CALENDAR

November:

30 Mon. **District Court** Jury Session (3 weeks)

December:

1 Tues. **County Court** Jury Session

10 Thurs. **Barristers Christmas Party - Holiday Inn**

14 Mon. **Happy Hanukkah** - (First Day of . . .)

25 Fri. **Merry Christmas**

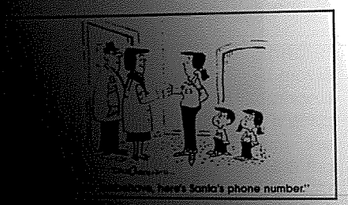
January:

1 Fri. **Happy New Year**

21 Thurs. Breakfast with **Mike Fenner - Embassy Suites,** 555 South 10th Street - 7:30 a.m.

February:

Tues. OBA "Fun" Night at the **Dubliner Pub** with **Tom Riley** and his band - 7-9 p.m.



"Welcome, here's Santa's phone number."



"You'll do better if you use a clean sock."

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OBA OMAHA BAR ASSOCIATION

Omaha Bar Association NEWSLETTER

Vol. XXII No. 2 March, 1999

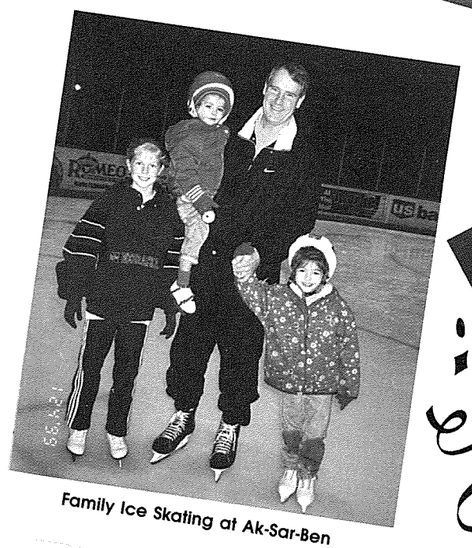
Let the Good Times Roll!



Breakfast with Fenner



Lunch with the Chief Justice



Family Ice Skating at Ak-Sar-Ben



OBA Fun Night at the Dubliner

(More pictures of events, inside . . .)

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PRESIDENT'S COLUMN

"I'm your worst nightmare."
Sylvester Stallone in "Rambo"

In the movie "A Civil Action", one scene depicts a discovery deposition in an elegant conference room. **John Travolta,** playing plaintiff's personal injury lawyer Jan Schlictmann in the Woburn, Massachusetts pollution case, is questioning an adverse witness. A defense lawyer mildly objects that the questions are becoming irrelevant. Travolta/Schlictmann immediately flares up, stares down his opponent, and barks, "Sit down and shut up!" Potential clients and budding lawyers in the audience must believe this is the way lawyers really act - and should act, since it's John Travolta up on the big screen being nasty.

Recently, in the New York Bar Journal, 30-year litigator **John Stuart Smith** reflected on the Rambo tactics he has observed:

> In an antitrust case, lawyers for the plaintiff included in virtually every motion or opposition to a motion a request for sanctions. In one instance, a request for sanctions was made concerning a pleading Smith had not yet filed;
>
> During oral argument, one lawyer characterized every position taken by opposing counsel as a misrepresentation or a lie;
>
> An attorney for a significant corporate defendant, at a crucial point in a settlement conference, leaped up and charged around the table with fists clenched until restrained by co-counsel.

The Age of the Rambo Lawyer is upon us.

"Rudeness, disrespect, untruthfulness, hostility, intimidation, and personal attacks on counsel" - that's how Smith describes what is happening in the trial practice arena. Those of us who litigate have all seen it. And we're seeing it more frequently all the time. **"Win at all costs" is the motto.** Havoc is wreaked in discovery, in depositions, and in Court. The Rambo lawyer's boorishness doesn't stop at the Courthouse doors. Judges are feeling it, too.

What can we do, and how can we stop it? Bar Associations galore have established committees on professionalism. At least 23 states have adopted codes of conduct. Virtually every professional litigators' association has a code of civility. The Federal Rules of Civil Procedure, and many states, provide stiff penalties for unprofessional behavior. Texas has a mandatory CLE ethics program for young lawyers. Florida has an ethics hot-line. Is it working? Are we seeing the passing of the Rambo lawyer? One wonders.



In Nebraska, the debate goes on about what to do. As noted in the January 1999 issue of **The Nebraska Lawyer,** the Nebraska State Bar Foundation has established an ethics committee "to uphold and raise the high standards of legal practice in the state." The committee chair is **8th Circuit Judge C. Arlen Beam.** Along with the ethics committee, a Legal Ethics and Professionalism Center will be established.

One fervently hopes that through these and other efforts the Rambo lawyer can be met and subdued.

Not only does the Rambo lawyer leave wreckage in his wake, he hurts himself also. His reputation precedes him. He may anger not only opponents but also his own clients. The difficulties caused by his behavior may rebound to his detriment and that of his clients. There is ultimately a price the Rambo lawyer himself must pay.

A case in point involves **Gwen G. Caranchini,** a Missouri lawyer. Ms. Caranchini was actually an experienced lawyer - 18 years in practice, 11 years as a specialist. In four cases in federal courts in two states over several years, she was fined in excess of $89,500 for her behavior. And what behavior! She engaged in oppressive discovery tactics, filed frivolous claims, used a forged document in a sexual harassment case, filed a baseless recusal motion against a judge she disliked. Not only was she fined, and her opponents and her own clients suffered, she was ultimately disbarred from Federal Court practice, and by the Missouri Bar Association. Her story is set out in **In re Gwen G. Caranchini,** 956 S.W.2d 910 (Mo. 1997) and **In re Gwen G. Caranchini,** 160 F.3d 420 (8th Cir. 1998).

Several years ago, the **NSBA Ethics Committee** drew up guidelines which apparently were never formally adopted by the House of Delegates. They're worth reviewing here. They're worth following. As with most other things, matters won't change until we change ourselves.

Lawyer's duties to other counsel

1. We will practice our profession with a continuing awareness that our role is to advance the legitimate interests of our clients. We will treat all other counsel, parties and witnesses in a civil and courteous manner not only in court but in all written and oral communications.
2. We will not, even when called upon by a client to do so, abuse or indulge in offensive conduct directed to other counsel, parties or witnesses. We will abstain from disparaging personal remarks or acrimony toward other counsel, parties or witnesses. We will treat adverse witnesses and parties with fair consideration.
3. We will not encourage or knowingly authorize any person under our control to engage in conduct that would be improper if we were to engage in such conduct.
4. We will not, absent good cause, attribute bad motives or improper conduct to other counsel or bring the profession into disrepute by unfounded accusations of impropriety.
5. We will not seek court sanctions unless fully justified by the circumstances and necessary to protect our client's lawful interest.

Continued on page 3

Continued from page 2

6. We will adhere to all express promises and to agreements with other counsel, whether oral or in writing, and will adhere in good faith to all agreements implied by the circumstances or local customs.
7. When we reach an oral understanding on a proposed agreement or a stipulation and decide to commit it to writing, the drafter will endeavor in good faith to state the oral understanding accurately and completely. The drafter will provide the opportunity for review of the writing to other counsel. As drafts are exchanged between or among counsel, changes from prior drafts will be identified in the draft or otherwise explicitly brought to the attention of other counsel. We will not include in a draft matters to which there has been no agreement without explicitly advising other counsel in writing of the addition.
8. Recognizing that initiating settlement discussions is not a sign of weakness, we will endeavor to confer early with other counsel to assess settlement possibilities. We will not falsely hold out the possibility of settlement as a means to adjourn discovery or to delay trial.
9. We will explore opportunities to exchange discovery information voluntarily and to arrive at a plan of discovery to facilitate a determination at an early state in the litigation whether the case is one to be tried or to be resolved by agreement.
10. We will stipulate to relevant matters if they are undisputed and if no good faith advocacy basis exists for not stipulating.
11. We will not use any form of discovery or discovery scheduling as a means of harassment.
12. We will make good faith efforts to resolve by agreement our objections to matters contained in pleadings and discovery requests and objections.
13. We will not time the filing or service of motions or pleadings in any way that unfairly limits another party's opportunity to respond.
14. We will not request an extension of time solely for the purpose of unjustified delay or to obtain a tactical advantage.
15. We will consult other counsel regarding scheduling matters in a good faith effort to avoid scheduling conflicts.
16. We will endeavor to accommodate previously scheduled dates for hearings, depositions, meetings, conferences, vacations, seminars or other functions that produce good faith calendar conflicts on the part of other counsel.
17. We will notify other counsel and, if appropriate, the court or other persons, at the earliest possible time when hearings, depositions, meetings or conferences are to be canceled or postponed. Early notice avoids unnecessary travel and expense of counsel and may enable the court to use the previously reserved time for other matters.
18. We will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided our clients' legitimate rights will not be materially or adversely affected.
19. We will not cause any default or dismissal to be entered without first notifying opposing counsel, when we know his or her identity.
20. We will take depositions only when actually needed to ascertain facts or information or to perpetuate testimony but not for the purposes of harassment or to increase litigation expenses.
21. We will not engage in any conduct during a deposition that would not be allowed or appropriate in the presence of a judge.
22. We will not obstruct questioning during a deposition and will not object to deposition questions unless necessary under the applicable rules to preserve the objection for resolution by the court.
23. During depositions we will ask only those questions we reasonably believe are necessary for the prosecution or defense of an action. We will refrain from asking repetitive or argumentative questions and from making self-serving statements.
24. We will carefully craft and document production requests so they are limited to those documents we reasonably believe are necessary for the prosecution or defense of an action. We will not design production requests to place an undue burden or expense on a party.
25. We will respond to document requests reasonably and not strain to interpret the request in an artificially restrictive manner to avoid disclosure of relevant and non-privileged documents. We will not produce documents in a manner designed to hide or obscure the existence of particular documents.
26. We will carefully craft interrogatories so they are limited to those matters we reasonably believe are necessary for the prosecution or defense of an action, and we will not design them to place an undue burden or expense on a party.
27. We will respond to interrogatories reasonably and will not strain to interpret them in an artificially restrictive manner to avoid disclosure of relevant and non-privileged information.
28. We will base our discovery objections on a good faith

Continued on page 4

Continued from page 3

belief in their merit and will not object solely for the purpose of withholding or delaying the disclosure of relevant information.

