

## CLIENT ADVISER

### The Basics of Construction Liens in Nebraska and Iowa

*by Daniel J. Fischer*

Construction liens are useful tools to help enforce payment for labor and/or materials provided to improve real estate in Nebraska and Iowa. In Nebraska, construction liens are governed by the Nebraska Construction Lien Act, and in Iowa, mechanic's liens, as they are called, are governed by Chapter 72 of the Iowa Code.

**Important time deadlines.** In Nebraska, a contractor must file a lien within 120 days from the date of the contractor's final furnishing of services or materials. A properly recorded lien is enforceable for two years, unless the owner or other person having an interest in the property makes a written demand upon the contractor to institute judicial proceedings on the lien, in which case the contractor then has 30 days to enforce the lien. Once a lien is recorded, the contractor must send a copy of the lien to the property owner within 10 days.

In Iowa, contractors must file a lien within 90 days from the date on which the last of the materials was furnished or the last of the labor was performed. After 90 days, a subcontractor may still file a lien, but the subcontractor is limited to the balance due from the owner to the general contractor at the time of service unless a bond is in place. In Iowa, the lien is enforceable for two years calculated from the expiration of the 90 day period in which to file the lien. Iowa similarly requires the lien to be enforced within 30 days of a demand by the owner.

**Where to record or file a lien.** In Nebraska, liens are recorded with the Register of Deeds for the county in which the property is located. In Iowa, liens must be

filed with the Clerk's Office of the District Court in the county where the property is located.

**Contents of lien.** Nebraska law requires that a lien clearly identify:

- a. the real estate subject to the lien;
- b. the name of the person against whose interest the lien is claimed;
- c. the name and address of the contractor asserting the lien;
- d. the name and address of the person or company with whom the contractor claiming the lien contracted;
- e. a general description of the services performed or materials furnished and the contract price thereof;
- f. the unpaid amount, whether or not due, or a good faith estimate of the same if no amount is fixed by the applicable contract; and
- g. the date the last services or materials were furnished.

Iowa law requires liens to include the following information:

- a. the time when the materials were furnished or labor performed, and when completed;
- b. a correct description of the property to be charged with the lien; and
- c. the name and last known mailing address of the owner, agent, or trustee of the property.

**Amendments.** Both states allow a contractor to amend a previously filed lien. In Nebraska, the contractor may amend the lien by an additional recording filed at any time within the 120 day period in which to file the original

lien. After the 120-day period, a recorded lien may be amended only for the purpose of reducing the amount of the lien, reducing the real estate against which the lien is claimed, or making an apportionment of the lien among lots of a platted subdivision. Further, the amendment must state the record location and date of recording of the original lien and the aspects in which the original lien is being amended.

In Iowa, a lien may be amended by leave of court “in furtherance of justice,” except as to the amount demanded.

**When liens are allowed.** As described above, both Nebraska and Iowa allow construction liens for the provision of labor and/or materials furnished for the purposes of improving real property. Although finer nuances exist, they are beyond the scope of this article. A few points are worthy of being highlighted, however. In Nebraska, labor and materials include plans, surveys, and drawings for any change or improvement to real property, whether or not such plans, surveys, or drawings are actually used. Nebraska also includes materials consumed for the purposes of construction, including the renting or purchase of tools and supplies, but only if the rental or purchase is for the property at issue only. A lien is not allowed in Nebraska, however, if the owner or general contractor secures a bond and records notice of the surety. In such cases, a contractor asserting the lien must sue within one year of providing labor or materials, or within 90 days if there is no direct contract with the general contractor. In bond/surety cases, a contractor who would otherwise be able to assert a lien may sue the surety directly, with or without the owner or general contractor named as defendants.

