



Omaha Bar Association

NEWSLETTER

Vol. XXXV No. 2

omahabarassociation.com

May 2010

LAW IN THE 21ST CENTURY

ENDURING TRADITIONS • EMERGING CHALLENGES

OMAHA BAR ASSOCIATION LAW DAY LUNCHEON

Tuesday - May 4, 2010
Holiday Inn Central - 3321 South 72nd Street

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For more information about Law Day, go to:
www.omahabarassociation.com and www.lawday.org

KEYNOTE SPEAKER:

Nebraska Attorney General Jon Bruning

LIFETIME ACHIEVEMENT:

Harold L. Rock

OBA ROBERT M. SPIRE AWARD:

Honorable Douglas F. Johnson

PUBLIC SERVICE AWARD:

John Dougherty, Non-Attorney Award

LAW DAY LUNCHEON RECOGNITION AND AWARDS:

Poster Contest

Essay Contest

Mock Trial

Lawyers in the Classroom



2010

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PRESIDENT'S MESSAGE

"I GOT NOTHIN"

I doubt the Executive Director would have appreciated that response to her subtle reminder that my last President's Message for the newsletter was overdue. If truth be told, that same thing crossed my mind every time I had to write a message.

Writing a President's Message is not easy. Just the title is intimidating. I can't just mail it in; not with my face on the page. I gotta have somethin'.

Of course, there is no shortage of "how to" advice. Some say don't be afraid to write about your particular concerns. I doubt if anyone shares my concern for my 401K.

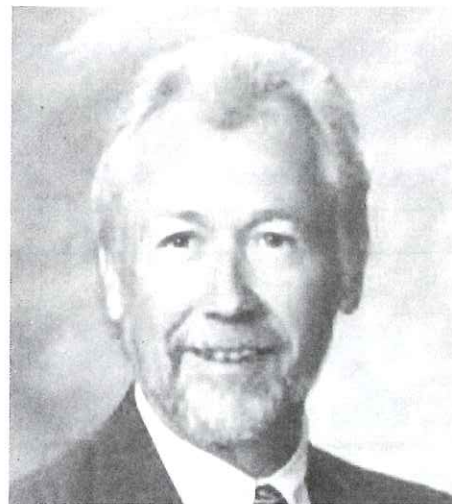
Others suggest the President's Message need be neither dull nor boring. That left me in a quandary. My best work is often both dull and boring.

Still others suggest "borrowing" an idea from other bar associations. With all due respect, whoever gave that advice either hadn't read other presidents' pages or didn't get the "dull or boring" memo.

There is also no shortage of "how not to" advice. One is do not fill the last column by recapping the year. "No one is going to read it." I wouldn't either.

Labeled an absolutely worst mistake is having someone ghost-write the message. Apparently there is a difference between "borrowing" and "ghosting." Something about getting caught.

Another mistake is to thank those who have helped throughout the year for fear of offending those who may be omitted inadvertently. While that may be true, the people I wish to thank



Gerald L. Friedrichsen

didn't just help. They made my year as President not only possible but, with little input from me, a success. It starts with **Cherie Sempek** and **Donna Birkby** but does not end there.

Bruce Lauritzen, Tom Gaughen, and all of the folks at First National Bank deserve a big thank you for their hospitality and generosity in hosting the Fall Kickoff. **Judy Schweikart** and **Jennifer Petersen** volunteered to serve as program chairs and did a great job. **Mike Fenner** as usual did not disappoint.

I also want to thank **Larry Sheehan** as chair of the Medical/Legal Committee for obtaining **Steve Martin** of Blue Cross and Blue Shield of Nebraska to speak at the Medical/Legal Dinner. Talk about timely.

While their events have not yet taken place, my thanks also go to

Doug Law, John Menicucci, and the Law Day Committee; **Joe Daly** and the Public Service Committee; and **Matt Lathrop** and the stalwarts of the Memorial Committee. **Scott Paul's** Ethics Seminar is going to be bigger and better than ever. I'm looking forward to **Judge Coffey** holding court on Field Day.

Finally, thanks to **Lynda Henningsen, Ron Henningsen, Lorraine Boyd**, and *The Daily Record* for their unwavering support.

In case you were wondering, I did stumble upon a piece of advice I could embrace: "Never be afraid to go short."

And I did get something - the privilege of serving as President of this organization. It has been an honor and experience I will long savor.

Bill, it soon will be all yours.

ON THE MOVE

Sean Minahan is now a partner at Lamson Dugan and Murray, and new associates are **Maria Lighthall, Elizabeth Simpson**, and **Sarah Maccissi**; **Sherman Willis** to the Law Offices of James Nubel, Liberty Mutual; new to Lamson Dugan are **Mitchell Evers, Christopher Kelly**, and **Tyler Mullen**; **Thomas R. Burke** has joined the firm of Erftmier Law, LLC as Of Counsel; **Charles Dorwart** to 11414 West Center Road, Suite 344, Omaha 68144 (402-558-1404); **Jennifer Carlson** to Stuart Tinley Law Firm in Council Bluffs.

OMAHA BAR ASSOCIATION 2009-2010 OFFICERS

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EXECUTIVE DIRECTOR'S COLUMN

By: Cherie Sempek

Why is it that, every time I sit down to write an article, its snowing??? Oh well, spring is around the corner.

Out first attempt at a wine and beer tasting party was a little different. All things considered, the "wine" won the night and no beer was sold. Maybe we'll just stick with what we know. We did have a good crowd as usual and lots of tasty hors d'oeuvres. Once again, THANK YOU to *The Daily Record* for sponsoring this event. (See photos.)

Our Medical/Legal dinner meeting was quite interesting in that the talk was about insurance, and both the doctors and lawyers had different perspectives on the subject. Thanks to all the attorneys who attended the dinner; we outnumbered the doctors this year! It was a good showing! (See photos.)



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Brad Larson, CPA at 393-4900

At this writing, we have around 150 attorneys signed up for the ethics seminar on April 23. It looks like the new MCLE is bringing in more attorneys than before. The seminar date will probably be near by the time you receive this newsletter, and I am sure it will be a great seminar and a great turnout.

The **LAW DAY LUNCHEON** is on Tuesday, May 4. The notice was mailed and a copy is in this newsletter. Nebraska Attorney General Jon Bruning will be our featured speaker, and several awards will be presented. We hope for a great turnout for this event as well.

Also in May (the 19th) will be the Memorial Program for attorneys deceased in the past year. More information is printed in this newsletter.

Coming up on June 7 is the annual **FIELD DAY** at Champions followed by dinner. More information is in this newsletter.

On July 23, we will have our last celebration at Rosenblatt Stadium (see notice). This family night will include a picnic indoors at the Stadium Club with indoor and outdoor seating on the third base line for the **Royals' game** followed by fireworks and a concert. This should be a fun night! I hope you can join us.

Last but not least, a copy of an amended Equipment Rental Agreement is being published in this newsletter. Hopefully the minor changes will give everyone a better understanding of the "rules." Please take the time to read it. The prices remain the same. Thank you.



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MILESTONES AND SPECIAL RECOGNITIONS

Stinson Morrison Hecker has named **Bryan Hatch** as the new managing partner in the Omaha office; **Chad Richter**, a partner at Jackson Lewis, has been appointed to a three-year term on the National Society of Human Resources Special Expertise Panel and was also appointed to the Nebraska Advisory Committee to the U.S. Commission on Civil Rights; **Gerald Friedrichsen** has joined the 2010 National Safety Council, Greater Omaha Chapter, as a board member representing the OBA, and **Robert Likes** is a member of its Executive Council; new shareholders at Koley Jessen are **Stacia Palser, Kendra Ringenberg**, and **Heather Voegele-Anderson**; named as "Best Lawyers in America" at Fitzgerald Schorr Barmettler and Brennan are **Gregory Minter, Bruce Vosburg, Robert Cannella, Gerald Friedrichsen, Nick Taylor**, and **Susan Spahn**; placed on *Irish America Magazine's* list of the "Legal 100," the top 100 Irish American lawyers in the United States, is **James Cavanaugh**; OBA member and Creighton University Law Professor **Sean Watts** earns American Society of International Law's Lieber Military Prize for his article "Combatant Status and Computer Network Attacks" published in the *Virginia Journal of International Law*; **Judge William Jay Riley** named Chief Judge of the 8th Circuit Court of Appeals; the Nebraska State Bar Foundation awarded the Outstanding Legal Educator Award to **Patrick Borchers**, the Foundation Award to **Robert H. Berkshire**, and the Lifetime Achievement Award to **Honorable C. Arlen Beam**.

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CIVIL 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 Jury Verdicts

January through February 2010
Compiled by Michael D. Havlik

January 2010 [partial]

1068-859: Andrea Swenson vs. Gerald L. Seffron, Jr.

Judge: Leigh Ann Retelsdorf
Plaintiff's Attorney: Christopher Perrone
Defendant's Attorney: Dennis J. Mullin
Case Type: Motor-Vehicle Negligence [rear-end collision]
Special Damages: \$9,000.00 [medical expenses]
Verdict: Defendant

Remarks: Plaintiff alleged that vehicle in which she was passenger, while stopped for red traffic signal at intersection of Abbott Drive and Gallup Drive, had been struck from rear by vehicle driven by Defendant. Plaintiff alleged that Defendant had been negligent (1) in failing to yield right of way; (2) in failing to maintain proper lookout; (3) in failing to maintain control of his vehicle, and (4) in failing to stop for red traffic signal so as to avoid collision with preceding vehicle. Defendant admitted liability (negligence + proximate cause) for collision.

1068-842: Winfred Williams vs. Heather Hrdy

Judge: Gerald E. Moran
Plaintiff's Attorney: Michael G. Goodman
Defendant's Attorney: Donald J. Kleine
Case Type: Motor-Vehicle Negligence [rear-end collision]
Special Damages: \$31,070.27 [\$30,440.27 medical expenses; \$630.00 lost wages]
Verdict: Plaintiff, \$40,000.00

Remarks: Plaintiff alleged that her vehicle, eastbound on Maple Street and stopped for traffic turning left in front of her at intersection with 70th Street, had been struck from rear by eastbound vehicle driven by Defendant. Plaintiff alleged that Defendant had been negligent (1) in failing to keep proper lookout; (2) in failing to maintain reasonable control of her vehicle; and (3) in traveling too fast for conditions. Defendant admitted that she had not had her vehicle under reasonable control, but she contended that Plaintiff had not been injured as seriously as alleged.