29. When the court has ruled, if a draft order is to be prepared by counsel, we will draft an order so it accurately and completely reflects the court's filing. We will promptly prepare and submit a proposed order to other counsel and attempt to reconcile any differences before the draft order is presented to the court.

30. We will not ascribe a position to another counsel that counsel has not taken or otherwise seek to create an unjustified inference based on counsel's statements or conduct.

31. Unless specifically permitted or invited by the court, we will not send copies of correspondence between counsel to the court.

Lawyer's duties to the court

1. We will speak and write civilly and respectfully in all communications with the court.
2. We will be punctual and prepared for all court appearances, so all hearings, conferences and trials may commence on time.
3. We will be considerate of the time constraints and pressures on the court and court staff inherent in their efforts to administer justice.
4. We will not engage in any conduct that brings disorder or disruption to the courtroom. We will advise our clients and witnesses appearing in court of the proper conduct expected and required there and, to the best of our ability, prevent our clients and witnesses from creating disorder or disruption.
5. We will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities in any oral or written communication to the court.
6. We will not write letters to the court in connection with a pending action unless invited or permitted by the court.
7. Before dates for hearings or trials are set, or if that is not feasible, immediately after such date has been set, we will attempt to verify the availability of necessary participants and witnesses so we can promptly notify the court of any likely problems.
8. We will act and speak civilly to court marshals, clerks, court reporters, secretaries and law clerks with an awareness that they, too, are an integral part of the judicial sysem.

On a far different note, we should celebrate two new additions to our ranks - **former Justice D. Nick Caporale** and **former Chief Justice C. Thomas White.** Judge Caporale is Of Counsel at Baird Holm. Judge White practices with his son Tom at Welch, White & Wulff.

For those who don't know Judge Caporale well, one might consider him, shall we say, formal. Actually, the Judge's sense of humor is keen, and his laughter is often infectious. A Caporale written opinion was always sleek and elegant, with a precision of language, and a quality of analysis, which identified it as distinctly his. When I think of Judge Caporale, I'm reminded of the story - perhaps apocryphal - about Harry Truman's Secretary of State Dean Acheson. Acheson was a proud, erect, striking man of powerful intellect. An underling once approached him this way:

"Mr. Acheson, I have one criticism of you. You don't suffer fools gladly.

Acheson: What do you think I'm doing right now."

If you don't know Judge Caporale, get to know him. You're in for a delightful surprise.

With **Judge White,** you always knew that not only a fine mind was at work, but a large and warm heart as well. He had a sympathy for the little guy, and a sense of outrage at injustice, which emanate from his opinions. Justice tempered by compassion; the law as a force for good; the recognition of frailty and weakness in mortals and an understanding for those less fortunate - these are the attributes of his jurisprudence. What do the Irish say? You can't be Irish without knowing life will ultimately break your heart. That appreciation tempers the sometimes hard edge of the law. Judge White - the Chief with the mighty heart.

Finally, please contact your County Commissioner on a regular basis and **urge support for the Law Library.** It's a worthy cause. We must be unceasingly vigilant in our advocacy to the County Board.

OBA PICTORIAL DIRECTORIES FOR 1999 HAVE ARRIVED!!

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JURY VERDICTS

Editor's Note: Every effort is made to insure accuracy. However, if you note an error in your case, please drop a note to the OBA office.

Douglas County District Court
October - November - December, 1998

Compiled by
Michael F. Gutowski & Mary Lee Skaff

909-903 Susan Howard v. Mary Curry and Angela Bonacci
Judge: Gary B. Randall
Attorneys:
Plaintiff(s): Angela L. Burmeister
Defendant(s): Alan L. Plessman (Curry) & Stephen G. Olson (Bonacci)
Case: P.I., Auto Accident
Specials: $8,145.80
Verdict: For Plaintiff, $55,000.00
Remarks: 1993 verdict in favor of Plaintiff for $34,500.00 was appealed and reversed

924-351 Jayne E. Royce v. Amy J. Bull
Judge: Michael McGill
Attorneys:
Plaintiff(s): William B. Woodruff
Defendant(s): David D. Ernst
Case: P.I., Auto Accident
Specials: $962.00
Verdict: For Plaintiff, $5,000.00

925-689 Edward Vieregger et al v. Andrew Robertson, M.D., et al
Judge: Gary B. Randall
Attorneys:
Plaintiff(s): James E. Harris
Defendant(s): James A. Snowden
Case: Medical Malpractice
Verdict: For Defendants
Remarks: Plaintiff alleged negligence in control of mother's diabetes during pregnancy and in delivery of child.

934-716 John F. McLeay, M.D. v. Bergan Mercy Health Systems
Judge: Joseph S. Troia
Attorneys:
Plaintiff(s): David S. Houghton
Defendant(s): David R. Buntain
Case: Contract
Verdict: For Plaintiff, $451,001.00
Remarks: Plaintiff alleged violation of due process in defendant's restriction of plaintiff's operating privileges.

942-807 Dorothy Hulett v. Ralph J. Zender
Judge: Gary B. Randall
Attorneys:
Plaintiff(s): Joseph B. Reedy
Defendant(s): Thomas A. Otepka
Case: P.I., Auto Accident
Verdict: For Defendant

944-750 Michael McGuane v. Millard Refrigerated Services
Judge: Richard J. Spethman
Attorneys:
Plaintiff(s): Michael P. Dowd
Defendant(s): Michael A. Nelsen
Case: Employment Discrimination
Verdict: For Plaintiff, $26,000.00
Remarks: Plaintiff alleged wrongful termination of employment contract after he discovered storage of tainted food products and after being accused of being gay in front of other employees.

945-648 Middletown Properties v. James Othuse
Judge: Joseph S. Troia
Attorneys:
Plaintiff(s): Sheldon J. Harris
Defendant(s): David M. Woodke
Case: Property Damage
Specials: $21,333.00
Verdict: For Defendant
Remarks: Plaintiff alleged defendant negligently failed to divert rain water flowing from Defendant's to Plaintiff's property, causing damage to a retaining wall.

947-018 William Oldenhuis v. Ret & Association
Judge: Gerald E. Moran
Attorneys:
Plaintiff(s): John H. Kellogg, Jr. & Jeffrey T. Palzer
Defendant(s): Nancy A. Wood & Timothy M. Welch
Case: Termination of Employment, Sex Discrimination
Specials: $21,000.00
Verdict: For Defendant

958-892 David Wiggins v. Venture-50, Inc. et al
Judge: Michael W. Amdor
Attorneys:
Plaintiff(s): Christopher D. Jerram
Defendant(s): Robert V. Roach & P. Shawn McCann
Case: P.I., Slip & Fall
Verdict: For Plaintiff, 31,920.00
Remarks: Jury assessed $57,000 in damages, but the award was reduced in accord with jury's assessment of 44% fault on plaintiff, 28% fault to defendant PDM (maintenance company) and 28% fault on remaining defendants (owners of the shopping center).

959-526 Trong Tri Nguyen v. Doris V. Deras
Judge: Stephen A. Davis
Attornerys:
Plaintiff(s): Michael P. Dowd
Defendant(s): Marlon A. Polk
Case: P.I., Auto Accident
Specials: $5,487.89 Defendant's Counter Claim $1,926.42
Verdict: For Defendant, and Plaintiff on Defendant's counterclaim

960-569 Kelly A. Frost v. Jeffrey Syslo
Judge: J. Patrick Mullen
Attorneys:
Plaintiff(s): Terrence J. Salerno
Defendant(s): Daniel P. Chesire
Case: P.I., Auto Accident
Specials: $7,252.70
Verdict: For Plaintiff, $100,000.00

960-631 Betty G. Foster v. Nancy Mills
Judge: Joseph S. Troia
Attorneys:
Plaintiff(s): Richard J. Gilloon
Defendant(s): J. Joseph McQuillan
Case: P.I., Auto Accident
Specials: $5,248.00
Verdict: For Plaintiff, $8,500.00

961-552 Michael Burgett v. Allen Straub
Judge: Gary B. Randall
Attorneys:
Plaintiff(s): Steven J. Lefler
Defendant(s): Eugene L. Hillman
Case: P.I., Auto Accident
Specials: $17,599.02
Verdict: For Plaintiff, $15,300.00

963-239 Rick Gibbons v. Sheldon Gallner and Gallner & Gallner
Judge: Patricia A. Lamberty
Attorneys:
Plaintiff(s): Daniel W. Ryberg
Defendant(s): John R. Douglas
Case: Legal Malpractice
Verdict: For Defendants

963-252 Diane K. Carlson v. Karen J. Spurlock
Judge: Joseph S. Troia
Attorneys:
Plaintiff(s): James A. Mullen
Defendant(s): Dennis J. Mullen
Case: P.I., Auto Accident
Specials: $1,398.00
Verdict: For Defendant, $1.00
Remarks: Jury found Plaintiff & Defendant each 50% at fault

965-634 Otis McCullough v. Jane L. Gomez
Judge: Michael McGill
Attorneys:
Plaintiff(s): Michael M. O'Brien
Defendant(s): Ronald Krause
Case: P.I., Auto Accident
Specials: $19,065.00
Verdict: For Plaintiff, $20,500.00

966-955 Lorene Karr v. John J. Edney, M.D.
Judge: Michael McGill
Attorneys:
Plaintiff(s): James R. Welsh
Defendant(s): Michael J. Mooney
Case: Medical Malpractice
Verdict: For Plaintiff, $36,000.00

U.S. District Court (Omaha)
July, 1998 through January, 1999

Compiled by Nancy A. Svoboda

8:96CV-509 Albert Andrew v. Union Pacific Railroad Corporate Lodging Systems & Scottsbluff Inn
Judge: William G. Cambridge
Attorneys:
Plaintiff(s): Michael Nowak (Illinois) & R. Bradley Dawson (North Platte)
Defendant(s): Amy S. LaFollette
Case: F.E.L.A.
Verdict: For Defendant

8:96CV-644 EEOC v. Nebco Evans Distribution, Inc.
Judge: Joseph F. Bataillon
Attorneys:
Plaintiff(s): Mark Baird (Denver) & Mia Bitterman (Denver)
Defendant(s): Charles F. Gotch
Case: Employment Discrimination
Verdict: For Plaintiff
Remarks: Trial for determination of Liability only. Damages to be tried separately.