In Iowa, a contractor may not assert a lien if the contractor accepted collateral security at the time of contracting. A contractor may, however, assert a lien if the taking of security occurs after the completion of the contractor’s work, unless the parties expressly agree otherwise. Further, an owner is not required to pay a general contractor for 90 days unless the general contractor provides the owner with (1) receipts and waivers from subcontractors or (2) a bond holding the owner harmless for any subsequent claims by subcontractors.

**Amount of lien.** In Nebraska, a contractor’s lien is reduced by any amounts of those who may claim through the contractor, such as subcontractors and/or vendors. Nebraska also has detailed rules if several subcontractors

assert liens in amounts exceeding the amount left to be paid under the owner’s contract with the general contractor. Nebraska also allows anyone having an interest in real estate to release the real estate from liens by depositing money with the District Court Clerk’s Office in the amount of 115% of said liens. The person must also record a notice of the deposit with the Register of Deeds Office.

In Iowa, an owner is not required to pay more or earlier than his or her contract with the general contractor provides, unless the owner pays part or all of the contract price before the expiration of the 90 days in which a subcontractor may assert a lien. However, in the case of residential property, an owner is not required to pay an amount greater than, or at an earlier date than, what is provided in the owner’s contract with the general contractor, unless the owner pays part or all of the contract price after receipt of a notice of lien liability from a subcontractor. Also, Iowa allows liens to be discharged by depositing a bond in the amount of 200% of the lien amount.

**Protected status of residential property owners.** Nebraska provides additional protections to owners of residential property and requires contractors who wish to assert liens against residential property to comply with additional procedural safeguards. Most notably, a residential owner is protected from paying a subcontractor’s lien if that lien is asserted after the owner has paid the general contractor in full, unless the subcontractor has previously sent a notice of right to assert lien to the owner. The notice of right to assert lien must clearly identify (a) the name and address of the contractor who may assert a lien, (b) the name and address of the person with whom the contractor has contracted, (c) the name of the owner against whom a lien may be claimed, (d) a general description of the services or materials provided or to be provided, (e) a description of the real estate against which the lien is or may be claimed, (f) a statement that the contractor is entitled to record a lien, (g) the amount due to the contractor, whether or not now due, or a good faith estimate of the amount if no amount is fixed by the contract, and (h) the following statement: “*Warning. If you did not contract with the person giving this notice, any future payments you make may subject you to double liability.*” Without this notice, subcontractors who assert a lien will get the lesser of the amount unpaid to the subcontractor or the amount left to be paid under the owner’s contract with the general

contractor. In short, residential owners are protected unless they receive a notice of lien liability or unless the actual lien is filed before the owner has paid the general contractor in full.

In Iowa, the general contractor is required to give notice to the owners of residential property regarding lien liability for subcontractors, and if no notice is given, then the general contractor is not allowed to assert a lien. In Iowa, subcontractor's liens are enforceable against residential property owners only to the amount due the general contractor, less payments already made to the general contractor, after notice of lien liability. Iowa also requires a general contractor to pay subcontractors within 30 days of full payment by a residential owner, and either the subcontractor or the residential owner may sue the general contractor for such failure to pay after first submitting written notice to the general contractor of overdue amount. In such lawsuits, Iowa law allows punitive damages.

**Priority of liens.** Generally, Nebraska and Iowa prioritize liens of the same type on the same property by the date the liens are recorded or filed. There are additional factors beyond the scope of this article, but the theme is to generally file sooner rather than later. In Nebraska, all liens attaching at the same time have equal priority and share the amount received upon foreclosure on a pro rata basis. Iowa clarifies that a lien for materials or labor on a building takes priority over a lien for labor or materials to the land, even if the latter lien was filed first. Both states have fairly complex rules regarding the priority (or not) of liens over other types of encumbrances against property. Generally, both states provide a process to prioritize loans financing the construction work over construction liens.

**Enforcement of lien.** In Nebraska, liens are enforced through a civil lawsuit to foreclose on the property, and such suits should name all parties having an interest in the property at issue. Iowa also enforces liens through the filing of a lawsuit. In both states, a lawsuit should be filed in the county in which the property is located.