February 2010

1091-845: Stacy Young vs. Allstate Insurance Co.

Judge: James T. Gleason
Plaintiff's Attorney: Vincent M. Powers
Defendant's Attorney: J. Joseph McQuillan
Case Type: Breach of Contract [under-insured motorist coverage]
Special Damages: Not specified
Verdict: Plaintiff, \$25,238.77

Remarks: Plaintiff alleged that she had sustained personal injuries when her vehicle, while stopped at stop sign at intersection of Giles Road and West Giles Road, had been struck from rear by another vehicle. Plaintiff further alleged that she had been offered the policy limits of that other driver's liability insurance policy and, with Defendant Allstate's permission, that she had accepted that offer. Plaintiff further alleged that she had made demand upon Defendant, her liability insurance carrier, for payment of benefits pursuant to "underinsured motorist" coverage

provision of her policy but the Defendant had denied her claim.

In its amended Answer, Defendant admitted that collision had been caused by negligence of driver whose vehicle had struck Plaintiff's vehicle, but it denied remaining allegations of Plaintiff's Complaint. The trial judge directed verdict in Plaintiff's favor as to Defendant's liability for Plaintiff's medical expenses. (\$20,238.77)

1075-240: Monty F. McAllister vs. Anne Fitzpatrick, M.D.

Judge: Joseph S. Troia
Plaintiff's Attorney: Eugene L. Hillman
Defendant's Attorney: Michael F. Kinney
Case Type: Professional [medical] Malpractice [informed consent]
Special Damage: Not specified
Verdict: Defendant

Remarks: Plaintiff alleged that Defendant, a physician and surgeon specializing in ophthalmology, had performed elective surgical procedure to remove cataract which was adversely affecting vision in Plaintiff's right eye. Plaintiff further alleged that, during surgery, Defendant had used anesthetic technique identified as "retro-bulbar block," which involves insertion of syringe loaded needle under and behind Plaintiff's eyeball. Plaintiff further alleged that inserted needle had compromised Plaintiff's optic nerve and/or optic artery, resulting in permanent blindness in Plaintiff's right eye. Plaintiff contended (1) that Defendant surgeon had failed to fully and completely inform Plaintiff about possible complications and adverse consequences of anesthetic procedure and (2) that, had Plaintiff been so informed, he would not have undergone elective cataract surgery.

Defendant responded that, at all times, she had exercised that degree of skill and care required by existing circumstances, and she denied that any of her actions or inactions had been proximate cause of Plaintiff's injuries.

1096-140: Jochen Pfrenger vs. Jenny A. Goepfert

Judge: Patricia A. Lamberty
Plaintiff's Attorney: Charles A. Gotch
Defendant's Attorney: J. Joseph McQuillan
Case Type: Motor-Vehicle Negligence [left-turn at intersection]
Special Damages: \$10,750.00 [\$7,000.00 medical expenses; \$3,750.00 lost wages]
Verdict: Plaintiff, \$11,862.00

Remarks: Plaintiff alleged that his vehicle, eastbound on Center Ridge Drive near intersection with 180th Street, had been struck by Defendant's vehicle which, westbound on Arbor Street, had turned left onto 180th St. in front of Plaintiff's vehicle. Plaintiff alleged that Defendant had been negligent (1) in failing to keep proper lookout; (2) in failing to keep her vehicle under reasonable control; (3) in failing to yield right-of-way to Plaintiff's vehicle; (4) in violating Neb.Rev.Stat. § 60-6,147 (Reissue 2004) (left-turning vehicle); and (5) in violating Neb.Rev.Stat § 60-6,161 (Reissue 2004) (turn-signal requirements). In her Amended Answer, Defendant admitted

that she had been negligent in one of the particulars which Defendant had alleged. The trial judge determined, as a matter of law, that Plaintiff should recover \$6,862.10 in medical expenses

1082-976: Maria Alisia Fava vs. Farmers Insurance Group [Farmers Insurance Exchange]

Judge: W. Russell Bowie
Plaintiff's Attorney: Cletus W. Blakeman
Defendant's Attorney: Brian J. Brislen
Case Type: Breach of Contract [under-insured motorist coverage]
Special Damages: \$12,000.00 [medical expenses]
Verdict: Plaintiff, \$49,648.41 (10-2 verdict)

Remarks: Plaintiff alleged that she had sustained personal injuries when her vehicle, eastbound on Burt St. near 90th St. intersection, had been struck by vehicle northbound on 90th St., which allegedly had failed to stop for red traffic signal. Plaintiff further alleged that liability insurer for other vehicle's owner and driver had offered to settle Plaintiff's claim against them for injury coverage limits of their policy (\$25,000.00) and that, with approval of Defendant Farmers Insurance Exchange Defendant, she had accepted that settlement. Plaintiff further alleged that, because her damages exceeded the settlement proceeds, she had then made demand upon Defendant for benefits (\$30,000.00), pursuant to "underinsured motorist" coverage provisions of her policy, but that Defendant had denied her claim.

Defendant-insurer admitted that collision had been caused by negligence of driver whose vehicle had struck Plaintiff's vehicle and that Plaintiff had sustained some injuries, but it denied nature and extent of those injuries. Defendant alleged that it should be entitled to (1) credit of \$2,000.00 for "medical-pay" benefits provided to Plaintiff and (2) credit of \$25,000.00 for other insurer's payment to Plaintiff. Defendant further alleged that, by failing to wear available seat belt, Plaintiff had failed to mitigate her damages.

POTTAWATTAMIE COUNTY DISTRICT COURT Jury Verdicts

July, 2009 – March 19, 2010

Compiled by
Matthew V. Stierman

January 2009

July 29, 2009

LACV 097054: Jean Haltom vs. American Family Mutual Insurance Company

Judge: J.C. Irvin
Plaintiff's Attorney: Robert Garver
Defendant's Attorney: Michelle Hoyne
Case Type: Underinsured Motorists Claim arising from an auto accident
Verdict: Plaintiff for \$2,412.96
Special Damages: \$44,900.76
Remarks: Total damages, including interest, were \$102,413.96. The \$100,000 in liability coverage previously paid was deducted from these damages.

August 13, 2009
LACV 095901: Eileen Shiller vs. Brendan

Spongberg, a minor, by Michael Spongberg and Ryne Kman, a minor by Andrew Kman

Judge: Timothy O'Grady
Plaintiff's Attorneys: Albert Engles and Stephen Olson
Defendant's Attorney: Marvin Kieckhafer
Case Type: Pedestrian - Auto accident
Verdict: In favor of Plaintiff, Eileen Shiller only and against Spongberg and Kman for total damages in the amount of \$2,070.42.
Remarks: Damages awarded to Eileen Shiller were for property damage and towing costs only. Plaintiff's claim originated as a small claim. Defense verdict on the counterclaim.

August 25, 2009

LACV 098014: MTM Industries, Inc. vs. Norman Thomas, Norm's Sewer and Water Pumping, et al.

Judge: Timothy O'Grady
Plaintiff's Attorney: Joe Hrvol
Defendant's Attorney: T. Boecker
Case Type: Breach of Contract, fraudulent failure to disclose facts, interference with prospective business advantage, and abuse of corporate privilege.
Verdict: Plaintiff for a total of \$160,405.00 on various theories.
Defense verdict on the counterclaim.

September 8, 2009

LACV 095527: Franklin and Linda Stevens vs. Harveys Iowa Management Company, Inc.

Judge: Jeffrey L. Larson
Plaintiff's Attorney: Richard Maher
Defendant's Attorneys: Thomas Braddy and Timothy Morrison
Case Type: Stationary bike tipped over
Verdict: Defendant

September 23, 2009

LACV 097691: Terry Franks vs. City of Council Bluffs

Judge: J.C. Irvin
Plaintiff's Attorney: Matthew Stierman
Defendant's Attorney: Mike Sciortino

Case Type: Truck-Street sweeper collision
Verdict: Defendant

October 23, 2009

LACV 099355: Reta Coburn vs. Gordon and Norma Sorenson

Judge: James Richardson
Plaintiff's Attorney: Joseph Hrvol
Defendant's Attorney: Andrew Wilson
Case Type: Slip and fall
Verdict: Defendant

October 29, 2009

LACV 096430: Robert Polston vs. Jonathan Casto

Judge: James Richardson
Plaintiff's Attorney: Rick Crotty
Defendant's Attorney: David Stubstad
Case Type: Collision of dirt bike and ATV
Verdict: Defendant

November 19, 2009

LACV 095424: Jacob, Angie and Jeffrey Maggio vs. Donald Curry

Judge: Greg Steensland
Plaintiff's Attorney: Laura Pattermann
Defendant's Attorneys: John McHale and Jon Puk
Case Type: Pedestrian/bike - auto accident
Verdict: Defendant

November 25, 2009

LACV 098420: Susan Fuentes and John Fuentes, Jr. vs. Barb Patrick, and Travelers Insurance Company, Intervenor

Judge: Jeffrey Larson
Plaintiff's Attorney: J. Scott Bardole
Defendant's Attorney: Martin Fisher
Case Type: Auto accident
Verdict: Defendant

December 17, 2009

LACV 100332: Douglas Henderson vs. Ralph Wayne Boeck and Casino Cab Company, LLC

Judge: Jeffrey Larson
Plaintiff's Attorney: Joe Hrvol

Defendant's Attorney: Phil Wilson
Case Type: Bike - auto accident
Verdict: Defendant

December 18, 2009

LACV 098647: Chris Wichman vs. Carver's Service Etc., Inc.

