

THE DAILY RECORD

Nebraska's Legal & Business News Since 1886

Friday, October 28, 2016

Volume 131 • Issue 216 • 75 Cents

Page 1

House of Delegates and Executive Council Welcome New Leadership

Melany O'Brien took over as Nebraska State Bar Association House of Delegates Chair, and Julie Bear and Jon Schroeder began their terms on the NSBA Executive Council this week at the NSBA's Annual Meeting in La Vista. Additionally, Federal District Court

Judge Robert F. Rossiter, Jr. was appointed to complete the term of District 4 Executive Council representative Judge John Irwin, who is retiring from the Nebraska Court of Appeals and is stepping down from his service on the NSBA's. See NEW LEADERSHIP, page 2

Credit Reports for Mortgage Loans Get an Update

By Sarah Skidmore Sell

(AP)—Applying for a home loan? You may want to consider paying off your credit card bill first.

Thanks to a recent change by major credit rating agencies, mortgage lenders can now look at whether you pay off your bill every month or keep a balance. That means home buyers who pay off their credit cards may earn an advantage when looking for a mortgage.

Historically lenders reviewed basic information such as your total debt and whether you were on-time with your payments when deciding whether to make a home loan. But they didn't know whether you were paying off your credit card or other revolving debts in full or carrying a balance month-to-month.

That changed in September, when two of the major credit rating agencies, Equifax and Transunion, began offering what's known as "trending data."

Lenders now have access to a more comprehensive view of a borrower's debt management habits, specifically how much someone paid off each month on those accounts over the past two years. And they may reward those who regularly pay more than the minimum on revolving debts or pay them off in full.

The remaining credit reporting agency, Experian, is also expected to begin offering trending data soon. It is the first time in 30 years that

the standard information provided to lenders on credit reports has been updated, according to Equifax.

The change was driven by Fannie Mae, the mortgage giant that guarantees many of the loans in the U.S. It found that all other things being equal, borrowers who paid off their credit card every month were 60 percent less likely to become delinquent than borrowers who make only the monthly minimum payment. As a result, Fannie Mae will now regularly review this information to help improve its risk assessment.

The final decision on who gets the loan still remains with the bank or lender, who can decide whether or not they want to consider this factor.

Experts say that while it's still early in adoption, Fannie Mae's influence over the industry means they expect it to become part of the regular mortgage review process.

Fannie Mae, credit bureaus and other industry experts say they intend to use the additional information to expand the number of loans available, not to penalize those who do carry a balance.

"It's going to benefit someone who is on the border today," said Mindy Armstrong at Fannie Mae.

Consider two people with otherwise equal credit profiles: Jack and Jill. Jack makes the minimum payments each month, while Jill pays her cards off in full. They may both have been "maybes" in the loan officer's mind, but this factor could tip Jill into the approved pile.

"It's just one factor of the risk assessment," Armstrong said. "These are all things you can do to put yourself in a better position."

Your credit score and credit worthiness will ultimately be determined by many other factors — most importantly whether you pay your bills on time and how much of your available credit you use. So paying down debts more aggressively may have an added bonus of improving your utilization rate, and thereby your credit score too.



Third-year Creighton law student Michelle Zornes networked recently at the Omaha Bar Association Fall Kickoff.

Zornes' 'Mid-life Crisis' Is A Plus for the Legal World

By Dennis Friend
The Daily Record

Michelle Zornes is not a typical third-year law student. She's a non-traditional student returning to school after a 20-year career as a paralegal. She's laughingly described law school as her "mid-life crisis."

She decided to go for a law degree while she was working as a paralegal in South Carolina, where she said she came into regular and close contact with the poor and marginalized. She was frustrated by the limits to which she could help.

"I became overwhelmingly passionate about fairness, and felt compelled to be a voice for the disenfranchised," said Zornes, who will graduate from the Creighton University School of Law in May.

"So I did something about it.

When my daughter went to college, I decided to go back to school, too. Now I've been blessed with opportunities to explore a variety of practice areas and embrace new endeavors with greater clarity, ambition and determination."

Zornes' career began in Southern California in the early 1990s where, as a 19-year-old wife and mother, she completed her paralegal certificate and went to work in a mid-sized insurance defense firm, ultimately overseeing a caseload of construction defect matters. The attorneys in the firm regularly went to trial, and Zornes said she found herself immersed in the work.

"I was knee-deep in voluminous discovery and trial preparation," she said. "It was another kind of education I was glad to have."

In 1991, Zornes and her fam-

ily moved cross-country from Los Angeles to Columbia, S.C., to be closer to her retired father. Zornes went to work for a large firm overseeing the commercial real estate and business department.

