of questions repeatedly and it does not take a great deal of effort for us to answer client questions that are similar. But for the clients, they are experiencing a situation for the first time and they are scared, especially in situations where there is physical and psychological abuse.

When I answer client questions using IA Free Legal Answers, I can provide general information that can help clients solve their own problems efficiently, and if a client question is more complex, I can let them know basic information that can help them and include a suggestion to consult an attorney for more help.

## **Q:** What interested you in signing up to serve as a volunteer attorney for IA Free Legal Answers?

**A:** When I got an email from the ISBA about this new pro bono initiative, it looked like a convenient way to be of service. After I signed up to be a volunteer attorney, I found that I could answer questions for anywhere from 10 minutes to an hour and help someone.

## **Q:** What other types of pro bono experiences have you had as a volunteer attorney?

**A:** At Mears Law Office, at Waypoint as a domestic violence and sex assault victim advocate, and as an intake volunteer at Iowa Legal Aid, I worked with people who were homeless, living in poverty and victims of domestic violence. I like bringing hope and empowerment to people who are at a rough time in their lives. People going through stressful situations like ending relationships where there is a history of domestic violence want their feelings acknowledged as well as help understanding what their opinions are.

## **Q:** How is service through IA Free Legal Answers similar or different to your other pro bono service experiences?

**A:** I believe that everyone can learn to communicate more effectively; this is something that I tell clients and I experience it, too. For example, the information that I provide to clients is the same when I perform pro bono service in person or through IA Free Legal Answers.

The IA Free Legal Answers website, part of a nationwide ABA pro bono initiative, is designed like a virtual walk-in legal clinic where qualified clients post questions to a secure website. The ISBA's public-facing website, [IowaFindALawyer.com](http://IowaFindALawyer.com), serves as the portal for IA Free Legal Answers.

Volunteer attorneys are needed to answer questions in family law, housing, consumer debt, work issues, public benefits, probate and guardianship. Attorneys who want to volunteer can remain anonymous to clients (with limited exceptions), are covered by the ABA's Free Legal Answers malpractice insurance and perform limited scope representation within the website. A commitment of approximately one hour per month can serve approximately five people and can be counted as pro bono publico service pursuant to Iowa Supreme Court Rule 32: 6.1.

If you are interested in signing up to help, please send an email to [Attorney-IA-FLA@iowabar.org](mailto:Attorney-IA-FLA@iowabar.org).

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# How does a law firm find a good cybersecurity company?

by Sharon D. Nelson, Esq.  
and John W. Simek

Thanks to our friend and colleague Courtney Kennaday, the director of South Carolina's Practice Management Advisor Program, for suggesting the topic of this article. As she accurately noted, information security companies "are springing up like weeds." She also asked, "How's a lawyer to know who is good? What should they be looking for in the company's resume?"

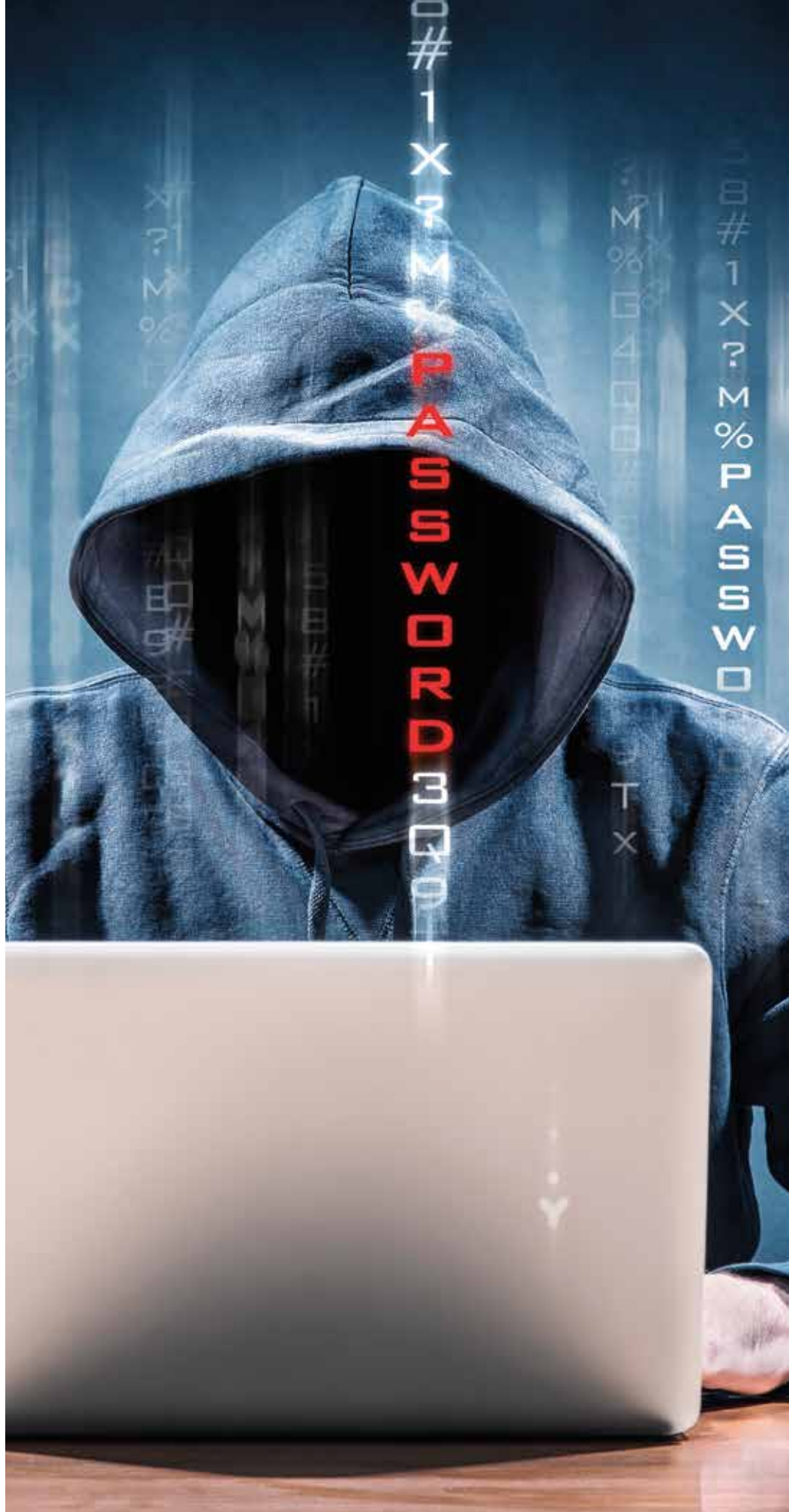
Excellent questions Courtney. We hear law firms bemoaning the difficulties of finding reputable (and affordable) cybersecurity companies all the time. Since our company, Sensei Enterprises, Inc., provides those services, hopefully we have some insights to guide law firms in their selection.

