



LINCOLN

BAR ASSOCIATION

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Summer 2015

President's Perspective

by Milissa Johnson-Wiles, LBA President



As summer rolls along, the Lincoln Bar Association Board of Trustees has been busy planning a fun-filled, jam-packed calendar of events for the upcoming membership year. O.K., perhaps no more jam-packed than previous years, but I maintain that membership in the Lincoln Bar Association is a lot of fun. I think those of you who have been longtime members will agree, and I encourage you to share your stories of the benefits of membership with our newest members of the Bar. Here's how the fun begins:

Our annual membership year kicks off on October 12, with our annual Field Day event. This event brings our golfing brethren together to have some fun on the golf course. It is open to all, so if you are thinking about it, or have thought about it in the past, please don't be intimidated! And, if you choose not to golf, please consider joining us for dinner and drinks afterward anyway. We would love to kick off our membership year with the opportunity to meet with each other in a

relaxed environment, setting aside settlement negotiations, deposition notices, and Friday morning motions. Save the date and watch for details soon.

As many of you know, beginning this year, we are moving our monthly meetings from the Nebraska Club to the Cornhusker Marriott Hotel. Please make note of this because we do not plan to stand outside of the Nebraska Club, wait for you, then give you a guided tour to the alternate location. Or maybe we will. Another benefit of membership? Hmmm. See how much fun we can be???

Our LBA events and CLE clinics will be held on November 19, December 10, January 14, February 11, March 10, and April 14. Your low, low, membership dues of only \$70 as of the writing of this article provide at least 4 hours of CLE, a chance to nosh with judges during our annual "Meet the Judges" reception, and food at every occasion. The Board is scheming to plan other social activities for our members as well, and we will keep you posted.

I am fortunate to be the president of this great organization. In coming newsletters, I hope to reflect on what

my membership in the Lincoln Bar Association has meant to me over the years, and the friends I have made along the way. Looking forward to the great year ahead! ■

Guardian Ad Litem Needed

by Judge Timothy Phillips,
Lancaster County Court

The Lancaster County Court (Probate Division) is in need of attorneys who are willing to be appointed to act as court appointed guardian ad litem in guardianship and conservatorship cases. These appointments are paid appointments, not pro bono. If you would like to be added to the appointment list that is maintained by the probate division please contact Keri Pritschau at keri.pritschau@nebraska.gov or call her at (402) 441-8984. ■



Investigation of Civil Rights Violations

by Abigail Littrell, JD, Senior Civil Rights Investigator, Lincoln Commission on Human Rights

On February 4, 1968, an article ran in the *Lincoln Journal* titled, *Black Doctor or Attorney Would be Unwelcome in City of Lincoln*.ⁱ Lincoln Human Rights Commission Chairman, Gary Hill, described the results of an informal poll conducted by the Commission wherein local doctors and lawyers were asked whether their respective professional communities were “ready” for black professionals to join their ranks. All 13 lawyers surveyed reported “they didn’t know of a single law firm that would take in a black attorney.”ⁱⁱ

Nearly five decades later, it is hard to imagine an employer so brazenly acknowledging discriminatory employment practices. No doubt, prejudicial hiring, firing, and employment terms have dramatically decreased since the height of the civil rights movement. However, employment discrimination persists in different and more subtle forms. As it approaches its 50th anniversary, the Lincoln Commission on Human Rights (LHRC) continues its mission to eliminate discrimination by filing and investigating discrimination claims originating within Lincoln’s city limits and enforcing municipal, state, and federal civil rights laws.

The citizens of Lincoln authorized the formation of the LCHR in a May 10, 1966, charter election by a 55 percent majority.ⁱⁱⁱ Thereafter the City Council passed, and Mayor Dean Peterson signed into law, the Commission’s governing ordinances on October 5, 1966.^{iv} The Commission’s most current governing ordinances are codified at Chapter

11 of the Lincoln Municipal Code, entitled “Equal Opportunity Ordinance.”

