

Nebraska Young State • Bar • Association Lawyers Section

Take an Interest:

A Call for Young Attorneys to Enhance Their Roles and Provide Value in More Ways Than Just Billing Hours

by Patrick McNamara



For the most part, they don't teach business management in law school. But having good business sense is as crucial to your career success as the ability to write a good brief. Senior attorneys may not make it completely clear, but they're looking for their young associates to take an active role in the success of the firm. Obviously young attorneys need to be wary of firm politics, but at the same time, taking on additional roles can make you indispensable. I encourage all young attorneys to consider and act upon the following advice:

Know who's paying - Learn about the firm's billing and finances. Concern yourself with which clients are paying and which aren't. Also, watch for wasteful spending. If you notice that your firm is spending \$2,000 a year on a subscription that no one is using, say something.

Better your firm - Don't be afraid to speak up and advocate for more efficient firm practices. Cloud-based practice management software could save your firm a ton of time and expense. You could be the hero that suggested it. And when other firm members see that you have good judgment, you might find yourself in a position to negotiate benefits such as flexible hours or alternative work locations.

Foster client relationships - Learn your clients' favorite baseball teams or what type of music they listen to. Learn their kids' names. Really listen to your clients when they talk about what they're looking to get out of the representation. Advocate to the firm if you think there's a particular course of action that should be taken. Find out if there are any additional legal issues the client may need handled!

Spread the word - Talk about the work you do. Meet people in other industries. Even if you're at a securities firm where you'd

Hello, Nebraska Young Lawyers! I'm Patrick McNamara, Editor of the Young Lawyers' Page. We've got a great issue this month. Lindsey Schuler has provided a thorough introduction to tribal law; Tracy Hightower-Henne has let us know that anyone can get over nerves and be a great public speaker as long as they prepare; and I've given a call to action for young attorneys to become involved in the business side of their firms. As always, we gladly welcome submissions from young attorneys across the state. If you're interested in writing, please contact me at pmcnamara@omahalawgroup.com.

have no earthly idea of how to meet a new securities client, go out and meet a bunch of attorneys who have no idea what to do with the securities law issue they'll eventually come across. Those attorneys will think of you whenever they hear the word "securities," and then pat themselves on the back for being able to hook their client up with a referral.

Seek out new responsibilities - The legal industry has gone through massive changes in the past decade, and young attorneys are uniquely positioned to help their firms succeed. Young attorneys need to be ready, willing and able to step into management roles as they become available.

Patrick is the principal attorney at McNamara Law Firm, PC, LLO. McNamara Law Firm represents and advises individuals and small businesses.

Teach Others and Don't Be Nervous

by Tracy Hightower-Henne



Not many people have heard this story because I used to be embarrassed about the fact that I would get nervous during public speaking. At my first oral argument in front of the Nebraska Supreme Court, I wore a skirt suit. After that, I declared that I will never again wear a skirt suit at an oral argument because I just knew that everyone could see my knees shaking.

Seven years ago, I practiced that oral argument probably 100 times prior to walking to the podium, but as we all know, you can never really practice; if those questions catch you off guard and you lose your place, you really can never go back to your notes. Of course, the only "trick" is to know your case and the law. But practice really does calm the nerves (nothing can be perfect, so forget perfection). As young lawyers, we will be approached many times to give presentations and the opportunities really are worthwhile. We get to educate people about exciting topics such as wrongful convictions and some not-so-exciting topics like limited scope representation.

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This month I had several public speaking opportunities. I organized the Nebraska Innocence Project CLE at the NSBA's Annual Meeting and introduced the panel speakers to about 60 attorneys. I also presented a two-hour CLE on the topic of Limited Scope Representation at the Annual Meeting to over 250 attorneys. Let me repeat that: a 2-hour presentation to 250 attorneys! I then was invited to speak to a high school class about eyewitness identifications and how they can potentially cause wrongful convictions. I also recently spoke at a fundraiser for the Nebraska Innocence Project. As I sit down to reflect on these opportunities, and take a breather, I am grateful that my nerves allow me to speak to people. I now love public speaking: I love the excitement and the rush just before going to the podium, and I love that small amount of nerves before I quietly take a breath and just talk.

There is no art, really, just the art of practice. Be willing to share what you know and love with others—that's how we all move forward in our profession. Now, when you see me giving a presentation and I'm in a skirt suit, you'll know I'm not nervous.

Tracy is a partner at Hightower Reff Law in Omaha. Hightower Reff Law handles family law and criminal defense cases. Tracy is also the Chair of the Limited Scope Representation Section of the Nebraska State Bar Association.

General Practice within the Indian Law Framework by Lindsey Schuler



I have always been interested in practicing in the niche field of Indian Law. When applying for law schools, I was particularly looking for a law school that had either a specific Indian law certificate program or several specialized Indian law courses. I graduated from Michigan State University College of Law with a certificate from the Indigenous Law and Policy Center in 2013, where I was fortunate enough to study under renowned Indigenous Law scholars Professors Matthew Fletcher and Winona Singel. After being admitted to the Nebraska State Bar, I landed my dream job at Fredericks Peebles and Morgan LLP, which has eight offices across the United States and is the largest law firm in the country dedicated solely to Indian law. Each project brings unknown challenges and new experiences that remind me why I wanted to work in this field in the first place.