Judge: Timothy O'Grady
Plaintiff's Attorneys: M. Gibbons and J. Jorgensen
Defendant's Attorneys: C. Cohen, J. Morris and D. Stubstad

Case Type: Unjust enrichment, tort claims, promissory estoppel or conversion, negligent misrepresentation
Verdict: For the Plaintiff for restitution of \$24,721.83 on the unjust enrichment claim only.

NEWSLETTER COMMITTEE

The Newsletter Committee would welcome additional OBA members on the committee. There are four meetings each year which include free lunches. If interested or if you have any questions, please call Cherie at 280-3607. Thank you.

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LAW DAY 2010

By: Douglas J. Law and John A. Menicucci, Jr. Co-Chairs, 2010 Omaha Bar Association Law Day Committee
The 2010 Law Day Theme is Law in the 21st Century: Enduring Traditions • Emerging Challenges

As the American Bar Association notes on its Law Day website, "As we begin the second decade of the twenty-first century, the law is changing dramatically as it seeks to shape and adapt to new conditions. Economic markets are becoming global, transactions require cultural adaptation and understanding, populations are more mobile, and communication technologies such as the Internet bridge distances and time zones to form new communities around the world." See www.lawday.org for more information on the Law Day theme.

This year Nebraska Attorney General **Jon Bruning** will be our featured Law Day Luncheon speaker. Attorney General Bruning will speak on the challenges of enforcing our state laws in light of the pace of changing technology. To that end, we strongly encourage all to attend our 52nd Annual Law Day Luncheon at the Holiday Inn Central (72nd & Grover) on Tuesday, May 4th.

In addition, we present awards to distinguished members of our community for their achievements and contributions to the Omaha legal community, and also recognize our Law Day Contest winners at the Law Day Luncheon.

To purchase tickets to the Law Day Luncheon, please contact the OBA Executive Director, Cherie Sempek, at (402) 280-3607 or cheriesempek@creighton.edu. Tickets are \$21 per person or \$168 for a table of 8.

Law Day Committee: As in years past, Omaha's legal community has coordinated its public education activities into a series of events celebrating Law Day 2010. Our Law Day Committee consists of representatives of the Omaha Bar Association, the Nebraska Paralegal Association, the Omaha Legal Professionals Association, the Omaha Law League, and *The Daily Record*. Our committee members meet once a month to report on the progress of the various Law Day events, and perform a significant amount of organization between our Law Day Committee meetings. If you are interested in joining our Law Day

Committee, please contact **Doug Law** at douglas.law@blackhillscorp.com or call Doug at (402) 221-2635.

Members of the 2010 Law Day Committee include the following members: **Doug Law - Co-Chair, John Menicucci Jr. - Co-Chair, Jerry Friedrichsen, Hon. Lyle E. Strom, Hon. Robert Burkhard, Jean Roeder, Angela Boyer, Joe Daly, Cherie Sempek, Donna Birkby, Lorraine Boyd, Lynda Henningsen, Loretta Phillips, Carol Sperry, Valentina Saavedra, Mardee Korinek, and Linda Williams.**

The Law Day events presented in Omaha are summarized below.

Lawyers in the Classroom: One of our prominent programs is "Lawyers in the Classroom." This year we estimate that as many as 85 of our Omaha Bar Association lawyers will speak to between 3,500 and 4,000 fourth, fifth, and sixth grade students. This will occur in at least four different school districts in the Greater Omaha metro-area. **Angela Boyer** of the Omaha Law League and **John Menicucci** of the law firm of Husch Blackwell Sanders coordinate this program. Contact John at john.menicucci@huschblackwell.com or (402) 964-5143 if you are interested in participating in this event.

Mock Trial: On April 27, 2010, almost 90 fifth graders from Fontenelle Elementary School will participate in the Mock Trial of *Wicked Witch vs. Snow White* at the U.S. Federal Courthouse before the **Honorable Judge Strom. Jean Roeder**, Judge Strom's Legal Assistant, will serve as the Clerk of Court for that trial. Prominent Omaha Bar Association lawyers will actually serve in the roles of Prosecutor and Defense counsel. The Omaha Children's Theatre will provide costume and actors for this mock trial. The Omaha media generally covers the trial. See www.omahabarassociation.com for more information about the Omaha Bar Association. Contact **Angela M. Boyer**, Law Day Mock Trial Chair, at aboyer@berkshire-law.com or (402) 827-7000 for more information on this event.

Law Day Essay Contest: The Omaha Legal Professionals Association (OLPA) administers a "Law

Day Essay Contest" related to the Law Day theme each year. This year eighth graders from all over the metro Omaha area will enter this essay contest. The winning entry will be read at the Law Day Luncheon on May 4th. See orgsites.com/ne/omahalegalprofessionalsassociation for more information about OLPA. Contact **Valentina Saavedra** at vsaavedra@legalaidofnebraska.com or (402) 348-1069, ext. 214 or contact **Carol Sperry** at sperry@thorntelaw.com or (402) 392-2280 for more information about this essay contest.

Law Day Poster Contest: The "Law Day Poster Contest" is open to all fifth graders in the Omaha metro area. The cool thing about this contest is that the winning entry is displayed on a billboard at 78th and Dodge Streets for all of Omaha to see. The Law Day Poster Contest is administered by the Nebraska Paralegal Association (NePA). See nebraskaparalegal.org for more information on NePA. Contact **Loretta Phillips** at lphillips@ci.omaha.ne.us or (402) 444-5122 for more information about this poster contest.

Distinguished Members of Omaha Legal Community: In addition to the Law Day programs, we also recognize the OBA's Public Service Award winners, and the OBA's Lifetime Achievement Award winner.

The Omaha Law Day Committee also coordinates its activities with *The Daily Record* which does numerous interviews with lawmakers, politicians, professors, lawyers, judges, and others who influence and lead the direction of our local legal system. *The Daily Record's* Law Day edition is worth the annual subscription. *The Daily Record* also generously donates approximately 4,000 pens to provide to each grade school student participating in the Lawyers in the Classroom program. See omahadailyrecord.com for more information about *The Daily Record*.

All in all, we will present another series of successful Law Day 2010 events. Please do your part in preparing for this celebration by encouraging those who qualify to participate in one or more of the events above, and by purchasing

tickets to attend the Law Day Luncheon on Tuesday May 4th, at the Holiday Inn Central. Tickets can be purchased from Cherie Sempek at cheriesempek@creighton.edu or by calling (402) 280-3607. We look forward to seeing you at our Law Day Luncheon. More information about Law Day and its many activities can be found at lawday.org or the omahabarassociation.com.

IT'S OBA AWARDS SEASON

By: Alan Thelen

The OBA will honor three persons with its annual awards at the Law Day Luncheon on May 4. The three awards - the Robert M. Spire Public Service Award (for a lawyer), a Public Service Award (for a non-lawyer), and the Lifetime Achievement Award - acknowledge the honorees' contributions to the community.

ROBERT M. SPIRE PUBLIC SERVICE AWARD

The **Public Service Award for a lawyer** will be given to Douglas County Juvenile Court **Judge Douglas F. Johnson**. Since being sworn in as judge in 1993, Judge Johnson has not only improved the workings of the Juvenile Court, but also contributed his vast energy and skills to a long list of other organizations focused on improving the lives of youths.

"He is an innovator - not afraid to take risks or implement new programs both in the courtroom and in the community to assist those in need," said attorney **Brandie Fowler**, who nominated him for the award.

One example of a new local program that Judge Johnson spearheaded is the Zero to Three Family Drug Treatment Court. The Drug Court obtained a government grant to focus help on families which are besieged with mental illness or substance abuse, and which have at least one child of age zero to three years.

"We get involved in problem solving projects," Judge Johnson said of the Drug Court. "Babies need therapy and treatment to address domestic abuse issues."

As another example, Judge Johnson has been a leader in the National Council of Juvenile Court Judges for several years, and is

currently serving as its president. "I'm deeply committed to the organization," Judge Johnson said. "We've done countless training for new juvenile and family court judges and for stakeholders as well."

And, of course, Judge Johnson has received accolades for his conscientious service to the local Juvenile Court.

"Judge Johnson treats every person who comes into his courtroom with dignity and respect, regardless of the circumstances that led there," Fowler said. "He works tirelessly to help educate parents and children, both in and out of the courtroom, in order to alleviate their stressors and make them better citizens."

"Those who appear before him generally leave better off than when they came in."

Before being appointed as a judge, Judge Johnson worked in private practice and then with the Douglas County Attorney's office. He said that his work with the County Attorney's office as a prosecutor in juvenile court, along with his background as a high school teacher, were among the things that drove his desire to become a Juvenile Court Judge and to serve the youth of the community.

PUBLIC SERVICE AWARD

The **Public Service Award for a non-lawyer** will be presented to Douglas County Probate Court Clerk **John R. Dougherty**.

Dougherty is the Division Manager for the Douglas County Court's Probate Division. Dougherty has been widely lauded for leading lawyers and the public through the maze of probate proceedings, while maintaining a patient and conscientious attitude.

"John has been the 'go to' guy in the County Probate Division for many years," said Omaha Attorney **Woody Bradford**. "He is a true public servant, in other words, knowledgeable, considerate, kind and above all calm. He is accessible to all and a 'rock' in unknown waters."

Dougherty is in his 40th year with the County Probate Court, having started there in 1970. He began his career there as a records clerk, and moved up the promotional ladder over the years.

Dougherty attributes his longevity with the Probate Court to his world experiences before being hired there.

"The reason I went to the Probate Court was, before that I had done manual jobs," Dougherty said. "Then I went to Vietnam, and then spent one year in the hospital."

"I said that if anyone ever gave me an office job, I'd take it and never leave. And that's what happened."

Dougherty's duties as manager include helping lawyers, the public, and judges in guiding probate files through the system.

"I love working with attorneys, especially probate attorneys," Dougherty said. "Many are so knowledgeable that they help me learn a lot. Many of the judges are the same way."

Dougherty says that helping members of the public understand the process is one of the greatest challenges in the job.

"We want to help them, but not serve as their attorney," Dougherty said. "We can't go too far into practicing law. We often send them to the Help Desk (by the Law Library)."