8:97CV-011 Marcia E. Betts v. University of Nebraska Medical Center
Judge: Thomas M. Shanahan
Attorneys:
Plaintiff(s): James Polack & Edward A. Fogarty
Defendant(s): David L. Buelt & Daniel L. Rock
Case: Civil Rights Violation
Verdict: For Plaintiff
Remarks: Jury Verdict for Plaintiff, Court set aside verdict and found individually named defendants had qualified immunity. Court awarded some attorney fees for Plaintiff.

Continued on page 6

Continued from page 5

8:97CV-161 Abel Serda et al v. Bruce Forney, M.D. et al
Judge: Lyle E. Strom
Attorneys:
Plaintiff(s): Victoria Koury & Jeffrey Bogue (Denver)
Defendant(s): William M. Lamson Jr. & John M. French
Case: Medical Malpractice
Verdict: For Plaintiff, $1,125,000.00
Remarks: Dr. Forney found to be 83% negligent; the other 17% was attributed to a physician who had settled before trial.

8:97CV-265 Douglas County Bank & Trust v. United Financial, Inc.
Judge: William G. Cambridge
Attorneys:
Plaintiff(s): Gerald P. Laughlin & Patrick J. Ickes
Defendant(s): John Hubbard & Matthew E. Heffron
Case: Securities & Exchange Act
Verdict: For Plaintiff, $75,000.00

SARPY COUNTY CIVIL JURY VERDICTS
For November and December, 1998, and January, 1999

Compiled by Mary Lee Skaff

Doc. No. Betty L. Stasney vs. James E. Hougas
Judge: George A. Thompson
Attorneys:
Plaintiff(s): Matthew G. Miller
Defendant(s): Douglas L. Phillips
Type: P.I. Auto
Special damages: Medical, $14,600
Verdict: Defendant

Doc. No. 9672-1323 Cathy Gellinger vs. Robert D. Weaver
Judge: William B. Zastera
Attorneys:
Plaintiff(s): Chris M. Arps
Defendant(s): Dennis J. Mullin
Type: P.I. Auto
Special damages: $10,000
Verdict: Plaintiff, $21,000, plus costs.

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EXECUTIVE DIRECTOR'S COLUMN

First and foremost I want to say "thank you" to **John Burke** for being OBA's **"Skatemaster"** and sponsoring the annual Ice Skating Party for 14 years!! I personally think it is one of OBA's best events of the year. To see families of all ages skating and having fun together is fantastic. It brings back memories when I took my three sons to Ak-Sar-Ben every week to skate while they were growing up...at least until they started playing hockey!

John retired his skates this year (and I did likewise) but I have a feeling he will be around on that January afternoon still watching and like myself, longing to be out there. Thanks, again John for giving OBA such a memorable afternoon and to all of you skaters out there, you can be assured the continuity of the event will continue.

Speakers for our Speaker's Bureau since last issue were **Joe Vitek, Mike Kratville, J. Terry Macnamara,** and **Michelle Miller.** As always, we appreciate them representing the OBA.

I would be remiss if I did not say "Congratulations" to the past president of OBA, **Sandra Dougherty,** on being named to the District Court Bench. Her leadership qualities, knowledge and good judgment will make her an excellent judge.

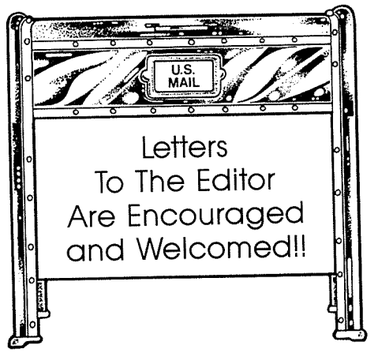
Please check the Newsletter calendar for all upcoming events. Spring and early summer become a busy time for our activities. Naturally, we hope you will support all of them.

Lawyer Referral signups for 1999-2000 begin on April 1. It is a great public service the bar association offers. I often stop and think if I had gotten myself into some of these troubles other people do (before I was employed here) who would I have turned to? It is a scary feeling and I'm glad we offer that service. **Donna Birkby** does an excellent job running the service and helping clients.

Thank you to those that have been so prompt in paying your annual dues. The OBA tries hard to reach out to all its members. Please let us know if there is anything we could do better.

It is so great to have such talented people in our membership. One of those is **Sam Hohman.** She did such a good job with the clever Mediation notice in October that I turned to her for the February meeting featuring **Tom Riley.** Again, she came through with a winner. Thanks to her for sharing her talent and time with the OBA.

Remember the Medical/Legal Dinner, New Orleans Night, Law Day and Field Day. If any of you would like to help with any of these activities, please let me know!. . .Mardee



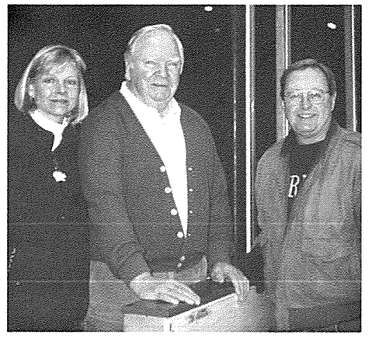
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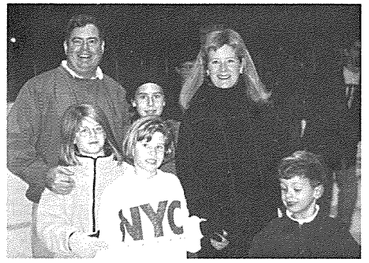
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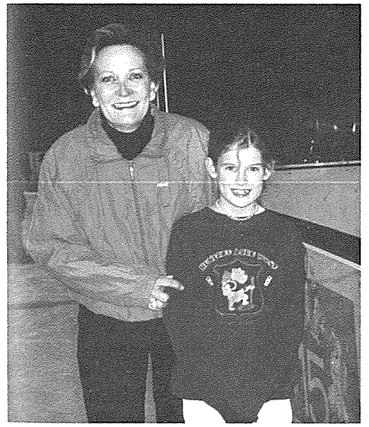
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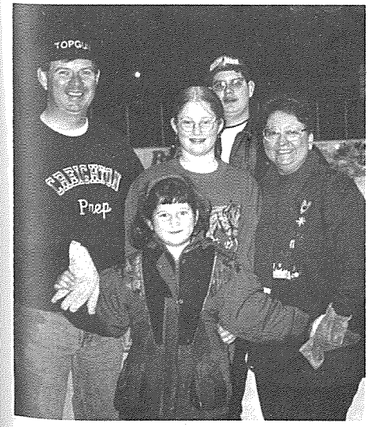
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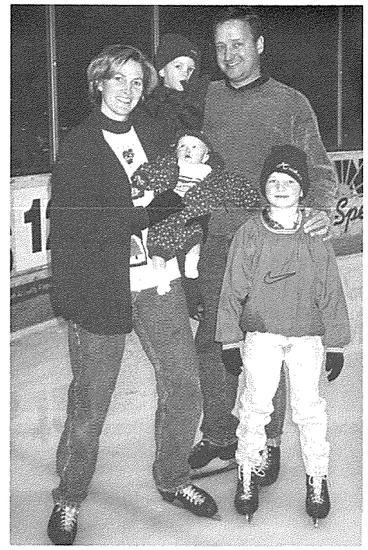
OBA SKATERS WALTZ

By: Mary Lee Skaff

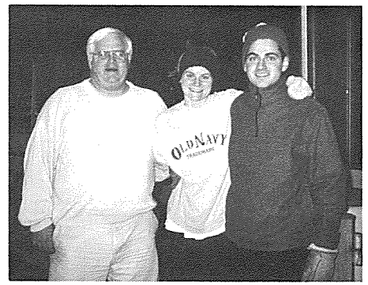
OBA skaters, friends and families, circled the ice at Aksarben January 24th. A few skaters cut fancier figures in the center, but they all appeared to be under 4 feet 6 inches and are believed to be potential rather than actual OBA members.

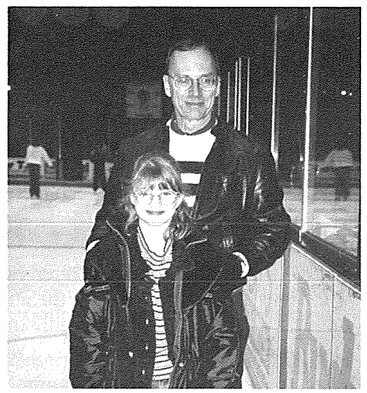
Other non-members who were seen hugging the wall last year have advanced to the stage where they can now jeopardize others with their speed. Members did not appear to have picked up comparable speed, although they did enjoy the skating. Most took the opportunity to commiserate with their colleagues on the (penalty) bench, engaging in a meaningful colloquy of moaning and groaning.

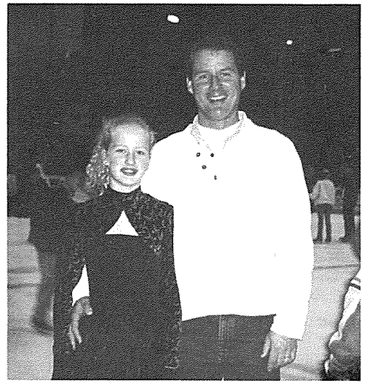
Judge John C. Burke once again provided this party and served as host. Many thanks from a lot of happy skaters.

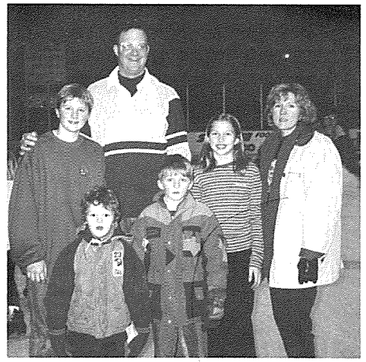


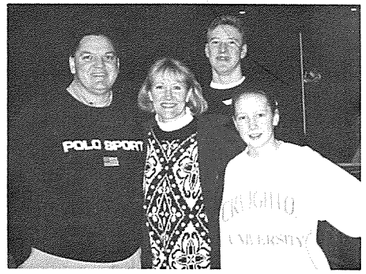
Youngest on the ice. . .3-month-old Anna Kirby with proud parents and brothers!











