

# EXHIBIT 4



opinions are based on information sufficient to permit me to render these opinions, and the subject is within the scope of my knowledge, skill, and experience.

4. My practice includes both multidistrict litigation and class action litigation, as well as other matters requiring application of judicial decisions. My professional resume is attached. I have tried to verdict two class action cases: (1) a shareholder derivative case tried to a Plaintiffs' verdict in the Western District of Oklahoma, and (2) an antitrust case tried to a Plaintiffs' verdict (and later reversed) in the Middle District of Alabama. I have recently provided services in the following cases:

- *Shaeffer v. TD Ameritrade, Inc.*, 8:21-cv-0093 (D. Neb.), now in MDL 2989 (S.D. Fla.);
- *Green Plains v. ADM*, 8:20-cv-279 (D. Neb.);
- *In re Roundup Herbicide*, MDL 2741 (N.D. Cal);
- *In re National Opiate Prescription Litigation*, MDL 2804 (N.D. Ohio);
- *In re Toyota Unintended Acceleration*, MDL 2151 (C.D. Cal);
- *In re Zantac Products*, MDL 2924 (S.D. Fla);
- *In re Syngenta AG MIR 162 Corn Litigation*, MDL 2591 (D. Kan.);
- *In re DuPay Orthopaedics, Inc.*, MDL2197 (N.D. Ohio).

### **My Opinions**

5. I have the following opinions germane to class counsel's fee application. Each is based upon my education, training, experience, documents and materials reviewed, services provided, results obtained, and other factors discussed below.

- 5.1 The twelve factors identified in decisions of the Eighth Circuit Court of Appeals support using the percentage-of-benefit-recovered method of awarding attorney's fees for class counsel.
- 5.2 These twelve factors, Eighth Circuit precedent, and decisions in other circuits justify a fee of 33 1/3% of the settlement amount in the settlement agreement.
- 5.3 The fee, so calculated, is reasonable in view of the risks, expenses, labor, subject matter novelty, system opaqueness, and other risks associated with the litigation.

5.4 The fee, so calculated, is reasonable to incentivize prosecution of cases like this one, which would not otherwise be prosecuted and would leave injured parties without redress because the claim size of individual claims would not be sufficient for individual case prosecution.

5.5 The structure of the settlement assures payout and relief to beleaguered merchant accounts victimized by fees in the opaque credit card processing system.

6. My compensation for services in this case is fixed at \$750/hour and is not dependent on the Court's decision concerning the fees to be awarded to class counsel.

7. I became involved in this case only after all of the pre-trial motions had been resolved, and the case was nearing trial. My role involved minimal effort by comparison to the lawyers who identified, developed, discovered, pled, and prepared the case. I enjoyed the opportunity to examine the work of these class lawyers with a critical eye toward deploying and using their prior work in my roles at trial.

### **Bases for Opinions**

8. My practice requires that I be aware of the reasonable value of legal services rendered in complex litigation involving significant risks to the litigants and also significant risks to the lawyers. I am often asked to provide specific service in specific contexts for other lawyers. Examples include conducting a deposition, presenting an argument to a court, trying a case before a jury, or participating in briefing and argument on appeal. This occurs when risks are high and the litigant or lawyer contacting me perceives a specific need.

9. I am familiar with the Wagstaff & Cartmell law firm in Kansas City. The firm is well regarded, and its lawyers earned the firm's beneficial professional reputation. This is true of Tyler Hudson and Eric Barton, two partners who asked me to play a role in the immediate trial preparation stage of this case. Tyler Hudson asked me to prepare to participate in the trial of this

lawsuit. The request for my assistance required that I read and review substantial materials about the case to understand its complexities. My trial role would have included:

- 9.1 Handling Plaintiffs' voir dire examination.
- 9.2 Presentation of Plaintiffs' opening statement.
- 9.3 Examination of individual Plaintiffs.
- 9.4 Handling other witness preparation and providing support for other phases of the trial.

10. I had no responsibilities for pleadings, discovery, witness identification, expert witnesses, motion practice, legal research, factual research, or other case development matters. I did not have to manage, organize, study, or sort the voluminous materials. Instead, the materials I was asked to review were carefully prepared for me to read, review, and understand. They were presented to me in a highly professional way that made my time involvement minimal in accord with my request.

11. I read and reviewed pleadings, motions, briefs, discovery, depositions, but did not have to prepare or conduct them, and did not have to participate in strategy decisions involved in their progression. Through this lens, I had a bird's eye view to assess the knowledge, skill, effort, ability, risks undertaken, strategic decisions made, and the high quality of the professional services rendered by the Plaintiffs' lawyers. I saw nothing in their work that was short of professional and ethical.

12. I am mindful of cases in the United States Court of Appeals for the Eighth Circuit, and in the District Courts of the Eighth Circuit concerning fees for counsel in class action cases. Under Fed R Civ P 23(h), the Court may award reasonable fees, and under the caselaw courts determine the fees under either the percentage-of-the-fund method or the lodestar method. *Rawa v. Monsanto Company*, 943 F3d 862, 870 (8th Cir. 2019). Under the percentage-of-the-fund method, fees are calculated as a fraction of the settlement benefits made available to the class.

