

Nebraska Legal Professionals Association



The SideBar

October 2018



NLPA is the Nebraska state entity, comprised of 2 local chapters and members-at-large:

NLPA OFFICERS

- Valentina Harris – President – valentina@paralegalpower.co
- Sheila Anderson – Vice President – sanderson@woodsaitken.com
- Teresa Hartwig – Secretary – thartwig@equitableonline.com
- Alicia Hunt – Treasurer – ahunt@woodsaitken.com
- Parliamentarian – Jody Weinmeister – jnedella@scottsbuffcounty.org

Chapter Reps

- LLPA – Sandie Smith, PLS – sandra@bisonvalley.com
- OLPA – Doris Crayton – dcrayton@ldmlaw.com

Members-at-Large

- Teresa Hartwig – thartwig@equitableonline.com
- Karen Niedfelt – kniedfelt@cccneb.edu
- Debra Sweley -- fonnercivicarena@aol.com
- Jody Weinmeister – jnedella@scottsbuffcounty.org

MISSION STATEMENT

- To establish good fellowship among the members - all persons employed and/or interested in work of a legal nature - so that ideas may be exchanged and knowledge increased;
- To establish a high order of business and professional attainment and to further our knowledge of the law and uphold its honor and dignity;
- To create a high standard of ethics among its members.

TABLE OF CONTENTS

NLPA OFFICERS.....	1
MISSION STATEMENT	1
PRESIDENT’S REPORT, by Valentina Harris.....	2
VICE-PRESIDENT’S REPORT, by Sheila Anderson	2
SECRETARY’S REPORT, by Teresa Hartwig.....	3
TREASURER’S REPORT, by Alicia Hunt.....	7
PARLIAMENTARIAN’S REPORT, by Jody Weinmeister	9
NLPA CHAPTER REP REPORT, by Sandie Smith, PLS	9
OLPA CHAPTER REP REPORT, by Doris Crayton.....	10
NLPA FALL SEMINAR REPORT, by Carol Sperry	11
BRIDGING THE GAP: Law Enforcement and Mental Health.....	11
LEGAL EDUCATION, by Carol Sperry.....	11
SCHOLARSHIP COMMITTEE REPORT, by Jody Weinmeister	12



PRESIDENT'S REPORT, by Valentina Harris

Dear Fellow Legal Professionals:

Greetings from the Pacific Northwest. As many of you know, I have recently moved to Tacoma, Washington. Since becoming a member in 2005, I have truly enjoyed all of the legal educational opportunities. Additionally, it has been awesome to learn about this great organization, its members and history. Over the years I have come to appreciate, admire and adore the legal pioneers that have made this organization such a benefit to the legal field. I am pleased and honored to continue to serve the membership as president in these final months of my membership.

It was great to see many of you at the recent Fall Seminar in Omaha. The seminar focused on the timely matter of mental health and law enforcement. Liz Allrich, a licensed mental health counselor with the Omaha Police Department, detailed her job in the field alongside armed policemen providing mental health services.

Ms. Allrich is just one of two counselors providing this innovative public service in the Sarpy and Douglas county districts. The pilot project, which was launched earlier this spring, was spearheaded by Captain Colene Hinchey. It was comforting to know this valuable service is being provided by such a great team of people. And certainly a very interesting presentation. Pastor Brad Hoefs, of the Douglas County Jail, and Deputy Jay Wingler, of the Douglas County Sheriff's Department were equally interesting.

It was great to see my old friend Scott Mertz present at OLPA's October meeting. To think the last time OLPA had someone speak on the topic of Legal Aid of Nebraska, was shortly before Scott won his [first case before the Nebraska Supreme Court](#). At that time, Scott was still just a couple of years out of law school. As someone who had the privilege to work for and alongside Mr. Mertz, it is no surprise to see him managing Legal Aid's largest office. He's certainly a much accomplished young legal professional and an asset to t

I am looking forward to attending a LLPA meeting in the spring and the upcoming Winter Board Meeting. In the meantime, let me take this opportunity to thank all of you in advance for the charitable work you do around the holidays. It is always inspiring to see the way the chapters consistently give back to their communities year after year.