Managed security services is an ongoing effort, generally addressed with a long-term contract, and not addressed here. That would require an article of its own. We're talking about companies that investigate data breaches and provide security assessments and implement recommendations from those assessments. Let's start with the first question we hear all the time.

## Why do I need a cybersecurity firm?

Almost all law firms have an IT consultant, whether an outside consultant or in-house employee. All too often, lawyers believe that information technology wholly embraces information security. It does not. While there is a lot of crossover between the two fields – most IT providers are aware of basic security best practices – they are not actually cybersecurity specialists, though they may feel that they are!

As technology has gotten more and more complex, it has become critical to have access to folks who do a "deep dive" into security. A security specialist who is all textbook and has no practical experience with IT is no good to you. All the certifications in the world are no substitute for experience.



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As we go to press, 25 states have now ratified some version of the ABA 2012 changes to the Model Rules of Professional Conduct, which require technology competence and mandate that a lawyer “shall make reasonable efforts to prevent the inadvertent disclosure of, or unauthorized access to, information relating to the representation of a client.”

Between the enhanced ethical duties and the flood of data breaches throughout all businesses, law firms have recently recognized the need to focus on keeping client data secure. Hence the proliferation of cybersecurity firms. But as Courtney asked, “How’s a lawyer to know who is good?”

### The big dogs

If you run with the big dogs (AM Law 200), you are probably going to select a large provider of information security services. They cost more, but they offer a large range of services and a depth of knowledge and industry certifications. Among those we see most often are Mandiant (a division of FireEye), Dell SecureWorks, RSA, IBM Security and Root9b.

### The rest of the pack

We know that the vast majority of lawyers reading this article will be from solo, small or mid-sized practices. The jaw-dropping prices of the large cybersecurity firms are well beyond your reach. But take heart, there are plenty of smaller businesses that provide information security at a price point you can live with. So what are you looking for when you search for this kind of help?

### Recommendation, recommendations, recommendations

We can’t stress this too strongly. Talk to other lawyers and law firms. Who have they used and liked? Did their pricing seem fair considering the work done? What services did they provide? Did they meet their deadlines? What kind of certifications did they have? Were they professional and responsive? If they provided a security assessment, was their deliverable a good report? Did they also make recommendations for remediating security vulnerabilities with pricing? Any negative feedback? Did they play well with your IT folks? This is pretty critical because your IT folks are going to feel threatened the moment they learn that cybersecurity experts are being brought aboard. Good experts will expect a certain amount of tension and know how to defuse it and emerge with a “we’re all on the same team” mentality.





## References

Any good information security company will be ready with references. Our advice is to be a bit wary. These will be cherry-picked happy customers. You can ask them all the questions above and your instincts about whether the information you're given may be accurate, but we still prefer reaching out to other law firms as referenced above. We've seen too many folks do an Internet search for a cybersecurity company (and of course the company looks awesome on their website) and the references do check out – but then they are disappointed by poor work, a failure to be responsive, escalating costs, etc.

Better, we think, to follow the Beatles' advice and get by with a little help from your friends.

## Certifications

You might think that the certifications held by cybersecurity experts would be a real measurement of their skills, but not always. There are certifications you can essentially buy (no testing), certifications with easy tests or open book tests, certifications which aren't true certifications (for instance, a 'certification' that you attended



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a course) and certifications which are bookish rather than practical.

Real experts get their hands dirty fast. They want to delve into the inner recesses of your network after looking at your network diagram (you have one, right?). You may not understand what they say – the good ones translate cyberspeak into English pretty well – but it’s usually clear when you ask a question and they answer immediately and confidently that you probably have someone who knows what he or she is doing. If you ask a supposed expert how to engineer your backup to guard against ransomware and they fumble for an answer (and you can learn the answer on the Internet yourself), you’ll know pretty quickly who you don’t want to hire.

Here’s a list of some of the information security certifications that we think are

most valuable in evaluating a company’s credentials – along with a brief statement of what the certification provides:

**CISSP (Certified Information Systems Security Professional)** – an independent vendor-neutral certification from the International Information System Security Certification Consortium, also known as (ISC)<sup>2</sup>. It is globally recognized and covers competence in eight domains including:

- Security and Risk Management
- Asset Security
- Security Engineering
- Communications and Network Security
- Identity and Access Management
- Security Assessment and Testing
- Security Operations
- Software Development Security

The certification requires a passing grade of 700 to 1000 points from a test comprised

of 250 questions. You must have at least five years of security work experience (one year may be waived for a college degree) to qualify as an exam candidate. Ongoing education is also required to keep the CISSP current and valid.

**CEH (Certified Ethical Hacker)** – a certification that assesses the security of a computer system by using penetration testing techniques. The CEH is administered by EC-Council. Similar to the CISSP, the CEH requires two years of information security experience before being eligible to take the exam. The experience requirement is waived if the candidate attends official EC-Council training at an Accredited Training Center, via the iClass platform, or at an approved academic institution. Penetration testing is one technique to help assess security vulnerabilities.

**GSE (GIAC Security Expert)** – a very rigorous two-part exam administered by GIAC (Global Information Assurance Certification), an entity that specializes in technical and practical certification. Part 1 of the GSE is a multiple choice exam. Part 2 is a two-day lab exam consisting of hands-on exercises.

**EnCE (EnCase Certified Examiner)** – a digital forensics certification administered by Guidance Software. Forensic examinations are used to attempt to determine what data may have been compromised and how the breach may have occurred. Other forensic certifications such as the **CCE (Certified Computer Examiner)** and the **GCFE (GIAC Certified**



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**Forensic Examiner)** are also commonly seen in the cybersecurity world.

There are certainly other reputable security certifications, but these are some of the ones we see most often and they are highly respected within the industry.

### People skills

You want someone you can understand. You want someone who doesn't "speak from on high" making you feel like an idiot. You want someone who will work well with senior partners as easily as staff, and who will make friends with your IT support staff.

A telephone call to interview an expert is a good thing. Better yet, see if they will agree to an initial meeting. Most companies are happy to offer a free consultation for an hour or so. We wouldn't hire anyone who wasn't willing to do that. And don't let them send a sales person. You don't need charm and snake oil from someone who doesn't understand security. You want one of their experts who would actually be working with you. In the course of an hour, you'll probably have a good sense of whether this is someone you'll be comfortable working with and whether they are a good match in all other respects as well. It is worth the time – in part because cybersecurity isn't cheap and this is a bad place to make a mistake.

