

JUDGES HEARING THE CASES TODAY

Judge Amanda Potterfield, Tiffin, was appointed to the Court of Appeals in 2008. She was born in Jacksonville, Florida, and raised in Daytona Beach, Florida. Judge Potterfield attended Hollins College in Roanoke, Virginia, where she received her bachelor's degree in 1969. She received her law degree, with honors, from the National Law Center, George Washington University in 1974.

Judge Potterfield worked as a criminal defense attorney for the Georgia Criminal Justice Council and later for Prisoners' Legal Services in New York City. She moved to Iowa in 1982 and worked in the Linn County Public Defender's office. She was in private practice from 1989-2001 before being appointed to the district court bench.

Judge Thomas Bower, Cedar Falls, was appointed to the Court of Appeals in January 2012. Judge Bower received his bachelor's degree from Illinois State University in 1984 and his law degree from Drake University in 1987.

Judge Bower was appointed to the district associate court bench in 1993 and the district court bench in 1995. He was appointed Chief Judge of the First District in 2010. Prior to his appointment, he served as an Assistant City Attorney for the city of Ames and as an Assistant Black Hawk County Attorney. Judge Bower helped to establish the Black Hawk County Adult Drug Court program in 2006 and a mental health court program in 2009. Judge Bower is a member of the Iowa State Bar Association, Black Hawk County Bar, and the Iowa Judges Association.

Judge Michael Mullins, Washington, was appointed as an 8th District Court judge in 2002 and to the Court of Appeals in 2011. He received his bachelor's degree from Southwest Baptist University, Bolivar, Missouri, in 1974; his M.S.W. from the University of Iowa in 1976; and he was editor-in-chief of Drake Law Review and graduated with honors, Order of Coif, from Drake University Law School in 1982. Judge Mullins spent 19 years in private practice in Washington, Iowa.

Judge Mullins is a former member of the Judicial Technology Committee and the Business Advisory Committee for Electronic Document Management System (EDMS). He is a faculty member for new judge orientation on the topic of sentencing issues. Judge Mullins developed the Iowa Criminal Statutes Summary Chart used by judges and lawyers throughout Iowa. He is a member of the Washington County Bar Association, the Iowa Judges Association, the Iowa State Bar Association, and the American Bar Association.



Front Row: Gayle Nelson Vogel, Richard H. Doyle, Chief Judge David R. Danilson, Amanda Potterfield, Anuradha Vaitcheswaran, Mary E. Tabor
Back Row: Thomas N. Bower, Michael R. Mullins, Christopher McDonald

ABOUT THE IOWA COURT OF APPEALS

The Iowa Court of Appeals was established as an intermediate appellate court by the legislature in 1976 to ease the growing backlog of cases in the Iowa Supreme Court. Under Iowa's appellate system, all appeals from trial court decisions go to the supreme court. The supreme court may retain an appeal or transfer it to the court of appeals. As an appellate court, the Iowa Court of Appeals does not preside over trials. Appeals proceedings do not involve witnesses, juries, new evidence, or court reporters. Instead, the court reviews the written record of the trial court to determine whether any significant legal errors occurred. Most cases are decided on the briefs filed by the parties. Oral arguments are granted in about 20% of the cases to supplement the briefs. A decision of the court of appeals is final unless reviewed by the Iowa Supreme Court on grant of further review. Less than 5% of its decisions are taken on further review by the supreme court.

IOWA COURT OF APPEALS

Hearing Oral Arguments in:

Seeberger v. Davenport
Civil Rights Commission

At Kirkwood Community College
Friday, March 30, 2018 at 2:00 p.m.

CASE SYNOPSIS

Seeberger v. Davenport Civil Rights Commission

Seeberger v. Davenport Civil Rights Commission

Michelle Schreurs filed a complaint with the Davenport Civil Rights Commission (DCRC) alleging that Theresa Seeberger unlawfully discriminated against her on the basis of her familial status by making discriminatory statements. The DCRC approved an administrative law judge decision that found Seeberger had engaged in discriminatory conduct directed at Schreurs on the basis of familial status, and ordered emotional distress damages, assessed a civil penalty, and assessed attorney fees and costs. On judicial review, the district court affirmed in part and reversed in part.

Schreurs appeals, arguing the district court erred when it concluded the city's civil rights ordinance does not allow an award of attorney fees, and the district court abused its discretion by refusing to award fees to Schreurs in the judicial review.

The DCRC has also appealed, arguing the district court erred in holding the underlying action was not also filed under the Federal Fair Housing Act and the Davenport Municipal Code allows the DCRC to award attorney fees to a prevailing housing discrimination complainant at the enforcement level.

Seeberger cross-appeals, arguing her statements to Schreurs are protected under the First Amendment and article I, section 7 of the Iowa Constitution, and even if her statements were not protected speech, Schreurs would not be entitled to attorney fees.

FACTS:

Theresa Seeberger was the owner of a single-family home located in Davenport. After she moved out, Seeberger rented rooms at the property to Michelle Schreurs and her daughter. Seeberger was visiting the property and noticed a bottle of prenatal vitamins on the kitchen counter. After Seeberger questioned Schreurs regarding the pills, Schreurs informed Seeberger her daughter was pregnant. Seeberger advised Schreurs she was going to have to leave because she didn't pay rent on time and now she was going to bring "another person into the mix."

Schreurs filed a complaint with the Davenport Civil Rights Commission (DCRC), alleging that Seeberger made discriminatory statements against her related to the rental of a dwelling based on a familial status. The DCRC determined probable cause existed to show that Seeberger had made such statements as alleged. An administrative law judge (ALJ) concluded Seeberger had violated Davenport Municipal Code § 2.58.305(C). The ALJ awarded Schreurs \$35,000 in emotional distress damages and the maximum civil penalty of \$10,000. Later, the ALJ awarded Schreurs \$23,200 in attorney fees. The DCRC approved the ALJ's decision but reduced the award of emotional distress damages to \$17,500.

On judicial review, the district court determined the Davenport ordinance does not violate Seeberger's First Amendment rights as a content-based restriction on speech. But the district court reversed the award of damages and the penalty, finding that under the ordinance Seeberger is exempt from liability for the termination of the tenancy based on familial status and was only liable for her discriminatory statements. The district court also reversed the attorney fee award.

Davenport Municipal Code
§ 2.58.305(C) (2014) provides:

It shall be unlawful . . . [t]o make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, creed, religion, sex, national origin or ancestry, age, familial status, marital status, disability, gender identity, or sexual orientation or an intention to make any such preference, limitation or discrimination.

ISSUES RAISED ON APPEAL:

1. Did Seeberger's comments to Schreurs violate the Davenport Civil Rights Ordinance?
2. Were Seeberger's comments protected speech under the federal and state constitutions?
3. Did the court err in holding the Federal Fair Housing Act was not applicable?
4. Does the Davenport Municipal Code allow the DCRC to award attorney fees to a prevailing housing discrimination complainant at the enforcement level?
5. Did the district court abuse its discretion in refusing to award fees to Schreurs in the judicial review proceed?