**Discharge or release of lien.** In both Nebraska and Iowa, liens can be discharged at any time by the contractor who asserted the lien filing a release with the Register of Deeds or District Court, respectively. Liens are also released if a judgment of record is entered against the lien or if a

notice is filed showing that an appropriate deposit has been made to substitute for the lien.

**Wrongful conduct.** Nebraska allows owners to seek damages if a contractor wrongfully asserts a lien, overstates a lien, or refuses to release a lien in appropriate circumstances. In those cases, the court may void the lien and award damages, including reasonable attorney's fees. Conversely, contractors may seek damages if they are wrongfully denied their benefits under Nebraska's Construction Lien Act.

Iowa requires a contractor to file an acknowledgment with the court once the contractor has been paid pursuant to the lien, and if the contractor fails to do so within 30 days, it risks the court awarding damages to the owner. Iowa also allows a contractor to recover attorney's fees when suing the direct recipient of the contractor's services. However, Iowa permits an owner who challenges a lien to recover attorney's fees if the court finds the lien invalid. Finally, like Nebraska, Iowa penalizes liens that are filed in bad faith or that are materially false by allowing the recovery of attorney's fees plus additional penalties.

Hopefully, these basics should allow contractors and owners to become more comfortable with construction liens and help them identify issues for which an attorney should be consulted. If you have any questions or need assistance, please do not hesitate to call us.

## Roseland Update: The Ongoing Impact on Paid Leave Plans

by Leilani M. Harbeck

The Nebraska Wage Payment and Collection Act ("Wage Act") governs the manner in which an employer must pay its employees wages both during employment and following separation of employment. LB255, a legislative bill which provides for significant changes to the Wage Act, is currently under consideration by the Nebraska Legislature. At the time this edition of the *Client Adviser* went to print, LB255 had not yet been passed. If LB255 is passed and signed by the Governor, the changes to the Wage Act would be effective immediately.

In October of 2006, the Nebraska Supreme Court, in *Roseland v. Strategic Staff Management* ("Roseland"), held that an employee's unused, accrued vacation leave was due and payable as wages upon termination of employment.

Issues left unaddressed in the Court's decision in *Roseland* include how other types of paid leave policies and agreements will be affected. For example, *Roseland* did not address whether it is still lawful for employers to have "use it or lose it" policies that prohibit employees from carrying over unused, accrued leave from year to year, or policies that allow some carryover, but cap the amount. Although LB255 does not address several issues the *Roseland* Court did not answer, it does limit the effect of *Roseland* by addressing what paid leave benefits must be paid to employees upon separation of employment.

LB255 provides that paid leave, other than unused vacation leave, is not payable upon termination of employment, unless the employer and the employee, or the employer and the collective bargaining representative, as applicable, have specifically agreed otherwise. LB255 essentially codifies the *Roseland* decision with respect to unused, accrued vacation leave, but it also provides that employers, and not the courts, can decide how sick leave plans, disability income protection plans, and other paid benefit plans will be structured and paid to employees both during and after employment.

LB255 would also change certain provisions in the Wage Act regarding payment of commissions, including what commissions constitute wages and the payment of those commissions following separation of employment. The Wage Act currently requires that commissions be paid on all orders delivered and all orders on file with the employer at the time of separation of employment, regardless of whether the employer ever received payment on a particular order or had even completed or billed for the order. As proposed, LB255 would allow the employer and the employee to agree to a different definition of what commissions constitute wages under the Wage Act through a contract effective at the commencement of employment or at least ninety days prior to separation of employment, whichever is later. LB255 also provides that upon separation of employment, all unpaid wages constituting commissions are due the employee on the next regular payday following the employer's receipt of payment for the goods or services from which the commissions were generated. The employer must provide the employee with a periodic accounting of any outstanding commissions until all commissions have been paid to the employee, or until all orders on file or delivered at the time of separation have been returned or canceled by the customer.

