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NEXT LCBA EVENT: BAR MEETING FEBRUARY 15

The next meeting of the Linn County Bar Association will be held **Thursday, February 15, 2018, from 12-1 p.m. at the Cedar Rapids Museum of Art** on Third Avenue SE, Cedar Rapids, in the 3rd floor meeting room. The speaker will be Hon. Tom Waterman, Iowa Supreme Court, who will be highlighting the Court's decisions of last term. An outline of the cases will be electronically distributed to LCBA members beforehand.

CLE credit of .75 hours has been approved, activity number 289949. An outline of the cases Justice Waterman will be discussing is at the end of this issue of the Scriptum.

*** Please be advised Justice Waterman will begin speaking promptly at 12:15. General announcements will be given shortly after noon. Please arrive early to check in and obtain your meal. ***

Lunch is \$10.00 and will be catered by The Fresh Deli. This month's meeting will feature a "breakfast for lunch menu", including breakfast pizza, breakfast sandwiches (vegan option), egg casserole w/ ham, hash brown casserole, hash brown patties, sausage links, bacon strips, fruit salad, cinnamon rolls, beverages/coffee, and an assortment of drinks. (*Lunch is ordered as a courtesy for those who want to have lunch during the meeting. Members are not required to order lunch. There is no charge to attend the meeting if you do not order lunch.*)

If you plan to attend, please respond to the RSVP request that was emailed to all members. **RSVPs are due 2 p.m. February 14.**

HAVE YOU PAID YOUR LCBA DUES?

ARE YOU 100% SURE YOU'VE PAID YOUR LCBA DUES? – Currently the LCBA Treasurer is reporting a \$6000 deficit against prior dues revenue. This big of a number threatens the Association's ability to continue with quality food, drink, CLE and other programming. It threatens our ability to confidently donate to law-related non-profits next year. If you are unsure whether your dues were paid from the invoices last fall please email our President using darin@crlawyers.com and we will quickly check for sure whether you're in the clear for the 2017-2018 year.

LINN LAW CLUB NEWS

The Linn Law Club will be hosting a February happy hour. Date and location will be announced via the Linn Law Club email list at a later date.

Attorneys interested in learning more about Linn Law Club and its events, including some exciting upcoming social and volunteer opportunities, may join the Club's email list. To join, please email LinnLawBoard@gmail.com.

IOWA COURT OF APPEALS' ORAL ARGUMENTS AT COE COLLEGE

The Iowa Court of Appeals will hear oral arguments at Coe College in Cedar Rapids on Wednesday, February 21, 2018. The LCBA is sponsoring a lunch with Coe students prior to oral arguments and a reception following. LCBA members are invited to watch oral arguments as well as volunteer to assist serving lunch or answering students' questions as the post-oral arguments reception. Anyone interested in volunteering for the Coe lunch or reception should contact darin@crlawyers.com.

The itinerary is as follows:

<i>Lunch with LCBA members and Coe students</i>	12:30-1:30	Gage Memorial Union
<i>Court of Appeals oral arguments</i>	2:00-3:00	Marquis Hall Daehler-Kitchin Auditorium
<i>Reception with LCBA members and Coe students</i>	3:00-4:00	Clark Alumni House

The two cases to be argued are:

Panel: Potterfield, Mullins, Bower			
17-0431	Williams v. State	Eric D. Tindal-appellant Kevin Cmelik and Tyler Buller-appellee	Scott
17-0852	State v. Klinkkammer	Joseph D. Keegan-appellant Mark C. Meyer-appellant Kevin Cmelik and Darrel Mullins-appellee	Johnson

VOLUNTEER JUDGES NEEDED FOR CORNELL COLLEGE MOCK TRIAL COMPETITION – FEB. 17-18

Judges are needed for Cornell College’s Regional Mock Trial Competition Feb. 17 and 18 at the Kirkwood Hotel and Convention Center. Rounds are:

- Round 1: Saturday, February 17 at 9:00 AM
- Round 2: Saturday, February 17 at 2:00 PM
- Round 3: Sunday, February 18 at 9:00 AM
- Round 4: Sunday, February 18 at 2:00 PM

Volunteers do not need to read materials or otherwise prepare for judging, and will be provided with complimentary snacks, beverages, and lunch. To volunteer to judge or for any questions, please contact mocktrial@cornellcollege.edu