More pictures on page 22

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Creighton University, 1983,
Personal Trust



Marc Diehl
University of Nebraska-Lincoln, 1966,
Division Head



Elizabeth T. Foster
Creighton University, 1981,
Personal Trust



Thomas J. Gaughen
Creighton University, 1978,
Business Development



Harold B. Kosowsky
University of Nebraska-Lincoln, 1966,
Head, Trust Administration



Steven R. Kryger
Creighton University, 1978,
Personal Trust



John E. Lenihan
Creighton University, 1975,
Corporate Trust



Deborah D. McLarney
Creighton University, 1984,
Personal Trust



Janet Melchior-Kopp
Creighton University, 1988,
Personal Trust



H. David Neely, Sr.
University of Nebraska-Lincoln, 1953,
Personal Trust



John T. Stark
University of Nebraska-Lincoln, 1982,
Business Development



Ilene U. Steele
University of Wisconsin-Madison, 1983,
Employee Benefit



Michelle Ueding
Creighton University, 1995,
Employee Benefit

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BOOK REVIEW

By: Vicki Boone-Lawson

THE STREET LAWYER

By: John Grisham

Michael Brock had no reason to believe the day would be anything but business as usual when he entered the offices of Drake & Sweeney. A senior associate pulling in $120,000 a year at the high-powered D.C. law firm, Brock had frequented these halls for the past seven years. Compelled by the promise of partnership and the mandated twenty-five hundred billable hours per year necessary to achieve that exalted status, the life on the streets that lay beyond the walls of the firm was practically nonexistent to Brock -- until the day **"Mister"** made an uninvited appearance in the swank offices.

"Mister" (later determined to be **De Von Hardy**) entered the offices of Drake & Sweeney one morning adorned in dirty black rubber boots and layers of foul-smelling clothing covered by a tattered trench coat which concealed what appeared to be several sticks of dynamite strapped around his waist. As the call to security was made, "Mister" quickly gained control, taking eight lawyers, among them Brock, hostage. After hours of questions posed by "Mister" to each hostage about their yearly salary and the extent of their charitable contributions to the homeless, "Mister" was taken out by a swat team.

The hostage crisis having ended, business proceeded for everyone in the firm but Brock. Uncharacteristically, Brock could not concentrate on the expanse of work that would ensure his partnership. The newspaper accounts detailed a tragic biography of the perpetrator as a 45 year old homeless Vietnam veteran with a history of drug use. As relayed by **Mordecai Green,** Director of the 14th Street Legal Clinic and D.C.'s legal champion for the homeless, shortly prior to his death, "Mister" and countless others had been illegally evicted from a warehouse converted into crude "apartment units." Brock, preoccupied with the question of why "Mister" had chosen Drake & Sweeney lawyers as his victims, made an unannounced visit to the Clinic. Director, Green, unimpressed by Brock's stature in the legal community, lamented that "Mister" and his fellow warehouse tenants had paid cash rent without the benefit of a written lease. When the warehouse was sold, the tenants were treated as squatters and thrown out without notice. Green did not need to tell Brock that Drake & Sweeney represented the evicting landlord.

Prompted by a growing lack of enthusiasm for his once beloved work and the loneliness of a painful divorce, Brock, enlisted by Green, began doing volunteer work at various soup kitchens. The sight of hungry and poorly clothed homeless children sparked Brock's interest in advocacy for the homeless. He resigned his lucrative position at Drake & Sweeney and began practicing at the 14th Street Legal Clinic, but not before he managed to "borrow" from Drake & Sweeney a file containing details of the warehouse eviction. "Curiosity killed the cat" is an understatement of the personal and professional ramifications that followed. In the firm's attempts to recover the incriminating file, Brock becomes the subject of both a criminal and a disciplinary investigation instigated by his own former colleagues. Nevertheless, Brock relentlessly pursues justice on behalf of the victims whose suffering arose in the aftermath of the eviction. He files a multimillion dollar lawsuit against the real estate developer and its counsel, his former alma mater, for the wrongful deaths of a homeless mother and her children who were forced out of the warehouse apartments and into the streets.

The Street Lawyer is true to Grisham's typical **David v. Goliath format.** The book portrays a life event which causes a career path to take a profound turn. Whether that change is good or bad depends upon one's perspective. Certainly, advocacy on behalf of the homeless is a noble undertaking. However, the plot's development, in my opinion, was not powerful enough to convince the reader why a talented, successful, and upwardly mobile lawyer would be motivated to substantially change his standard of living and subject himself to criminal charges and possible disbarment to pursue this cause. In the end Brock pays a relatively small price, thanks to a sympathetic judge who actively negotiates the terms of the wrongful death settlement, which includes disciplinary sanctions imposed on Brock. If you read the book, set aside the taboos contained in the Code of Professional Responsibility etched in your brain.

Please advise the Omaha Bar Association (342-3786) of any moves, additions, subtractions, promotions or other interesting facts within your law firm.

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CHIEF JUSTICE TOUTS VALUE OF ORAL ARGUMENT

By: Stephen M. Bruckner

Nebraska Supreme Court Chief Justice **John Hendry** was the featured speaker at the November 1998 meeting of the Omaha Bar Association. Appointed last year by Governor Ben Nelson to replace the retiring **Chief Justice C. Thomas White,** Chief Justice Hendry is the first judge appointed from the County Court bench to the Nebraska Supreme Court. A 1974 graduate of the University of Nebraska College of Law, Judge Hendry was a trial lawyer with the Lincoln firm of Bruckner, O'Gara, Keating, Hendry, Davis & Nedved before his appointment to the bench.





Chief Justice Hendry emphasized the value of oral argument before the Supreme Court. He explained that decisions are not made until after the Court has heard oral argument, and the lawyers' presentations have "changed our views many times." Hendry urged, "Don't waive oral argument. It's critical." He encouraged lawyers to "forget the script. If a question is asked, it means we are concerned about an issue. The reason we ask questions is because we are prepared and eager to find out how you, as the advocate, perceive the case." Judge Hendry commented that many attorneys are concerned about the ten minute allotment for oral argument in most cases. He explained that lawyers should file a motion if they believe more time is needed, because often the Court will agree and the motion will be granted.

The Chief Justice noted that the entire Court meets in consultation immediately after oral arguments to discuss the day's cases. There, a justice is assigned to draft and circulate an opinion for review and comment by the entire Court.

Judge Hendry believes the relationship between the Bar and the Supreme Court is so important that he has assumed for himself the role of liaison to the Nebraska State Bar Association. He hopes that his participation in Bar activities will strengthen the relationship between lawyers and the Court. Chief Justice Hendry also will be active on legislative matters. He said, "If there is an issue that affects the practice of law or the administration of justice, I'm going to get involved."

Judge Hendry has three immediate goals as the new Chief Justice. **First,** he wants to develop a more efficient way to reach down and take appropriate cases from the docket of the Court of Appeals. He believes the Supreme Court should focus on deciding cases that should be in the high court in the first instance.

Second, the Chief Justice wants to develop a Supreme Court computer web site. He would like to have Supreme Court opinions released immediately, and include in the web site a search engine to research Supreme Court opinions.

Finally, Judge Hendry's **third** immediate goal is to work on revisions to the rules of practice and procedure, and "fix the things that need to be fixed."

The new Chief Justice is excited about the challenges ahead for the Nebraska Supreme Court. He joked: "I thought this job would be easy. We only meet once a month. But then, I looked at the pile of briefs waiting for me in my office!"

MEDIATION COMMITTEE BECOMES ADR COMMITTEE

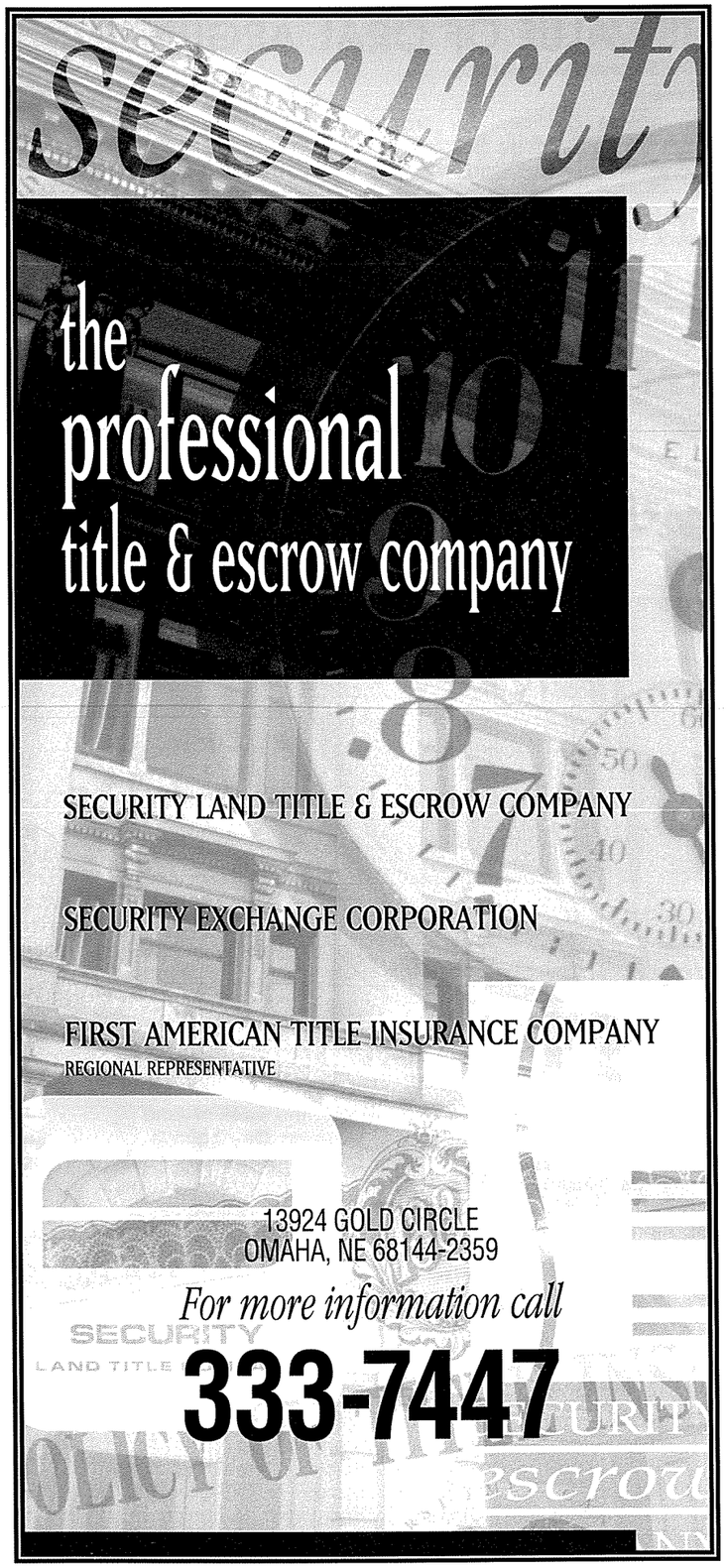
By: Chairperson Lynne Timmerman Fees

At its January meeting, the Mediation Committee voted to change the name of the committee to the **ADR Committee.** This change better reflects the nature of the committee. It also lines up with the ABA and NSBA committees with which we often coordinate.