"I flourished in transactional work, and was fortunate to gain experience in this practice area. I became a licensed title agent, and was the senior paralegal involved in many commercial closings."

With the support and encouragement of the firm's partners, Zornes said, she also began working for the firm's United Way campaigns. Stemming from that involvement and in tandem with her full-time job, she started working as an on-call hospital volunteer with a non-profit organization assisting survivors of sexual assault. She even- See ZORNES, page 3

Lawsuit Challenges Denver's Sweeps of the Homeless

By Colleen Stevin

Denver (AP) — When Jerry Burton's sleeping bag and tent were removed by city workers from his campsite near a rapidly developing area close to downtown Denver, he was able to start over again with backup gear he keeps hidden for emergencies — whether his or someone else's. Now he's one of nine homeless people suing in federal court to try to stop the city's sweeps of homeless encampments and, as he sees it, restore the dignity and respect of people who can't find a home of their own in a growing city.

Burton, a former Marine who has had trouble finding housing despite veterans' rental assistance, compared the city's seizures of the homeless' property with someone walking into a home and taking a television.

"It's going to continue to go on until the court stands up," he said of the sweeps after the first hearing in the lawsuit that drew dozens of

homeless people and their advocates even though the Oct. 12 session was mainly to discuss scheduling.

The case is the latest to challenge homeless sweeps around the country.

Last month, a federal judge in Washington state found that Clark County was liable for clearing out homeless encampments and seizing the residents' belongings, including tents, stoves, medication and documents, leading the county to settle the case for \$250,000. Earlier this year, Los Angeles agreed to pay \$822,000 to settle a lawsuit by homeless people who said that the city had seized and destroyed their possessions.

Honolulu also settled a lawsuit filed by the American Civil Liberties Union claiming that the city had deprived homeless people of food and other belongings during raids. It paid \$48,500 to 21 homeless people, but the deal allows the city to continue enforcing its policy

of clearing sidewalks as long as it gives more notice. It also can only throw away items that pose a serious public health hazard and agreed to make it easier for homeless people to retrieve their belongings.

Maria Foscarinis, the executive director of the National Law Center on Homelessness & Poverty, said she thinks such lawsuits have been bolstered by the U.S. Justice Department's decision to file a brief opposing punishing homeless people for violating public camping bans when there is no room in shelters, in a lawsuit challenging Boise, Idaho's enforcement of its ban, a case her organization is involved in.

Mark Silverstein, legal director of the ACLU of Colorado, which has been critical of Denver's sweeps, said he thinks there have been more lawsuits because there have been more crackdowns.

The Denver lawsuit says the city, as part of an effort to clear the See HOMELESS SWEEPS, page 3

HAUPTMAN O'BRIEN 5/2017-2
1006 S 107 AVE STE 200
OMAHA NE 68114-4753

Cline Williams
Wright Johnson
& Oldfather, L.L.P.

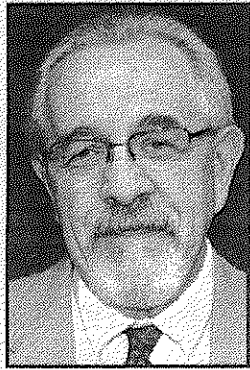
Welcomes
Four New Attorneys

Page 5

COMMENTARY

Voters to Decide Death Penalty Issue

By J.L. Schmidt
Statehouse Correspondent
Nebraska Press Association



Nebraska voters have a chance to decide the oft-discussed matter of the death penalty.

The Nebraska Legislature voted in 2015 in favor of a bill (LB268) to repeal the death penalty as a means of punishment for the crime of first-degree murder and replace it with life in prison without parole. That action was vetoed by Governor Pete Ricketts and the Legislature overrode his veto.

Thus came the Referendum Ordered by Petition of the People and designated for the ballot as Referendum No. 426.

For the record, a referendum is the process by which the repeal or approval of an existing statute or state constitutional provision is voted upon. Such referenda are placed on the ballot by a required number of voter signatures on a petition filed with the Secretary of State.

That has led to what might seem to be confusing language for voters. As the Nebraska Attorney General explains it: "A vote to Retain will eliminate the death penalty and change the maximum penalty for the crime of murder in the first degree to life imprisonment by retaining Legislative Bill 268, passed in 2015 by the First Session of the 104th Nebraska Legislature."

Likewise, "A vote to Repeal will keep the death penalty as a possible penalty for the crime of murder in the first degree by repealing Legislative Bill 268, passed in 2015 by the First Session of the 104th Nebraska Legislature."