Dougherty said that he was "shocked, floored, and impressed" when he heard about the OBA Award.

"Wow, I've been here 40 years and never imagined something like this," he said.

LIFETIME ACHIEVEMENT AWARD

Attorney **Harold J. Rock** will receive the OBA's **Lifetime Achievement Award**.

Rock, of course, is the Rock in Kutak Rock LLP. Rock was one of the three founding members of the firm in 1965.

Rock's lengthy resume of service and volunteerism makes you wonder how he found the time to grow a large law firm and also raise six children.

"Harold has, in his unassuming way, served with highest distinction the Omaha Bar Association, the Nebraska State Bar Association, the American Bar Association, and his community," said OBA President **Jerry Friedrichsen**. "And he found time to practice law and build a nice little firm."

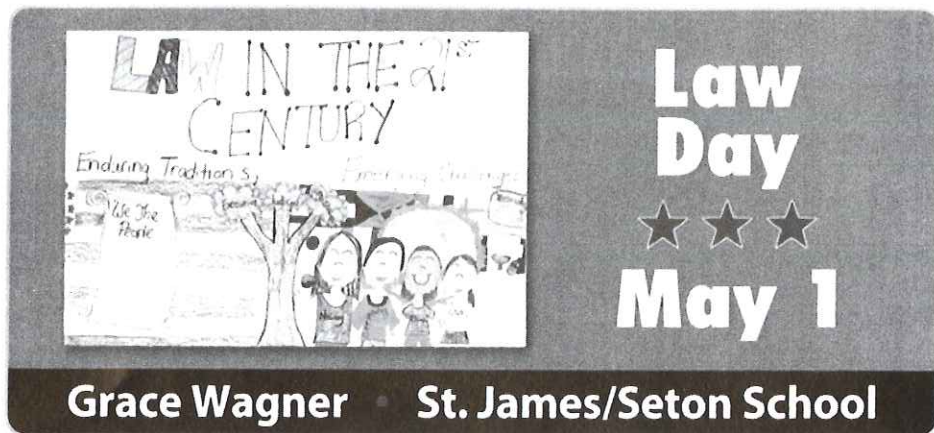
"Few have done what Harold has accomplished with so little fanfare."

Rock has a record of being a joiner and a leader. Rock has served on at least 23 different boards and committees with the American Bar Association; has been President and member of the Executive Council and House of Delegates of the State Bar

Continued to page 8

POSTER CONTEST WINNERS

First Place: Grace Wagner
Second Place: Brooklyn Linderman
Third Place: Theresa Otter
Teacher: Mrs. Julie Phillips
School: St. James/Seton



WINNING ESSAY

By: Derek Richardson

From the Ancient Code of Hammurabi to the modern system of justice today, law has stood on one idea: Justice. With the ebb and flow of enlightened knowledge pulsating across human minds...

Today, law still rests upon the ancient shoulders of justice. The motto of the United States, E Pluribus Unum, tells of one enduring tradition still with us: our unity. Our constitution remains our greatest law...

With all this sentimental unwavering tradition, adaptive change must still be incorporated. The ages of cars, planes, guns, and explosives were totally impossible to plan. Impossible as it may be...

ESSAY CONTEST WINNERS

First Place: Derek Richardson
Teacher: Mr. Christopher Hamel
School: Brownell Talbot
Second Place: Sydney Woods
Teacher: Mr. Christopher Hamel
School: Brownell Talbot
Third Place: Hannah Richstein
Teacher: Mr. John Pakiz
School: St. Cecelia School



Continued from page 7

Association; and has been President of the Omaha Bar Association. He also serves on the Nebraska Board of Bar Examiners and Nebraska State Bar Association Board of Directors...

Rock can't say that any one organization has been his favorite. 'I've enjoyed every one of them,' he said. 'I always think that I'm rewarded more than the participants.'

His firm Kutak, Rock and

Campbell started in 1965 with three lawyers and one staff person. Today, Rock says, the firm has 'lawyers all over the place,' numbering about 400 in a variety of cities.

'It was an entirely different bar then,' Rock said of the days when he founded his firm. 'We were like a lot of firms around town. Omaha didn't have a lot of big firms. When a bigger firm got to a certain size, then some of the lawyers would break off to a separate firm.'

Rock says that while in the early years the firm was 'doing every (kind of law) we could to make money.' His

own practice came to focus on corporate law, bankruptcy reorganizations, corporate finance, and federal securities law.

'I've enjoyed the practice of law,' Rock said. 'Everything has been kind of fun. Getting into the practice was terrific. I loved law school, it was fun for me.'

Rock still keeps up an active law practice at the firm, and 'retirement' is not a word he thinks about.

'When I'm in town, I go into the 'Y' and swim, then go into the office and do whatever I can to help out,' Rock said.

OMAHA BAR ASSOCIATION
2133 California Plaza • Omaha, Nebraska 68178
www.omahabarassociation.com

LAW DAY 2010 Luncheon

Law in the 21st Century: Enduring Traditions, Emerging Challenges

Featured Speaker: Jon Bruning, Nebraska Attorney General

Tuesday, May 4, 2010; Luncheon starts promptly at 11:45 a.m.
Holiday Inn Central, 3321 South 72 Street, Omaha - Room: Palace BCF



The Omaha Bar Association, the Nebraska Paralegal Association, the Omaha Legal Professionals Association, and the Omaha Law League invite you to join us for the Law Day 2010 Luncheon.

Other Law Day 2010 Activities

The Lawyers in the Classroom Program, Law Day Poster Contest, Law Day Essay Contest, OBA Lifetime Achievement Award Presentation, Public Service Award Presentations, Mock Trial, and other Law Day activities will be recognized and/or celebrated on May 4 at our luncheon.

PURCHASE TICKETS NOW

Please mail your check of \$21 per person or \$168 per table of 8

AND reservation form to:

Omaha Bar Association, 2133 California Plaza, Omaha NE 68178
by the Monday, April 26 deadline. Tickets will be mailed.



Contact Cherie at 280-3607 or cheriesempek@creighton.edu with any questions.

For additional information, see www.lawday.org or www.omahabarassociation.com.



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Number of tickets: _____ x \$21 = \$_____ (amount enclosed)

OR Number of tables: _____ x \$168 = \$_____ (amount enclosed)

HONORABLE JOHN T. GRANT: IN MEMORIAM¹

By: Matthew A. Lathrop

In life, many people choose a career as a means to an end. Some of us live as if we are pursuing a series of goals to be accomplished.

Others live life as an adventure. The wild ones travel the world and collect stories and photos of places unimaginable. Some adventurers, however, stay right here at home, and yet live every bit as richly and as memorably as the travelers and explorers.

The **Honorable John T. Grant** passed away on January 26, 2010, and with his passing one of those adventurers was lost.

John Grant was born and raised the fourth of five kids here in Omaha. He attended Creighton Prep, and in 1938, was the first child in the family to graduate. He confessed that he didn't have any particular drive to attend school beyond Prep. He expected it was probably too expensive.

He went to work for the Nebraska Power Company (now OPPD), and worked there until war erupted. He enlisted in the US Army and became a Technical Sergeant in the signal corps.

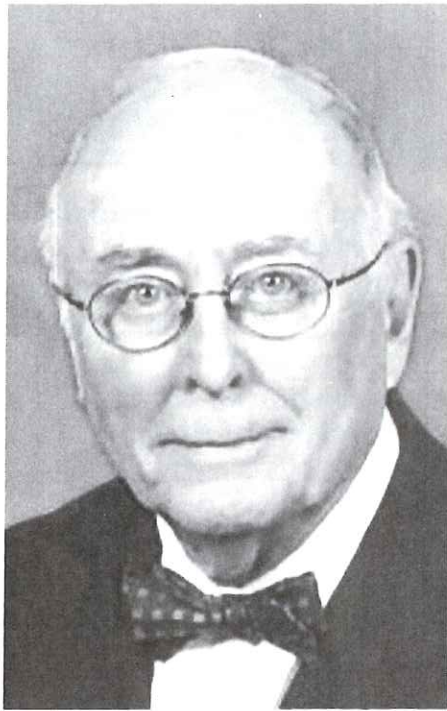
He spent 30 months overseas starting in Sydney, Australia and finishing in Okinawa, Japan, where he was stationed at the time the atomic bombs were dropped on Hiroshima and Nagasaki.

When he came home, he returned to the power company where he worked as an engineer. It was here that he was struck with the idea that, since he was working in engineering, he should attend college and get a degree.

Grant enrolled in Iowa State's engineering school where, "I passed everything, and understood very little." So he decided he had better get back to Omaha and take another look at his options.

He enrolled in undergraduate school at Creighton University. He completed his studies in two years and enrolled in the law school in the fall of 1947. In December of that same year he married.

He worked his way through



John T. Grant

school as a bartender at the "Elbow Room" in downtown Omaha. He remembered fondly the great friendships and life-long relationships he forged in those years.

Upon graduating, he believed that he would most certainly be hired by Kennedy, Holland here in Omaha. After all, he had worked there and was sure he was "an up-and-comer." However, when the subject came up, "there was dead silence."

He opted instead to start his own firm with his good friend **Tom Kelly** on 16th and Farnam. At this point, he and Kelly knew many people in town and cases just started to come in. They specialized in whatever-the-next-person-to-come-in-needed.

Within six months, **Federal Appellate Judge John Woodruff** invited young Grant to work as a clerk. The judge allowed Grant to continue his practice at the same time.

Grant then started his on-again-off-again relationship with corporate counsel for natural gas businesses. First he went to Northern Natural and worked for a year before returning to

Tom Kelly. "He was my savior, and he always took me back." Grant would say.

He left Kelly again after a time to try again at Northern Natural, and then was lured away to Oklahoma City where he worked as corporate counsel for an oil and gas concern there.

After some time, he said to his wife, "I think we are just a little too far south for Catholic Democrats." She agreed and they packed up their four kids and moved back to Omaha, where, once again, Tom Kelly was happy to have him back.