We have four new members: **Lynnette Boyle, Bob Kirby, Leanne Gifford** and **Jerry Pettit.** We welcome their tremendous input of ideas and time.

The **week of June 14** will be **ADR week in Omaha.** We plan to have another **"Settlement Week,"** as we had 2 years ago. This will allow Douglas County District Court judges to refer cases for mediation using a volunteer panel of mediators. Now that the parenting plan mediation program is up and running in the court, we feel the time is ripe for more mediation of civil matters.

We will have more details in the May issue of the newsletter. Until then, we are always looking for new members to attend our monthly luncheon meetings at Trovato's. Call Mardee or Donna for times and places and help us promote alternative dispute resolution in Omaha.



December 11, 1998

Michael A. Nelsen
President, Omaha Bar Association
2133 California St.
Omaha, NE 68178

Dear Mike,

I just finished reading your "President's Column" in the Omaha Bar Association Newsletter, December 1998. Having been in the practice of Law since I joined Kennedy, Holland, DeLacy and Svoboda in Janaury of 1956 and continued in the practice with Lamson, Dugan and Murray, I really don't identify with this downhearted or despairing lawyer image that you paint in your article. It has been my privilege to engage in the practice of law while at the same time working actively in the Community. I chose to continue to practice because of my great love for the profession and for the clients that I am able to serve. I continue at my Community activities as well and enjoy my family, nine children and 17 grandchildren. I enjoy coming to my law office as much today as I did on that morning in January of 1956 when I began the Practice of Law. As long as I can serve my clients well and serve my Community that is sufficient to maintain my happiness. Perhaps those that are so distressed or unhappy are seeking the "glittering prizes" rather than satisfaction of a job well done.

Then when I looked at page 23 of the Newsletter, I saw all of these smiling faces - 15 in all. (OBA's officers and Executive Council) *I view them as Representatives of the Lawyers of the Bar and they all look happy to me!*

Good luck and best wishes,

Thomas R. Burke

Y 2 Kare About Y2K

By: H. Daniel Smith

You may have already heard more than you wanted to about **Y2K, the year 2000 problem,** the Millennium Bug. Forgetting for the moment that the next millennium does not begin until 2001, the problem here is that many computers, devices and software programs cannot process dates of 2000 and beyond. No big deal, unless you are hooked up to a heart monitor that processes dates, do four million credit card transactions per day, run a humble law office, or do practically anything else in our computer and chip intensive world.

The bug is this. Stop me if you've heard this before. Owing to the expense and scarcity of computer memory in the past, computers, software and devices were designed to process years as two digits, as in 97, 98, 99 ... Logically, this means that 00 is 1900 etc. Many programs and computers will simply stop functioning, or stop functioning correctly when confronted with a date past 12/31/99. Some programs and computers even have trouble with other dates, such as 9/9/99 and the leap year date of 2-29-00.

Am I stockpiling cheese and bottled water? That would be crazy, paranoid behavior, and besides, there was no storage space left in my bomb shelter anyway. My personal view is that Y2K is serious, but it has been wildly overblown as a threat to the economy and personal well-being.

Those who need to be alert to it are alert to it and remedial action is proceeding. Most large enterprises with serious Y2K problems are well down the road in remedying them and preparing contingency plans.

Having said that, note that in a business of any size, this can be a daunting task. You have to assess all of your computers, all devices with embedded chips, and all software programs, for starters. Then you turn to fire alarm systems, including detection, sending, receiving, and suppression units; security systems, including sending and receiving units, video and surveillance systems, and badge readers; telecommunications equipment, including telephone switching equipment, call management systems, pagers and cellular phones; and building infrastructure, including HVAC, energy management and lighting controls, emergency generators and lighting, uninterruptible power supplies, and elevators.

After you are done with all the foregoing, you can start worrying about "business dependencies" — that is, third parties upon which the company depends, such as payors, claims clearinghouses, banks, and suppliers. Then consider Public Infrastructure Failures — power, water, police, fire, and public transportation. Finally consider the possibility of Financial Losses — claims for payment to you or from you.

In order to assure your Y2K readiness, you need to assess the readiness of your suppliers, as mentioned. But what about their suppliers, and the suppliers to the suppliers? At what point would a weak link break the chain?

Gad. Maybe I'll start collecting string after all.

Who's responsible for all this? That's lawyer-code for "who can we sue?" In some cases, its just one of these things. You fix it and go on. Litigation is not cost effective. We had a fax server installed several years ago to the tune of several thousand dollars. Recently, they informed us that we could pay another $1000 to bring their three year old "solution" into Y2K compliance. Since prices had plummeted on better solutions, we simply moved on. We didn't pursue any remedy. On the other hand, had your company spent 1,000,000 on a system of some kind three years ago and the vendor now asked for another $200,000 to make it Y2K compliant, and otherwise refused to fix it, you might be tempted to sue.

You or your clients may wish to look into the following: Insurance policies; include Commercial General Liability, Business Interruption; Errors and Omissions/Professional Liability; Product Liability; Directors and Officers; and specific Year 2000 policies, if any. Review software agreements with an eye to warranties, representations, and maintenance agreements. A maintenance agreement could be construed to include fixing the bug. Consulting agreements may require your outside tech guys to help you fix the problem.

In the case of insurance policies, be alert to the need to put the insurer on early notice in accord with the terms of the policy. Go to **http://www.year2000.com/y2klawcenter.html** for a lot more material on legal and insurance issues.

If you brought all your computers and software within the last several years you are OK, right? Wrong. Major vendors, such as Microsoft, keep coming up with bugs. Many PCs of recent vintage have the problem, typically in the BIOS — the code that resides in permanent chip memory that helps bring the machine to life and talks to gadgets which are a part of and connected to the computer. Sometimes the fix is as easy as resetting the date one time. Sometimes it is more involved. Other devices in your office may have problems — file servers, mail servers, fax servers and machines, printers, copy machines, etc. You have to look at every machine and every piece of software in your office to know for sure. Many manufacturers have information on their web sites that can help you with their equipment and software.

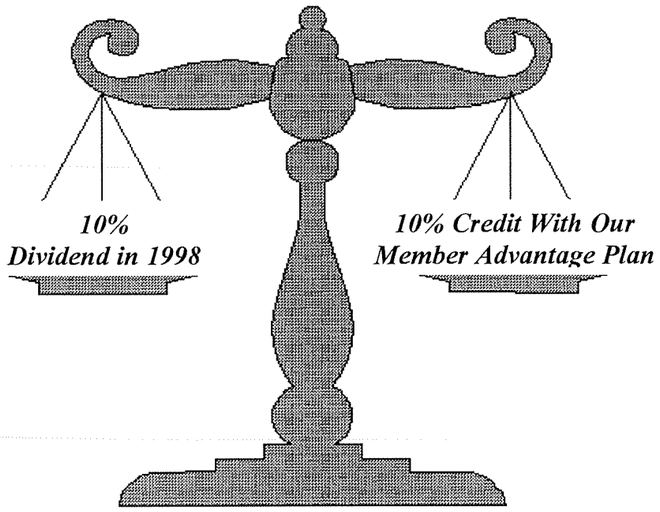
For software to help you test your PCs, go to **http://www.pcprofile.com/survive.htm.** There is also some shareware out there.

For more Y2K legal links than you can shake a stick at, go to **http://www.comlinks.com/legal/lmenu.htm.**

If there is something you want me to write about, or you just want to send fan mail or advice (I've already been told to keep my day job), e-mail me at **dsmith@dwyer-smith.com.**

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AN AMERICAN IN PARIS WITH AN EYE ON IMPEACHMENT: MIKE FENNER'S ANNUAL BREAKFAST ORATION

By: Gerald L. Kratochvil

The whole impeachment trial is not about the Constitutional responsibility of the United States Senate. It is about the smoking of cigars, and where they were smoked.

That was the gist of Creighton Law Professor **G. Michael Fenner's** talk at the Omaha Bar Association's Annual breakfast meeting on January 28th at the Embassy Suites.

Oh, and the cigar reference was about his experience in Paris, not about any Oval Office humidors. You see, **Mike Fenner** is recently back from Paris (France), and between observations about the Clinton impeachment trial, he extolled the virtues of sitting on one's balcony watching a Parisian sunset while drinking fine wines, nibbling on aged cheese, and smoking a (legal) Cuban cigar. All the while, Mike said, not really caring much about Monicagate or how a Chief Justice gains his stripes.

The theme of Professor Fenner's talk was, **"Hey Mike! It must be a great year to be teaching Constitutional Law, huh?"** The clear answer from this newly re-established Omahan in a Midwest winter is, "Yes, it is." But not for the reason you think.

It is not because the Chief Justice has stripes on his robe inspired by a Gilbert and Sullivan play. It is not because impeachment is such a fascinating issue that enraptures all who are inspired by Constitutional law. In fact, Mike said, "Impeachment doesn't count much for Constitutional law at all."

Say it ain't so Mike! Say it ain't so!

"Impeachment is for the media. The media makes an investment in the story so it may get a return. It has made an investment in the impeachment story much like it did with O.J., Princess Diana, Whitewater and Monica. And soon it will pick another subject." To prove the point, Mike Fenner noted that the media kept its full attention and television coverage on its impeachment investment, while relegating a United States missile attack on a foreign country to the picture in picture.

In Paris, even Mike could turn his gaze from the deeds in D.C., and concentrate on the sun drenched monuments, "where a cigar is still just a smoke."