Warmest Regards,

Valentina Harris



VICE-PRESIDENT'S REPORT, by Sheila Anderson

NLPA currently has a total membership of 90 members, which are accounted for as follows:

4 Members-at-Large;

41 General members of the LLPA and 1 Student member of the LLPA; and,

36 General members of the OLPA, 2 Student members of the OLPA and 6 Honorary members of the OLPA.

SECRETARY'S REPORT, by Teresa Hartwig

It has been a pleasure serving as Secretary this past year and currently. I have enjoyed getting to know each of you better. Below is a brief summary of the meetings that were held so far this year. I encourage all of you to attend a board meeting to find out all of the benefits that your NLPA membership offers you.

April 29, 2018 First Board Meeting

The first board meeting of the Nebraska Legal Professionals was held on Sunday, April 29, 2018, at the Holiday Inn South West, Legacy Room, Omaha, Nebraska. Sixteen members were in attendance. The 2018-2019 NLPA officers are: Valentina Harris, President; Sheila Anderson, Vice President; Teresa Hartwig, Secretary; Alicia Hunt, Treasurer; and Jody Weinmeister, Parliamentarian. Bonnie Kudron and Sherry Mitchell, PLS, reported on the annual convention and seminar. The 2018-2019 proposed calendar was discussed. The new committee chairpersons were announced; however, there are numerous vacancies at this time.

June 9, 2018 Board Meeting

The June board meeting was held on Saturday, June 9, 2018, at Chances "R" in York, Nebraska. Eleven members were present. The proposed budget for the year was submitted and approved. It was noted the Fall Seminar will be hosted by OLPA on Saturday, October 13, 2018.

October 13, 2018 Board Meeting

The October board meeting was held on Saturday, October 13, 2018, at the Creighton University, Harper Building, Omaha, Nebraska. Eighteen members were in attendance. Valentina Harris presented the preliminary expenses for the Fall Seminar. Sandie Smith, PLS, reported LLPA will be hosting the Annual Convention and meeting in Lincoln, Nebraska on April 26, 27, and 28, 2019.

NEBRASKA LEGAL PROFESSIONALS ASSOCIATION MINUTES OF THE BOARD MEETING FOR FISCAL YEAR 2018-2019 October 13, 2018

CALL TO ORDER. The meeting of the Board of Directors of the Nebraska Legal Professionals Association was held on Saturday, October 13, 2018, at Creighton University in the Harper Center, 602 N. 20th Street, Omaha, Nebraska. The meeting was called to order at 2:30 p.m. by President, Valentina Harris (OLPA).

Valentina Harris (OLPA) welcomed everyone in attendance at the Board Meeting and Teresa Hartwig (MAL) read the Mission Statement and Standing Rule No. 17.

ROLL CALL. Roll call was taken by Secretary, Teresa Hartwig (MAL), as follows:

Roll Call of Officers:	<u>Present/Absent</u>
Valentina Harris, President	Present
Sheila Anderson, Vice President	Present
Teresa Hartwig, Secretary	Present
Alicia Hunt, Treasurer	Present
Jody Weinmeister, Parliamentarian	Present

Roll Call of Chapter Representatives, Members-at-Large, and Chapter Count:

Present/Absent Chapter Count

LLPA –Sandie Smith, PLS	Present	5
OLPA – Doris Crayton	Present	10
Members-at-Large: Teresa Hartwig, Karen Niedfelt, Deb Sweley (Absent), and Jody Weinmeister	Present	3
Total		18

A quorum was established.

Other Chairpersons/Members/Guests Present. Sharon Huber (OLPA), Nadine Ostrow (OLPA), Sherry Mitchell, PLS (OLPA), Bonnie Kudron (OLPA), Carol Sperry (OLPA), Carol Paige (LLPA), Kathy Eidenmiller (LLPA), Jean Roeder (OLPA), Cheri Sempek (OLPA), and Lynda Henningsen (OLPA).

OFFICER REPORTS:

President: Valentina Harris (OLPA) thanked everyone for attending the Fall Seminar and thanked OLPA for organizing an amazing legal education opportunity for our members.