13. The Eighth Circuit has instructed that district courts have broad discretion on the award of fees and should look to and consider a list of twelve criteria first described by the Fifth Circuit in *Johnson v. Georgia Highway Express, Inc.*, 488 F2d 714 (5th Cir. 1974) (abrogated on other grounds). *See, e.g., Keil v. Lopez*, 862 F3d 685, 701 (8th Cir. 2017). The twelve factors are:

- 13.1 Time and labor required.
- 13.2 Novelty and difficulty of the questions.
- 13.3 Skill requisite to perform the legal service properly.
- 13.4 Preclusion from other employment.
- 13.5 Customary fee.
- 13.6 Whether the fee is fixed or contingent.
- 13.7 Time limitations of the client's need or circumstances.
- 13.8 Amount involved and the results obtained.
- 13.9 Experience, reputation and ability of the lawyers.
- 13.10 Undesirability of the case.
- 13.11 Nature, length of professional relationship with client.
- 13.12 Results in similar cases.

14. In this case, an award equal to one-third of the gross aggregate benefits made available to the class is, in my opinion, fair and reasonable. This is true for several reasons. Briefly, I will explain the reasons as I see them.

15. The percentage-of-the-benefit approach to fees has been commonly used and consistently approved by the Eighth Circuit. This Court has used the twelve *Johnson* factors to gauge both class and non-class action fee awards. *See, e.g., Bassett v. Credit Bureau Svcs.*, 8:16CV449, 2021 WL 6137509, at \*3 & n.2 (D. Neb Dec. 29, 2021). The twelve factors must be analyzed in the light of the record in this case.

### **1. Time & Labor Involved**

16. Class counsel's records show the total time and labor required to develop, prosecute, and settle the case. Here, class counsel committed more than 13,200 total hours to the case. (This excludes my time and the time of my paraprofessional.) I confirmed with Wagstaff & Cartmell personnel that its expenses in the case (exclusive of compensation due to me) exceed

\$1.2 million. Class counsel committed nearly five years and thousands of hours to develop this case and push it to trial. They spent considerable time to review records and develop fraud and RICO claims that greatly increased the potential value of the case, they withstood substantial challenges to class certification and the viability of the legal claims, and they prepared the case for trial. Importantly, after obtaining class certification, they refused to settle the case and instead committed substantial time and labor to defend this Court's class certification decision in the Eighth Circuit and the United States Supreme Court. Then, they spent considerable time and resources on expert reports and trial preparation.

17. This first factor falls squarely in the basket of support for Plaintiffs' fee application.

## **2. Novelty & Difficulty of Issues**

18. My work in this case started with review of the seventy-page First Amended Complaint. It describes a business model involving use of sophisticated means to extract excess fees from unwitting merchants in credit card transactions. It acknowledges and prepares the stage to prove the dramatic shift in the business environment to credit card usage, and the burden of fees imposed on small businesses. It explains that the credit card processing system is opaque for most merchants and translucent at best for a few. The First Amended Complaint introduces the off-putting vernacular of the credit card processing world.

19. Credit card processing is a maze. The First Amended Complaint cuts through and points a path from the uninformed daily transactions of Class Member merchants to a series of misrepresentations and deceptive practices. It includes references to specific times, places, persons, and circumstances in which false statements were made.

20. The First Amended Complaint describes "absurd provisions" in the contract documents, including an incorporation of separate Terms. (¶ 84). It discloses that the separate

Terms, including thirty-five pages of “dense legalese,” are designed to ensure that few merchants are likely to find the Terms and no merchants are likely to read or understand them.

21. The First Amended Complaint includes difficult claims like the always-difficult-to-establish covenant of good faith and fair dealing, violation of the RICO statute, and fraudulent concealment.

22. The claims are extraordinarily complicated. The U.S. Department of Justice, for example, requires that criminal RICO cases (which involve the same elements of proof) “must be submitted to The Organized Crime and Gang Section of U.S. DOJ for review and approval before being filed in court. And all pleadings alleging forfeiture or need for a temporary restraining order pursuant to RICO must be submitted to OCGS for review and approval prior to filing.” *See* <https://www.justice.gov/archives/usam/file/870856/download>.

23. The second factor also provides strong support for the requested fee.

### **3. Requisite Skill of Lawyers**

24. This Court closely observed the work product of class counsel throughout this case. Motions commanded the Court’s attention repeatedly. The Court dealt with an array of those Motions in its Memorandum and Order of December 20, 2021. Doc. No. 297 (Motions to Exclude Testimony of three witnesses, partial summary judgment, two Motions for Partial Summary Judgment, a Motion to Decertify the Class and a Motion to Continue the Trial.) The witnesses challenged were experts. In many ways the Motions were reiterations of previous filings and disposed of accordingly, as the earlier work was complicated. Evidentiary issues were addressed in Motions in Limine.

25. The skill requisite to perform these services was substantial. It included:

25.1 The ability to understand and appreciate the case’s conceptual possibilities at the outset.



- 25.2 Investigative skill, and financial resources to support it.
- 25.3 Evidence gathering skill during and after the investigative phase.
- 25.4 Theory selection and pleadings, which required a high degree of skill, but not as high as steps 1-3.
- 25.5 Expert witness identification and recruitment. This is one of the most difficult parts of a plaintiff's work. It requires skill, intensive investigation, and considerable expense.
- 25.6 Appellate briefing and argument. This is a specialized skill.