### Does location matter?

Location doesn't matter a whit to larger law firms because they can afford travel expenses associated with a remote expert. With respect to smaller firms, the answer is more variable. Without going into granular detail, your expert is not going to need to spend a lot of time on your site. What the expert needs to do onsite is to perform such tasks as assessment of physical devices and equipment, collect logs and configuration files, review physical security, connect test equipment to the internal network, etc. This will generally only take a day. Almost any size firm can afford the travel expenses

associated with an expert within driving range. Someone who has to fly in will add that cost plus reasonable meals and a night's hotel stay in most cases.


Solos and very small firms will prefer someone more local for cost reasons. However, if you have really found an expert you trust and you have the monies to engage

them, we think the modest expenses involved with a one-day visit are well worth it. Of course, you should also consider whether you will want the expert back to discuss the final report and its recommendations – some laws firm do, but others are satisfied with a video conference. It truly is amazing how technology has made selecting remote



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experts far less costly as the vast majority of the work can be done remotely.

## Costs

There is not a lot of transparency in information security pricing yet, something we hope will change over time. But you can force the hands of companies. If they don't have flat-fee pricing based on number of users (or devices), tell them that you will only sign a contract with a company that offers flat-fee pricing or certainly a not-to-exceed amount.

Be sure you define the scope of work correctly. But if you are reacting to a data breach, this advice goes out the window. You'll have to trust someone because the expert has no idea what he/she is walking into after a data breach (see the paragraph on recommendations above). You should have a digital forensics expert (these are often cybersecurity experts as well) in mind in the event of a breach. Better to be proactive because you'll be in full-blown panic mode if there's a breach.

But let's assume you are trying to secure your crown jewels (your confidential data) with no breach in play. Now you are looking for a security assessment – and then remediation. We see folks all the time who want them both in one contract but that's not possible. Experts have to do an assessment before they know what needs to be remediated.

Understand, if you are comparing companies, what is in the scope. They should not be looking at servers only, but at all mobile devices. Is an assessment of physical security included? What about the review of security

policies? Are the objectives to be met clearly stated in the scope of work?

So . . . you get a flat fee for the assessment. From smaller companies, this will not be a massive outlay. And of course you may get several flat-fee quotes (but do remember that it is indeed often true that you get what you pay for). We think your gut feel after your meeting with the expert may guide you on how significant the monetary difference is. You have that Goldilocks “just right” feeling when you meet the right expert.

Once you get your assessment report back, it will normally come with recommendations – and any smart company is going to offer a proposal with pricing as well. This is where sticker shock may come in. Here's how to help yourself a bit. Make sure the report identifies, in order, critical vulnerabilities, serious vulnerabilities, and low-to-moderate vulnerabilities. Have the price listed for each remediation action to be taken (including equipment and labor). This will allow you to address the most serious problems first, as your budget allows – but if you've got truly major problems, you may consider dipping into a line of credit. Hopefully you won't find yourself in that situation, but there are firms who hover on the edge of disaster without ready funds to cure their problems.

And you know what? Once you have the report and that company's pricing, if you think it's way off base, take it to another cybersecurity company. If you did not choose wisely in the first instance, another company may find the recommendations or the prices to be out of line. Needless to say, you have to

be careful of companies who simply want to bash someone else's work and then lowball their own pricing to get in the door. Even if company #2 gives you a good flat-fee quote, be wary of the tone taken to someone else's work – is it respectful? Also, be watchful for signs that the level of protection is being lowered as a tradeoff for lower costs.

## Final thoughts

Go get those recommendations from friends. Have we said this already? Nonetheless, it bears repeating. If your friends have had a really good experience with a company, the chances are that they won't steer you wrong.

The kicker is that you'll have to go through this process more than once. In April of 2016, Legal TechNews had a headline that read “Through Human and Conventional Openings, Successful Breaches Happening at Dizzying Speeds.” That headline was spot on.

The means of attacking law firms morph from day to day, as do the defenses to such attacks. You can never set up your cybersecurity, think you're done and walk away. There is no “set it and forget it” in a fast moving field. As a cost of running a law firm, cybersecurity is here to stay.

The authors are the President and Vice President of Sensei Enterprises, Inc., a legal technology, information security and digital forensics firm based in Fairfax, VA. Contact by phone at 703-359-0700 or online [www.senseient.com](http://www.senseient.com)

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## Tech tips

# How to create an Adobe Acrobat file from several files

By H. Edwin Detlie

This is the first article of two articles concerning the use of Adobe Acrobat on a tablet, such as an iPad or iPad Pro, to help in hearings, meetings or settlement conferences.

The first step in the process is relatively straightforward, and has a range of uses; thus this stand-alone article is about combining several files into a single Adobe Acrobat file. It is an extremely useful skill to develop, and is easily mastered.

### Step 1: Organize files as they should appear

Although this seems an obvious step, you need to consider how to organize files as you want them to be seen. When separate Acrobat files are combined using Adobe Acrobat, you will also see bookmarks for the first page of each of the original files. If you want, you can create subsets of bookmarks for a particular topic or set of documents, and create nested bookmarks. That is no more complicated than creating an outline, as most of us did in high school. For instance:

- |     |     |   |
|-----|-----|---|
| A   | B   | C |
| A.1 | B.1 |   |
| A.2 | B.2 |   |
| A.3 |     |   |

Why would that be useful? If you are organizing a file to prepare for a hearing, you can have a bookmark for medical records, you can have a bookmark for the University of Iowa Hospitals and Clinics, another for Des Moines Orthopaedic Surgeons, another for a physical therapist, all nested within the medical records heading. Likewise, you can have a bookmark for discovery, a subset for plaintiff's discovery responses, with separate bookmarks for answers to interrogatories and response to request for production, along with another subset for defendant's discovery responses. The same could be done for a real estate closing, a meeting or mediation.

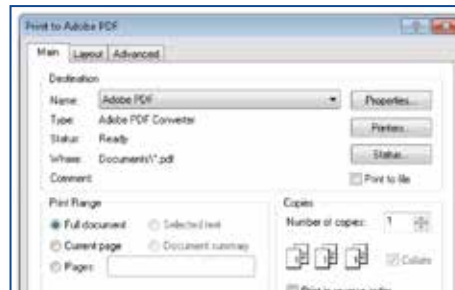
When you have an outline or structure, at least in your head, you are ready to begin. This should take 10 minutes to an hour, depending on the complexity. After doing it several times, you may get down to just a few minutes.

Note: When you are naming and saving files to combine, you will want to choose a descriptive file name, since it will become the bookmark name. You can rename

some long scan or file name to "UIH Meds," for instance. You will see why when you see the finished product.