Mike found that this does not make for much more than twenty minutes of Constitutional stuff because the Congress is making it up as it goes along. Quoting former House Minority leader and President **Gerald Ford,** "What is an impeachable offense? Only what the House of Representatives thinks it is." The Constitution itself doesn't help much either as it says that, "The Senate shall have the sole power to try all impeachments." So, G. Mike summed up, if the Senate wants to give a committee the duty of reviewing all evidence and submitting a report to the full Senate, as it did with the impeachment trial of President Nixon, it can do that too.

In the end, Mike said, the questions of impeachment become non-justiciable, political questions. These then leave a danger of a spiraling effect of raising impeachment only to push Congressional will upon the President - to move toward a Congressional version of "no confidence."

So Mike, if this impeachment stuff is better left for a Poli-Sci class, and you'd really rather be on the steps of Sacre Coeur with a block of bread and a loaf of cheese, why is this such a great year to be teaching Constitutional Law (in Omaha)?

Mike replied: Because of the Michigan man who was arrested for violating a statute against cursing in front of women and children. Because of the case against the Internet page about the abortion providers. Because of the judge who sentenced a boy to go to church and to Sunday school. Because of the KKK being denied a permit for a rally on the steps of the Wisconsin capitol. Because of Aaron Smith who was suspended from school for creating an "animal hate group" through his Internet page "C.H.O.W.: Chihuahua Haters Of the World."

In short, Mike pointed out, no matter how many berets there are being worn on the left bank or in the Oval Office, no matter where the Cubans are being smoked, no matter the sunsets in "gay Paree" or the wind chill in the Big "O", "it's ***always*** a good year to be teaching Constitutional Law."

The Prof and the Pres



Listening and Laughing

Can a professor teach evidence to a judge?

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HUBER JOINS COUNTY COURT BENCH

By: Matthew V. Stierman

Former Deputy Douglas County Attorney **John Huber** joined the Douglas County Court Bench on December 4, 1998 when he was sworn in by Douglas County District Court Judge **Gerald Moran.**

Judge Huber, 35, was most recently the risk manager/labor relations coordinator for Douglas County. He held that position from 1996 to 1998. Prior to that position, he was with the Douglas County Attorney's Office from 1988 to 1996. Huber was raised in Davenport, Iowa and attended Assumption High School. Following his graduation from Assumption, he attended Creighton University and obtained his legal education from the Creighton Law School where he graduated in 1988.

Judge Huber worked in the civil division of the county attorney's office before taking his position as risk manager/labor relations coordinator with the county. That position involved handling workers compensation claims for the county, as well as insurance and labor relations issues.

During his second year of law school, **Judge Huber** was involved in the Douglas County Pre-Trial Release Program and this experience caused him to think of the judiciary as a possible career goal. After law school he continued to entertain the possibility of joining the bench, although he had no specific plans. However, with several judicial vacancies occurring recently, Judge Huber believed that now the time was right to pursue the position. After over two months on the job, Judge Huber characterizes his tenure as a learning experience, but states that so far he has enjoyed the process. He has become sensitive to the expense of the judicial system and believes that one of the important goals of the judiciary should be to perform its duties as efficiently as possible, although he adds that he has not been on the bench for a long enough period to have identified specific ways to address these concerns.

Judge Huber lives with his wife, **Leslie,** and his two step-daughters, **Jaime,** age 11, and **Jourden,** age 6, in Omaha. When he is not in the courtroom, he enjoys participating in all sports and spends a good deal of time attending his daughter's soccer games.

CORPORATE COUNSEL

Jim Theisen, chairman of the Corporate Counsel committee, would like to hear from Corporate Counsel attorneys with any suggestions for future events or any other ideas for this committee which you may have. You may FAX **Jim** at: 271-7107 or **Mardee** FAX: 341-2397. If you would like your name added as a member of the Corporate Counsel committee please FAX one of us or call Mardee at 342-3786.

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SANDRA DOUGHERTY APPOINTED TO DOUGLAS COUNTY DISTRICT COURT BENCH

By: Tracy Grinstead-Everly

On January 22, 1999, Supreme Court Justice **Lindsay Miller-Lerman** administered the oath to Douglas County's newest District Court judge, **Sandra Dougherty.** Judge Dougherty fills the vacancy created by Judge **Theodore Carlson's** appointment to the Nebraska Court of Appeals, and is taking over his docket. With the appointment of Judge Dougherty, three of the fifteen judges on Douglas County's District Court bench are women. Judge Dougherty was privately sworn in on January 6, 1999, Governor Ben Nelson's last day in office. She began administrative duties immediately thereafter, and "shadowed" other judges before her first hearings on January 25. Judge Dougherty notes that the other judges have been very helpful in her assimilation to the bench.



Photo by Pam Vermillion, The Daily Record

Judge Dougherty is a 1982 graduate of Creighton University School of Law with a professional history in private practice and judicial clerking. From 1982 to 1984, she clerked for U.S. District Court Judge **"Duke" Schatz,** and from 1984 to 1986, she served as a law clerk for Judge **Don Ross,** on the U.S. Court of Appeals. In 1986, Dougherty went to work as an associate with Fitzgerald, Schorr, Barmettler and Brennan, primarily in the areas of corporate and employment law, later expanding into litigation. In 1988 she helped found Lieben, Whitted, Houghton, Slowiaczek, and Dougherty as a principal, practicing employment law and civil litigation.

Judge Dougherty was very involved in the Omaha and Nebraska Bar Associations, serving on numerous committees. Perhaps most notable in terms of involvement in the legal community is Judge Dougherty's service as the **first woman president of the Omaha Bar Association (1997-98)** and dedicated member of the Eighth Circuit Task Force on Gender Bias.

Judge Dougherty believes she brings the strengths of patience, the ability to listen carefully and (she hopes) expeditiousness to the bench. She recognizes that a learning curve exists for all new judges, understands that the court faces the additional challenges of ever-increasing caseload volume, and is acutely aware of the current spacial limitations. She is temporarily a judge without a courtroom, with her office on the fifth floor of the courthouse in the new space created out of part of courtroom 1. Her bailiff, **Angie Rosales-Luna,** has a history of working with the district court, and many in the local legal community are no doubt also familiar with her court reporter, **Caroline L. Miller,** who comes to the court from private practice.

When asked to provide tips to lawyers practicing before her, Judge Dougherty notes that she plans to take measures to ensure that she is prepared for every court proceedings, and expects attorneys to do the same. Also, she will enforce attorneys' duties to be respectful and civil to all counsel, parties, witnesses, jurists and court personnel involved in every action.

Congratulations to **Judge Dougherty** on her appointment, and welcome to the bench!

And they say lawyers take themselves too seriously! Well, you be the judge - we spotted the following license plates around town:

PAT LAW	C U N CT
JUSTICE	MS ESQ
DEF ATTY	COUNSEL
JAWS 1	NOT GLTY
LAW MOM	CR8N LAW
	LITIG8

Have you seen others??

OMAHA BAR ASSOCIATION PUBLIC SERVICE AWARDS

Names are being taken for the Public Service Awards presented at the annual **Law Day luncheon** scheduled for **Wednesday, May 5, 1999.** Two awards are given: The Robert M. Spire Public Service Award presented to an attorney and the Public Service Award presented to a non-attorney or group.

The criteria for the awards is:

1. The public's knowledge of the law or the legal system has been enhanced in some significant way by the recipient's efforts;
2. The recipient has focused on providing service to the community for purposes other than pecuniary profits; and
3. The recipient has demonstrated long term commitment to the enhancement of the public's knowledge of the law.

Please call **Eileen Reilly-Buzzello - 449-9036** or **Mardee - 342-3786** with any suggestions you may have.

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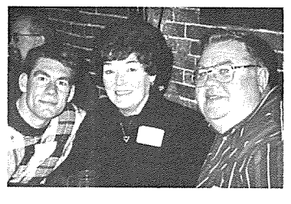
Fun Night at the Dubliner with the "TURFFMEN"

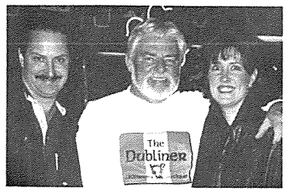






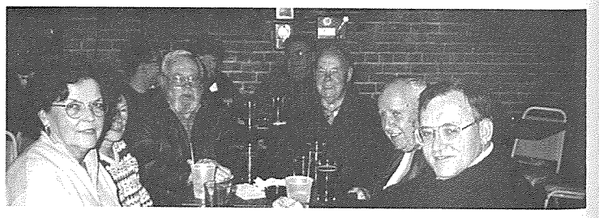












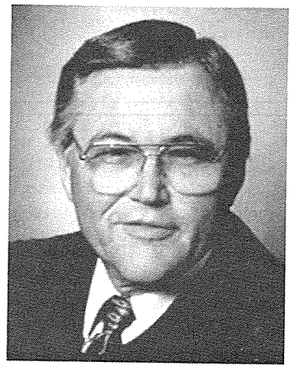
More pictures on page 23

CARLSON MOVES TO APPELLATE BENCH

By: Mary Lee Skaff

Justice Theodore I. Carlson has been on the Court of Appeals since December 11th, after serving fifteen years in the Douglas County District Court and twelve years in the County Court.

His appointment was heartily endorsed by many OBA members. "He knows the law and has an eager and



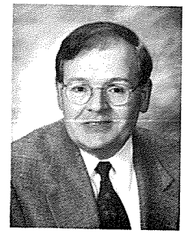
inquisitive mind. If you mention a case he doesn't know, he will go and read it," commented **Milton A. Katskee.**

"He is a real loss to the Douglas County Bench. He is a real people's judge, according to both litigants and attorneys, and has a good judicial temperament," added **Terry Sibbernsen.**

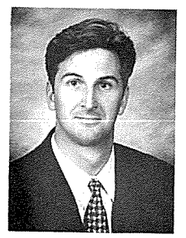
Justice Carlson is enjoying the change at this stage in his career, as well as the competence of his new colleagues. "So far the hardest part has been getting office space." After some moving around, he is finally located in the Civic Center, and invites OBA members to drop by and visit his new quarters. He is looking forward to seeing attorneys from Douglas County in the Appellate Court.