How do you avoid the confusion? It would seem that retaining would mean keeping the death penalty and repealing would mean getting rid of it. But remember, the vote deals with the action of the Legislature. So retaining their action (abolition of the death penalty) would keep it off the books. Repealing their action (abolition of the death penalty) would restore it as a form of punishment.

The Nebraska Legislature debated the issue for 26 years, both in the Judiciary Committee and before the full voting body in the George W. Norris legislative chambers. The abolition had passed several times only to be vetoed by various governors. A federal stay on the death penalty was in effect for a few years. But it was in 2015 when the bill passed, was vetoed, and the veto overridden.

In the midst of the years of discussion, Nebraska executed three men in the electric chair. The first was Harold Lamont "Willie" Otey on September 2, 1994. Then came John Joubert on July 17, 1996. Robert E. Williams was the last to be executed in Nebraska on December 2, 1997.

J.L. Schmidt has been covering Nebraska government and politics since 1979. He has been a registered independent for 17 years.

Opinions expressed by columnists featured in The Daily Record are not necessarily those of its management or staff, and do not constitute an endorsement or recommendation. Any errors or omissions should be called to our attention so that they may be corrected in a timely manner.

New Leadership

Continued from page 1
Executive Council.

O'Brien is a partner at Hauptman O'Brien Wolf and Lathrop, P.C., where she focuses on representing plaintiffs in personal injury claims. O'Brien was born and raised in South Sioux City, Nebraska. She earned a Bachelor of Science degree in 1989 from the University of Nebraska - Lincoln. O'Brien earned a law degree in 1993 from Creighton University School of Law and was admitted to the Nebraska Bar and the Federal Courts in 1993.

O'Brien has a history of service to the profession. She served on the Practice and Procedure, Mediation, Legislative, Ways and Means, and Judicial Resources committees of the Nebraska State Bar Association. She is also a Fellow and Board Member of the Nebraska State Bar Foundation. She is a former Secretary and Executive Council Member of the Omaha Bar Association and a Past President of the Nebraska Women's Bar Association. O'Brien is currently a Board Member for the Women's Center for Advancement.

Upon accepting her position O'Brien said, "I have always believed that serving on local and state bar committees is a rewarding and valuable experience and I look forward to serving as the Chair of the House of Delegates."

Also becoming NSBA officers are Jane Langan Mach and Mike McCarthy. Langan Mach of Lincoln is a partner at Rembolt Ludtke LLP. Langan Mach took office this week as Chair-Elect of the House of Delegates. Mike McCarthy of North Platte is a partner with McCarthy & Moore. McCarthy took office as Chair-Elect Designate.

On Wednesday, Julie Bear of Plattsmouth, began her term on the NSBA Executive Council. Bear graduated from Creighton University with a B.S.B.A. in finance in 1987 and from Creighton University School of Law in 1990 (cum laude). She was admitted to practice in the Nebraska State Bar and U.S. District Court for Nebraska in 1990.

In addition to her prior service on the NSBA's House of Delegates, Bear is a member Nebraska Criminal Defense Attorney's Association, Nebraska Commission on Public Advocacy and Midlands Community Foundation. Bear is a graduate of the National Criminal Defense College in Macon GA, and is a Lifetime Fellow Nebraska State Bar Foundation. Bear served on the District One Committee on Inquiry (2007-2013) and the Judicial Nominating Commission for the Second Judicial District.

Jon Schroeder of Schroeder & Schroeder PC in Curtis, Nebraska also began his service representing the sixth judicial district on the NSBA's Executive Council. Schroeder has practiced law in southwest Nebraska for 32 years with emphasis on estate planning, real estate law and water law. He is a fourth-generation Schroeder attorney. His daughter, Whitney, now represents the fifth generation, having recently joined his firm. He has been the Frontier County Attorney for 26 years. His wife, Rebecca Schroeder, is a clinical psychologist. They have four children altogether: Jackie, Whitney, Tommy and Shaylee.

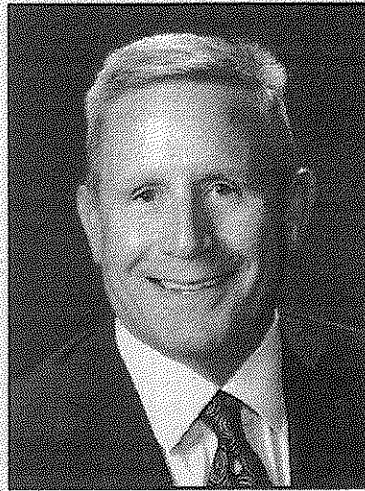
Originally from North Platte, Schroeder graduated from Wesleyan