Thus was born the firm of Kelly, Grant & Costello. The firm had a plaintiff's personal injury practice, primarily, and "I tried quite a few cases. Lost quite a few cases. Won some." But throughout it all, once again, he reflected warmly upon his friends and colleagues with whom he practiced law. "We just had a great time practicing law. We were all friends and there were a lot of laughs."

In time, Tom Kelly left the firm to practice with his son who had just graduated from law school. The firm continued as Grant, Costello & Dugan. He loved the work, and as he tells it, he settled a very large anti-trust case, and found it hard to get reacquainted to the "\$2,500 rear-end collision cases." Soon he began to look for the next challenge.

He was appointed to the Douglas County District Court by then **Governor J.J. Exon**. The bench at that time was "specialized." Judges would begin on the domestic docket, "just applying common sense to these problems." He then moved on to the criminal docket.

By all accounts, Judge Grant hit his stride on the criminal bench. He once described the job this way. "The rules are pretty much established and everybody knows them. The tough part comes at sentencing. If you get to a point where you like doing *that*, you've got no business being a judge."

Judge Grant presided over the capital murder trials of **Harold Lamont**

Otey and **C. Michael Anderson** and **Peter Hochstein**. In each of these cases, Judge Grant applied the law fairly and without passion or prejudice. In spite of several traps in each trial, the convictions obtained were affirmed by unanimous courts.

As much as Grant excelled at the criminal docket, he loved the civil docket. He enjoyed the daily variety of cases and lawyers. He liked to stretch his knowledge with cases as varied as business transactions, contracts and personal injury suits of all stripes. Again, however, he always cherished his friendships and contact with the lawyers of the Omaha Bar.

In 1983, Grant was appointed by then Governor **Bob Kerry**, to the Nebraska Supreme Court. Here, all of his years of service on the trial bench served him well, as he moved each session from one case on family law issues to a post-conviction relief appeal to a workers' compensation appeal and finally to a business transaction appeal.

He found the work challenging, enjoyable, and tough. He was an appellate judge of great practicality. He was fond of sharing his insights and experience with his law clerks.

After one clerk had prepared a

memorandum on a case to help Grant with an opinion that he had to write, the judge studied it and said, "Good work. But keep in mind, we aren't here to write law for the ages. We just need to get each one of these cases right."

In 1992, Justice Grant was assigned to write the opinion in *State v. Houser*. The case involved an appeal of a murder conviction using the budding science of DNA "fingerprint" evidence. Grant dove into this topic head-first. He studied the transcript and the evidence thoroughly to learn and understand as much as he could about the science of "deoxyribonucleic acids" and "restriction fragment length polymorphism" and "alleles."

He further read the latest law review treatises on the subject and studied the opinions of other courts. The end result was a technically accurate and detailed description of the process of DNA identification that didn't become unreadable because of the science. All of this he did working within the requirements of the *Frye* test, as required at the time.

Judge Grant retired from the Supreme Court in 1992, and continued to accept appointments from the

Chief Justice. He would often sit on the Supreme Court to fill for a recusal or absence. Likewise, he accepted assignments to preside over trials across the state, when needed. He liked the work and enjoyed his renewed contact with the trial attorneys of whom he had been so fond.

In his retirement, he also found time to teach a Trial Practice Class at Creighton Law School. He would impress upon his students, "it's so easy to get the same thing done, and be nice about it... That was my thesis."

Although asked if he would ever return to private practice, Grant always demurred, saying, "I'm not smart enough."

In a beautiful summary of his life in the law, Grant, in a 1996 interview with **Dr. Richard Shugrue** of the Creighton Law School, said of his career, "No one is entitled to have as much fun as I did."

The Honorable John T. Grant was 89.

"Thanks to the Creighton University School of Law for permission to cite to Dr. Shugrue's "oral history" of Judge Grant in 1996, which supplied much of the information for this memorial.

THE DAILY RECORD

*We're proud to support the Omaha Bar Association
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Over the years, we've lent our enthusiastic support to the Nebraska State Bar, the Omaha Bar, the Omaha Barristers, the Nebraska Women's Bar Association, the Nebraska Paralegal Association, the Omaha Legal Professionals Association, and many other affiliated legal organizations, in the belief that a strong legal community is necessary to serve the needs of our fellow citizens. We salute you all for your dedication.

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Memorial Program

The Omaha Bar Association Memorial Program has been scheduled for Wednesday, May 19, 2010, at 11:30 a.m. in the Legislative Chambers of the Omaha-Douglas Civic Center, 1819 Farnam Street, Omaha, Nebraska. The speaker will be **Marianne Culhane**, Dean of Creighton University School of Law. The chairperson of the committee is **Matthew Lathrop**. The **Barristers Club** will provide the ushers. The program is courtesy of *The Daily Record*.

The program is held each year to honor those members of the bar association who have died within the year. Twenty attorneys will be honored. They are listed below chronologically in order of their deaths. A red rose will be given to each family. The attorneys are:

Honorable Albert Charles Walsh
May 3, 2009

Thomas W. Carroll
July 9, 2009

Calvin Edward Robinson
July 24, 2009

Eric L. Whitner
August 22, 2009

Edward A. Donahoe
August 27, 2009

Robert H. Burgess
August 29, 2009

Charles Titus
September 21, 2009

Donald E. Girard
October 18, 2009

Guy J. Birch
November 3, 2009

Kent P. Kratz
November 12, 2009

Honorable John T. Grant
January 26, 2010

Byron D. Stratton
February 28, 2010

Truman Clare
March 1, 2010

Ernest B. Wintroub
March 1, 2010

Barbara Anne Kueny
March 7, 2010

Barbara Gale Blackburn Kratz
March 17, 2010

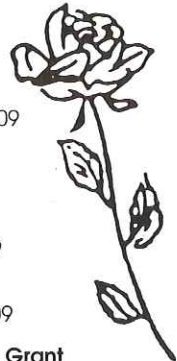
Donald R. Overholt
March 24, 2010

Norman F. Bradshaw
March 31, 2010

Mary Lee Skaaf
April 9, 2010

William L. Morrow, Jr.
April 12, 2010

We sincerely hope you will attend this special Memorial Service to honor our departed attorneys.



THE YETTER SYSTEM

By: George Butterfield

How often have you gone in search of a Nebraska statute, such as section 25-21, 185.12, and gotten totally confused by that comma? Is it near the end of chapter 25 or near the beginning? The use of a comma to number statutes is one of the unique features of the Yetter System, the system used by Nebraska and Kansas. The comma, along with other features of the system, creates some challenges in understanding the organization of the statutes and then finding them. My first experience with this system caused me to use a very scientific approach to finding statutes: I just kept flipping pages until I ran into them.

Recently I asked the Advanced Legal Research class at Creighton School of Law to place several statutes in the order in which they would appear in the *Revised Statutes of Nebraska*. The statute numbers are made up to illustrate the challenge of the Yetter System. Why don't you take the quiz? See if you can order them:

39-2099.12
39-2,117.12
39-2117.12
39-324.12

Two-thousand ninety-nine goes before two thousand, one hundred and seventeen and three hundred and twenty-four goes before both of those. But is that how you read them? And, if you read them in that manner, how is 2117.12 different than 2,117.12, except that the one has a comma and the other does not?

There is a relatively easy explanation for these numbers. After you understand the system, you wonder how you could have ever gotten confused by it. So how does the Yetter System work? First, each statute is designated by a chapter, article, and section number. Some statutes, the ones that have point 01, point 02, etc., also have what is called an amendment number, although "amendment" can sometimes be a misnomer (see the *Research Guide to Nebraska Law, 2008*, p. 30, available in the Creighton Law Library. An "amendment" may simply be a related section that is squeezed in by the use of the decimal and not technically an amendment). Following is how the above statutes are broken

down by chapter, article, section, and amendment numbers:

Chapter	Article	Section	Amendment
39	20	99	12
39	2	117	12
39	21	17	12
39	3	24	12

Thus, 39-2099 is not two thousand and ninety nine but article twenty, section 99. Also, 39-2,117 is not two thousand, one hundred seventeen but article two, section one hundred seventeen. What is most confusing about the Yetter system is that comma. Yet, think of each article as beginning with section number 01 and going all the way to section number 99, for example, 39-201, 39-202, 39-203, all the way to 39-299. Where do the section numbers go from there? In the Yetter System, after 39-299 comes 39-2,100, etc.

An easy way to figure out each statute is to begin at the end of the statute (e.g., 40-5902) or at the period when there is an amendment (e.g., 40-5902.11). If there is no comma in the statute, count to the left two digits and that is your section number. Everything to the left of those digits and before the hyphen is the article number. Thus, for 40-5902, I start at the end, count over two digits, and my section number is 02. Everything to the left of the 02 and before the hyphen is the article number, namely, 59. The process is even easier when there is a comma. The number to the left of the comma is the article and the number to the right is the section. Thus, 25-21,185 is article 21, section 185 of chapter 25.

So, how did you do on the quiz? Did you place them in the following order?

39-2,117.12
39-324.12
39-2099.12
39-2117.12

Of course you did. The correct order of those articles is 2, 3, 20, and 21. On the other hand, if you did not pass this little quiz, take heart. One of my colleagues scratched his head as we were going over this. I said, "Sure it's different. But it's not bad. It's the Yetter System." He didn't quite hear what I said and thought I said the "Nutter" System.

Perhaps.

MARTIN OFFERS INSIGHT INTO HEALTH CARE REFORM

By: Megan Snow

On March 9, 2010, members of the Omaha Bar Association and the Metro Omaha Medical Society gathered at the Field Club for the annual joint meeting. **Steve Martin**, President and CEO of Blue Cross and Blue Shield of Nebraska ("BCBS"), addressed the attendees.

In his talk, Martin offered his views on a topic that is garnering significant national attention - health care reform. Martin stated that he, like many providers and insurers, agrees that health care reform is needed, and that all Americans should have access to affordable health care. However, Martin noted that such reform needs to be the result of a cooperative venture among all interested parties, including the government, insurers, providers, and other participants in the health care delivery chain. Martin expressed particular concerns that the current health care bill will take a toll on Nebraska's health care system.