ON THE MOVE

New associates at Kutak Rock are **Suzanne Shehan** and **David Stage** . . .leaving Creighton for new position at Siena College in Albany is **Professor Joe Allegretti.** . .Creighton's Assistant Dean **Brian Ferrell** also moving on to the Department of Justice in Washington, D.C. . . **.Douglas Law** new at Blackwell Sanders . . .Attorney **James Monahan** joins the Omaha City Council. . **.James Brown** and **Mark Curley** announce the commencement of the Law Offices of James R. Brown . . **.Stacey Hultquist** has joined Brown and Wolff. . **.John Kinney** now at Dwyer Smith. . **.Pamela Dahlquist** and **Nora Kane** have joined Domina Law. . **.John Rasmussen** joining Peters Law. . .new at Hotz & Weaver is **Thomas Nack.** . **.Sam King** moving to Lieben, Whitted. . **.David Pavels** new office address is 4949 S. 118 St., Ste. C. . .now at Lamson, Dugan & Murray are **Steven Welch** and **Kyle Wallor** (Pictured below) . . **.Bruce Gerhardt** (pictured below) has joined HDR, Inc.



Steven Welch



Kyle Waller



Bruce Gerhardt

MILESTONES

Past president of the OBA and first woman president, **Sandra Dougherty,** named to District Court Bench. . .**David Schmitt** named Partner at Lamson, Dugan & Murray. . .new shareholder and director at Brown and Wolff is **Scott Brown.** . **.Ronald Bucher** named assistant general manager of administration at MUD. . .six new partners named at Kutak Rock: **Paul Halbur, Bryan Handlos, Dianne Pierson, Randal Putnam, Kevin Saltzman** and **Kristine Thomas.** . **.T.J. Patterman** principal at Council Bluffs law firm of Smith Peterson. . .



David J. Schmitt

SPECIAL RECOGNITIONS

Milton Abrahams to be inducted into the Omaha Business Hall of Fame on March 24. . **.Thomas Burke** named to Ak-Sar-Ben Court of Honor. . **.Dean Larry Raful** received the St. Ignatius Award given each year by Creighton's Deglman Center. . .

NOTICE

Please be advised that the United States Court of Appeals for the Eight Circuit has revised its Local Rules. The new Rules became effective December 17, 1998. The Local Rules are available by sending a stamped, self-addressed 9 X 12-inch envelope bearing $1.28 in postage to the Clerk of Court, United States Court of Appeals, 1114 Market Street, Suite 511, St. Louis, MO 63108, or by accessing the court's web page at http://ls.wustl.edu/8th.cir/cindex.html

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Creighton Law School's Career Services Club

By: Dean Lawrence Raful

Brian Ferrell, CU Law '88, who has served for the past two years as Creighton Law School's Assistant Dean for Career Services, will be leaving us on March 12. Ferrell, an outstanding member of the Law School administration team, is leaving because he, his wife Vicki, and their two sons want to be closer to family on the East Coast. He will return to the United States Department of Justice where he will be welcomed back with a promotion and great prospects for the future. He will be greatly missed around here.

Saying "thank you and farewell" to Brian, gives me this opportunity to tell our OBA friends about what we offer now in our **Career Services Office (CSO).** I am willing to bet that we offer many more services than you might have guessed. We are quite proud of all we are doing to assist Creighton Law students in finding employment that meets their goals, and in finding qualified law clerks and associate attorneys for all of you.

In addition to providing extensive individual counseling on resume preparation, self-assessment, interviewing skills, job-search strategies, and numerous other topics, the CSO functions as a cornerstone for marketing the Law School to both potential students and employers. For instance, we developed and distributed about 8,000 copies of *Creighton University School of Law: A Recruiter's Guide,* an attractive brochure with extensive information about Creighton Law School's curriculum, Legal Clinic, the new library addition, faculty scholarship, and Career Services Office services.

In addition to the traditional on-campus interviews, we also offer students, alumni, and recruiters:

- Web site job postings, with information and links to employers and career opportunities;
- A Law Alumni Network of about 400 Creighton Law grads nationwide who volunteer to assist students seeking positions outside of Omaha;
- Expanded communication with students via a twice-monthly CSO newsletter -- *Finding Your Way* -- that includes career development strategies, up-coming programs, current job postings, and job search/marketing tips; and
- Increased programming, including the Mock Interview Program, the Career Servivces Orientation Week, and the Meet the Firms/Opportunity Knocks Program. Topics discussed include what a student can expect from a law clerk position, what a firm expects of a summer law clerk, what it takes to become an associate at a firm, how to interview, preparing a resume, job search strategies, and even what to wear for an interview.

By the time you real this, it is likely that a new Assistant Dean will be in place and ready to help you and our students. For more information about the Career Services Office at Creighton Law School or to post a position, please call **280-3082.**

NEALA HIGHLIGHTS

By: Katherine L. Chase, CLA

The Nebraska Association of Legal Assistants continues to provide educational opportunities to its members in the form of seminars and monthly meetings featuring speakers on legal topics. Following the fall seminar in September, a legal assistants' recognition breakfast in Omaha and Lincoln provided an opportunity for legal assistants and attorneys to gather and recognize the team effort involved in the daily grind. It was also an opportunity for the legal assistants to express appreciation for the support of their employers.

The monthly meetings for District 1, held in Omaha, have addressed topics such as "Moving to the Digital Age" presented by the corporate account manager of Kinko's, "The Realities of Tort Explosion" presented by **Thomas White** from Welch, White & Wulff and "Sexual Harassment Redefined" presented by **Mary L. Hewitt** from McGill, Gotsdiner, Workman & Lepp.

The Association will again hold its spring seminar in April.

OMAHA BAR ASSOCIATION

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36 years of Continued Dedication, Service and Commitment to the Community.

THE PURPOSE. . .

of the ***Lawyer Referral Service*** is to provide the public with access to the legal profession, bar related organizations, and direction to other legal service programs and agencies.

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help to provide an important and much needed public service to Omaha and the surrounding communities. Referrals are also provided to out of state attorneys, businesses and individuals looking for local counsel.

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include expansion of your client base, giving your practice community exposure, and with giving yourself more experience. But that's not all! You will build rapport with other attorneys, network with your peers, and provide your practice with additional income.

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is that the ***Lawyer Referral Service*** is a good thing. The service fielded over 5,000 calls last year. The ***Lawyer Referral Service*** is the only service of it's kind in Nebraska, *Is* a complete success, and has been consistently referring matters to attorneys for over 36 years. You should become part of a good thing.

JOIN TODAY! ! ! CALL 342-2005

Darryl Lowe Begins Work as County Court Judge

By: Alan Thelen

Newly appointed Douglas County Court Judge **Darryl Lowe** says that he has enjoyed his first "circuit" of assignments on the job.

His County Court assignments have included stints working on civil cases, criminal cases, probate matters and adoptions, he said.

"The most enjoyable part has been presiding over adoptions," Judge Lowe said. "People come in with a single goal in mind. Uniting a family with children is pretty special."

Governor Ben Nelson appointed Judge Lowe to the County Court bench in late 1998, to fill the vacancy created by the retirement of **Judge Robert Vondrasek.**

Judge Lowe, a 1984 graduate of the Creighton University School of Law, had served as a prosecutor in the Douglas County Attorney's Office since 1987. Before that, he was an attorney in private practice.

Judge Lowe said that he is getting used to the differences between his new role as judge and his old role as advocate.

"The biggest difference is that, as a judge, you don't know the entire story on a case, or at least you don't know one side of it, prior to trial," he said. "As a lawyer, you know your side, and you know the other side through discovery.

"As a judge, you have to be quiet and listen, and wait for the evidence."



"At this time, Your Honor, my client wishes to enter a plea of 'No contest' and throw himself on the mercy of the press."

EXODUS

A STORY OF FREEDOM

7:30 p.m. March 13 / 2:30 p.m. March 14 1999

Millard West High School

Omaha, Nebraska

Tickets: At the door or call 392-0111

A premier performance not to be missed!

- A new and fresh look at the story of the Hebrew nation's liberation from slavery in Egypt, in a musical and theatrical performance written in a collaborative effort by **Jim Elsberry** and **Dave Houghton.**

Jim Elsberry has served as The Master Singers' artistic director for 16 years. He is currently Director of Choral Music and Jazz Studies at Midland Lutheran College in Fremont, Nebraska.

Dave Houghton, a practicing trial attorney and past president of both the Omaha and Nebraska State Bar Associations has been a member of The Master Singers for 8 years.

- A tapestry of 18 new works based on the first 15 chapters of the Book of Exodus, woven into a compelling musical and theatrical experience richly laden with the history and tradition of the Hebrew people and spiritual issues for people of all faiths.
- This production combines inspirational and diverse vocal and choral styles — from twelve-bar blues to twenty-tone rows, rich choral arrangements, heartfelt solos, a bit of gospel and a touch of jazz. All performed by the Master Singers, in combination with dramatic staging, lighting and the drama of the theatrical arts.
- This story is important to who we are and how our traditions have developed — both to the Hebrew traditions and the traditions of the entire Christian world.

MUSICAL COURTROOMS

With the addition of District Court and County Court Judges, the Hall of Justice and Civic Center are being used to their fullest. In order to accommodate space, the following location changes have been made:

Who?	Where Were They?	Where Are They Now?
Judge Dougherty	New Judge	Courtroom 1A
Judge Coffey	Courtroom 1A	Courtroom 4
Judge Troia	Courtroom 4	Courtroom 6
County Attorney	4th Floor	First Floor Election Commissioner Office Effective December 1999
Election Commissioner	First Floor	Old Sheriff's Office at 225 N. 115th Street As of: January 26, 1999
Sheriff's Office	225 N. 115th Street	New Office: 3601 N. 156 (156th & Maple)

