

Iowa Defense Counsel Association

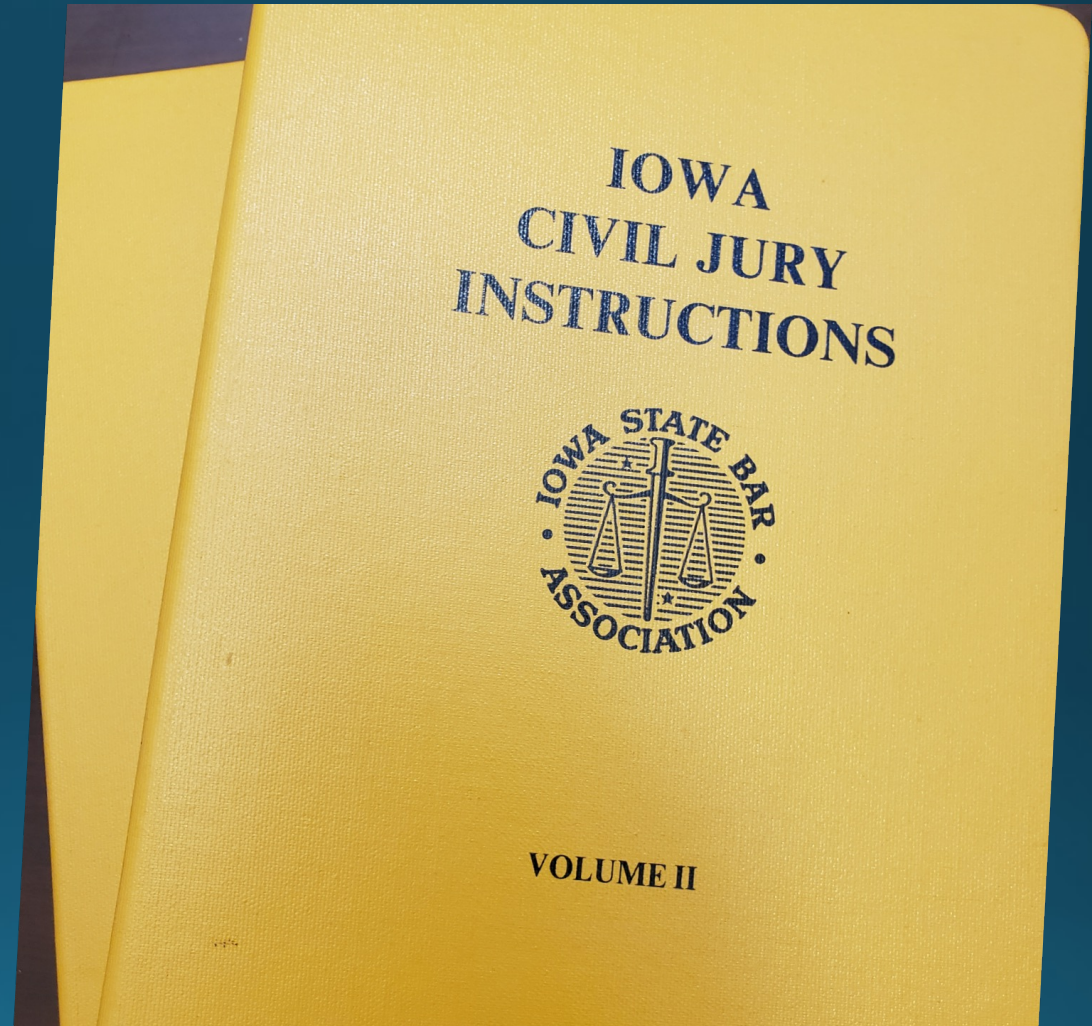
HOW THE COURT CAN ASSIST
LAWYERS IN COMPLEX LITIGATION

Working With Your Judge To Avoid The Land Mines In Your Case

Every case has problematic issues. You become aware of most of them with due diligence while others may remain out of sight.

BASIC RULES OF LITIGATION

1. Review Jury Instructions Early In Every Case



BASIC RULES OF LITIGATION

2. Know Your
Judge and
Request To Be
In Person For
Pretrial
Conference and
Major Hearings



GET TO KNOW YOUR JUDGE

Strict and Formal

Less Formal More Interactive



The All-Important Pretrial Conference

- Request in person hearings
- Spend time drafting motions in limine
- Have authority to support your arguments
- Be prepared to educate your judge and prepared to learn from your judge.

THE DEFAMATION CASE

- Twin Torts of Libel and Slander
- Defamation Per Se and Per Quad
- Affirmative Defense Qualified Privilege
- Best Defense – Statements are True
- Must Avoid Any Witness Vouching for Another Witness

THE DEFAMATION CASE FACTS

The defendants were Dan, June and their 18 year old daughter Vicky.

The plaintiff was Dan's brother-in-law and thus Vicky's uncle John.

Beginning in 2014, Dan and June believed that uncle John was grooming Vicky for accepting sexual advances.

During 2015 and 2016, Dan orally tells 6 individuals that John raped his daughter; June orally states to 10 individuals that John sexually assaulted Vicky and also makes the same statement in a written message to a friend; Vicky tells her roommate, a doctor, nurse and investigator that Uncle John had sex with her.

VOUCHING ISSUES AND CASES

- Expert Witness
- Parents
- Law Enforcement
- *State v. Dudley*, 856 N.W.2d 668 (2014)
- *State v. Myers*, 382 N.W.2d 91 (1986)

THE PRODUCT LIABILITY CASE

- DESIGN DEFECT
- NEW HOLLAND BULLDOZER FIRE
- ELECTRICAL WIRE BUNDLED WITH HYDRAULIC HOSE

THE PRODUCT LIABILITY CASE

- PLAINTIFF PROPOSED EXEMPLAR
- SUBSTANTIALLY SIMILAR
- DEFENDANT SOUGHT TO EXCLUDE PRIOR INSTANCES
- PLAINTIFF SOUGHT TO EXCLUDE LACK OF PRIOR INSTANCES

BE PROFESSIONAL BUT IT'S OKAY TO
ENJOY WHAT WE DO FOR A LIVING

BEING A ZEALOUS ADVOCATE,
FOLLOWING THE RULES OF
PROFESSIONAL CONDUCT, WHILE
WORKING WELL WITH OPPOSING
COUNSEL



MORE MY COUSIN VINNY



WHAT JUDGE'S WOULD LIKE TO SAY



BE PROFESSIONAL EVEN WHEN YOUR
JUDGE OR OPPOSING COUNSEL IS
DIFFICULT

HAVE THREE WAYS TO ADMIT YOUR
MOST IMPORTANT EVIDENCE

REPTILE THEORY OR STRATEGY

AGGRESSIVE DEFENSE STRATEGIES

OTHER TYPES OF CASES

CIVIL RIGHTS CLAIMS

DISABILITY DISCRIMINATION

CONSTRUCTIVE DISCHARGE

MEDICAL MALPRACTICE

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