Martin suggested that the solution to health care reform may be found if everyone looks in their own backyard. Martin cited the reason why American health care costs are higher than in other countries is the considerable number of participants in the delivery chain for goods and services utilized in health care, and the mark-up that occurs at each level. According to Martin, working to reduce health care costs and setting rates at lower margins cannot fall upon just one category of participants, such as insurers, but must involve all participants. Martin noted that health care insurers ranked 87th on the list of industries making a profit from the health care sector.

Martin offered a number of contributing factors for the high cost of health care in the United States, one of which was the structure of health care payments. For example, the payment structure to Medicare, the nation's largest health care payor, rewards inefficiency. In the 1980s, Medicare moved from cost-based reimbursement to a bill-by-code method, so that the more procedures that are done, the more compensation the provider receives. Contributing to the shortage of primary care physicians is the fact that specialists receive the benefit of new

codes, and consequently, added compensation, while the codes utilized by primary care physicians have remained unchanged.

Besides the payment structure for health care services, Martin also recommended reform of the regulatory structure for health care, including regulation of insurance companies. Martin noted that regulations applicable to health insurers are found at various levels of government, and there is no coordinated or consistent state and federal regulatory scheme for such insurers. He indicated that standardizing regulations across the states may boost administrative efficiency across the industry. According to Martin, a vital component of health care reform is the reduction of waste and inefficiency.

Martin also offered a suggestion to the uninsured problem - treat uninsured persons the same as Medicare enrollees. Martin suggested that health care reforms include a one-month waiting period for pre-existing condition coverage and slightly higher premium for people buying health insurance only after they became "sick." Martin noted that health care insurance remains affordable when premiums are spread among healthy and sick persons. Healthy individuals regularly maintaining health insurance should not have to subsidize the health insurance of those individuals who purchase insurance only when they get sick.

Because Martin believes that community and membership ownership in the health care market is vital to a health care reform solution, Martin talked at length about the member-centered approach taken by BCBS. BCBS is a nonprofit, member-owned mutual company that provides health insurance in Nebraska. According to Martin, BCBS is the only insurance company in Nebraska that is exempt from prompt pay claims. In an effort to reduce operating costs, Martin stated that BCBS is selling its current real property and leasing new office space, for a savings of \$2 million. Martin noted that the savings will be put back into BCBS for the benefit of its membership.



(L to R) Larry Sheehan - Chairman, Jerry Friedrichsen - President OBA, Cherie Sempek - Executive Director OBA, Steve Martin - President BCBS.



(L to R) Larry Sheehan - Chairman, Jerry Friedrichsen - President OBA, Dr. Pierre Lavedan - President MOMS.



OMAHA BAR ASSOCIATION FIELD DAY

THE CHAMPIONS CLUB – 13800 EAGLE RUN DRIVE

MONDAY, JUNE 7, 2010

OBA **DUES MUST BE PAID** BY MAY 28, 2010 IN ORDER **TO PARTICIPATE IN FIELD DAY**
MEMBERS ONLY – NO GUESTS

GOLF (includes lunch) - \$78 LUNCH (non-golfers) - \$10 DINNER and/or SOCIAL HOUR - \$10

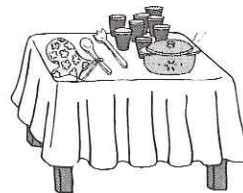
You May Issue A Single Check For All Events To Be Attended



PLEASE SEND RESERVATIONS AND PAYMENT IN ADVANCE TO:

Omaha Bar Association, 2133 California Plaza, Omaha NE 68178

REGISTRATION DEADLINE – MAY 28, 2010



DINNER at 7:00 p.m. - Social Hour 5:00 p.m. to 7:00 p.m.

Same great fare will be provided! No dinner tickets will be issued.

Please check in at the registration desk to attend social hour and dinner and to pick up your door prize ticket.

TENNIS: Tennis matches will begin at 10:00 a.m.; tennis balls will be furnished; partners will be assigned and doubles played. **Contact Dan Morris at 348-0322 for court reservations.**

TRAP: Meet on the firing line at Fremont Isaak Walton Valley Trap Range any time from 1:00 p.m. to 4:00 p.m. Directions to range: Four Miles North of Valley at Intersection of County Road 100 and Highway 36. **Contact Bill Stockdale at 397-1200 for details.**

SWIMMING: The pool will be open at noon with lifeguard on duty.

GOLF: Shotgun Starts: 8:30 a.m. and 1:30 p.m. Greens fee includes cart, prize money, and lunch. First hole-in-one prize at 12th hole! **Contact Cherie Sempek at 280-3607 for golf reservations.**

HAVE ONE PERSON CALL IN RESERVATIONS FOR FOURSOME WITH NAMES AND HANDICAPS.

MAKE SURE BOTH YOUR FIRST AND LAST NAMES ARE ON YOUR SCORE CARDS.

TURN IN YOUR SCORE CARDS TO THE PRO SHOP WHEN YOU ARE FINISHED GOLFING.

Golf Instructions: Shotgun starts will be 8:30 a.m. and 1:30 p.m. **You must check in at the registration desk by 8:00 a.m. and 1:00 p.m., respectively.** The locker rooms for both women and men will be open as will the range, and a beer cart will be running!

Four-Player Shamble (1 Net Best Ball of 4): All players will hit from each tee box, then as a group you will select the best drive to hit your next shot from. All players will then hit from the selected drive and play their own balls for the rest of the hole. During the course of the round, the team will need to use 3 drives from each player. Each player will receive his/her full handicap for the round. After each hole, the team will take the 1 Best Net Score for the group, and that will be the team score for that hole. It is fun and designed to speed up play. There will be hole prizes.



TENNIS PRIZES...GOLF PRIZES...DOOR PRIZES

Note: Quick draw will be at 8:00 p.m. for all unclaimed door prizes!!!

Call Cherie at 280-3607 with any questions.



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Cherie Sempek
Phone: 280-3607 Fax: 280-3608
E-mail: cheriempek@creighton.edu

March 15, 2010

Re: *Omaha Bar Association Lawyer Referral Service*

Dear Omaha Bar Member:

I am writing to encourage you to enroll as a member of the OBA's Lawyer Referral Service ("LRS"). The OBA's LRS is a service to the public which succeeds because attorneys like you participate.

The LRS is making its annual effort to enroll OBA members in the LRS panel for the coming year. As a member of the LRS panel, you can provide a public service while gaining the opportunity to originate new clients and business. LRS lawyers are free to charge their normal rates for work that is referred to them by the LRS, with the exception that only a nominal fee is charged for an initial consultation.

LRS clients often have never obtained professional services from a lawyer before. You may be able to meet a new client's immediate one-time needs, but may also develop a long term lawyer-client relationship. Many LRS panel members report that LRS referrals have turned into regular clients.

The LRS is on the OBA's web site. We also advertise the program to make the public aware of LRS.

I hope you will join me and become an OBA LRS member by filling out and returning the enclosed form to the OBA office.

Sincerely,

GERALD L. FRIEDRICHSEN
President

GLF:lsc

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OMAHA LEGAL PROFESSIONALS ASSOCIATION

By: Carol Sperry, President, OLPA

"The value of achievement lies in the achieving"—Albert Einstein. OLPA has achieved a long-standing status in the Omaha community as an organization of quality, professionalism and value that is priceless.

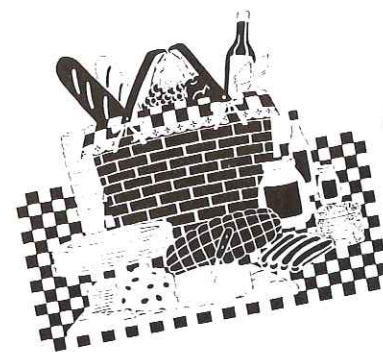
I am pleased that we have achieved another great year that is soon coming to a climactic end. Our 13th Annual Awards Banquet and Boss Appreciation Night will be held on April 21, 2010. We are delighted to have **John C. Brownrigg, Esq.** of Erickson Sederstrom, P.C., LLO, as our Master of Ceremonies. At this event we will be honoring our bosses who have supported us to help make OLPA a great asset to the legal community. We will also honor the Boss of the Year, Legal Professional of the Year, and our scholarship winners. This year is exciting because we have offered two scholarships—one in the amount of \$1000 is made possible by the fundraising efforts of our members; the second scholarship in the amount of \$500 is being awarded this year through the generosity of **Dennis L. Thomte** of Thomte Patent Law Office. Another winner will receive the Oscar Award that is given to one dedicated member who has achieved a high standard of commitment to OLPA. The banquet will also feature the installation of our newly elected officers for 2010-2011.

Also coming up is our annual state convention which will be held this year in Lincoln, Nebraska. As always, we will have an interesting program, banquet, and meetings.

Law Day is May 4, 2010 and OLPA is once again sponsoring the 8th grade essay contest for this year's topic: "Law in the 21st Century: Enduring Traditions, Emerging Challenges." The top three winners will receive savings bonds in the amounts of \$100, \$75 and \$50, respectively, to be awarded at the Law Day ceremony at the Holiday Inn Central Convention Center.

Our list of achievements, which includes community service and quality legal education, is impressive, and OLPA will continue to achieve a high standard of value for our members and the legal community.

LAST BLAST AT ROSENBLATT!!!