If you have any questions or would like our assistance reviewing or revising your policies and agreements, please contact a member of Koley Jessen's Employment Law and Labor Relations Practice Group.

## Title Insurance Policy Changes

*by Thomas F. Ackley*

Most individuals and businesses purchase title insurance in connection with their purchase of residential or commercial real estate. A title insurance policy is, in essence, a contract of indemnity, insuring against losses and damages incurred by the insured by reason of defects, discrepancies, or liens affecting title to the real estate designated in the policy, or impacting the marketability of title to the real estate. A title insurer will not incur liability under the policy until the insured has suffered actual losses or damages. Accordingly, as with most insurance products, understanding the limitations of coverage outlined in the policy is critical to appreciating the actual coverage provided.

The American Land Title Association ("ALTA") is a national organization that provides recommendations for forms of title insurance policy coverage, exclusions, and endorsements. Until recently, most title insurance policies were issued under the 1970 ALTA Standards, the 1984 revised standards, or the 1992 ALTA Standards. However, new policy forms were adopted by ALTA on June 17, 2006 ("2006 ALTA Standards") and are currently under review by the Department of Insurance in the State of Nebraska. This article will briefly highlight the changes made under the 2006 ALTA Standards, many of which are beneficial to policyholders.

### Background

Title insurance may be issued to the owner of the real estate and to the lender providing financing for the purchase of the real estate, if the financing is secured by a mortgage or deed of trust on the real estate. With regard to the owner's policy, the insurance beneficiary is the actual owner of the underlying real estate, and the amount of title insurance coverage is generally the amount paid by the owner to purchase the real estate. As for the lender's policy, the insurance beneficiary is the lender, and the lender's insurance policy coverage is generally the amount of the loan secured by the mortgage or deed of trust. In the case of an owner who purchases undeveloped real estate and then constructs a building on the real estate, the title insurance policy will initially be issued for the purchase price of the real estate, and additional insurance coverage can be purchased as funds are expended on improvements to the real estate.

## 2006 ALTA Standards

Although there are a number of changes in the 2006 ALTA Standards, the changes of most relevance to proposed insureds include:

- The legal description of the property can no longer be attached to the policy as a separate exhibit; rather, the legal description must be incorporated into the actual policy on Schedule A. This revision should prevent any disputes over whether the title insurance company attached the correct legal description to the issued policy, especially where there are multiple legal descriptions listed on the same policy.
- A new Paragraph 6 has also been added to Schedule A and contains a list of commonly requested loan policy endorsements. This revision affirmatively shows which endorsements have been purchased by an insured, and also serves as a good reminder of the various endorsements that are available.
- The definition of the “insured” now includes a grantee in a deed executed by the insured and delivered for no consideration if the grantee: (i) is wholly owned by the insured; (ii) wholly owns the insured; (iii) is wholly owned by an affiliated entity of the insured, provided the affiliated entity and the insured are both wholly owned by the same person or entity; or (iv) is a trustee or beneficiary of a trust created by a written instrument established by the insured for estate planning purposes. This revision to the definition of “insured” is a significant addition to title insurance coverage because it eliminates the need for an assignment of policy or for an endorsement or new policy getting issued whenever the insured conveys the subject land to an estate planning trust or wholly-owned entity.
- With regard to an owner’s policy, the 2006 ALTA Standards now contain ten (10) specifically enumerated covered risks, as compared to only four (4) specifically enumerated covered risks outlined in the previous 1992 ALTA Standards.
- With regard to a lender’s policy, the 2006 ALTA Standards now contain fourteen (14) specifically enumerated covered risks, as compared to only eight (8) specifically enumerated covered risks outlined in the previous 1992 ALTA Standards.