### Step 2: Convert files to .pdf (Adobe Acrobat) format

In order to organize the files in Adobe Acrobat, the files you are organizing need to be in Adobe Acrobat format, which is .pdf. If you have Word or Word Perfect documents, you can either save each file as a .pdf file, or "print" it to Adobe Acrobat. When you tell your word processor to "print" to Acrobat, you will see a dialogue that will look like this (a little different on a Mac):



You choose print, and you will be asked what name and what folder you want to assign to the file. Give it a name, save it in a folder (or your case management application or other file organizer), and keep the file open.

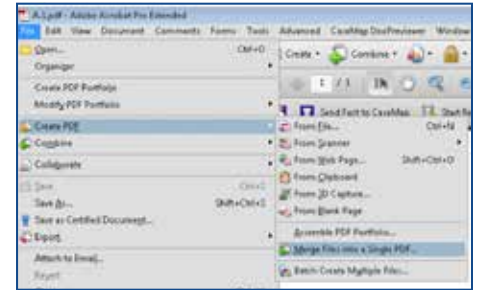


At this point, when you have all of your files open and in .pdf format, you are about half done with the entire process.

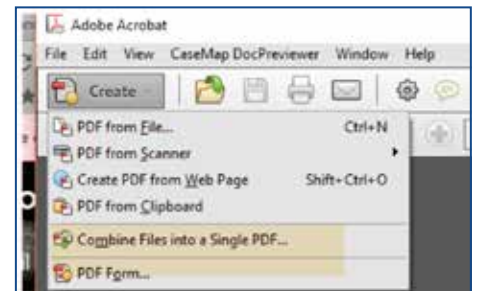
### Step 3: Combine Files

Keep in mind, if you want subsets of files, such as medical records and discovery, or even sub-subsets of files, like plaintiff's discovery and defendant's discovery, you have one extra step, but no more complicated than what you have done so far.

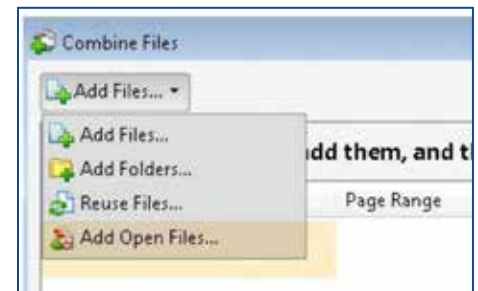
In Adobe Acrobat 9, click File, then Create PDF, then Merge files into a Single PDF.



In Adobe Acrobat X, it is even more straightforward, choose Create, then Combine Files into a Single PDF.



Choose what files you want to combine; the easiest way is to have all the files open so you can select which of the open files you want to combine into the file. When you are prompted to Add Files, you click on Add Open Files.



Then, you select the files to combine, and click on Add Files.



At this point, if you just want to combine a set of files without nesting bookmarks, you just have to tell Acrobat to combine the chosen files, name and save the .pdf file, and you are done.

The dialogue should look something like this: If you look closely, you will see that the files are out of order. You just choose the file you want higher or lower in the list, and move it by choosing Move Up or Move Down. When they are in the right order, choose combine files.



You may want to run Optical Character Recognition, so that the files are all searchable. If you have converted Word or WordPerfect files, they are probably searchable already.

#### Step 4: Nesting Bookmarks

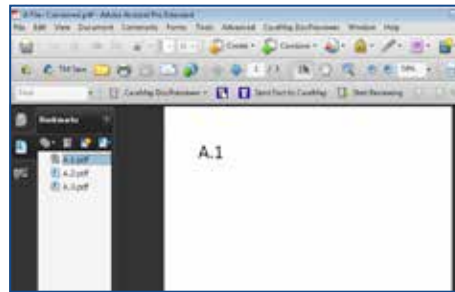
For those who like the idea of organizing bookmarks so that associated bookmarks are nested together, there is one more step, no more difficult than what you have done so far. You start with all the associated files, for instance, all the medical records, or all the medical records from the University of Iowa Hospitals and Clinics. Make sure that they are all open (you can have more open, just highlight the files you want to combine into this file,

make sure that they are in the right order, choose Add Files, and combine.

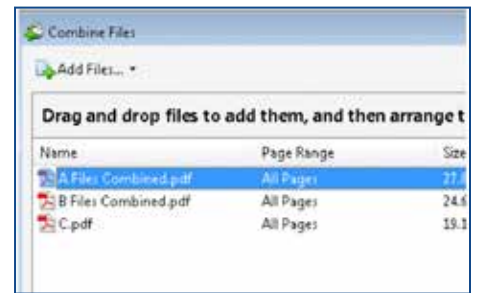


At this point, you can name the .pdf file whatever you want the bookmark to show. You will want to name the files that are being combined with descriptive titles, too, such as "UIH Discharge Summary 1/2/15," and "DMOS Operative Report, 2/5/15."

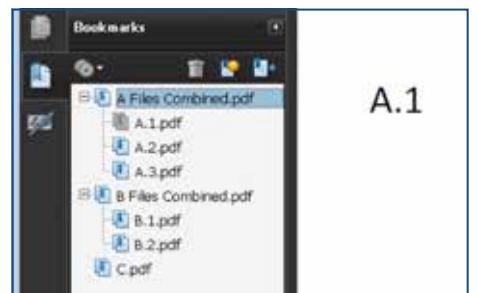
As you can see below, combining the first three files results in bookmarks showing the file names. At this point, you can change the bookmark names, by right clicking on a bookmark and choosing Rename, to give it a clearer bookmark name.



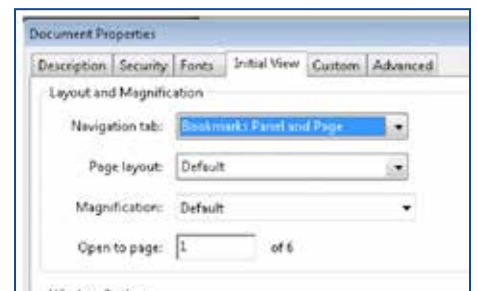
Next, you combine any other sets of .pdf files, in this case, B.1 and B.2, into "B Files Combined." Now you have the A files in one combined file, the B files in one combined file, and the C file on its own. Then you just combine all of those files, which will look like this as you choose them:



Name the combined file (in this case, I named it Smith Mediation Files Combined), and you will end up with nested bookmarks, which make organization that much simpler when you look at the files at a hearing, meeting, mediation or other conference. As noted before, you will want short descriptive names for each bookmark, not A.1 and B.2.



One last note, if you are sharing the final product with others: you can set it up to open showing the bookmarks when the user first opens the file. With the final product open, just go to Properties, then Initial View, then Bookmarks Panel and Page.