Over the last two years I have worked in an atypical general practice firm. Although our firm takes on the typical cases you would find in a general practice firm, such as contract disputes, business organization, code drafting, business and commercial litigation, and housing cases, the firm is atypical because we only represent Indian tribes and tribal organizations. When working for tribes and tribal organizations there are additional considerations that we, as attorneys, have to contemplate that a

traditional attorney operating under state law does not. Tribes are distinct, sovereign nations, each having their own political system and legal structure. Indian tribes make their own laws and are ruled by them within the confines of reservation boundaries. Indian law attorneys must work within the tribal legal framework while protecting and defending tribal sovereign immunity. Representing tribal clients in and around Indian Country requires careful attention to tribal, state, and federal jurisdictional nuances—sometimes tribal law applies, sometimes state law applies, and sometimes federal law applies. Though Indian law attorneys need to address special considerations, practicing law in Indian Country is fundamentally similar to general practice in traditional law firms.

For example, throughout this past year I have had the opportunity to litigate a quiet title action for a parcel of property located within reservation boundaries. Since the property is simultaneously held within a Nebraska county, the quiet title action was filed in District Court. There was an issue locating a known defendant, which is where special considerations arose. All of the notice and complaint processes and procedures remained the same as any other filed in state court, but the Indian law aspect required that I review not only state property records, but tribal and Bureau of Indian Affairs (“BIA”) records as well. The local tribal and BIA records needed to be reviewed to determine whether the United States Government had entered land into trust for the tribe. While the judicial requirements were the same as any other quiet title action in Nebraska, because the property was located within the tribe's reservation, there were additional offices that may have housed records on the property.

Even though several tribes are located in Nebraska and surrounding states, many general practice attorneys may never need to appear in tribal court. I often hear generalized misconceptions surrounding tribal court practice, such as “tribal courts do not have laws,” “tribal courts are unfair,” and “tribal courts are not reputable.” These preconceived notions could not be further from the truth. Just as many legal strategies in cases involving Indian law are similar to that of a traditional firm, many tribal court structures, procedures, and operations are similar to that of a traditional state or federal court. Tribal courts require an attorney to be admitted to their bar, just like state and federal courts. Some tribes have adopted their own bar exam, while others simply require an attorney to be admitted to a state bar. Tribal courts have also adopted their own judicial code including civil, criminal and procedure rules, among others. Tribal court judges are knowledgeable individuals of the legal profession that hear and fairly decide complex legal issues, just as judges in state court. I am currently working with another attorney on a civil matter that is pending in tribal court. The filing procedures and requirements were essentially the same as those required for my quiet title action in state



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court. We were required to file a complaint, the defendant had a reasonable time to answer, motion practice was consistent with the state court, and the judge is a practicing attorney in the field of Indian law. Many misconceptions surround tribal court are unfounded, but hopefully this brief description helps those of you practicing in Nebraska gain some insight to one of our important judicial systems.

Working with tribes and tribal organizations continues to be a rewarding learning experience. I am grateful to have the opportunity to gain valuable insight into a niche field of legal practice. Each sovereign tribal nation has its own laws which may or may not differ from what an attorney in traditional general practice is used to. However, if you come across a legal

issue containing an Indian law element, though you may have to consult some new resources, the process will likely largely be similar to those found in your state court practice.

Lindsey Schuler joined Fredericks Peebles and Morgan, LLP, as an Associate Attorney in 2013, where her primary focuses are in Tribal Governance, Tribal Economic Development, and Tribal Litigation. Prior to working with the Firm, Lindsey graduated from Michigan State University College of Law in 2013 with a Certificate from the MSU Indigenous Law and Policy Center and from the University of Kansas in 2010 with a Bachelor of Arts Degree in History. Lindsey's previous publications include "Modern Age Protection: Protecting Indigenous Knowledge through Intellectual Property" (21.3 MICH. ST. INTL. L. REV. (Spring 2013)). 



NEBRASKA
State Bar Association

View from the Bench: Tips on Practice and Professionalism

Tuesday, December 22, 2015 • 10:00 am - 12:00 pm

**Metropolitan Community College, South Omaha Campus,
Industrial Training Center, Room 120, Omaha**

***Nebraska MCLE #115998. Iowa MCLE #206283. 2 CLE hours. (Regular/Live credit)**

Judges James Gleason (Douglas County District Court), Susan Bazis (Douglas County Court), Doug Johnson (Douglas County Juvenile Court), and Julie Martin (Nebraska Workers' Compensation Court) will discuss practice tips, professionalism, and recommendations for success in preparing for and arguing cases in the Nebraska District, County, Juvenile and Workers' Compensation Courts. J. Scott Paul will serve as moderator.

Areas to be covered include but are not limited to:

- Demeanor
- Civility and Collegiality
- Briefs
- Rules of Evidence and Jury Instructions
- Making a Record
- Exhibits

Panelists will also discuss the challenges faced by their courts (pro se litigants, caseloads, working with interpreters, etc.) and the court appointment processes employed by each level of court.