Vice President: Sheila Anderson (LLPA) stated NLPA currently has 90 members as follows:

Total Membership Count as of 10/12/2018				
Chapter	General	Students	Honorary	Total
MAL	4	0	0	4
LLPA	41	1	0	42
OLPA	36	2	6	44
Grand Total	81	3	6	90

Secretary: Teresa Hartwig (MAL) noted no cards had been mailed since the last meeting.

Treasurer: Alicia Hunt (LLPA) reviewed the Treasurer’s Report. The check register balance as of June 8, 2018 was \$11,065.16 and the check register balance as of October 12, 2018 was \$10,226.13. There were receipts in the amount of \$176.80 and disbursements in the amount of \$1,015.83. It was noted the Treasurer’s report will be filed subject to audit.

Parliamentarian: Jody Weinmeister (OLPA) had no report at this time.

COMMITTEE REPORTS:

- Fall Seminar.** Valentina Harris (OLPA) gave a preliminary report regarding the cost of the seminar. Room cost was \$25.00; food cost was \$716.48; stipend cost was \$75.00; bringing the total cost to \$816.48. Twenty-eight registrations were received and a donation of \$100.00 is anticipated. There was some discussion on the actual food cost and Valentina will check on the amount and report back at the OLPA General Meeting next week. Everyone agreed it was an excellent Seminar.
- Audit.** Members of (LLPA) had no report at this time as they will not meet to perform the audit until just prior to Annual Convention.
- Budget.** Please see above report.
- Historian.** Vickie Starr (LLPA) was absent and had no report at this time.
- Legal Education.** Valentina Harris (OLPA) noted we are still looking for a member to help Lynda Henningsen (OLPA) co-chair this committee. Lynda requested members send her legal education materials for submission in the *Sidebar*.
- Legal Professional of the Year.** Vickie Starr (LLPA) was absent and had no report at this time.
- Nominations and Elections.** Kathy Eidenmiller (LLPA) agreed to chair this committee and will be contacting members as we move closer to Annual Convention.
- Sidebar.** Carol Sperry (OLPA) offered to publish the *Sidebar* in October and requested reports be given to her no later than October 29, 2018. It was noted reports are needed from Board members, Chapter Representatives, and Committee Chairpersons. Lynda Henningsen (OLPA) will publish the *Sidebar* in April, 2019.

9. **Scholarship.** Jody Weinmeister (MAL) stated more details will be forthcoming after the first of the year.
10. **Annual Convention 2019.** Sandie Smith, PLS, (LLPA) stated the committee is working on a theme and more details will be forthcoming. There was some discussion regarding holding the seminar at a different location other than where members will be staying. It was the consensus of the group this would be agreeable to members.
11. **Website/Web Master.** Alicia Hunt (LLPA) reported she added the Fall Seminar information/registration materials.
12. **Ways & Means.** Sandie Smith, PLS, (LLPA) stated the committee is working on this project and more details will be forthcoming.

CHAPTER REPORTS:

LLPA: Sandie Smith, PLS, (LLPA) reported LLPA met June 14, 2018 for their Summer Social. They gathered at James Arthur Vineyard Tasting Room at the From Nebraska Gift Store. They sampled wine and enjoyed snacks provided by Latimer Reporting and also enjoyed going through the From Nebraska Gift Store.

On July 12, 2018, they held their monthly general meeting at Rembolt Ludtke. Torrey Gerdes, an attorney with Baylor Evnen, spoke on the #MeToo #Times Up Movement in the Workplace.

The August meeting was held at the Lincoln Community Foundation Building on August 9, 2018. Liz Neely, Executive Director, and Chris Aupperle with the Nebraska State Bar Association, spoke on the Nebraska Lawyers Assistance Program and also new things happening with the Bar Association. The meeting was hosted by Mattson Ricketts Law Firm and the Nebraska Workers' Compensation Court.

The September meeting was held at the Lincoln Community Foundation Building on September 13, 2018. A representative from Second Chance Pup spoke about their program with inmates at the Nebraska State Penitentiary. Inmates are allowed to train dogs that have been in animal shelters. These dogs are then adopted. The meeting was hosted by Rembolt Ludtke.