LCBA CITIZENSHIP AWARD PRESENTED TO HAROLD DENTON



Congratulations to member Harold Denton, who was presented with the LCBA’s annual Citizenship Award at the 2018 Bench-Bar Event held January 18. A Cedar Rapids Gazette story regarding Denton and the reason he received the award can be seen at the link below:

<http://www.thegazette.com/subject/news/prosecuterharold-denton-cited-for-volunteer-work-in-linn-county-courtrooms-20180203>

SAVE THE DATE! KERNELS GAME

Save the date for the LCBA Kernels game, admission to which is free to all dues-paid LCBA members: **Wednesday, May 30, 2018** at Veterans Memorial Stadium, 950 Rockford Road SW, Cedar Rapids. Join your fellow LCBA members for a **12:05 p.m.** Cedar Rapids Kernels baseball game.

LCBA 2017-2018 CLE SUMMARY

The following 2017 LCBA programs have been approved for CLE credit:

Iowa Activity ID #	Date of Program	Program Description	Iowa Credit Hours	Ethics Hours	Federal Credit Hours
253803	2/16/2017	LaSheila Rice- CR Civil Rights Commission	0.50	0.00	0.00
257369	3/16/17	Judge Kepros - EDMS Challenges and Tips	0.50	0.00	0.00
262149	4/20/17	John Monroe – Mental Health Commitments	0.50	0.00	0.00
265272	6/15/17	Liz Mathis – Legislative Update	0.50	0.00	0.00
266205	7/13/17	Summer Outing CLE	3.25	1.00	1.25
274542	9/21/17	Data Breach, CyberSecurity	0.50	0.00	0.00
271541	10/19/17	Jim Kringlen - 40 Years of Case Law Highlights from Iowa Legal Aid	0.75	0.00	0.00
283829	11/16/17	Jessica Malott - Immigration Law	0.50	0.00	0.50
281438	12/14/17	Last Chance Ethics seminar	2.00	2.00	0.00
289949	2/15/18	Iowa Supreme Court Case Highlights – Justice Waterman	0.75	0.00	0.00

SAVE THE DATE! HAPPY HOUR FOR KIDS FIRST LAW CENTER

Please save the date to attend Happy Hour for Kids First on Thursday, April 26, 2018 from 4:30 – 7PM at CSPA Hall. Free entry, drinks & appetizers, fabulous silent/live auction items, friends & family welcome! Sneak preview of items coming soon!

LCBA MEETING CALENDAR

The Linn County Bar Association will be holding regular monthly meetings on the third Thursday of October – November, February – April and June.

There is no regular monthly meeting during the following months due to other LCBA events scheduled as indicated: December (Last Chance Ethics CLE); January (Bench Bar Event); May (LCBA Day at the Kernels); July (Summer Outing).

COLLABORATIVE LAW AND MEDIATION TRAINING

Crilley Mediation Services will be presenting four training opportunities in upcoming months. These training sessions will form a foundation for a collaborative law and/or mediation practice.

- 40-Hour Family Law Mediator Training – **March 5-9, 2018**
- 16-Hour Parenting Coordinator Training – **April 16-17, 2018**
- 14-Hour Collaborative Law Training – **May 16-17, 2018**
- Coaching Emotional Positivity During Mediation – **May 24, 2018**

Please visit www.CrilleyMediation.com for more information and to download the Registration Form for these trainings. If you have any questions, please call Chris Crilley at (319) 363-5606.

NEW MEMBERS

The Linn County Bar Association welcomes the following new members:

Alec Modrick, Lynch Dallas, P.C.

Ethan Olson, Nyemaster, Goode, West, Hansell & O'Brien, P.C.

Andy Seyfer, Bradley & Riley

TRANSITIONS

If you would like to announce your law firm comings and goings, new office locations, attorneys named to partnership, or whatever your “NEWS” is, please let us know and we will put it in TRANSITIONS section of the Scriptum. Submissions should be sent to webmaster@linncobar.org.

Lynch Dallas, P.C. is pleased to announce that **Kyle A. Sounhein** and **Emily K. Ellingson** have become shareholders in the firm as of January 1, 2018.



Mr. Sounhein is a 2008 graduate of Drake University College of Law and a 2005 graduate of Drake University, where he graduated cum laude. He has practiced with Lynch Dallas, P.C. since 2015. Mr. Sounhein practices in the areas of Family Law, Probate, Estate Planning, Wills & Trusts, Real Estate, Juvenile and Taxes. Mr. Sounhein represents clients on a variety of family law issues regarding dissolution, child custody, child support, and modifications, as well as adoptions. Mr. Sounhein assists clients in Estate Planning and Probate, addressing the unique circumstances of each case.