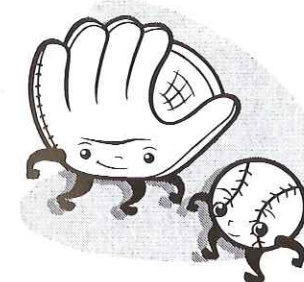


OMAHA BAR ASSOCIATION

FAMILY NIGHT AT THE ROYALS

Friday, July 23, 2010

ROSENBLATT STADIUM
1202 BERT MURPHY AVENUE



PICNIC BUFFET ROYALS BASEBALL GAME FIREWORKS CONCERT

\$25 PER PERSON

ENJOY AN ALL-YOU-CAN-EAT PICNIC BUFFET IN
THE STADIUM VIEW CLUB

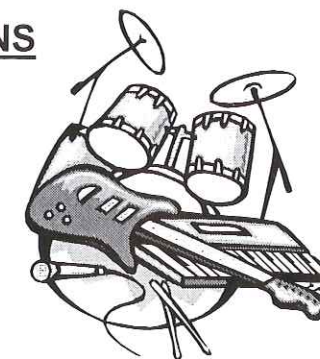
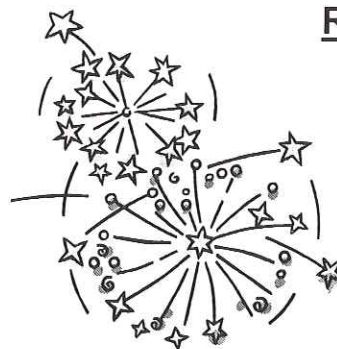
BUFFET STARTS AT 6:05 P.M. AND ENDS AT 7:35 P.M.

ROYALS BASEBALL GAME STARTS AT 7:05 P.M.

YOU CAN STAY INSIDE TO WATCH THE GAME OR
TRANSFER TO RESERVED SEATING OUTSIDE ON THE THIRD BASE LINE.
GAME IS FOLLOWED BY FIREWORKS AND A CONCERT.

ROSENBLATT REQUIRES FINAL RESERVATIONS
NO LATER THAN JULY 12

RESERVATIONS RECEIVED AFTER THAT
DATE CANNOT BE GUARANTEED



Please mail payment in advance to:

Omaha Bar Association, 2133 California Street, Omaha NE 68178

Payment must be received no later than July 12, 2010.

Call Cherie at 280-3607 with any questions.

FROM THE MCLE COMMISSION

By: Carole McMahon-Boles, Director MCLE Commission

To comply with the Supreme Court rule mandating continuing legal education, all attorneys must maintain their transcript of education on the commission web site found at www.mcle.ne.gov throughout the year and submit the transcript in December when all education for the year has been earned. In order to maximize the understanding of the credit reporting process, the Commission has some important reminders for attorneys.

1. For all education you attend, you must report attendance using your on-line transcript, regardless of the identity of the sponsor. If it is an approved sponsor, the credits can be added to the transcript any time prior to the December 31 deadline to submit the transcript. If you attend non-preapproved education, the rule states the report of attendance must be filed within thirty days of attendance. The system will accept submissions for those that neglected to

report in 30 days; however, hours earned earlier than 2010 cannot be reported and will not count if entered into the on-line system. **PLEASE DO NOT SUBMIT 2009 HOURS USING THE ON-LINE SYSTEM.** It was programmed to begin calculating hours on 1/1/2010. The commission manually entered all hours earned in 09 that qualified for 2010 credit and those have been merged into the 2010 credit calculation by our programmers. If you have missed reporting something earned in 2010 within 30 days of attendance, you are encouraged to access the on line system and report your attendance. The commission will accept submission for credits earned in 2010 past the 30 days set forth in the rules at least until attorneys are familiar with the system. However the system will not accept 2010 credits after the end of 2010 when transcripts must be submitted.

2. Your user name and password to access your transcript was mailed by U.S. mail in October from the MCLE

Commission.

3. Short instructions for using the on line system.:

Step 1: Access the "maintain transcript" function and look for the program using the search function. All approved courses will appear on the search results list. If you know the course was preapproved, but cannot find it, it is an indication that the title varies from the search criteria you are entering. You can also look for the correct title of the course using the "search CLE sponsors" on the main page. If the course you attended does not appear in the search results or the list of approved events, go on to Step 2. If the course is on the search results list, click the "add" button on the far right and the course will appear on your transcript. You then need to key in the hours you earned and click save at the bottom of the page. **When reporting a pre-approved course, you will not need to perform steps 2 and 3.**

Step 2: If you find the class did

not appear on the search results list, use the "Submit CLE Program" function and upload information that reflects: timed agenda, course description, speaker biographies, and description of material handed out. If it is an on line course, include a statement as to how the session allowed questions to be posed to the speaker. Often the course brochure reflects the necessary information. Do not upload power points or course material. Whatever is uploaded can be accessed by the public unless the MCLE commission deletes the material prior to approving the course. Once you complete the "submit CLE program" function, the course will be approved or denied by the MCLE commission, or you will receive an e-mail request for more information. Approval/denial will also be e-mailed. An approved course will be placed in the drop down menu and available for other attorneys to access in maintaining their transcript. **AFTER YOU RECEIVE COURSE APPROVAL YOU MUST THEN GO ON TO STEP 3.**

Step 3: Once the course is approved, return to the "maintain CLE transcript" function, and choose the course from the search results list to place the course on your transcript.

Step 4: When you have attended all education for the year, and no later than 12/31/10, use the "submit CLE annual report" function, and submit your transcript.

All distance learning, which includes webinars, teleconferences, and downloaded programs, must be interactive to qualify for credit in Nebraska. That means the attendee must have the opportunity to submit questions in substantially the same manner as if they are participating live. Courses offered by West Legaled and others are offered both as a noninteractive podcast and as a session that allows questions. The Commission does not give credit for the podcast version, so make sure you have participated in a credit qualifying session before attempting to place it on your transcript.



We sincerely appreciate the patience of the Omaha Bar as we launch this new application. Please call us with any questions you have while navigating the on-line system.

Do You Know What to Expect From the Business Appraiser You Hire?

The best way to avoid total guesswork is to hire a *professional business appraiser* – an appraiser who is accredited, experienced, and complies with professional standards.

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We have extensive experience appraising closely held businesses for the following purposes:

- Employee Stock Ownership Plans
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To learn more about the benefits of working with a *professional business appraiser*, please call Chris Best, CPA/ABV, CVA, ASA-BV, MCBA for a complimentary consultation.

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It's Monday, the First Day of the Rest of Your Life.



Too bad last Friday was the last day to file the Bergstrom motion.

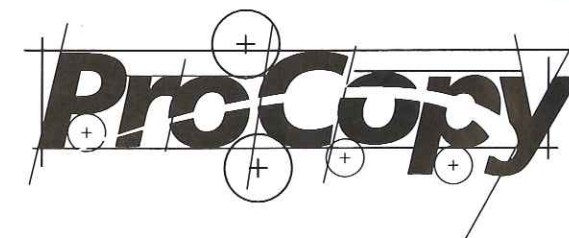
Did you know that missing deadlines continues to be one of the most common mistakes leading to malpractice claims? The failure to file a document is the second most common alleged error and the failure to calendar properly was the fifth most common mistake leading to a malpractice claim*. A dual calendaring system which includes a firm or team networked calendar should be used by every member of your firm.

At Minnesota Lawyers Mutual we don't just sell you a policy. We work hard to give you the tools and knowledge necessary to reduce your risk of a malpractice claim. We invite you to give us a call at 800-422-1370 or go online at www.mlmins.com and find out for yourself what we mean when we say, "Protecting your practice is our policy."

* American Bar Association Standing Committee on Lawyers' Professional Liability. (2008). *Profile of Legal Malpractice Claims, 2004-2007*. Chicago, IL: Haskins, Paul and Ewins, Kathleen Marie.

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2010 STATE LEGISLATIVE REPORT

By: Jack Cheloha, Chair -
Legislative Committee

The 2010 State of Nebraska Legislative Session began on January 6, 2010. This is the second session of the One Hundred First Legislature and it will last 60 working days. Senators are scheduled to conclude the session on April 14, 2010.

Any bills introduced in 2009 which have not been indefinitely postponed or approved in 2009 are still alive for 2010. An additional 450 bills and constitutional amendments have been introduced in 2010. A good reference for checking on the status of legislation is the State Legislature's website at www.nebraskalegislature.gov. Additionally, feel free to contact me. I am the Chair of the Omaha Bar Association's ("OBA") Legislative Committee, and am employed by the City of Omaha as its City Lobbyist. I can be reached by email at jcheloha@ci.omaha.ne.us or by calling me at (402) 444-5521.

Listed below are bills introduced in 2010 that the Nebraska State Bar Association ("NSBA") has taken a position on this session. Of course, there are numerous other bills of interest to the OBA's membership. The purposes of the NSBA on legislative matters "are to improve the administration of justice; to foster and maintain high standards of conduct, integrity, confidence, and public service on the part of those engaged in the practice of law; to safeguard and promote the proper professional interests of the members of the Bar, to provide improvements in the education and qualifications for admission to the Bar, and for the study of the Science of Jurisprudence and Law Reform, and the continuing legal education of the public; to carry on a continuing program of legal research; and to encourage cordial relations among the members of the Bar; all to the end that the public responsibilities of the legal profession may be more effectively discharged."

LB 702 This bill, which changes provisions relating to a patient's access to medical records, is supported by the NSBA.

LB 727 The NSBA supports this bill, which changes compensation for retired judges serving temporary duty.

LB 746 The NSBA supports this bill

to extend the timeline of a law to collect data on racial profiling.

LB 756 Adopt the Nebraska Uniform Real Property Transfer on Death Act. The NSBA supports this bill.

LB 757 The NSBA supports this bill to provide for non probate transfer of motor vehicle certificates of title upon death.

LB 758 This bill changes provisions relating to doctrines by *cy pres*, deviation, and powers of personal representatives. The NSBA supports this bill.

LB 759 This bill provides for the dissolution, winding up, and liquidation of certain professional corporations. The NSBA supports this bill.

LB 760 The NSBA supports this bill which changes provisions to total return trusts.

LB 791 The NSBA supports this bill which provides for the electronic filing of certain documents with the Secretary of State.

LB 793 The NSBA supports this bill which prohibits cash fund transfers without authorization within the law establishing the cash fund.

LB 800 This bill provides changes in law to the methods of intervention for children at risk. The NSBA supports this bill.

LB 801 This bill changes the Deceptive Trade Practices Act, and is supported by the NSBA.

LB 822 This bill changes provisions relating to construction liens. The bill is supported by the NSBA.

LB 824 This bill changes provisions relating to master jury lists, and is supported by the NSBA.