The October meeting was held on October 11, 2018, at Woods & Aitken. The speaker was Inspector Jeff Urkevich with the Lincoln Police Department. Inspector Urkevich spoke about his position with the Fugitive Task Force. Members had a drawing for their scholarship raffle.

OLPA: Doris Crayton (OLPA) reported they met on June 16, 2018 for their Social Activity at the beautiful Joslyn Art Museum. The weather was ideal for a summer outing that was hot outside and cool inside. Each of the members walked through the museum in different areas at their own leisure. It was a nice adventure. The museum was crowded with several groups participating in different venues. They were given a free lunch which was unexpected and very delicious. Overall, this was a great outing.

The September General Meeting was held at the Pizza West on September 19, 2018. Guest speaker was The Honorable Marlon A. Polk, District Judge of Douglas County. Judge Polk spoke about the court system process in each individual county in Nebraska. The group then moved into a question/answer format in which excellent questions were raised and outstanding answers were received.

The next meeting will be held on October 17, 2018, and the guest speaker will be Scott Mertz, an Omaha managing attorney, with the Legal Aid of Nebraska. Mr. Mertz will walk members through specific problems faced by clients and ways in which attorneys address these problems. He will also provide an overview of how Legal Aid delivers legal assistance across the state.

OLPA committee members are working on the details for the OLPA Holiday Party to be held December 5, 2018. Several items have been taken care of, such as the location; however, other areas are still in the planning stages.

CNLP: Teresa Hartwig (MAL) reported CNLP members will be meeting October 18, 2018, to finalize details of their dissolution. More details will be reported at the next Board Meeting.

OLD BUSINESS:

Approval of Board Meeting Minutes. It was noted the minutes of the June 9, 2018, Board Meeting were approved via email on June 22, 2018 and are on the website.

NEW BUSINESS:

January 19, 2019 Board Meeting. It was decided to conduct the January 19, 2019, meeting via web conferencing. Valentina will look into alternative web conferencing other than "Go to Meeting".

Out-of-State Membership. Alicia Hunt (LLPA) stated it is not indicated in the Standing Rules or Bylaws whether members need to reside in the State of Nebraska. It was noted if an out-of-state individual wishes to join NLPA they could join as a Member-at-Large. It was stated that as long as their membership follows our Mission Statement, we would be agreeable with their affiliation; however, there would need to be some discussion as to whether an out-of-state MAL would be eligible for awards, chair committees, or receive mileage.

Cap on Mileage Cost. There was some discussion as to whether a cap on mileage reimbursement should be initiated. It was noted that at one time the most mileage reimbursement a member could receive was \$100.00. It was suggested a committee be formed to review different options and present the findings at a later meeting. The options could be voted on at the Annual Convention. After some discussion it was decided an ad hoc committee consisting of Alicia Hunt, Doris Crayton, and Sandie Smith, PLS, be formed. They will take this matter to their respective chapters and report back to the Board. Sheila Anderson will reach out to the Members-at-Large for their input.

Webcasting Legal Educational Meetings Proposal. This matter had been previously discussed at the June 9, 2018 Board Meeting and members were asked to take information presented at the meeting back to their respective chapters and report back at today's meeting. It was noted LLPA does not wish to pursue this matter at this time.

Committee Vacancies. It was noted co-chairpersons are needed for the Legal Education and Scholarship committees at this time.

State Association Preservation Ad Hoc Committee. It was stated no committee is necessary as this matter will be considered part of Sheila Anderson's (LLPA) role as Vice President.

OLPA Website. Lynda Henningsen (OLPA) asked this matter be placed on today's Agenda as a New Business item. She stated OLPA would like to have their own website and link it to the NLPA website. Approximate cost to OLPA would be \$106.00 per year. OLPA members feel this would be more beneficial and advantageous for their chapter.

FOR THE GOOD OF THE ORGANIZATION.