26. All these facts support the Plaintiffs' fee application in compelling terms.

#### **4. Preclusion of other employment**

27. "A lawyer's time is his stock in trade." Taking the time for this case precluded other employment. Class counsel knew that if they undertook this case, they would be devoting years of working time and energy to the effort, and that this time and energy would be unavailable to other clients. Given the complexity of this case, the time commitment falls on a higher end of the scale. Thus, the preclusion of other employment was likely more significant for this case than a less complex case that involved a lesser commitment of time. This factor favors class counsel's fee application.

#### **5. The Customary Fee**

28. As the Court knows, contingent fees of one-third of the recovery are commonplace in Nebraska and Iowa, and the central part of the United States. They are higher elsewhere. I am aware of recent submissions on fee applications in Texas reciting that contingent fees there are generally 40% to 50%. I have seen similar fee applications filed in the courts in California, and in the Second Circuit. While lawyers in the Midwest are still generally content with contingent fees of under 40%, there is no doubt that a fee of one-third of the recovery is reasonable and customary in this area.

29. The 2019 *Rawa v. Monsanto* decision by the Eighth Circuit lays to rest all doubt about whether a fee of one-third of the benefit is reasonable:

The fee award in this case [28% of requested 33%] is in line with other awards in this circuit. *See Huyer v. Buckley*, 849 F.3d 395, 399 (8th Cir. 2017) (“Indeed, courts have frequently awarded attorneys’ fees ranging up to 36% in class actions.”). And while the 5.3 lodestar multiplier is high, it does not exceed the bounds of reasonableness. *See, e.g., In re Charter Commc'ns, Inc., Sec. Litig.*, No. 4:02-cv-1186-CAS, 2005 WL 4045741, at \*18 (E.D. Mo. Jun. 30, 2005) (finding reasonable a 5.61 cross-check multiplier and noting that “[t]o overly emphasize the amount of hours spent on a contingency fee case would penalize counsel for obtaining an early settlement and would distort the value of the attorneys’ services” (internal quotation omitted)).

*Rawa v. Monsanto Company*, 934 F.3d 862, 870 (8th Cir. 2019); *See also In re U.S. Bancorp Litigation*, 291 F.3d 1035 (8th Cir. 2002) (affirming an award of 36% in class action litigation); *Yarrington v. Solvay Farm, Inc.*, 697 F. Supp. 2d 1057, 1061 (D. Minn. 2010) (award of 36% approved). This factor favors class counsel’s fee application as well.

## **6. The Fee is Contingent**

30. The arrangement with the Plaintiffs is 100% contingent. To recover even a fraction of their substantial investment in this case, class counsel had to succeed at class certification. To do so, they needed evidence of the defendant’s conduct impacting the class uniformly. That is a challenging undertaking in a complex case such as this one, especially when the defendant is able to make an interlocutory appeal in the middle of the case to the Eighth Circuit. This *Johnson* factor favors Plaintiffs’ fee request.

31. As has been observed by courts and scholars in upholding or supporting contingent fees, contracts for contingent fees are as much for the benefit of the client as of the attorney, especially in cases where the client has a meritorious cause of action but no means to pay for legal services unless he can make a contract for a contingent fee. 1 Robert Rossi, *Attorneys’ Fees*, §2.3, *Social considerations* § 2:3 (Westlaw 3d Ed Updated June 2021).

## **7. Time Limitations Imposed by Client or Circumstances**

32. This is not a factor I consider significant in the fee analysis in this case.

**8. Amount Involved. Results Obtained.**

33. This case began as a simple breach-of-contract putative class action. The initial complaint detailed several fees that were believed to be overbilled. But, as explained above, the First Amended Complaint added RICO and fraudulent concealment claims that greatly increased the amounts involved and the potential recovery for the class. I would estimate that the added benefit for the class from this work by Plaintiff's counsel is tens of millions of dollars. Plaintiffs' counsel's efforts resulted in a damages model of up to \$201.1 million, but that included several categories of damages—totaling more than \$125 million—on which the defendant filed a significant motion for partial summary judgment right before trial. I understand that the total amount of damages attributable to affirmative misrepresentations was approximately \$75 million.

34. Of course, liability and all of the damages were hotly contested. The defendant challenged and preserved an appeal on a number of different legal rulings that created significant risk for the class. A verdict and judgment at trial would not necessarily have assured a payout of any kind, given all of these legal issues raised by the defendant in this case. If the defendant was successful on appeal at the Eighth Circuit on any of these issues, then the class could have been left with nothing, or with far less than the settlement amount. The settlement in this case eliminates that risk.

35. The recovery of up to \$84 million is an excellent result in this situation. At least 185,800 class members are eligible to recover. None of them would have been in a position to recover anything without the services rendered by class counsel. The amount of the fee is reasonable.

36. The 33 1/3% fee proposed should not be judged in a vacuum, either. This case was successful. But sometimes meritorious cases are not, even after investment of enormous efforts by plaintiffs' lawyers. The risk element of a contingent fee must be met in successful cases with a reward to incentivize willingness for the Plaintiffs Bar to go to bat again, even against tough odds, on behalf of somebody else with a need.

37. This eighth factor supports the requested award.

### **9. Experience, Reputation & Ability of Lawyers**

38. The named Plaintiffs and the class members are served in this case by a cadre of lawyers with outstanding reputations. Those reputations are the product of significant skill applied in worthwhile situations where the lawyers have successfully tackled big problems and produced big changes in the lives of people. Without skill applied in worthwhile situations to produce it, "[r]eputation is an idle and most false imposition; oft got without merit and lost without deserving." Wm Shakespeare, *Othello* II, Sc3 l 262-64.