Ms. Ellingson is a 2009 graduate of the University of Iowa College of Law and a 2006 graduate of the University of Iowa, where she graduated with highest distinction. She has practiced with Lynch Dallas, P.C. since 2009. Ms. Ellingson advises school districts and municipalities on a variety of issues, including workplace investigations, employee discipline and termination, open meetings and public records, employee benefits compliance, ADA accommodations/interactive processes, FMLA matters, and wage and hour issues. She also works with clients negotiating collective bargaining agreements, assisting with grievances, and handling general civil litigation.

WANT ADS

Kirkwood Community College offers online Employers Services, available at no charge, 24 hours a day, 7 days a week. To learn more about this topic, call 398-5689 or go to jobs@kirkwood.edu

Space for Rent: Ideally configured for a law office. Approximately 2,000 square feet near Lindale Mall between Collins Road and Blairs Ferry Road. Separate outdoor entrance and address. Ample onsite parking. If interested contact Mark Seidl at 377-9770 or mseidl@sccrlaw.com

Full time Legal Assistant position open. Up to two weeks of training. Five years or more of experience preferred. Creditors' rights practice, real estate, commercial transactions and litigation, Wills and probate. No family law, criminal law, personal injury, worker's compensation or debtor representation. Templates and forms saved electronically. Salary commensurate with experience, work ethic and product. Salary negotiable and I will pay well for the right team member. Self-motivated, good communication skills and proofreading required. 401K and health insurance, if needed,

available under a Wellmark BC/BS group plan. Free on-site parking. Clerical support provided. On-site parking. Payroll outsourced and billings prepared by another staff member on our team. All inquiries and applications treated strictly confidential. Please contact Ray Terpstra or Susan Briley if you are qualified for the position and are looking for employment with an AV rated attorney with 36 years of experience in a five person office. Phone: 319-364-2467, ext. 1007; email rterpstra@tewlaw.net with cc to [Susan Briley at sbriley@tewlaw.net](mailto:sbriley@tewlaw.net), 3600 First Avenue NE, Suite 101, Cedar Rapids, IA 52402.

Stinson Leonard Street LLP (www.stinson.com), an Am Law 200 firm with offices in 13 cities nationally, is seeking an attorney with experience in the areas of corporate law, business transactions, business succession planning, secured lending transactions and/or commercial real estate to join our Mankato, Minnesota office. The preferred candidate is self-motivated and team-orientated, with the ability to work in a fast-paced collaborative environment. While this position is based in Mankato, MN, the attorney will have the ability to partner with our greater Stinson team and serve clients throughout our offices.

Qualified candidates will have at least three (3) years of experience in the areas of corporate law, business transactions, business succession planning, secured lending transactions and/or commercial real estate. The successful candidate is a professional who can provide exceptional customer service both to our clients and our internal team. Qualified applicants will possess excellent academic credentials and have strong writing, analytical, organizational, and communication skills. Applicant must be licensed to practice law in the State of Minnesota.

Please send cover letter, resume, unofficial law school transcript, and writing sample by e-mail to: Anna Lloyd, Attorney Recruiting Manager, Stinson Leonard Street, 1201 Walnut, Suite 2900, Kansas City, MO 64106 recruiting@stinson.com

If you would like to publicize open attorney positions or available law office space in your building, let us know and we will publish it here. Contact webmaster@linncobar.org. We will run your "Want Ad" for three (3) consecutive Scriptum editions. If your space or employment needs are met during your three-month Ad run, though, please drop us a line so we know to delete your Want Ad from future issues.

PARALEGAL INTERNSHIPS WANTED

Are you interested in helping train and mentor future paralegals? The Paralegal Program at Kirkwood Community College continues to grow. Kirkwood paralegal students are required to intern in a legal environment as part of their education. You can help tomorrow's paralegals gain valuable experience by agreeing to supervise a paralegal intern. The internship requires that the student complete 120 hours in a legal setting, and compensation is not required. If you are interested in mentoring a paralegal intern, please call Greg Clevenger at 398-5576.

COURT SCHEDULES & LCBA MEMBER DIRECTORY ON LCBA WEBSITE

Did you know the LCBA publishes each day's court schedules for Linn County District Court, Associate Court and Small Claims/Traffic court? Head over to the LCBA website at www.linncobar.org and click on "Court Schedules & Info" at the top. You can also see the judge assignments, local Orders and the court's contact numbers.