1. **Acknowledgements/Celebrations.** It was reported that Sharon Huber (OLPA) recently retired and congratulatory greetings were bestowed upon her. Happy Birthday accolades were also extended to Sharon as her birthday is tomorrow.
2. **Care/Concerns.** Members extended well wishes to Alicia Hunt as she is currently experiencing health issues.

There being no further business to come before the Board, the meeting was adjourned at 3:55 p.m. The next Board Meeting will be held via web conferencing on Saturday, January 19, 2019.

NOTE: On October 17, 2018, Karen Niedfelt moved via email to approve the October 13, 2018, Board minutes. Doris Crayton seconded the motion. Motion carried.

TREASURER'S REPORT

June 9th, 2018 – October 12th, 2018

Membership

LLPA	1 student	0 honorary	41 full	42 total members
OLPA	2 student	6 honorary	36 full	44 total members
MAL	0 student	0 honorary	4 full	4 total members
NLPA	3 student	6 honorary	81 full	90 total members

Financials

	<i>Check Register Balance April 28th, 2018</i>	<u>\$11,065.16</u>
<i>Receipts</i>		
Interest	\$1.80	
Membership	\$175.00	
TOTAL Receipts		\$176.80
TOTAL		<u>\$11,241.96</u>
<i>Disbursements</i>		
Chapter Representative Travel	\$7.83	
Officers' Travel	\$8.00	
Scholarship	\$1,000.00	
TOTAL Disbursements		\$1,015.83
	<i>Check Register Balance October 12th, 2018</i>	<u>\$10,226.13</u>
<i>Outstanding Checks – NONE!!</i>		
	<i>Bank Balance October 12th, 2018</i>	<u>\$10,226.13</u>

Prepared and Submitted by:



Alicia Hunt, NLPA Treasurer
Date: October 12th, 2018

NEBRASKA LEGAL PROFESSIONALS ASSOCIATION

TREASURER'S REPORT

April 28th, 2018 – June 8th, 2018

Membership

	LLPA	1 student	0 honorary	40 full	41 total members
	OLPA	0 student	6 honorary	30 full	36 total members
	MAL	0 student	0 honorary	4 full	4 total members
TOTAL	NLPA	1 student	6 honorary	74 full	81 total members

Financials

Check Register Balance April 28th, 2018

\$9,594.67

Receipts

Interest	\$.86
Membership	\$1,300.00
Seminar/Annual Convention	\$2,841.31
Ways & Means Raffle	\$1,440.00

TOTAL Receipts

\$5,582.17

TOTAL

\$15,176.84

Disbursements

Legal Professional of the Year (LPOTY)	\$41.60
Membership	\$400.00
Officers' Travel	\$172.79
Postage/Copies/Supplies (checks)	\$30.90
Seminar/Annual Convention	\$3,278.32
Seminar – Spring	\$163.93
Ways & Means Raffle	\$24.14

TOTAL Disbursements

\$4,111.68

Check Register Balance June 8th, 2018

\$11,065.16

Outstanding Checks – NONE!!

Bank Balance June 8th, 2018

\$11,065.16

Prepared and Submitted by:

Alicia Hunt, NLPA Treasurer

Date: June 8th, 2018

NEBRASKA LEGAL PROFESSIONALS ASSOCIATION

TREASURER'S REPORT

March 31st, 2018 – April 27th, 2018

Membership

	LLPA	0 student	0 honorary	19 full	19 total members
	OLPA	0 student	0 honorary	0 full	0 total members
	MAL	0 student	0 honorary	3 full	3 total members
TOTAL	NLPA	0 student	0 honorary	22 full	22 total members

Financials

Check Register Balance March 31st, 2018 **\$9,140.39**

Receipts

Interest	\$.40	
Membership	\$500.00	
TOTAL Receipts		\$500.40
TOTAL		<u>\$9,640.79</u>

Disbursements

President's Foundation Award	\$46.12	
TOTAL Disbursements		\$46.12

Check Register Balance April 27th, 2018 **\$9,594.67**

Outstanding Checks

March 19 - #1080 – Donna Olson – Chapter Rep. gas	\$15.42	
April 26 - #1085 – Awards Unlimited – President's Award	\$46.12	
TOTAL Outstanding Checks		\$61.54

Bank Balance April 27th, 2018 **\$9,656.21**

Prepared and Submitted by:



Alicia Hunt, NLPA Treasurer
Date: April 27th, 2018

PARLIAMENTARIAN'S REPORT, by Jody Weinmeister

There really has not been that much that needs to be changed at this point in time. I do believe we will be addressing some things for our members at large later. I want to thank Valentina for the confidence in me in asking me to be her parliamentarian. Jody Weinmeister, Parliamentarian of NLPA.