#### Next step

You have selected files, combined them just the way you want, run Optical Character Recognition, and elected to have the file open with the Bookmarks showing. Now, how can you use the final product in a courtroom or conference room? Stay tuned for an article in the next Iowa Lawyer magazine.

H. Edwin Detlie is Past President of the Iowa Association of Workers' Compensation Lawyers and Chair of the Iowa State Bar Association Law Practice Management Committee. His practice is limited to claims for Iowa Workers' Compensation and Social Security Disability.

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Partner

Law school made me an actor

# How law school helped me understand the entertainment industry and life

by Sam Yahyawi, JD, SAG-AFTRA member

In a small Iowa town at the age of nine I was happily taken to see a movie called *The Three Amigos* – a film where three silent film stars are mistaken for real life heroes by a Mexican village. As I sat in the movie theatre mesmerized, I noticed about 30-minutes in that I was engaged and pulling for our heroes to once again save the proverbial day. Before the movie was over, I told myself I would watch this again on something called a VCR. And when the credits rolled, I told myself I would be nothing if not an actor. That was 1986 and I was thrilled with the idea of being a big movie star. And if these guys could do it, what would stop me from achieving the same success?

But what they don't tell you is that acting is first a business. I sat in the theatre for two hours and did not realize that it took months if not years to produce, film and promote a movie before a single paying customer would sit in a movie theatre with popcorn to watch it. And that for every main actor or star there are about 100 people working behind the scenes to create the cinema experience that we all know and cherish so fondly from our childhoods.

And yet the best thing that could have happened to me, as an actor, was to go to law school. Why? Because a working actor must have a knowledge of the acting world, its business ramifications and the union contracts that are so vital to making sure that each actor gets what he or she not only earned but what he or she is entitled to in residuals, even after they pass on in death to the estate.

I have worked on numerous television shows, including but not limited to *Gotham*, *Elementary*, *The Blacklist* and feature films like *Money Monster* and *Norman: The Moderate Rise and Tragic Fall of a New York Fixer*. I joined the Screen Actors Guild (SAG) in 2011 and since have found work as a background actor, or what most people know as extras. With these experiences as an actor I came to realize how lucky I was to have gone to law school. In fact, the best career move I ever made in my acting career was attending law school. Thus, it is my sincere hope that attorneys and non-attorneys alike will understand, appreciate and fully comprehend how



vital law school is and how important the concepts and strategies we learned in law school still play in our daily routines.

So, let's start with one of the more fun aspects of being an actor – the meal-break penalty.

Here is the Rule (according to the latest SAG contract).

1. An actor shall be given a meal for every six hours that she is working on set.

What does every actor desire more than a paycheck? That's simple – food and drink. On the film or television set, both background and principal actors (actors that have speaking lines) eat lunch at the same time. Usually the meals consist of buffet-style offerings with a separate section for the vegan and vegetarian actors and crew. The array of salmon and chicken is present on about 50 percent of all lunch offerings, while the desserts are plentiful. There would normally be about six different types of desserts, and I always seek out the carrot or red velvet cake. Perhaps the most interesting thing about having lunch is not the lunch itself but the potential for being paid NOT to eat. In fact, the hours leading up to lunch can be the most financially lucrative part of being a background actor.

I gained personal experience with this rule on my first of many days of doing

background work on *The Good Wife*. Our call time (or the time when we need to arrive on the set) was 10 a.m. Thus, all SAG actors were due a catered buffet-styled meal at 4 p.m. I was cast as a security officer at a prison. It was to be a long day and we had five scenes to shoot at the jail, followed by several scenes at the CBS studios where *The Good Wife* sets were built and stored.

But as we approached the 3 p.m. hour, I realized that we hadn't finished filming the second scene at the jail. By 3:30 p.m., I knew there was no way we would have lunch at 4 p.m. That was fine by me because if the production company fails to provide the lunch before the sixth hour of work begins, they would pay each SAG background actor \$7.50 for the first half-hour. That is what we call a meal penalty. If the meal was not provided to us by 4:30 p.m., then we (the background actors) would be entitled to another meal penalty of \$10 dollars. And by 5 p.m. and for every half hour after that, we were due another \$12.50 per half-hour. I remember it wasn't until 7:15 p.m. that we were beginning to wrap up the jail scenes. And by the time I ate my first of many, many delicious scallops, lobster and coconut cake (yes, we get the best food), I had racked up seven meal penalties for a nice sum of \$80 dollars.

Even if we didn't go into overtime, I would have made more money that day than many days working as a public defender attorney in Louisville where I started my legal career.

But just like any good rule of law, there is an exception. Here that exception is what we in the acting industry call an NDB or non-deductible breakfast. As an attorney, I learned to read the fine print and noticed in the contracts that the producers of each show are allowed to instill a NDB. The NDB is essentially a 15-minute break where a catered breakfast and snacks would be provided to the background actors. All the cast and crew are allowed and even encouraged to eat breakfast, as many days on the TV or film set run 12 hours or more. The NDB can occur at anytime during the work day.

A NDB lasts approximately 15 minutes and usually occurs in the morning between 7 and 8:30 a.m. The interesting effect that an NDB has on a production is that it tolls or resets the time that the production is required to provide a meal to the union actors. Thus, an actor who has a 6 a.m. call time and an 8:15 to 8:30 a.m. NDB would not be eligible for a meal penalty until 2:30 p.m. Now, living in New York and having a lunch around the 2 or even 3 p.m. hour

is not unusual. But producers often take advantage of the exception to this rule by, you guessed it, pushing the NDB as far back in the morning hours as possible because they are not responsible for a meal until later in the day. Thus, the producers save money and, more importantly, they can shoot scenes for longer periods of the day before losing the sunlight on outside or exterior shots. I have even had an NDB at 11 a.m. and my lunch at 5 p.m.

Thus, without attending law school, I would have had a harder time deciphering the meal penalty rules. At a very minimum I would have had to contact someone at the union office for clarification on not just the rules but also the NDB exception. As we all learned in our basic first-year courses, we must use analysis as we make decisions. We are taught to think of both sides, the positives and negatives before reaching a decision. Here a producer may want to endure eight, 10, or more meal penalties because the extra cost of paying the actors is a smaller price to pay than not getting that last shot outside in the sun.

At the end of the day, my law school experience has groomed me into thinking not just like a lawyer but allowing me to

see every right I have – as an attorney, as an actor, as a professional and also simply as a person wanting to protect his rights in the real world. As an attorney in your own practice, you might have a client interested or an interest yourself in the entertainment law field, and any useful knowledge can only prepare you for any situation you encounter. And if you do decide to follow in my footsteps as a background actor, make sure you get all the revenue you deserve in meal penalties, and make sure you eat the scallops at lunch. They are delicious!