The website also has contact information for all LCBA members at www.linncobar.org/directory/attorneys/index.html. Advise the LCBA webmaster if any changes need to be made. If you have a new address, please notify the LCBA at P.O. Box 74127, Cedar Rapids, IA 52407-4127, or via email at webmaster@linncobar.org.

HOW TO JOIN THE LCBA and DUES INFORMATION

Membership in the LCBA is open to lawyers admitted to practice in Iowa and who live or work in Linn County. The first membership year is free. Annual base membership dues for all others is listed on the LCBA's website at: <http://www.linncobar.org/about/dues/> A voluntary charitable assessment of \$100 is included on all dues statement; payment of the assessment is not required. The assessment goes towards funding legal related charitable organizations in Linn County. The membership application is at this link: <http://www.linncobar.org/wp-content/uploads/220265.pdf>

Dues notices for the 2017-2018 LCBA membership year were mailed to members in August. If you did not receive your dues notice, please contact the LCBA at linncobar@gmail.com.

Only LCBA members current on their dues may attend LCBA sponsored events such as the Last Chance Seminar CLE, Bench-Bar gathering and LCBA day at the Kernels.

Current annual base membership dues are \$150 for members admitted to any bar 5-49 years and \$120 for members who have been admitted to any bar fewer than five years. There are also special dues amounts for government employees, employees of certain non-profit organizations, and full-time judges and certain other government entities. Please see the full dues policy here: <http://www.linncobar.org/about/dues/>

Please note there is a \$25 late charge for dues that were not paid by September 30, 2017.

AMENDMENTS TO IOWA COURT RULES

Please click on this link for a list of recent Amendments and New Rules:

http://www.iowacourts.gov/Court_Rules_Forms/Recent_Amendments_New_Iowa_Court_Rules/

RESTAURANT REVIEW: CAUCHO

I had the pleasure of eating recently at Caucho, (yes with a C) which is a unique Mexican restaurant located across 12th Street from the NewBo City Market. Caucho sits at the back of the building that used to house the Chrome Horse and now houses Brewhemia. I would highly recommend it. The restaurant is fairly small but makes good use of the exposed brick and wooden floors space that was part of the architecture of the original building. The restaurant has a convivial if somewhat loud atmosphere. It has outdoor seating during the warm month. Caucho is open for dinner only, Tuesday through Saturday, and has a full bar that unsurprisingly tilts toward tequila based drinks.

The food is not what we typically think of as Mexican food in Cedar Rapids, but strives for more authentic preparations. The tortillas they use are made in house, with corn rather than flour. Another unique example is that the menu specifically provides the beans are refried in Berkshire pork lard (they are excellent). Its menu makes good use of braised and stewed items which allows the development of more robust and complex flavor than most restaurant preparations.

The chips and guacamole consist of fried whole corn tortillas and made to order guacamole. You will probably want one order per two people. The menu is fairly short with starters, big plates, tacos, and sides. Again, the tacos are not run of the mill but include al pastor, carnitas, fried mahi, and beef short ribs to name a few. The tacos are on the small side so you would definitely want two if not three for a meal. The churros and chocolate are made to order and served hot and fresh. It is a surprisingly light dish and nice end to the meal.

When I have been by Caucho it usually looks busy and we waited about 45 minutes on a Friday. When you put your name on the wait list they will take your cell and alert you when your table opens by text if you want to visit another spot in NewBo while waiting. Give it a try and disfrute su comida.

Matt the (Stand-in) Critic.

Caucho is located at 1202 3rd St. SE #102, Cedar Rapids, IA 52401. <http://cauchorestaurant.com/>

LCBA GIVING AT WORK

Each year the LCBA uses charitable contributions from its members as well as monies from LCBA regular dues payments to provide funding to local non-profits that provide legal services to individuals in Linn County and make the judicial system in Linn County more accessible to the public. This new column, "LCBA Giving at Work", spotlights some of the work performed by recipient organizations of LCBA funding.