NLPA CHAPTER REPRESENTATIVE REPORT, by Sandie Smith, PLS

On April 5, 2018, we held our annual Bosses' Night. It was held at Windsor Stables in Lincoln. We installed our new officers. We also announced the following:

Boss of the Year	Jerry Pigsley with Woods & Aitkens
Legal Professional of the Year	Vickie Starr with Woods & Aitkens
Scholarship	Morgan Myers

On May 10, 2018, we hosted our Membership Appreciation Meeting. Our speaker was Walter Powell, a representative from Lincoln Teammates.

Our June 14, 2018, meeting was our Summer Social. We gathered at James Arthur Vineyard Tasting Room at the From Nebraska Gift Store. We sampled wine and enjoyed snacks provided by Latimer Reporting and also enjoyed going through the From Nebraska Gift Store.

July 12, 2018, we held our monthly general meeting at Rembolt Ludke. Torrey Gerdes, an attorney with Baylor Evnen spoke on the #MeToo #Times Up Movement in the Workplace. The meeting was hosted by Baylor Evnen.

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September found us at the Lincoln Community Foundation Building on September 13, 2018. A representative from Second Chance Pup spoke about their program with inmates at the Nebraska State Penitentiary. Inmates are allowed to train dogs that have been at the animal shelters. These dogs are then adopted out. Our meeting was hosted by Rembolt Ludke.

Our October meeting was held on October 11, 2018, at Woods Aitkens. The speaker was Inspector Jeff Urkevich with the Lincoln Police Department. Inspector Urkevich spoke about his position with the Fugitive Task Force. We had our drawing for our Scholarship Raffle.

[OLPA CHAPTER REPRESENTATIVE REPORT, by Doris Crayton](#)

On June 16th OLPA members enjoyed a Social Activity at the beautiful Joslyn Art Museum. The weather was ideal for a summer outing hot outside and cool inside. Each of the members wandered through the museum in different areas at their own leisure. It was a nice adventure; the Museum was crowded with several groups participating in different venues. We were given a free lunch which was unexpected and very delicious overall this was a great outing.

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OLPA committee members are working on the details for the OLPA Holiday Party December 5th, 2018. Several items have been taken care of, such as the location, but other areas are still in the planning stages.

NLPA FALL SEMINAR REPORT, by Carol Sperry

BRIDGING THE GAP: Law Enforcement and Mental Health.

OLPA hosted the NLPA Fall Seminar on October 13, 2018 a beautiful fall day. The seminar was held at the Harper Center at Creighton University in Omaha. The classroom location was obtained by President Valentina Harris for the cost of \$25 rent. Val also arranged for the delicious lunch of fried chicken, mashed potatoes, green beans, and coleslaw?

Our speakers were Ms. Liz Allrich, a licensed mental health therapist. She is employed by Lutheran Family Services and works with the Omaha Police Department to address the mental health needs of the community with police officers. The basis of her presentation was to highlight the services in place to assist law enforcement to perform their jobs more effectively in the community when working with those who have mental health issues. Captain Colene Hinchey also of the Omaha Police Department was slated to speak but was unable to attend.

Pastor Brad Hoefs was our next speaker. Pastor Hoefs is the senior pastor of Community of Grace church in Elkhorn, Nebraska. Speaking from personal experience, Pastor Hoefs shared what it is like for those who suffer from mood disorders. His is the author of the book *Fresh Hope: Living Well in Spite of a Mental Health Diagnosis.* His work is for “Empowering those who are or have been incarcerated to live free in spite of any emotional issues, mental health challenges or addictions by the mind renewing fresh hope of Christ.” Visit www.FreshHope4LivingFree.com for more information.