39. I know the lawyers from Wagstaff & Cartmell. I know their professional histories, the nature of their work, and their reputations in the community of lawyers engaged in similar practice in Kansas City. They practice elsewhere, but I know their reputations better than most lawyers here.

40. Mr. Hudson has a securities law background including time with the Securities & Exchange Commission of the United States. He has specialized knowledge and skill that was particularly well-suited for and necessary in this lawsuit. His knowledge of where and how to look for records in the credit card processing's system, examination of documents, and investigation of the intricacies of credit card processing would not have been successful without his background

and knowledge about complex systems. Mr. Hudson is a serious lawyer who knows that only ethical work can count as good work.

41. Mr. Barton has clerkship experience with both the Kansas Supreme Court and the Tenth Circuit Court of Appeals. He has worked in class action and multi-district litigation mass tort lawsuits throughout his career. Both Mr. Hudson and Mr. Barton have responsibilities in the National Opiate Prescription Litigation, as do I. I know both Mr. Barton and Mr. Hudson as persons with class action skills particularly in the commercial litigation area. They help people without means make strikes toward fair dealing by enforcing rights on consumer class action cases like this one. Mr. Barton is a strong advocate and a strongly disciplined lawyer. Eric has an academic's view of the law as a former instructor at the University of Kansas Law School and is a fundraiser for Legal Aid of Western Missouri. His reputation for ethical litigation is beyond reproach as I know it.

42. I do not personally know the lawyers at Webb, Klase & Lemond, who assisted with the prosecution of this case since its inception. I reviewed their firm resume and am aware that they have had much success pursuing overbilling claims against credit card processing companies in prior class cases. Repeated success does not happen by accident and requires the type of experience, skill, and ability that was necessary for success in this litigation.

43. This factor favors the requested fee award of 33 1/3%.

#### **10. The Undesirability of the Case**

44. No lawyer would have undertaken the litigation against this defendant for the two individual Plaintiffs. The potential recovery for any single individual Plaintiff was inadequate to permit any lawyer to do so. Even a pro bono organization funded with outside sources would have been unlikely to undertake this litigation with its complexities. I know of no such organization

with the skill or experience for the subject matter of this case. Mr. Hudson, Mr. Barton, and their co-counsel were invaluable in identifying the claim, undertaking, developing, and making the case.

45. The case could be pursued only as a high-risk, complex class action. It could not have been successful without the specialized efforts that Mr. Hudson, Mr. Barton, and their team provided. But this is often true of class actions for classes of consumers or small businesses. So, while this feature modestly favors the award of 33 1/3% of the benefit, it is less significant to me than other factors.

### **11. Nature & Length of the Professional Relationship**

46. This is not a factor I consider significant in the fee analysis since this is a class action case.

### **12. Similar Cases**

39. A fee of 33 1/3% of the settlement fund was found "... well in line with other attorney's fee awards in this circuit[,]" when this Court determined fees in *Anderson v. Travelex Ins Svcs, Inc.*, 2021 WL 430-7093 (D. Neb.) (Gerrard, J.). The *Anderson* Court cited *Rawa v. Monsanto Co.*, 934 F.3d 862 (8th Cir. 2019); *In re Target Corp. Customer Data Sec. Breach Litig.*, 892 F.3d 968, 978 (8th Cir. 2018); *Keil*, 862 F.3d at 701; *Caligiuri v. Symantec Corp.*, 855 F.3d 860, 865 (8th Cir 2017); *Huyer v. Buckley*, 849 F.3d 395, 399 (8th Cir. 2017); and *In re Life Time Fitness, Inc., Telephone Consumer Protection Act (TCPA) Litig.*, 847 F.3d 619 (8th Cir. 2017).

48. This final factor favors the requested fee of one-third of the benefit conferred.

### **Lodestar Cross-check**

49. Although not required by the Eighth Circuit, I know that a court will sometimes verify the reasonableness of its percentage award by cross-checking it against the lodestar. *See*,

*e.g., Keil v. Lopez*, 862 F.3d 685, 701 (8th Cir. 2017) (holding that a lodestar cross-check is not required but noting that it was done by the court below). The Eighth Circuit has explained that a multiplier of up to 5.3 times the lodestar amount, often referred to as a lodestar multiplier, “does not exceed the bounds of reasonable.” *Rawa v. Monsanto Company*, 934 F.3d 862, 870 (8th Cir. 2019). I asked Class Counsel to provide me with their billing records so that I could compare this case to *Rawa* to confirm that the requested fee is reasonable. Based on my evaluation, the multiplier does not approach the outer bounds set by the Eighth Circuit.

50. The lodestar through late April 2022, at reasonable hourly rates ranging from \$225 per hour for paralegals to \$750 per hour for experienced partners, is more than \$7.65 million. This does not include the substantial time that will be necessary for counsel to see the settlement through to its conclusion. Thus, given the requested fee amount, the lodestar multiplier is less than 3.66, which is well below the 5.3 multiplier approved in *Rawa*. 934 F.3d at 870.