Iowa Legal Aid has long represented low-income tenants who, due to their poverty, are often relegated to some of the lowest quality rental housing in Linn County. For the

same reason, they often end up with the least scrupulous landlords, many of whom use lease forms with provisions that are prohibited by the Iowa Residential Landlord Tenant Act (Chapter 562A of the Iowa Code, “IRLTA”) and the Mobile Home Parks Residential Landlord Tenant Act (Chapter 562B). The Iowa Supreme Court and Court of Appeals have recently issued decisions interpreting Chapter 562A, including the sections on the willful and knowing use of prohibited provisions (which are substantially the same in 562B as they are in 562A). The Cedar Rapids Regional Office of Iowa Legal Aid has since begun carefully scrutinizing the leases being used by landlords. We have found that a substantial majority include prohibited provisions, such as those with illegally large late fees, that disclaim a landlord’s obligation to make repairs to supplied appliances, that provide that the tenant will pay attorney’s fees if the landlord evicts them, or (ironically) that provide that nothing the landlord does can serve as a waiver of the landlord’s rights to enforce the lease terms – this despite that Chapter 562A includes a waiver provision.

We have sought to educate landlords – not only through litigation, but also via Community Legal Education presentations – about what the IRLTA prohibits in leases. Our goal is to make it less likely that such illegal leases will be used in Linn County. In the summer of 2017, Iowa Legal Aid gave a presentation to the Landlords of Linn County entitled, “The Top 10 Illegal Lease Provisions.” Such illegal lease provisions serve to instill fear in tenants even when they are not enforced, and they make it less likely that tenants will feel safe in requesting repairs or otherwise asserting their rights to safe, habitable housing. We have won several court decisions in Small Claims Court with findings that landlords have willfully used leases they knew included prohibited provisions. Even absent actual damages, our clients have been awarded punitive damages that offset unpaid rent, resulting in the dismissal of eviction claims based on nonpayment of rent. Hopefully, more landlords will seek legal advice about their lease forms from other members of the LCBA, and the use of such prohibited lease terms will become rare.

Jim Kringlen, Managing Attorney, Iowa Legal Aid, Cedar Rapids Regional Office

**IOWA SUPREME COURT 2016–17 TERM:
NOTEWORTHY DECISIONS AND UNANSWERED QUESTIONS**

By the Honorable Thomas D. Waterman

1. *State v. Pettijohn*, 899 N.W.2d 1 (Iowa June 30, 2017) (3–1–3; holding search warrant required for Breathalyzer test of drunken boater). Will drunk drivers meet a different fate? What does the DNR do if it is not practical to get a timely warrant?
2. *State v. Storm*, 898 N.W.2d 140 (Iowa June 30, 2017) (3–1–3; retaining automobile exception to search warrant requirement). Will roadside electronic warrant applications spell doom for this categorical exception?
3. *Godfrey v. State*, 898 N.W.2d 844 (Iowa June 30, 2017) (3–1–3; recognizing implied right under Iowa Constitution to sue government defendants for money damages for constitutional violations outside the scope of the Iowa Civil Rights Act). What are the contours of this new constitutional tort? When may punitive damages be awarded? Do plaintiffs bringing such constitutional claims have to go through the Tort Claims Act process? Are any immunities available?
4. *State v. Williams*, 895 N.W.2d 856 (Iowa 2017) (4–3; overruling *State v. Wing* and holding speedy indictment time clock starts with formal arrest/booking instead of whenever a hypothetical reasonable person would believe he/she has been taken into custody). The decision includes a debate among members of the court over stare decisis. How will this debate continue and play out in the future?
5. *Haskenhoff v. Homeland Energy Solutions, LLC*, 897 N.W.2d 553 (Iowa June 23, 2017) (3–1–3; reversing \$2.4 million judgment for hostile work environment/constructive discharge claims based on instructional errors). Be careful what you ask for—you might get it. Can an employer avoid liability under Iowa law by taking prompt action to address a valid sexual harassment complaint, or is Iowa heading toward strict respondeat superior liability for acts of sexual harassment by employees against fellow employees?
6. *Ludman v. Davenport Assumption High Sch.*, 895 N.W.2d 902 (Iowa 2017) (unanimous; reversing due to evidentiary and instructional errors \$1.2 million judgment for baseball player hit by foul ball). Again, be careful what you ask for—you might get it. Will the contact sports exception last?