Nineteen-ninety-six amendments brought the ordinance into substantial equivalency with Federal civil rights statutes and the U.S. Equal Employment Opportunity Commission (EEOC) designated the LCHR a Fair Employment Practices Agency (FEPA) in 1999.^v The FEPA designation authorizes the Commission to dually file complaints originating under Title 11 with the Nebraska Equal Opportunity Commission (NEOC) and the EEOC. In addition to complaints arising under Title 11 of the Lincoln Municipal Code, the Commission files and investigates employment discrimination complaints under state and federal statutes prohibiting employment discrimination on the basis of race, color, religion, gender, disability, national origin, ancestry, age and marital status.

If the jurisdictional elements are satisfied, complainants seeking to file an employment discrimination complaint with the LCHR may do so free of charge. State and Federal employment discrimination statutes generally require that aggrieved individuals exhaust administrative remedies prior to filing a civil law suit.^{vi} Commission practice is to schedule an in person interview with the aggrieved complainant to gather relevant information to draft the complaint. An investigator drafts the allegations of discrimination for the Complainant’s notarized signature. The Complaint is then dually filed with NEOC and EEOC and certified mail service is made on the respondent

employer along with a request for information and written response. The employer has twenty (20) days to respond.^{vii} When a response is received, an investigator is assigned and the investigative process begins.

Investigations generally consist of in-person interviews with the Complainant, Respondent and any witnesses named by either party. Investigators carefully review all documentation provided by both parties in an attempt to establish or disprove the facts alleged by the Complainant. Likewise, the investigator evaluates the employer’s defense and seeks supporting documentation. When documentation cannot be obtained through informal methods, the Commission is authorized issue subpoenas to compel production.^{ix}

When the complaint is filed, the Commission immediately begins conciliation efforts with the parties. As a neutral municipal agency, the Commission advocates for neither the Complainant or Respondent, but rather acts in the interest of the public good in attempting to facilitate an agreement between the parties without formal proceedings. If conciliation fails, the Investigator summarizes the investigation and presents the case to the LCHR Commissioners.

The nine-member Commission consists of local volunteers appointed by the Mayor and confirmed by the city council.^x At monthly meetings, the commissioners review cases with the investigators and determine whether

(continued on next page)



Investigation of Civil Rights Violations... (continued from page 2)

Reasonable Cause exists to believe that discrimination occurred.^{xi} The appellate courts have directed that the quantum of evidence required for a reasonable cause finding is more than mere suspicion of a violation or mere possibility of a violation.^{xii} If the commission finds no reasonable cause to believe that discrimination occurred, the LCHR administratively closes the case. The Complainant has fifteen (15) days from the date of closure to request a substantial weight review of the investigation from the EEOC.

If the Commission issues a reasonable cause finding, conciliation is again attempted. If conciliation is unsuccessful, the parties have the option to remove the case to State or Federal Court after the Commission issues "Right to Sue" letters. Alternatively, the

Lincoln City Attorney may review the investigation and, finding good cause, issue a formal charge of discrimination on the Respondent to be adjudicated in a public administrative hearing before an administrative law judge. The formal charge of discrimination may likewise be removed to State or Federal Court.

In addition to investigations, the Commission engages in outreach efforts to the schools, community and nonprofit agencies, as well as providing free employment discrimination law training to employers. In 2014, LCHR reached more than 6,240 residents in more than 100 educational settings. The Commission also hosts an annual Civil Rights Conference covering emerging employment and housing discrimination law issues. In 2016, the Commission will celebrate its 50th year of operation. To

request information about the agency or to receive updates regarding the conference, contact the LCHR by phone at 402-441-7624, email LCHR@lincoln.ne.gov or visit Lincoln.ne.gov (keyword: human rights). ■

ⁱLincoln Journal Star, Cella Heitman, February 4, 1968.
ⁱⁱ*Id.*
ⁱⁱⁱLancaster County Election Commission
^{iv}Lincoln City Council Ordinance #9103, Public Hearing held September 26, 1966. Ordinance Passed October 3, 1966 and signed into law by Mayor
^vEnacted October 1, 2973; Amended July 22, 1996.
^{vi}29 C.F.R. 1601.74
^{vii}See 42 U.S.C. § 2000e-5(e)(1)
^{viii}LMC § 11.02.07(a)
^{ix}LMC § 11.02.04(g)
^xLMC § 11.02.03
^{xi}LMC § 11.02.06
^{xii}*CSX Transportation, Inc. v. Tenn. State Bd. Of Equalization*, 964 F. 2d 548, 555 (6th Cir. 1992).