Deputy Jay D. Wingler, Community Services Division, Douglas County Sheriff’s Office, Omaha, Nebraska was our afternoon speaker. Deputy Wingler has 39 years of law enforcement experience. He talked to us about being prepared to protect ourselves in any situation or environment.

Food expenses were:
Breakfast: \$260.77
Lunch: \$455.71

The room cost was \$25 and the 3 speaker stipends were \$25 each.
A donation of \$100 from Paralegal Power has been received.

The committee wishes to thank all who helped make the seminar a success and to all who donated items. The raffle winners were: Sandy Smith-lap quilt donated by Carol Sperry; Deb Hubbs, PLS–Rada knife set donated by Lynda Henningsen; and Cherie Sempek-fall basket donated by several OLPA members. Lynda Henningsen also donated the boodle bags and three yellow mum plants that were also drawn for. There were numerous door prizes donated by OLPA members. Ms. Lori McGowan of Latimer Reporting, in Lincoln, Nebraska, provided excellent quality pens for all the attendees.

A final report is not available at present.

LEGAL EDUCATION, by Carol Sperry

What is the evidentiary significance of the emoji?, by Helen Adams, United State Magistrate Judge, Southern District of Iowa. (Iowa Lawyer, August 2018).

Summarized by Carol Sperry: Many of us, when using electronic communication find using the emoji fun, adding emphasis to our messages when texting. Business professionals are using them too and they have found their way into legal cases as well. The “little cartoon face,” referred to by the appellate court of Connecticut “to illustrate how the speaker is feeling or the intended meaning of what he or she has written” helped the court to determine the outcome of *State v. Nero*, 1 A. 3rd 184 (Conn. App.



Ct. 2010). Are emojis symbols that can be, or should be, interpreted as literal portrayals of the sender’s thoughts, intentions and emotions in civil and criminal cases?

Several other questions are posed by the author, by counsel, and by judges. What is the actual interpretation of an emoji? For example, the winking smiley face has different meanings for different people, and different age groups. There are even different variations of the same emoji on Facebook, Apple, Google, Twitter, Messenger and Snapchat. There is an Internet resource advertised as an online encyclopedia of emojis, but there is no specific description of what a sender always means or intends in a specific text or post. (Emojipedia by Jeremy Burge 2013).

The author cites *State v. Shepherd*, 81 N.E. 3rd 1011, 1019-20 (Ohio Ct. App. 2017) involving harassment and altercation in a possible love triangle. On appeal, Shepherd argued that the court erred by refusing to instruct the jury on aggravated assault, claiming that he was provoked. Shepherd’s girlfriend and a friend of Shepherd exchanged text messages where the winky face was used. The court determined that the evidence of an emoji “was insufficient (and) to ‘find otherwise would require us to make an unsupported assumption of the emoji’s meaning.’”

In *State v. Nickell*, 540 S.W.3rd 863 (Mo. Ct. App. 2018), the court referred to the “best evidence rule.” “This rule requires that an original writing, recording or photo is admitted in order to prove its content.” In this case of child enticement, the defendant, on appeal, argued that the transcripts did not include the emojis and were not an exact or true reflection of the conversation. A problem for the courts is that they often do not include a picture of the actual emoji but use words to describe the emoji. Therefore, the tone and content of an interpreted emoji may or may not convey the right intention of the sender.

How do you interpret a winky face? A judge in *Lenz v. Universal Music Corp.*, 2010 U.S. Dist. LEXIS 16899 (N.D. Cal. Feb. 25, 2010) interpreted it to mean that the preceding statement in question was made in jest.

Of course, the specific facts of the case offer assistance in determining the actual meaning; however, evidentiary issues arise, does an emoji constitute hearsay, and what instructions should be given to jurors?



SCHOLARSHIP COMMITTEE REPORT, by Jody Weinmeister

I will be sending out a letter to the Chapters and some schools the first part of January, 2019, so each chapter can send out their letters to the schools in their area.