7. *Plowman v. Ft. Madison Cmty. Hosp.*, 896 N.W.2d 393 (Iowa 2017) (6–1; recognizing new cause of action for wrongful birth). What damages are recoverable under this theory? Will *Plowman* be legislatively overruled?
8. *Thornton v. American Interstate Ins. Co.*, 897 N.W.2d 445 (Iowa May 19, 2017) (unanimous; reversing \$25 million punitive damage award in bad-faith action against workers' compensation insurer). Pick your battles and control your client. What ratio of punitive to actual damages will survive appellate due process review in an insurance bad-faith action?
9. *Des Moines Water Works v. Sac Cty. Bd. of Supervisors*, 890 N.W.2d 50 (Iowa 2017) (3–1–1; applying century of precedent to preclude state law claims against drainage districts by municipal water works for nitrate removal costs). Note the interplay between this decision and *Williams*, since dissenters in *DMWW* wanted to overrule long-standing drainage district precedent that had been reaffirmed many times, including in 2012. Under what circumstances will the court overrule its precedent?
10. *State v. Coleman*, 890 N.W.2d 284 (Iowa 2017) (4–3; holding officer can't ask to see driver's license after lawful traffic stop of vehicle owned by person with suspended license who is not the one behind the wheel). What does defense counsel need to do in district court to preserve error on a claim for broader restrictions on police under the Iowa Constitution?
11. *State v. Roby*, 897 N.W.2d 127 (Iowa June 16, 2017) (4–3; reversing mandatory minimum prison sentence of juvenile felon based on new standard that such sentences are to be rare). Will any mandatory minimum sentence of a juvenile survive appellate review? How are district courts to apply the *Lyle* factors? Is expert testimony required at sentencing hearings to impose a minimum term of incarceration?
12. *Stender v. Blessum*, 897 N.W.2d 491 (Iowa June 16, 2017) (4–3; affirming directed verdict/JNOV dismissing legal malpractice claims against lawyer who assaulted client/lover). When will violations of attorney disciplinary rules result in civil liability?
13. *Freeman v. Grain Processing Corp.*, 895 N.W.2d 105 (Iowa 2017) (unanimous; affirming order certifying class action of 4000 neighbors suing corn milling facility for air pollution under nuisance, negligence, and trespass theories). When can tort claims be tried as a group? What impact should expedited civil actions have on class certification?
14. *Diaz v. State*, 896 N.W.2d 723 (Iowa June 9, 2017) (7–0 but 3 concurred only in part; vacating guilty plea based on failure to advise client he

would definitely be deported if he pled guilty; the majority added language requiring explanation by defense counsel of immigration consequences beyond deportation, but 3 justices did not join that language). How much immigration law do criminal defense attorneys need to master?

15. *State v. Martinez*, 896 N.W.2d 737 (Iowa June 9, 2017) (4–3; dismissing identity theft convictions of noncitizen dreamer based on federal preemption). What is left for state prosecution of undocumented aliens who falsify identification to gain employment? Will the State seek U.S. Supreme Court review?
16. *Estate of Gottschalk v. Pomeroy Dev. Corp.*, 893 N.W.2d 579 (Iowa 2017) (5–2; affirming summary judgment dismissing tort claims against State arising from sexual assault in nursing home by William Cubbage after his unconditional release from the Cherokee lockdown treatment facility for sexually violent predators). Bad facts sometimes make bad law. When should the State be held civilly liable for crimes committed after an inmate’s release from prison?
17. *Willard v. State*, 893 N.W.2d 52 (Iowa 2017) (unanimous; holding that PSN (patient safety net) materials are not discoverable or admissible in malpractice action arising from hospital care). When should access to evidence trump privacy that protects other goals?
18. *State v. Russell*, 897 N.W.2d 717 (Iowa June 23, 2017)(unanimous; holding criminal defendants have no right to subpoena records from third parties). Is the door open to such discovery on an ex parte showing under special circumstances?
19. *Estate of Cox v. Dunakey & Klatt, P.C.*, 893 N.W.2d 295 (Iowa 2017) (unanimous; holding parties failed to reach a binding settlement of legal malpractice claims given lack of contemporaneous meeting of the minds on terms of confidentiality provision). Offer and acceptance required notwithstanding agreement on all other terms. Be careful—as long as you say the settlement is subject to your client’s review and approval the other side can also back out.
20. *State v. Plain*, 898 N.W.2d 801 (Iowa June 30, 2017) (unanimous on abandonment of actual disparity test for challenging racial makeup of jury pool; 4–3 in declining to require implicit-bias jury instruction; 5–2 in holding it was improper for a prosecutor to refer the complaining witness in closing argument as a “victim”). How can we improve racial diversity of the jury pool? When is it reversible error for the prosecutor to refer to the complaining witness as the “victim”?