51. Lodestar multipliers are essential to encourage lawyers to undertake complex cases like this one. These cases are not always successful and when they are not, they inflict deep pain in law firms and the lives of their personnel. Losing several years of work and expenses of \$1.2 million is enough to threaten the stability of a law practice like those of class counsel’s firms. It changes lives of the lawyers and paralegals and makes the vast majority of lawyers flee to the financial safe havens of risk-free billing practice patterns. The problem with this is that it removes from practice lawyers who are willing to take risks to enforce the law against large companies or organizations that abuse the rules and grow at the expenses of dependent, defenseless people with neither choice to refuse dealings with the abuser nor resources to battle the abuse alone. Contingent fees allow the disenfranchised to get help from the legal system against rich, powerful companies.

The risks for the lawyers are high; unless there is a substantial reward for success, there is no compensation or incentive to take the risk.

52. The lodestar multiplier sought here is around two-thirds (3.66 v. 5.3) of the multiplier approved in *Rawa v. Monsanto*, a case with no greater risks and fewer complexities. I am familiar with litigation against Monsanto and its Roundup herbicide. I filed four of the original thirteen cases that existed when MDL 2741, *In Re Roundup Herbicide Products*, was created by the Federal Judicial Panel. The *Rawa* case involved false labeling and overselling the herbicide with false claims about matters like the concentration level for effective weed control, and not the far more complex matter of proving a link between the herbicide and non-Hodgkin's lymphoma sickening and killing Roundup users.

53. This case against Central Payment Co. required digging out concealed evidence to prove falsity and make evidentiary connections like the more complex Roundup cancer cases. My work on the Roundup cancer cases qualifies me to express the opinion that the lodestar multiplier sought here is modest when compared with the conceptually and legally simpler problems faced by the *Rawa* lawyers in their false labeling case.

54. During my work on this case, I did not see evidence of attempts to create or exploit "billing opportunities" by the class lawyers. On the contrary, Class counsel performed the work in this case very efficiently and effectively. For example, the depositions demonstrate a high degree of skill, the presence of only essential personnel, and precision in examination of witnesses. Preparation of the Plaintiffs to give their critical depositions was managed responsibly by one lawyer, supported through the steps of final preparation by a second. This preparatory time was appropriate. Work invested with the identification, selection, presentation of materials to, and preparation for depositions of expert witnesses was also carefully performed.



55. **Conclusion.** A percentage-of-the-benefit fee award of 33 1/3% of \$84 million is fair and reasonable in this case. At least eight of the twelve *Johnson* Factors, adopted by the Eighth Circuit to evaluate the reasonableness of fees, provide strong support for the award. Two of the factors provide some support, and two are not really a consideration to me in this situation. None are negative or weigh against the requested fee award. Finally, although a lodestar cross-check is not necessary, the requested fee is also reasonable on that basis under Eighth Circuit law.

I, David A. Domina, declare, under penalty of perjury pursuant to 28 USC § 1746 and the laws of the United States that the foregoing statements are true and correct executed on May 2 2022.

  
David A. Domina

## David A Domina

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### Professional Credentials

Juris Doctor With Distinction, University of Nebraska at Lincoln. 1972.

Licensure	State Bar of Michigan	# P59800
	New York State Bar Assn	Reg # on Request
	Nebraska State Bar Assn	# 11043
	The Missouri Bar	# 24687
	US District Court of Kansas	
	US Supreme Court	
	US Courts of Appeals 6 <sup>th</sup> , 8 <sup>th</sup> , 9 <sup>th</sup> , 10 <sup>th</sup> , 11 <sup>th</sup> . & Fed Circuits	
	US Federal Claims Court	
	US Tax Court	
	US District Court District of Nebraska, 1973	
	US District Court Western District of Missouri, 1973	
	US District Court Eastern District of New York, 1995	
	US District Court Western District of New York, 1995	
	US District Court Northern District of New York, 1995	
	US District Court Southern District of New York, 1995	
	US District Court District of Arizona, 1995	
	US District Court Southern Illinois, 2015	
	US District Court Eastern District of Missouri 2019	

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**2018 Significant Cases:**

Trial co-counsel, proceedings before Nebraska Public Supreme Court opposing TransCanada KXL Pipeline route, resulting in 2-2-1 tie following total rejection of applicant's preferred route. *In re Application of TransCanada, Application No. OP-0003.*

Special Counsel, Omaha Tribe of Nebraska, Winnebago Tribe of Nebraska, Ponca Tribe of Nebraska, Santee Sioux Nation of Nebraska.

Special Counsel, County of Knox, State of Nebraska.

Defense Counsel, Criminal Proceedings, Distinguished State Patrol Officer (Won Dismissal of Homicide, False Testimony Charges).

**2017 Significant Cases:**

Trial & Appellate counsel in historic actions to terminate alcohol sales adjacent to Oglala Lakota Nation on NE-SD order, accomplishing cessation of sales attempted unsuccessfully by three (3) U.S. presidents. *Kozal v. Nebraska Liq Control Com'n, A-17-441 (2017).*

Trial co-counsel, proceedings before Nebraska Public Service Commission, opposing TransCanada KXL Pipeline route, resulting in 2-2-1 tie following total rejection of applicant's preferred route. *In re Application of TransCanada, Application No. OP-0003.*

*Frenchman Cambridge Irrig. Dist. v. State, Hill v. State of Nebraska, 296 Neb 10 (2017)*