Although the number of covered risks have increased under the 2006 ALTA Standards, it should be noted that additional exceptions have also been added

to the standard form of policies. Thus, although certain risks are now expressly identified as being covered, they have also been included as exceptions to the policy. In other words, what appears to have been given as additional coverage under Schedule B, Section 1 of a title insurance policy, is also removed under Schedule B, Section 2 of the policy exceptions. Consequently, it is even more important to read all portions of Schedule B of a title insurance policy to understand the actual coverage being provided.

- The owner’s policy conditions and lender’s policy conditions have also been revised and include additional conditions compared to the 1992 ALTA Standards. Despite certain additions, overall these changes are beneficial to the insured because they expand the period of time for making claims, shift the burden of determining the amount of liability, and provide certain additional policy amounts to cover the costs of defending or prosecuting litigation.

## Conclusion

Overall, the new 2006 ALTA Standards provide additional coverage and benefits to an insured under both the owner’s policy and the lender’s policy. In accordance with the Nebraska Title Insurers Act (Neb. Rev. Stat. §§ 44-1978 et seq.), all standard title insurance policies, endorsements, and commitment forms are required to be filed with the Director of Insurance. Accordingly, the 2006 ALTA Standards cannot be utilized in Nebraska until the Department of Insurance approves the new coverages. According to one industry representative, it is anticipated that the State of Nebraska will not complete its process of review and approval until late 2007 or early 2008. Thus, the 1992 ALTA Standards remain the standard coverage currently provided by most title insurers in the State of Nebraska. If you have any questions or concerns with regard to title insurance matters, please do not hesitate to contact a member of our Real Estate Practice Group for assistance.

## Nebraska Probate Proceedings

*by Allyson V. Crossman*

People often talk about avoiding probate and administration proceedings without really knowing what those proceedings involve. In short, probate proceedings (when an individual dies with a Will) and administration

proceedings (when an individual dies without a Will) involve a court-supervised legal process that is needed to:

1. Resolve any dispute about the validity of a decedent's Will;
2. Settle disputes among individuals who claim ownership to the decedent's assets;
3. Clear title to the decedent's assets by transferring title to the assets into the names of the decedent's heirs and/or devisees; and
4. Collect debts owed to the decedent and pay debts and other expenses owed by the decedent.

A probate or administrative proceeding (for purposes of simplicity, collectively referred to in this article as a "probate proceeding") is not always necessary. Therefore, it is critical to collect all the facts about the decedent's assets to determine whether a probate proceeding is required, and which type of proceeding. Probate is generally required only to transfer assets titled in a decedent's name alone at the time of his/her death. Those assets are referred to as "probate assets". Assets held in joint tenancy with rights of survivorship pass by operation of law to the surviving joint tenant at the decedent's death, rather than through a probate proceeding. Assets held in a trust pass in accordance with the trust instrument, completely outside of a probate proceeding. Certain assets, such as life insurance proceeds, pension or retirement plan benefits, and certain types of bank accounts and investments, pass in accordance with the beneficiary designation made by the decedent prior to death. Unless the decedent's estate is named the beneficiary, these types of assets also pass completely outside of a probate proceeding. Assets that pass outside of a probate proceeding are referred to as "non-probate assets." For Nebraska decedents, if the probate assets are comprised of either real estate located in Nebraska in excess of \$25,000, or personal property in excess of \$25,000, then a probate proceeding will be required.

If a dispute arises, such as a challenge to the validity of the Will, a formal probate proceeding would be initiated. In the absence of a dispute requiring a Court determination, an informal probate proceeding would generally be appropriate. The remainder of this Article discusses the Nebraska informal probate proceeding.

If a Nebraska probate proceeding is required, a few pleadings and a decedent's Will (if applicable) will be filed with the County Court in the County in which

the decedent lived. This is necessary to allow for the appointment of a personal representative, the fiduciary who administers the estate of a decedent. After the appointment of the personal representative, a notice must be published in a local newspaper. The notice must provide that claims of unknown creditors of the estate will be barred unless their claims are filed with the County Court within two months following the date notice is first published. Known creditors, if any, and other interested parties such as immediate family members and beneficiaries, receive notice of the probate proceeding via mail.