Sam Yahyawi is an attorney barred in New York and Kentucky. He grew up in Keokuk where he performed in community theatre and competed in speech and forensics events. He is a 1995 graduate of the University of Iowa. He gained entry into SAG and the American Federation of Television and Radio Artists with his performance as Griff, the Pizza Guy in the feature film Keep Your Distance. He has worked on numerous films, television and variety shows such as Saturday Night Live and Late Night with Seth Meyers.



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# Newly published fourth edition of treatise on business, commercial litigation in federal courts also applies to state courts

By Mark McCormick

The Litigation Section of the American Bar Association has published a Fourth Edition of its comprehensive treatise entitled “Business and Commercial Litigation in Federal Courts.” New editions of the treatise have been published about every five years since the first one was published in 1998.

The treatise, which remains the only one on the subject, has been widely recognized as a unique and invaluable resource for lawyers who practice in state as well as federal courts. The treatise has been expanded to 15 volumes. Only a handful of the 153 chapters cover topics that are not equally applicable to practice in our state courts.

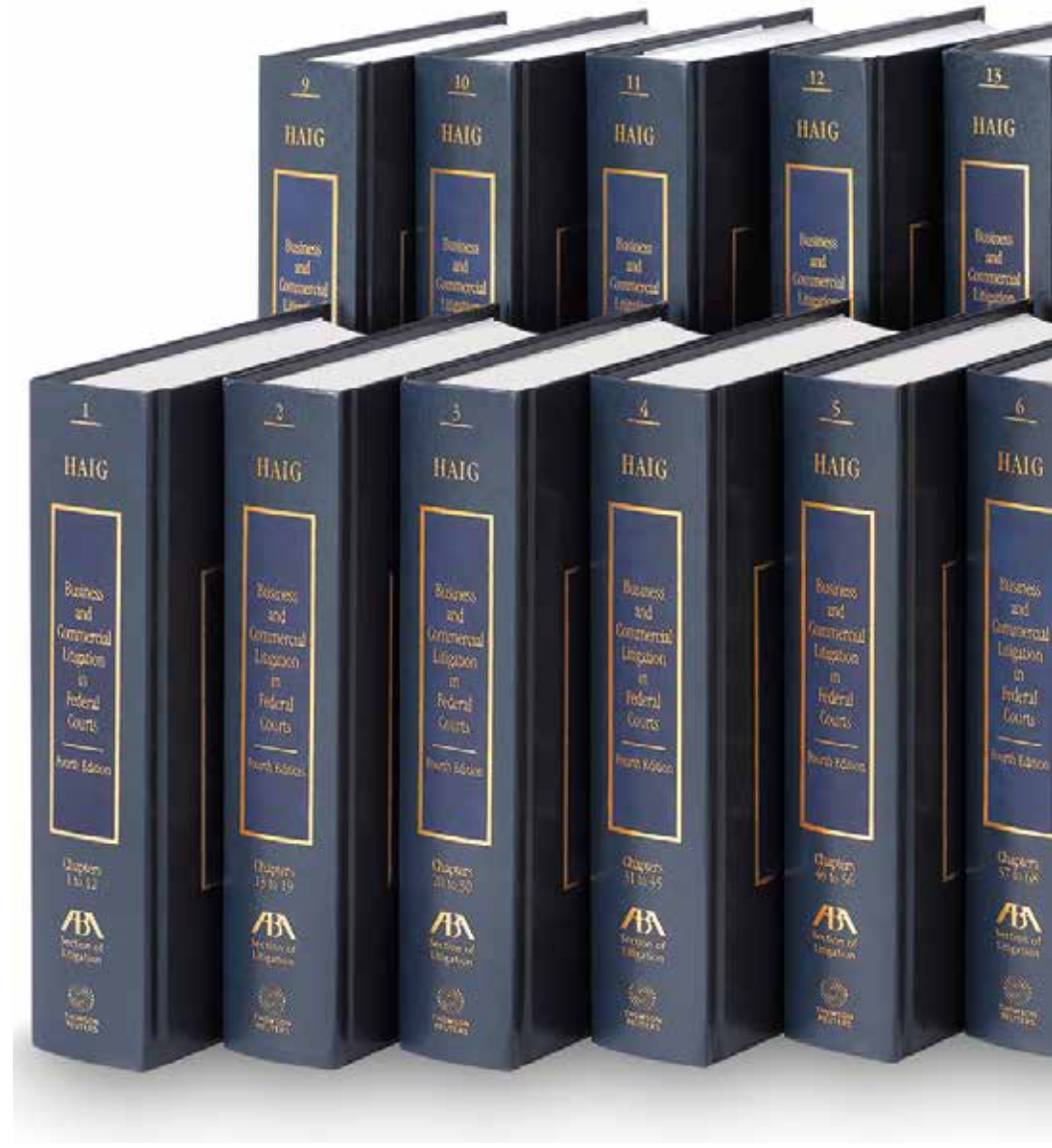
Each chapter in the treatise is authored by lawyers or judges who are established experts on the commercial litigation subject that they address. The list of authors reads like a who’s who of American law. Because their writing is on a single topic on which they are truly experts, their writing has a laser-like focus and is both authoritative and credible.

All of the authors are volunteers, and all of the royalties from sales go to the ABA Litigation Section. The Editor-in-Chief of the publication is Robert L. Haig of the New York Bar, who has coordinated the publication of each edition of the treatise.

The new edition of the treatise integrates and synthesizes information formerly in pocket parts into existing chapters. The pocket parts have not been merely copied. Each chapter is a streamlined and seamless whole.

Twenty-five new chapters have been added to address new subjects that have relevance to today’s commercial law practitioners.

They include such timely topics as negotiations, mediation, arbitration, social media, regulatory litigation, healthcare institutions, and the Telephone Consumer Protection Act. They also include such bread and butter topics as declaratory judgments, effective trial performance, marketing to potential business clients, mass torts, joint ventures, fiduciary duty litigation, fraud and civil rights. In each chapter, the authors offer information and personal insight on the topic, strategy for representation of plaintiffs and defendants and their own pragmatic advice.



The treatise provides step-by-step guidance accompanied by procedural and practice checklists. Checklists on litigation topics include delineation of essential allegations and defenses, sources of proof and helpful litigation forms and jury instructions. The treatise is accompanied by a CD-Rom including the checklists, forms and jury instructions that are also provided in the printed volumes. The information and advice is provided in simple and readable language. The only hazard to the reader is the risk of wanting to continue reading more on a topic than is essential for the task at hand. The treatise is a valuable resource for any lawyer with an active practice involving commercial law.