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High School Students Step into the Role of a Jury to Celebrate Law Day 2015

by Milissa Johnson-Wiles, Chair, Lincoln Bar Association Law Day Committee



Students were given juror profiles and participated in a mock voir dire. After the jury selection process, the program moved to discussion of notable jury decisions highlighting the power of a jury.

Special thanks to those who volunteered their time and talent to be presenters this year, as well as the Law Day committee members (CMs) who made this year's program possible: Judge Riko Bishop, Judge Robert Otte, Judge Laurie Yardley, Kelsey Dawson (CM), Jessica Kerkhofs (CM), Abby Osborn (CM), Robbie Seybert (CM), Miranda Hobelman, Adam Little, Thomas Lange, Frank Daley, Brian Craig, Chris Dibbern, Jaime Reyes, Marty Demoret, Hailey Kruse, Sallie Dietrich(CM), Mike Elskan, Shannon Fallon, Carl Eskridge, Marna Munn, Trent

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On May 1, Lincoln area attorneys, professors, and judges once again volunteered their time by visiting area high schools in honor of Law Day. This was the 17th consecutive year that the Lincoln Bar Association developed a presentation to take the role of the law and the legal profession into the classroom. The theme of Law Day 2015 was "Magna Carta: Symbol of Freedom Under the Law."

The day began with opening ceremonies at Lincoln High School with the Governor, Chief Justice, and Attorney General. Approximately 450 students attended the assembly to hear from these guests and ask questions about their roles in state government and their views on a number of topics. Then, Law Day volunteers appeared in Civics and Government classes throughout the day at Lincoln High, Southwest, North Star, Northeast, and

Zoo School to help with this year's program. The program began with a discussion of the Magna Carta as the foundation for our Bill of Rights, and highlighted the importance of the role of the jury in deciding guilt or innocence.





High School Students Step into the Role of a Jury to Celebrate Law Day 2015

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Sidders, Larry Ohs (CM), Shela Shanks (CM), Angie Zimmer (CM), Edwina Christiansen (CM), Jennifer Jorgensen (CM), Sara Hughes (CM), April Kirkendall, Greg Walklin (CM), Doug Kerns (CM), Perry Pirsch, Eddy Rodell, Trevin Preble, Torrey Gerdes, Jonathan Urbom, Brody Ockander, Patrick Driver, Jeff Lapin (CM), Allan Eurek, Greg Greder, Troy Hawk, Tobin Wolfe, Jeremy Lavene, Jeff Kirkpatrick, Linsey Camplin, Melanie Kirk, Shirley Peng, Jon Rehm, Candi Wooster (CM), Justin Valencia, Siobhan Duffy (CM), Laura Nigro, Sophia Alvarez (CM), Professor Craig Lawson, Corey Wasserburger (CM), Brian Ridenour, Thomas Ukinski.

Be sure to save the date for Law Day May 1, 2016. ■



LBA Memorial Service

by Corey J. Wasserburger

On May 22, 2015, the Lincoln Bar Association honored members of the local legal profession who had passed away in the last year. The Honorable John A. Colborn presided over the hearing, in which Joseph H. Badami, Chair of the LBA Memorial Committee, moved the Court to memorialize the following members:

- Boyd Lynn Alexander**
- Richard M. Duxbury**
- J. Arthur Curtiss**
- Duane Nelson**
- Audie J. Wise**
- Robert Peterson**
- Harold Mosher**

The life and service of each attorney was celebrated at the event. Colleagues, friends and family members offered a tribute to each. Many thanks to Joseph H. Badami and the LBA Memorial Committee for organizing the service.

Look for remembrances of each attorney in subsequent editions of this newsletter. ■

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Lincoln Bar Association Newsletter

Gregory J. Walklin, Editor

Lincoln Bar Association

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