Within ninety (90) days of the appointment of a personal representative, an inventory that lists all of the assets in which the decedent had an interest (except life insurance policies naming a non-estate beneficiary), and the respective fair market value of those assets as of the decedent's date of death, must be filed with the County Court. An inventory is designed to provide information to interested parties regarding the assets owned by the decedent as of his or her date of death.

The post-death administration also involves the payment of debts, administration expenses, and taxes. Debts of a decedent may include (but may not be limited to) outstanding mortgages, automobile and other loans, credit card balances, rent payments, utility bills, real estate taxes, income taxes payable, medical bills not reimbursed by insurance, funeral expenses, accounting and appraisal fees, and investment fees. Tax planning and tax elections available must also be considered to ensure the necessary tax returns are timely filed. Whether there is a probate proceeding or not, all applicable tax returns must be filed. Estate tax returns are required if the estate is large enough, but nearly all administrative proceedings require an inheritance tax determination. Nebraska inheritance tax is imposed upon each beneficiary's right to receive property from the decedent. A Nebraska inheritance tax return is due twelve (12) months following the decedent's death. The applicable tax rate and exemption amount are dependent upon the beneficiary's relationship to the decedent. For example, if the beneficiary is a child of the decedent, the beneficiary would be subject to Nebraska inheritance tax equal to one percent of the fair market value of the property received by such beneficiary, after a \$10,000 exemption.

The final steps in the probate proceeding are the distribution of the assets to the beneficiaries and the closing of the probate proceeding. After all distributions are completed, the probate proceeding will be closed by filing in the County Court an accounting of the receipts and disbursements of the decedent's assets (unless waived by the heirs or devisees), along with a statement that the estate has been fully administered.

Each probate proceeding is unique. If you have any questions about the probate process, please feel free to contact a member of our Probate, Trust and Estate Administration Practice Group.

## The Appeal of an Appeal: Understanding Nebraska Appellate Procedures

by Christopher J. Riffle

Television courtroom dramas such as *Law and Order* or, stretching back a few years, *L.A. Law*, seem to be the source where most people form their perceptions of "the law." The final scene is usually set in a courtroom where an overly-dramatic legal battle has just concluded with a jury verdict. Based on this Hollywood version of "the law," a common misunderstanding of litigation is that a jury's (or judge's) decision at trial is the end of the legal process. However, in many instances, the conclusion of the trial marks the beginning of what may be the more difficult, time consuming, and often more expensive, appeals process.

The Nebraska Court of Appeals and the Nebraska Supreme Court combine to make up the appellate courts of Nebraska. The Court of Appeals consists of six judges and is designed to handle most of the roughly 1,400 appeals filed each year in Nebraska. The judges sit in rotating panels of three to hear each case. The Court of Appeals' purpose is to review trial court decisions to ensure that the law was properly applied, that any discretion exercised by the trial court was proper, and that there were no procedural errors that affected the outcome of the trial.

The Nebraska Supreme Court plays a different role in the state's appellate system. It is the state's highest court and consists of seven justices who sit as an entire group to hear each case. The Supreme Court reviews trial court decisions just as the Court of Appeals does; however, the Supreme Court tends to hear cases involving potentially significant legal issues or those of broad public importance. It also has the power to control the Court of Appeals' docket, occasionally moving a case from the Court of Appeals to its own docket if a significant issue is at stake that the Nebraska Supreme Court would normally review.