The treatise is published by Thomson Reuters. It can be ordered by calling 1-800-344-5009, or by submitting an online request at <http://legalsolutions.thomson-reuters.com>. The retail price is \$1,811.

Mark McCormick is a shareholder of the Belin McCormick law firm in Des Moines who primarily practices in the areas of complex civil litigation, appeals, alternative dispute resolution, professional responsibility defense, and administrative law. He is a former justice on the Iowa Supreme Court, and has written reviews on earlier editions of the treatise “Business and Commercial Litigation in Federal Courts.”

**Reginald Berg**, 78, of Spencer died on July 9. Berg was born in 1939 in Waterville. He received his J.D. from the University of Iowa College of Law in 1964. He practiced general law 44.5 years in Spencer with Cornwall and Avery, his own private practice, and most recently with Berg & Howe Law Firm until his retirement Jan. 1, 2009.

**Willie Stevenson Glanton**, 95, of Des Moines, died on July 6.

Glanton was born in 1922 in Hot Springs, Arkansas. She earned her law degree from the Robert H. Terrell Law School in Washington, DC. In 1953, Glanton became the second African American woman to be admitted to the Iowa Bar. A pioneer in both the legal and political landscapes in Iowa, she was the first African American woman to become an Assistant County Attorney in Polk County. In 1964, she became the first African American woman elected to the Iowa General Assembly.

**J. Michael Siering**, 61, of New Boston, Illinois, died July 4.

Siering was born in 1956 in St. Louis, Missouri. He received his J.D. from the University of Iowa College of Law in 1981. The law firm of Metcalf, Conlon and Siering was established when Mike joined the firm.

**Drew Robert Tillotson**, 86, of Windsor Heights, died on June 28.

Tillotson was born in 1930 in Des Moines. He served in the Navy during the Korean War and continued in the Naval Reserve for 30 years. Tillotson received his J.D. from Drake University Law School. After graduating, he was a trial attorney for the Internal Revenue Service in Omaha, Nebraska, and Kansas City until his entry into private law practice in 1959 in Des Moines. Tillotson was founder and head of the tax department at Nyemaster Goode Law Firm. He continued there until his retirement in 1998.

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## The new Minnesota State Bar Association President Sonia Miller-Van Oort



Sonia Miller-Van Oort is an Iowa native and a member of The Iowa State Bar Association, though she practices in Minnesota. She grew up in Iowa Falls, then attended Notre Dame for her Bachelor's and Indiana University for her law degree. She helped found the Sapientia Law Group in downtown Minneapolis and works on a variety of litigation matters involving commercial disputes, product liability cases, non-competition and non-solicitation matters, breach-of-contract cases, invasion-of-privacy matters, franchise disputes, tortious interference claims, and misrepresentation and fraud claims.

Her mother is a native of Ecuador, which makes Miller-Van Oort Minnesota's first Hispanic Bar President.

Congratulations to ISBA member Sonia Miller-Van Oort on her new leadership position with the Minnesota State Bar!

*(Photo by Stan Waldhauser, courtesy of the Minnesota State Bar Association)*

## New state court administrator named

The Iowa Supreme Court named Todd Nuccio as the new state court administrator for the Iowa Judicial Branch. The state court administrator is responsible for the day-to-day management of Iowa's state court system.

Nuccio will replace David Boyd when Boyd retires September 7.

Nuccio brings more than 30 years of court administration experience to the position, starting as the assistant court administrator in the Seventh Judicial District of Iowa (Davenport) and most recently completing 25 years as the trial court administrator for the 26th Judicial District of North Carolina (Charlotte).

Nuccio will begin his new position on September 18.



## Letters to the Editor



*Dear Editor,*

I really enjoyed reading the great article on Judge Longstaff in the last issue of the Iowa Bar magazine, which I believe gets better each year thanks to you and your staff.

*Philip J. Dorweiler*

LLB 1950 – Can't believe the date, but it is true.

P.S. Enclosing a \$500 contribution for the LawPAC fund.

*Dear Editor,*



I was pleased to receive the June 2017 edition of The Iowa Lawyer with my article entitled: "Witnessing A Supreme Court Nomination Hearing" published on page 12. Thanks for the opportunity to write and be published in The Iowa Lawyer. I hope your readers were able to experience the confirmation hearing vicariously from reading the article.

*Many thanks!*

*Jeffrey L. Goodman*

## TRANSITIONS SUBMISSIONS

To submit a transition item, please follow the same style published here and keep submissions short and to the point. The focus of the announcement should be on the individual involved, not the law firm.

Please include a high-resolution (300 dpi) color photo of the individual in the ".jpg" format and the announcement as plain text or as a Microsoft Word ".doc."

E-mail submissions to [communications@iowabar.org](mailto:communications@iowabar.org). Include office phone number and name of person furnishing the copy. Questions? Please call 515-697-7864.



Beckenbaugh

**Ryan Beckenbaugh** has joined H. J. Dane Law Office in Davenport as an associate. He earned his J.D. from the University of Iowa College of Law in 2015. Prior to joining the firm, he was a Judicial Law Clerk for the 7th Judicial District Court of Iowa. He is licensed in Iowa and Illinois and practices in the areas of criminal law, family law and general litigation.



Callison

**Sean Callison** has joined Faegre Baker Daniels in Des Moines. He received his J.D. from Drake University Law School. Callison assists clients with transactions and governance issues, and he is experienced in negotiating, drafting and reviewing contracts.



Glaser

**Jordan Glaser** has been named partner at Peters Law Firm in Council Bluffs. He received his J.D. from the University of Nebraska College of Law in 2011. Glaser's practice focuses on personal injury, workers' compensation, criminal defense and divorce.



Hodges

**Robert D. Hodges** has been named a member at BrownWinick Law Firm in Des Moines. He received his J.D. from Drake University Law School in 2007, and joined the firm in 2012 as an associate. Hodges practices primarily in estate planning, taxation and business law.



Johnson

**Ross Johnson** has succeeded Michael Giudicessi as leader of the Faegre Baker Daniels Des Moines office. Johnson is a senior partner on the Des Moines agribusiness litigation team. His practice focuses on agribusiness, product liability, class action, toxic tort, personal injury, insurance and general commercial issues.



Macek

**Paul Macek** has joined Hopkins & Huebner, P.C. in Davenport as a shareholder. Macek earned his J.D. from the University of Iowa. His practice will focus on mediation and representing claimants and plaintiffs in workers' compensation and personal injury litigation.



Nadipuram

**Abhay Nadipuram** has joined the Davis Brown Law Firm in Des Moines as an associate in the litigation division. He received his J.D. from the University of Iowa College of Law. His practice will focus primarily on litigation including business, commercial, construction, employment and labor relations, health care, insurance, product liability, real estate, professional liability and appeals.