*McGauley v. Washington County Nebraska, 297 Neb 124 (2017)*

*Salem Grain Co., Inc. v Consolidated Grain & Barge Co., 297 Neb 682 (2017)*

*Landowners v. TransCanada KXL Pipeline Co., Case Nos S-17-00116—0134; S-17-0366—0367; S-17-369; S-17-741-745; S-17-747 – 748; S-17-750; S-17-753—760; S-17- 424 (39 cases)*

**2016 Significant Cases:**

*Brozek v. Brozek, 292 Neb. 681 (2016)*

*K & H Hideaway Acres, LLC v. Cheloha, 24 Neb App 297 (2016)*

**2015 Significant Cases:**

*Robertson v. Jacobs Cattle Co.*, 292 Neb 195 (2015)

*DMK Biodiesel, LLC v. McCoy*, 290 Neb 286 (2015)

*Thompson v. Heineman*, 289 Neb 798 (2015)

**2014 Significant Cases:**

*In re Brennemann Trust*, 288 Neb 389 (2014)

*Robertson v. Jacobs Cattle Company*, Nebraska Supreme Court, S-13-0860, Oral Argument (2014)

*U.S.S. Hazard, Inc. v. City of Omaha Zoning Board of Appeals*, Nebraska Court of Appeals, A-13-0337, Oral Argument (2014)

*Brennemann v. Brennemann*, Nebraska Supreme Court, S-12-1029, Oral Argument (2014)

**2013 Significant Cases:**

*City of Albuquerque v. Horne-Stewart, LLC*, Second Judicial District Court, Bernalillo County, New Mexico, Case No. CV-2005-05603 (2013)

*Thompson v. Heineman*, District Court, Lancaster County, Nebraska, Case No. 12-2060 (2013)

*In Re: Hastings Acquisition, LLC v. Puretz*, US District Court, District of Nebraska, Case No. 10-cv-344 (2013)

*DMK Biodiesel, LLC v. McCoy*, Nebraska Supreme Court, 285 Neb 974, 830 NW2d 490 (2013)

*Banks v. Heineman*, Nebraska Supreme Court, 286 Neb 390, 837 NW2d 70 (2013)

*Robertson v. Jacobs Cattle Co.*, Nebraska Supreme Court, 285 Neb 859, 830 NW2d 191 (2013)

**2012 Significant Cases**

*Lesiak v. Central Valley Ag Cooperative, Inc.* 283 Neb 103, 808 NW2d 67 (2012)

*Behrens v. Blunk* 284 Neb 454, 822 NW2d 344 (2012)

*Banks v. Heineman*, Nebraska, Case No. CI 11-662 (2012)

*Robertson v. Jacobs Cattle Co.*, District Court, Valley County, Nebraska, Case No. 05-022 (2012)

*Schmidt v. Berglund*, District Court, Madison County, Nebraska, Case No. CI10-429 (2012)

*Michigan Dept. of Transportation v. Detroit Int'l Bridge Co.*, Circuit Court, Wayne County, Michigan, Case No. 09-015581-CK (2012) & Michigan Court of Appeals No. 298276 (2012)

### **2011 Significant Cases**

*Robertson v. Jacobs Cattle Co.*, District Court, Valley County, Nebraska, Case No. 05-022 (2011)

*Nebraska Real Estate Appraiser Board v. Okoruwa*, Nebraska Real Estate Appraiser Board, Case No. 09-07 & 09 (2011)

*Herbers v. Natural Pork Production II, LLP*, District Court, Shelby County, Iowa, Case No. LACV 018776

*Scott v. Khan*, District Court, Madison County, Nebraska, Case No. CI 08-207 (2011)

*Loper v. Jones*, Ninth Judicial District Court, State of New Mexico, Curry County, Case No. D-0905-CV-2007-00013 (2011)

*LOL Finance Co. v. Johnson*, United States District Court, District of Nebraska, Case No. 09-cv-3224 (2011)

*Heitman v. Barney*, District Court, Knox County, Nebraska, Case No. CI 08-2 (2011)

*Patterson v. Graham*, Superior Court State of Arizona, Graham County, Case No. CV2008-277 (2011)

*Producers Livestock Marketing Ass'n. v. Peterson*, Nebraska Court of Appeals, A-10-0436 Oral Argument (2011)

*Leonard v. Powers*, District Court, Sarpy County, Nebraska (2011)

*Schoenwald v. Jacob*, County Court, Dodge County, Nebraska, Case No. CI 10-594 (2011)

*Moats v. Republican Party of Nebraska*, 281 Neb 411, 796 NW2d 584 (2011)

### **2010 Significant Cases**

*Bernbeck v. Gale*, United States District Court, 2011 WL 3841602

*Behrens v. Blunk*, Nebraska Supreme Court, 280 Neb 984, 792 NW2d 159 (2010)

*In Re Trust of Mastny*, Nebraska Supreme Court, 281 Neb 188, 794 NW2d 700 (2011)

*In Re Trust of Mastny*, Nebraska Supreme Court, 281 Neb 188, 794 NW2d 700 (2011)

*Lesiak v. Central Valley Ag Cooperative, Inc.*, 283 Neb 103, 808 NW2d 67 (2012)

*Gary's Implement, Inc. v. Bridgeport Tractor Parts, Inc.*, 281 Neb 281, 799 NW2d 249 (2011)

*Scott v. Khan*, Nebraska Court of Appeals, A-10-0099, Oral Argument (2010)