LB 839 This bill eliminates a period on invalidity of rules and regulations as prescribed. The bill is supported by the NSBA.

LB 847 This bill changes small claims court powers and provides for use of attorneys as prescribed. The NSBA supports this bill.

LB 853 The NSBA supports changing the law to remove the "without parole" portion of the current life imprisonment without parole penalty that Class 1A felonies currently receive to comply with a Nebraska Supreme Court decision.

LB 859 The NSBA supports this bill which changes provisions relating to trial by jury.

LB 873 The NSBA opposes this bill to eliminate provisions relating to notification of delinquent property taxes.

LB 888 This bill adopts the Nebraska Uniform Limited Liability

Company Act, and is supported by the NSBA.

LB 901 This bill would change child custody determination provisions. The NSBA supports this bill.

LB 915 The bill provides for use of motor vehicle operator license numbers and state identification card numbers in compiling jury lists. The NSBA supports this bill.

LB 923 This bill makes changes to provisions regarding the sealing of juvenile criminal justice records. The NSBA supports this bill.

LB 946 The NSBA opposes this bill which provides for court-ordered post-secondary education subsidy orders.

LB 971 The NSBA supports this bill to change provisions relating to care and placement of neglected children and children in foster care.

LB 973 The bill changes provisions relating to the central registry of child protection cases, and authorizes a hearing. The NSBA supports the bill.

LB 990 The NSBA supports this bill which permits the reduction in sentences for good behavior of persons sentenced to a city or county jail.

LB 1026 The bill provides for transfer of civil actions in district court. The NSBA opposes paying a filing fee twice but supports uniformity.

LB 1029 The bill changes court nonjudicial day's provision, and is supported by the NSBA.

LB 1037 The NSBA supports this bill which changes provisions relating to support enforcement and arrearages.

LB 1046 This bill, which changes speedy trial and indefinite continuance provisions, is supported by the NSBA.

LB 1047 The bill provides for construction of terms in wills and trusts relating to federal law. The NSBA supports this bill.

LB 1066 The bill provides for sales tax on many services. The NSBA opposes adding sales tax to legal services.

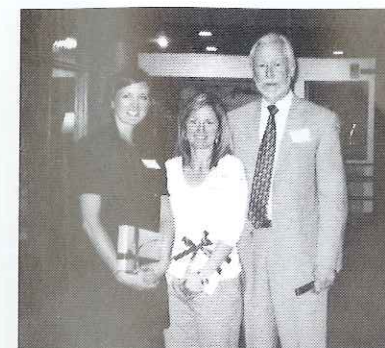
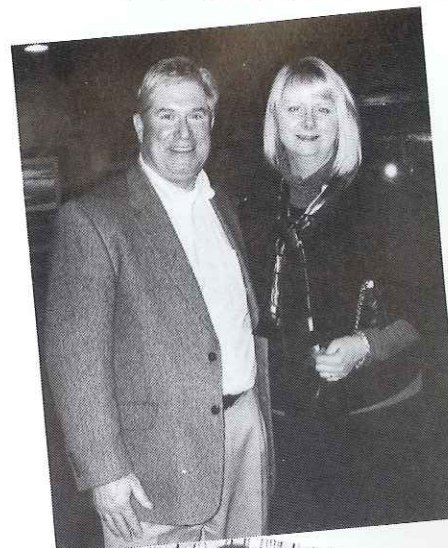
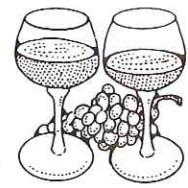
LB 1078 This bill updates references to the Internal Revenue Code and is supported by the NSBA.

LB 1083 The bill changes provisions relating to contents of a certification of trust. The bill is supported by the NSBA.

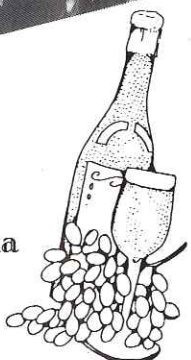
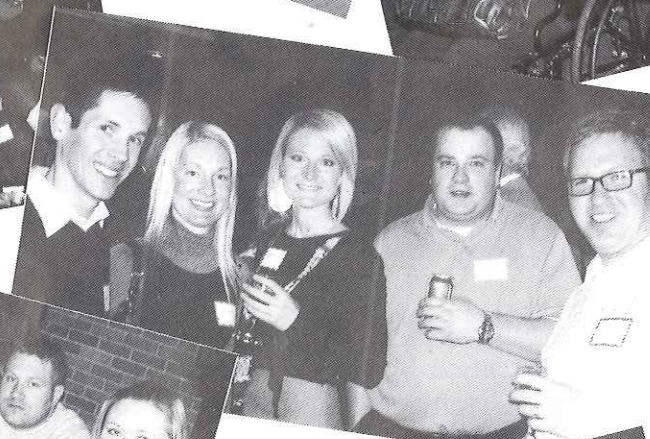
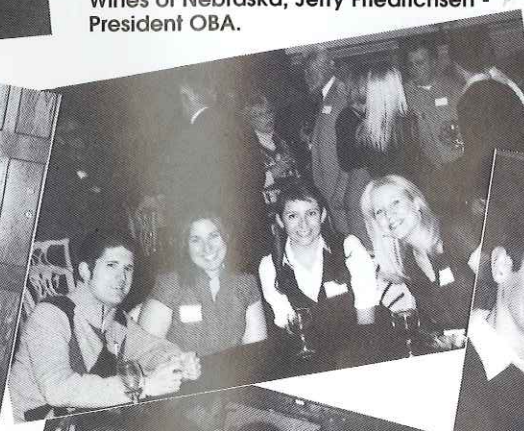
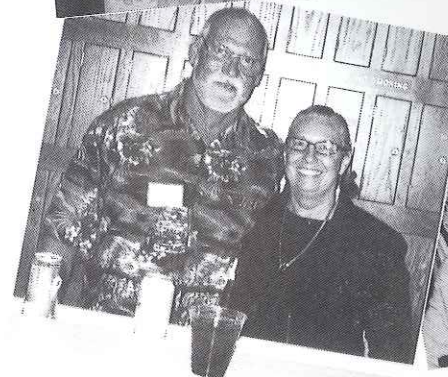
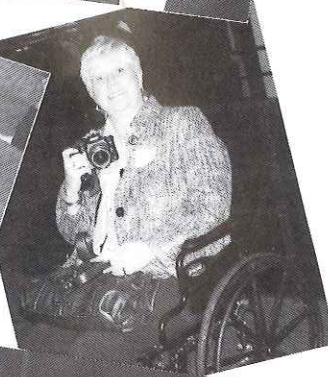
LB 1094 The NSBA supports this bill which would adopt the Nonrecourse Civil Litigation Act.

LB 1104 The bill will change judges' salaries. The NSBA will oppose if enactment would be unconstitutional.

OBA'S TENTH ANNUAL WINE AND BEER TASTING



(L to R) Katie Vap - Quality Brands of Omaha, Julie Huban - Quench Fine Wines of Nebraska, Jerry Friedrichsen - President OBA.



Thanks to The Daily Record, Quench Fine Wines of Nebraska and Quality Brands of Omaha

EQUIPMENT RENTAL AGREEMENT

1. Parties: The parties to this agreement are the Omaha Bar Association ("OBA") and
 (print name) _____
 (print address) _____
 print city, state and zip code) _____ ("Attorney").
2. Attorney **IS** an OBA member Attorney **IS NOT** an OBA member
3. Nonrefundable Deposit: OBA members shall pay herewith a nonrefundable deposit of \$50. Non-OBA Members shall pay herewith a nonrefundable deposit of \$75. Any deposit is to be applied to the final billing statement.
4. Reservation of Equipment: Attorney acknowledges that he/she is reserving the equipment indicated below for the following date(s):
 - DVD-VCR/MONITOR.** Dates: _____
 - ELMO/EPSON/MONITOR.** Dates: _____
 - VISUAL PRESENTATION STATION.** Dates: _____
5. Intended Courtroom Use: The equipment is intended for use as follows:
 Case: _____ v. _____ Case No. _____
 Judge: _____ Courtroom No. _____
6. Rental Agreement: Upon receipt of the equipment, attorney agrees to notify OBA if it is not in good working condition. Attorney promises to return the equipment in the same good working condition, or to pay for the repair or the replacement of the equipment, at OBA's election. Attorney agrees to pay the rental rate specified on the reverse side of this Equipment Rental Agreement, payable upon receipt of a billing statement from the OBA.
7. Limitation of Damages: The parties agree that OBA is not responsible for any damages, direct or indirect, caused by the operation of or the failure of the equipment. OBA gives no warranty, expressed or implied, regarding the function of the equipment or fitness for a particular purpose, except that the equipment is in good working condition at the time that the equipment is taken by attorney.
8. Effective Date: This agreement and reservation of equipment shall not be effective until the OBA receives the agreement and applicable deposit at its office at 2133 California Plaza, Omaha, NE 68178 **AND** a copy of the agreement is provided to the Court Administrator's Office. **BOTH OFFICES MUST BE NOTIFIED IN WRITING IN ORDER TO AVOID DOUBLE BOOKINGS.**

SIGNED this _____ day of _____, 20____.

ATTORNEY:

By: _____

Telephone: _____

FOR COURT PERSONNEL USE ONLY – Please indicate actual time equipment used.

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Donna Birkby, Cherie Sempek and Lorraine Boyd

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CALENDAR

May:		
4	Tuesday	Law Day Luncheon Holiday Inn Central
19	Tuesday	Memorial Program Legislative Chambers Omaha-Douglas Civic Center
June		
7	Monday	Field Day Champions Golf Course
July		
23	Friday	Royals Baseball Game - Picnic - Fireworks - Concert Rosenblatt Stadium

Please check calendar on OBA's Web Page for 2010 scheduled events.

Please note: JURY PANELS

District Court - Every Monday and Wednesday (except if Holiday is on Monday, jury panel would be Tuesday and Wednesday).

County Court - Monday of first full week.

OBA Helps Ecology

The Omaha Bar Association Newsletter is printed on recycled paper & uses ink that does not harm the environment!