Nelson

**Lori L. Nelson** has joined The Sayer Law Group, P.C. in Waterloo. Before she began practicing law, Nelson spent 17 years as an educator in Iowa schools. She received her J.D. from Hamline University School of Law in 2014. She represents clients in a broad range of matters including family law, estate planning, probate and civil litigation.

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# ISBA CLE Calendar

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

**September 14-15**

## **Bridge the Gap Seminar**

West Des Moines Marriott  
West Des Moines

**September 21**

## **Ag Law Seminar**

(In-person or Live Webinar)  
Quality Inn & Suites  
Ames

**September 21**

**Decoding Software License  
Agreements: Tips and Best Practices  
when Licensing Software**  
(Live Webinar)

**September 22**

## **Corporate Counsel and Trade Regulation Seminar**

(In-person or Live Webinar)  
ISBA Headquarters  
Des Moines

**September 25**

## **Boilerplate Provisions – Their Meaning and Why They Matter**

(Live Webinar)

**October 16**

**Depression and the Impact on  
the Person and the Profession**  
(Live Webinar)

## Corporate Counsel and Trade Regulation Seminar

**September 22**

**ISBA Headquarters or Live Webinar**



### Keynote Speaker

Tom Miller, Attorney General, Iowa

Antitrust and Consumer Fraud Enforcement in Iowa: Looking Back and Looking Ahead

### Additional Topics

- Class Action Litigation Update
- Iowa Supreme Court Update
- Hot Topics in Immigration Law
- Internal Corporate Investigations
- New Developments in Antitrust
- Franchise Law Update
- Update on the Affordable Care Act, Better Care Reconciliation Act of 2017 (BCRA) and American Health Care Act of 2017 (AHCA)

CLE CREDIT (pending): 6.5 state hours which includes 1 ethics and 5.25 federal hours

[www.iowabar.org/event/2017CorpTradeSeminar](http://www.iowabar.org/event/2017CorpTradeSeminar)

## Family Law Seminar

October 26-27

West Des Moines Marriott

1250 Jordan Creek Pkwy., West Des Moines, IA 50266

### **TOPICS INCLUDE:**

- How To Cross-examine a Business Valuation Expert
- How To Support or Cross-examine a Psychologist's Report
- The Pilot Program for Informal Divorce Trials
- New Changes to the Iowa Child Support Guidelines
- Special Issues in Child Support Cases
- Valuing the Professional Practice
- Valuation and Litigation Support Services, LLC
- Family Law Update



### **CLE CREDIT (pending):**

15 state hours which includes 1.75 ethics and 3 juvenile hours

### **REGISTER ONLINE:**

[www.iowabar.org/event/2017FamilyLaw](http://www.iowabar.org/event/2017FamilyLaw)

# Bridge the Gap

September 14-15

West Des Moines Marriott

1250 Jordan Creek Pkwy., West Des Moines, IA 50266

## Thursday, September 14

7:30 - 8:00 - Registration

8:00 - 8:30 - **Legislative Update** - Speaker: Senator Rob Hogg, Elderkin & Pirnie PLC

8:30 - 9:30 - **Going to Trial** - Speaker: Timothy Semelroth, RSH Legal

9:30 - 10:00 - **Gift Tax Return** - Speaker: Robert Hodges, Brown Winick PLC

10:00 - 10:15 - Break

10:15 - 11:00 - **Mechanics' Liens and Public Improvement Bonds** -

Speaker: Robert Gainer, Cutler Law Firm PC

11:00 - 12:00 - **Juvenile Appeals** - Sara Strain Linder, Bray & Klockau PLC

12:00 - 1:00 - **Lunch (not provided with registration)**

1:00 - 2:00 - **State Case Law Update** - Speaker: Hon. Paul Ahlers, District Associate Judge, District 2B

2:00 - 2:45 - **Avoiding Probate Like the Plague** - Speaker: Christine Halbrook, Bradshaw, Fowler, Proctor & Fairgrave, PC

2:45 - 3:00 - Break

3:00 - 3:30 - **Labor and Employment Issues (Employee Angle)** - Speaker: Whitney Judkins, Fielder & Timmer P.L.L.C.

3:30 - 4:00 - **Labor and Employment Issues (Employer Angle)** - Speaker: Bridget Penick, Fredrikson & Byron, P.A.

4:00 - 5:00 - **Law Practice Management Ethics** - Speaker: Nick Critelli, Critelli Law PC

## Friday, September 15

7:30 - 8:00 - Registration

8:00 - 8:30 - **Turning Judgment Day Into a Pay Day: An Overview on the Execution of Judgments in Iowa** - Speaker: Kristina Stanger, Nyemaster Goode PC

8:30 - 9:30 - **Mental Health and the Profession** - Speaker: TBA

9:30 - 10:00 - **Forensic Evidence** - Speaker: Dennis Klein MD, State Medical Examiner

10:00 - 10:15 - Break

10:15 - 11:00 - **Child Support Guidelines** - Speaker: TBA

11:00 - 12:00 - **Motions to Suppress** - Speaker: Matthew Lindholm, Gourley, Rehkemper & Lindholm PLC

12:00 - 1:00 - **Lunch (not provided with registration)**

1:00 - 2:00 - **Federal Case Law Update** - Speaker: Hon. Helen Adams, U.S. District Court for the Southern District of Iowa

2:00 - 2:45 - **Effective Mediation Practices** - Speaker: TBA

2:45 - 3:00 - Break

3:00 - 3:30 - **Workers' Compensation (Plaintiff Angle)** - Speaker: TBA

3:30 - 4:00 - **Workers' Compensation (Defense Angle)** - Speaker: Julie Gray, Patterson Law Firm LLP

4:00 - 5:00 - **Succession Planning/Classification Changes** - Speaker: Tre Critelli, Office of Professional Regulation



[www.iowabar.org/event/2017BTG](http://www.iowabar.org/event/2017BTG)

## Registration Form: Bridge the Gap Seminar

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

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

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

### Registration Fees:

Prices below reflect the early-bird registration fees. Registering after September 13th will result in a \$50 late fee being added on to your registration fee amount.

\_\_\_ ISBA Members - \$300      \_\_\_ ISBA YLD Lawyers Division Years Members (1-5 years) - \$230      \_\_\_ Non-ISBA Members - \$400  
\_\_\_ Para-Professionals - \$160      \_\_\_ Judges - \$70      \_\_\_ Law Students - Free

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

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

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

Cancellation policy: Registration refunds will be issued only if written notification is received by the Bar Office by September 7, 2017. Written notification can be mailed, faxed, or e-mailed to the bar office.

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