*Bauermeister v. Waste Management Co*, 280 Neb 1, 783 NW2d 594 (2010)

*Hefley v. Praj Schneider, Inc.*, District Court, Douglas County, Nebraska, Doc. 1084 Page 465 (2010)

*Moats v. Republican Party of Nebraska*, Nebraska 281 Neb 411, 796 NW2d 584 (2011)

*In Re Estate of Johnson*, Nebraska Supreme Court, S-09-1193, S-09-1194, S-09-1195, S-09-1196, Oral Argument (2010)

*Kopecky v. Revell*, District Court, Holt County, Nebraska, Case No. CI 08-117 (2010)

*Luff v. State*, Nebraska Court of Appeals, 18 Neb App 422, 783 NW2d 625 (2010)

*Mastny v. State Farm*, District Court, Stanton County, Nebraska, Case No. CI 08-45 No. 261 (2010)

### **2009 Significant Cases**

*Bell v. Rail Container Co.*, District Court, Pottawattamie County, Iowa, Case No. 04781 EQCV 096178 (2009)

*In Re: Estate of Audree Bahr*, County Court, Pierce County, Nebraska, Case No. PR 07-029 (2009)

*Tolliver v. Visiting Nurse Association of the Midlands*, 278 Neb 532, 771 NW2d 908 (2009)

*Dominguez v. Eppley Transportation Services, Inc.*, 277 Neb 531, 763 NW2d 696 (2009)

## **Publications & Major Contributions**

### **2019**

2019 Conservation Champion Award, Nebraska Conservation Voters

### **2018**

Domina, David A. *Agriculture Fraud*, Invited Presentation, Heartland Chapter of the Association of Certified Fraud Examiners (July 10, 2018)

Domina Law Group pc llo, Engaged as Trial Counsel for All Federally Recognized Native American Tribes in Nebraska in National Prescription Opioids Litigation

Domina, David A., et al, *Yes, Virginia, the Constitution Applies in Family Court, Too*, Nebraska Lawyer Magazine (June 2018)

Domina, David A., *Nebraska Public Education and Property Taxation Issues, Rewriting the Law*, Invited Presentation, Ainsworth NE June 2, 2018

Domina, David A., *Nebraska Public Education and Property Taxation Issues, Rewriting the Law*, Invited Presentation, Chadron NE June 2, 2018

Domina, David A., *National Prescription Opioids Litigation*, Invited Presentation, Fremont NE May 2018

Domina, David A., Invited Interviewee, TransCanada Keystone XL Pipeline (Canadian Broadcasting Corp 2018)

Domina, David A., Invited Interviewee, Native Americans and National Prescription Opioids Litigation, Associated Press, Bloomberg News May, 2018

Domina, David A., Invited Interviewee, Native Americans and National Prescription New Mexico Public Radio 2018

### **2017**

Domina, David A., Invited Speaker, U.S. Alcohol Institute, Project Extra Mile

2017 Marty Conboy Public Advocate Award, Project Extra Mile

Domina, David A., *Turning from Fossil Fuels*, Invited Presentation, Midwest Sierra Club Annual Banquet (November 10, 2017)

Domina, David A., *Coming to Grips with an Unrealistic Property Tax*, Invited Presentation, Nebraska Independent Cattlemen, Valentine, Nebraska. (December 16, 2017)

Domina, David A., Invited Presentation, Nebraska Crop Consultants Association Annual Convention, Norfolk, Nebraska. (December 4, 2017)

Interviewee, *Washington Post*, *Esquire Magazine*, re Renewable Energy Issues

Invited Appearance, Canadian Broadcast Co, *Canada One*, Evening News August 2017

2017 Public Advocacy Annual Award, U.S. Alcohol Policy Affiliate, Project Extra Mile

2017 Public Service Annual Award Environmental Advocacy, Nebraska Sierra Club

## **2016**

Domina, David A., Invited Presenter, Nebraska State Bar Association Annual Meeting. Masters in Trial: Voir Dire Presentation & Appellate Practice Section Seminar. La Vista, NE (October 27 & 28, 2016)

Domina, David A., *Legal & Ethical Issues Involving Custody Evaluations. Trends & Emerging Issues at the Intersection of Mental Health & Family Law*, Invited Presentation, Midwest Family Law Association. Omaha, NE (September 23, 2016)

Domina, David A., Guest Speaker, Eminent Domain Presentation, Thedford, NE (September 7, 2016)

Domina, David A., Guest Speaker, Nebraska Farmers Union. Lincoln, NE (May 5, 2016)

Domina, David A., *Eminent Domain and Land Valuation Litigation 2016. Holding Private Condemnors to the Line*, Invited Presentation, American Law Institute Eminent Domain Conference. Austin, TX (January 28, 2016)

## **2015**

Domina, David A., Second Judge Puts Hold on Keystone XL Builder, *Omaha World Herald*, February 27, 2015

Domina, David A., They called him Johnnie, *Lincoln Journal Star*, March 1, 2015

Domina, David A., United Minority Contractors Threaten Lawsuit, *The Omaha Star*, Vol. 77-No. 8, February 20, 2015

Domina, David A., Eminent Domain & For-Profit Energy Companies: Avoiding Unrest with Landowners, *Nebraska Lawyer* 17, Jan/Feb 2015



Domina, David A., Guest Speaker, University of Nebraska Institute of Ag & Natural Resources. University of Nebraska, Lincoln NE (Jan 26, 2015)

Domina, David A., Guest Speaker, 20<sup>th</sup> Thomas R. Gallivan Jr Conference on Law of Eminent Domain. University of Connecticut School of Law, Hartford CT (Mar 20 2015).