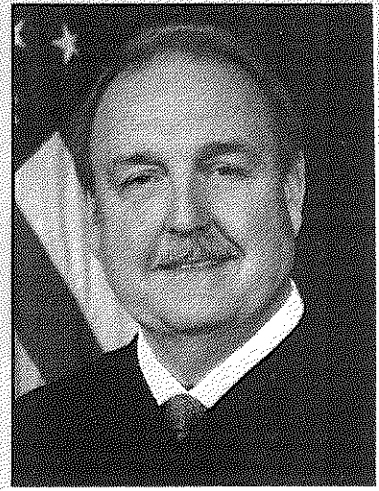
Melany O'Brien



Julie Bear



Jon Schroeder



Robert Rossiter

University with a B.A. in English in 1978 and a M.A. in Criminal Justice from the University of Nebraska-Omaha in 1980. He graduated from Creighton University School of Law in 1984 and was admitted to practice in the Nebraska State Bar in 1984.

Schroeder has served the legal profession in many ways over the years including: President of the County Attorneys Association, County Attorney Board of Directors, President of the 14th Judicial Bar District Association, President of the 11th Judicial District Bar Association, a member of the Judicial Nominating Commission, a member of the Mandatory Continuing Legal Education Commission, and has served on the Legislative Committee for the Nebraska County Attorneys Association. He has served his community through club memberships, advisory committees, clubs, board of directors, and have been a trustee and financial chairman for his church for many years. He was inducted into the Nebraska Foundation in 2016.

Judge Rossiter was sworn in as

United States District Judge of the United States District Court for the District of Nebraska this past summer. President Barack Obama nominated him to the seat vacated by Judge Joseph F. Bataillon, who took senior status in 2014. The U.S. Senate unanimously voted 90-0 in favor of Rossiter's confirmation, and received his judicial commission on June 29, 2016.

Rossiter received a Bachelor of Science degree in 1978 from Purdue University. He received a Juris Doctor, cum laude, in 1981 from Creighton University School of Law. He was a law clerk for Judge Clarence Arlen Beam of the United States District Court for the District of Nebraska from 1982 to 1983. From 1983 to 2016, he served at the Omaha law firm of Fraser Stryker PC LLO, becoming a shareholder in 1987. He served on the firm's Management Committee from 2011 to 2016. He specialized in labor and employment litigation, primarily in federal court. He is a Fellow in the American College of Trial Lawyers and is the immediate past State Chair of that organization.

THE DAILY RECORD

Publication Number USPS-145220
Issue Number: 216
Issue Date: October 28, 2016

A.H. Henningsen
Publisher
(1907-1987)

Ronald A. Henningsen
Publisher
(1944-2011)

Publisher.....Lynda Henningsen
Associate Publisher.....Brian Henningsen
Local News Editor.....Lorraine Boyd
Legal Editor.....Judy Boyd
Legal/Public Notices.....Ellen Freeman
Subscriptions and Circulation.....Margaret Sechser-Burcaw
Display and Classified Advertising; Copy.....Noelle Thornburg Hoefft
Contributing Writers.....Elizabeth Elliott,
Julien Fielding, Dennis Friend,
Jack Martin, Dan McCann, Andy Roberts

Office and Plant:
3323 Leavenworth Street, Omaha, Nebraska 68105
Telephone: 402-345-1303
Facsimile: 402-345-2351
Email: lhenningsen@omahadailyrecord.com
Website: www.OmahaDailyRecord.com
Published Daily (Except Saturday & Sunday)
Periodicals Postage Paid at Omaha, Nebraska
Subscription Rate...\$99 Per Year
Single Copy...75 Cents
No Refunds

POSTMASTER: Send address changes to:
THE DAILY RECORD
3323 Leavenworth Street, Omaha, Nebraska 68105

Member of:
Nebraska Press Association
National Newspaper Association
American Court and Commercial Newspaper
The Associated Press

Official newspaper for: The City of Omaha; County of Douglas; Fourth Judicial District Court; County Court of Douglas County; Separate Juvenile Court of Douglas County; Nebraska Department of Roads; Nebraska Public Service Commission; Omaha Bar Association; Omaha Bar-risters Club; Omaha Legal Professionals Association; Nebraska Association of Legal Assistants.

Have you been diagnosed with Non-Hodgkin's Lymphoma?

If you have been diagnosed with a serious medical condition, such as Non-Hodgkin's Lymphoma, after exposure to Monsanto's Roundup herbicide, you may be entitled to compensation.

Call Us Toll Free: 800-480-8260

Pulaski Law Firm
2925 Richmond Ave. #1725, Houston, TX 77098