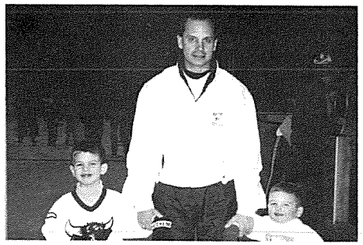
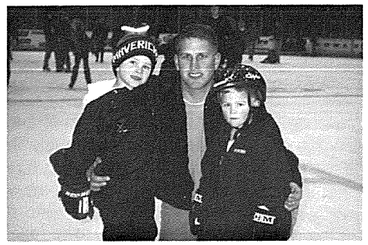
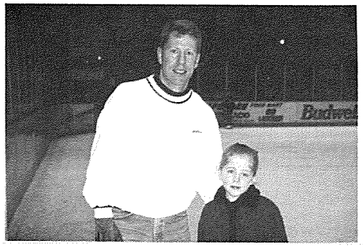
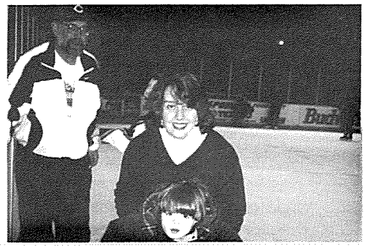
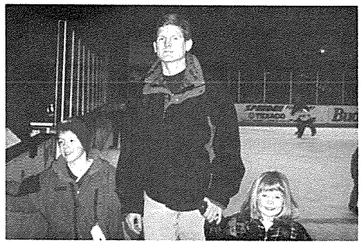
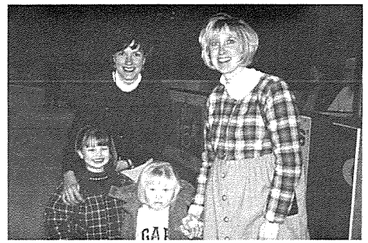
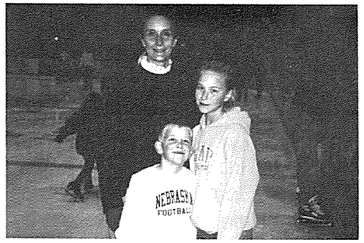
Dear Judge Burke,

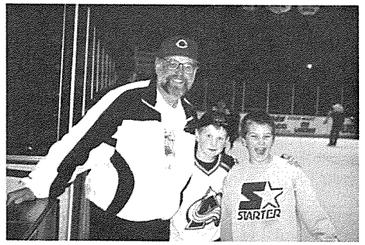
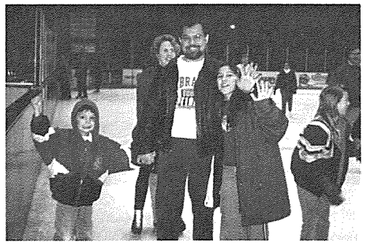
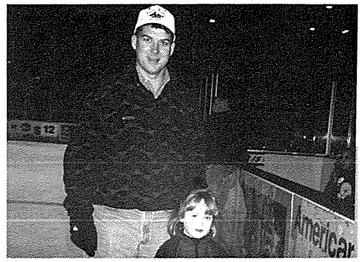
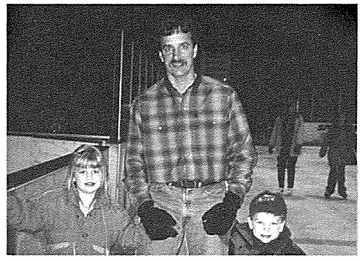
Thank you so much for sponsoring the Omaha Bar Association skating party at Aksarben. I had a fun time. I was the girl that was in the skating outfit. My dad is Paul Elofson. He was with me but he didn't skate very much. It was nice to have the chance to practice my axels. Thanks again!

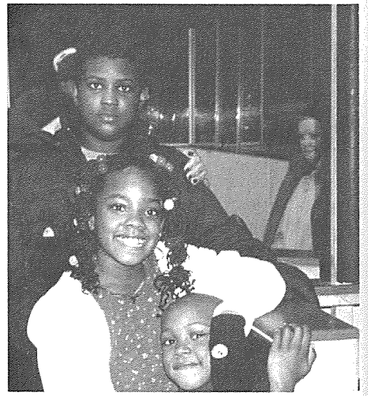
—Cara Elofson



OBA ON ICE

STATE, LOCAL AND TERRITORIAL BAR ASSOCIATIONS URGED TO ADOPT PLAN TO DEFEND JUDGES SUBJECTED TO UNFAIR CRITICISM

By: Alfred P. Carlton, Jr., Chair, ABA Special Committee on Judicial Independence

As lawyers and officers of the courts, we have a professional obligation to make certain our courts function as they should. We also have an obligation to educate those not associated with the justice system about the proper function of the courts. When we fulfill this obligation, we do it in the best interest of our country, the best interest of our citizens, and the best interest of those of us who have devoted our professional lives to the law.

With that in mind, I urge state, local and territorial bar associations to formulate plans to respond to inappropriate and unfair attacks on judges.

Last year at the American Bar Association Midyear Meeting in Nashville, the House of Delegates adopted a policy encouraging local, state and territorial bars to adopt programs to present timely, effective responses to unfair attacks on judges. Subsequently, the ABA Judicial Division Lawyers Conference and the Special Committee on Judicial Independence issued **"Response to Criticism of Judges,"** a handy pamphlet designed to serve as a guide in defending members of the judiciary who cannot defend themselves because of ethical constraints.

We do not intend to stifle dialogue about court decisions, legal issues or policy development. We recognize the importance of informed discussion in our system of self-government.

However, judges increasingly have been subjected to attacks motivated by narrow special interests, which leads to misinformation or intimidation.

It is these unfair attacks against which the bar must rally. Judges have always been subjected to criticism because it is their constitutional obligation to decide difficult, controversial and unpopular cases. However, some of the recent attacks fall into the category of unfairness and must not go unanswered.

It is not just a regional problem. If confidence in the judiciary erodes at any level the entire judiciary is affected. A 1997 ABA Report of the Commission on Separation of Powers and Judicial Independence observed: "Judicial independence is not a talismanic slogan to be invoked whenever judges or the judiciary are criticized; in fact there are few agreed-upon bright lines that define a trespass on such independence. However, the concept is so vital to our constitutional form of government that any developing series of events that may undermine the concept should be examined and discussed."

Some state, local and territorial bars are establishing policy, which includes rapid response teams to address these attacks. The ABA Special Committee on Judicial Independence is encouraged that the bars are moving in this direction.

The committee would like to extend a hand to bars in these efforts by acting as a clearinghouse for information addressing problem areas, providing support and direction, and targeting some specific areas for intensive committee action.

Members of the profession can get more details on the committee's work by calling me or our Staff Director, **Luke Bierman,** or by visiting the ABA Website: **www.abanet.org/jd/.**

NSBA Sponsors Third Annual Golf Tournament

By: Sam Clinch, Associate Executive Director - NSBA

The **Nebraska State Bar Association** is pleased to host the third annual **NSBA/NSBF Golf Scramble** benefiting the Volunteer Lawyers Project. The tournament is scheduled for **Monday, June 28, 1999 at the Shadow Ridge Country Club.**

Proceeds from the NSBA/NSBF Golf Scramble are designated for the Volunteer Lawyers Project, which is **NSBA's statewide pro bono legal assistance program** helping low-income Nebraskans with civil legal problems. The program relies on the volunteer assistance of attorneys from all across Nebraska. Each year volunteers donate thousands of hours of free and reduced-fee legal services to low-income people with problems including divorce and custody matters, simple wills, and housing problems. For further information please contact me at **1-800-927-0117** or at **sclinch@nebar.com.**

Continued from page 18 - FUN NIGHT









NCLE, INC.
CALENDAR OF EVENTS
March - June 1999

All of the following events are sponsored by NCLE, Inc. The contact is the NCLE, Inc. office at 402/475-7091 or 800/927-0117 (toll-free in Nebraska). Email: cindy@ncle.org or kay@ncle.org.

March 11, 1999
Landlord/Tenant Law
Lincoln — The Nebraska Center for Continuing Education
Planning Chair: Kristine A. Dorn, Esq.
Offered in cooperation with the NSBA Real Estate, Probate, and Trust Law Section

March 12, 1999
Commercial Real Estate Leasing
Lincoln — The Nebraska Center for Continuing Education
Planning Chair: DaNay Kalowski, Esq.
Offered in cooperation with the NSBA Real Estate Probate, and Trust Law Section

March 19, 1999
Probate and Estate Planning: Inheritance Tax and Estate Tax Basics
Lincoln — The Nebraska Center for Continuing Education
Planning Co-Chairs: Kelly Dean Brende, Esq. and Don R. Janssen, Esq.
Offered in cooperation with the NSBA Real Estate, Probate, and Trust Law Section

March 25, 1999
Appellate Argument
Hastings — The Holiday Inn
Planning Chair: The Honorable John F. Irwin

April 23
Western Nebraska Bar Association Annual Meeting
Ogallala-Ramada Limited
Planning Chair: Robert B. Reynolds, Esq.

April 30
Uninsured/Underinsured Motorist
Lincoln — The Roman L. Hruska Law Center
Planning Chair: Douglas L. Kluender

May 26-29
Mediation Skills Training
Lincoln — The Roman L. Hruska Law Center
Planning Chair: Kathleen M. Severens, Esq.

June 4
Business Litigation
Omaha — The Georgetowne Club
Planning Chair: James M. Bausch. Esq.

June 11
Taxation of LLCs
Omaha — The Georgetown Club
Planning Chair: Jeffrey J. Pirruccello

CALENDAR

March:		
1 and 15	Mon.	**District Court** Jury Session
2	Tues.	**County Court** Jury Session
11	Thurs.	Annual **Medical/Legal Dinner** - Embassy Suites - Cocktails 5:30 p.m. Dinner 6:30 Speaker: **Governor Mike Johanns**
April:		
5 and 19	Mon.	**District Court** Jury Session
6	Tues.	**County Court** Jury Session
22	Thurs.	**New Orleans Night Dinner (& Shrimp Peel)** - Erin Court
May:		
3 and 17	Mon.	**District Court** Jury Session
4	Tues.	**County Court** Jury Session
5	Wed.	**Law Day Luncheon** - Holiday Inn Central - Noon - Speaker: **Hon. Richard G. Kopf**
June:		
1	Tues.	**County Court** Jury Session
7	Mon.	OBA **Field Day**
7 and 21	Mon.	**District Court** Jury Session
16-18		OBA's **ADR Committee** - Settlement Week

OMAHA LEGAL PROFESSIONALS ASSOCIATION

By: Jean Roeder

We approach the new year with warm hearts. The family we adopted for the holidays was the beneficiary of the generosity and caring of our members. With the assistance of an interpreter, we were able to communicate with the non-English speaking parents. The three children do understand some English. The looks on their faces made it all worthwhile and left no doubt in anyone's mind that they grasped the message: "We cared; we shared!"

Our own holiday party was filled with good food and plenty of fun as we enjoyed an ornament exchange and made some holiday memories. The social aspect of our Association is a bonus we receive in addition to the educational benefits available at our seminars and meetings.

We are excited and encouraged by the addition of so many new members. **Please encourage your legal professional to join us for many exciting programs in the year to come.**

Omaha Bar
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