Not every court decision can be immediately appealed when made, because only "final" trial court decisions may be appealed. Although the concept of finality can be confusing, a few examples are helpful in demonstrating the basic meaning. For example, a judge's order for *temporary* child custody is not final, and cannot be immediately appealed. However, an order establishing *permanent* custody is a final order, and can be immediately appealed. Similarly, an order sentencing a defendant to incarceration, or an order requiring one party to pay monetary damages, is likely to be considered final and appealable.

There are two basic steps to initiating an appeal of a trial court's final order: "perfecting" the appeal, and moving the trial "record" to the appellate court.

To perfect an appeal, written notice of appeal must be filed with the clerk of the trial court within 30 days of the trial court's order. The trial court's docket fee (currently \$100) must also be paid within the same 30-day period. If for some reason the appeal is not properly perfected, the Court of Appeals will usually dismiss the appeal because it does not have jurisdiction to hear the case.

Because appellate courts only consider evidence and testimony from the trial, it is vital that the entire trial record be transferred to the reviewing court. The record consists of two parts: the transcript and the bill of exceptions. The transcript includes all pleadings (the complaint, the answer, any motions filed by the parties, etc.), the judge's orders, and the written judgment of the court (the final order). The bill of exceptions contains all of the evidence from the trial, including a typed transcript of what the witnesses, lawyers, and judge said and did. The appellate court reviews the transcript and bill of exceptions to learn about the parties, what transpired at trial, and what issues need to be addressed on appeal. The appealing party is responsible for requesting the trial court to prepare and transfer the transcript and bill of exceptions to the appellate court.

The appellate courts make decisions with very little interaction with the parties. The court's decision is primarily based on briefs filed by each party in support of its position, the record, oral arguments, and the applicable law. The only contact a party may have with the judges of the appellate court is during oral arguments. After each party has filed written briefs, each party is given a block of time to argue in favor of its position. The judges often use this time to ask questions about arguments made in the briefs or about matters that are unclear from the record. The court's decision is never announced during oral arguments. Instead, the judges discuss the case afterward and prepare a written opinion that is released at a later date.

Usually, the judgment of the Court of Appeals or Nebraska Supreme Court is the final stop for a case. Although Nebraska law provides additional appellate avenues, these roads are not appropriate for every case. One option is to file a Motion for Rehearing, which must be filed within 10 days after the appellate court releases its decision. These motions are rarely filed and are not granted unless it is demonstrated that the appellate court misapplied the law or missed something that it should have considered before rendering its opinion.

The other option is to file a petition for further review with the Nebraska Supreme Court. This option is only available when the Court of Appeals heard the initial appeal, and must be filed within 30 days of that court's opinion. As with the Motion for Rehearing, this option is not often successful — only 30 to 40 Motions for Rehearing are granted each year.

If a federal issue is involved (e.g., a constitutional issue such as free speech), the parties may be able to appeal a decision of the Nebraska Supreme Court to the Supreme Court of the United States. Review by the United States Supreme Court is extremely rare, and is at the complete discretion of the United States Supreme Court.

In contrast to what may be presented in television courtroom dramas, there is often further litigation activity in the form of appeals after the trial ends. This article was intended to give you a more complete picture of the post-litigation process by explaining Nebraska's appellate court system and processes. Although dramatic jury verdicts make for good television ratings, you should now understand that the legal battle is by no means finished when the trial ends. If you have any questions, please call a member of our Litigation and Trial Practice Group.

## ANNOUNCEMENTS

### Welcome

We are pleased to welcome **Michael G. Burnett** to Koley Jessen as a Senior Associate. Before joining Koley Jessen, Mike worked as trademark and copyright counsel for an intellectual property law firm. A graduate of Creighton University School of Law, Mike is a member of the International Trademark Association.

### Community Involvement Updates

**Richard D. Vroman** was recently named chairman of the board of Special Olympics of Nebraska. Koley Jessen was pleased to support Rick's efforts on March 5, 2007, as a sponsor at the Breakfast of Champions.

**Stacia L. Palser** has joined the board of directors of Keep Omaha Beautiful.

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