Domina, David A. Guest Speaker, Environmental Law Society, Defensive Use of Eminent Domain. University of Kansas School of Law, Lawrence KS (April 2, 2015)

**2014**

Position Papers 1-31, Domina for Nebraska (Candidacy, United States Senate) 2014

Domina, David A., Constitution Law Series, Iowa Western Community College, February 2014

Domina, David A., Living Commitments Publicly: Steadfastness is Uncomfortable!, *American Legion Post 11*, Hastings, Nebraska, November 8, 2014

Member, Military Officers Association of America

**2013**

Domina, David A., Closing Argument, American Board of Trial Advocates, October 2013

Domina, David A., Risks on Multiple Representation, Nebraska State Bar Ass'n, October 2013

Domina, David A., Attorney At Law Magazine, Vol. 2, No. 1,

Domina, David A., Duke University Video Conference

Domina, David A. and Domina, Carol E., Judicial Retention: Removing the Target Starts at Home, 20 *Voir Dire* 13 (ABOTA Spring 2013)

Domina, David A., Federal Crop Insurance: What is it? How does it work? Sep 2013  
*Annual Iowa Ag Law Update* (Ames 2013)

**2012**

Domina, David A., Invited Guest, Negotiations with Major Companies, Eminent Domain, and Easement Issues  
O'Neill, Nebraska, May and June 2012  
Neligh, Nebraska, May 2012  
Central City, Nebraska, June 2012

Domina, David A., Invited Guest, *Dealing With Oil Pipeline Issues and Land Use*.  
Atkinson, Nebraska, July 2012

Domina, David A., and Wells, Jeremy R., Unfair Competition Issues Affecting the Auto Repair Industry (presented to Nebraska Auto Body Association, July 11, 2012).

Domina, David A., Federal Crop Insurance: What it Means and How it Works. Aftermath of the 2012 Drought (*The Nebraska Lawyer*, Nov-Dec 2012).

Domina, David A., Invited Guest, So You Are an Expert Witness? Want to be a Defendant, Too? Annual Kutak Rock Professionalism & Litigation Conference (2012).

## 2011

Domina, David A., and Brian E. Jorde, Nebraska's Regulatory Authority Over Oil Pipelines (Submitted to NE Legislature: Published Lincoln Journal Star)

Domina, David A., Invited Guest, *The Current*, Canadian Broadcasting 2011

Domina, David A., Invited Guest, Canadian Television Corporation 2011

Domina, David A., Closing Argument, American Board of Trial Advocates

Domina, David A., and Real, Dan, Book Chapter, Appellate Practice & Procedure, Appellate Practice Council, (ABA Books 2011) (release: December 2011)

Domina, David A., and Brian E. Jorde, "Trial: The Real Alternative Dispute Resolution Method! (ABOTA, *Voir Dire* Magazine, Winter 2011)

Counsel, *Terry v Tyson Farms*, Petition for Writ of Certiorari from U S Supreme Court to U S Court of Appeals, Sixth Circuit

Domina, David A. & C. Robert Taylor, Let's Look at the Statute. Surprise! It's Not About Efficiency, (*Organization for Competitive Markets*, Feb. 2011).

## 2010

Domina, David A. and C. Robert Taylor, Final Comments on GIPSA Proposed Rules, Report Prepared for U S Department of Agriculture for Official Comment on Competition In Livestock Industry (Invited by Org Competitive Markets. Submitted to USDA Nov.2010)

C. Robert Taylor and David A. Domina, Restoring Economic Health to Contract Poultry Production, Report prepared for the Joint U.S. Department of Justice, U.S. Department of Agriculture Workshop on Competition Issues in the Livestock Industry, August 25, 2010. (Taylor Invited Speaker, Normal AL May 2010)

Domina, David A., and C. Robert Taylor, Restoring Economic Health to Beef Markets, Report prepared for the Joint U.S. Department of Justice, U.S. Department of

Agriculture Workshop on Competition Issues in the Poultry Industry, May 13, 2010. (Domina invited speaker, Ft. Collins, CO, August 27, 2010)

Domina, David A., and C. Robert Taylor, “The Debilitating Effects of Concentration in Markets Affecting Agriculture,” *Drake Agricultural Law Journal*, Vol. 15(1), Spring 2010, 61:108.

Domina, David A., and Brian E. Jorde, “Trial: The Real Alternative Dispute Resolution Method”, Invited Publication, Nebraska Ass’n Trial Attorneys (Oct 2010) (Oral Publication by Mr. Jorde Supplemented Publication)

Domina, David A., “Issues in Case Selection: How to Choose, Not Just be Chosen By, Clients: A Plaintiff Lawyer’s Perspective”, Invited Publication, Nebraska Bar Ass’n (Oct 2010) (Oral Presentation Supplemented Publication)

Domina, David A., and Real, Daniel L., *The Insider’s Guide to the Nebraska Appellate Courts*, American Bar Association Appellate Practice Compendium (ABA Publishing 2010)

Domina, David A., Keynote Address (Invited) Market Structure & Fair Competition, Montana Cattlemen’s Ass’n (Lewistown MT Dec 2010)

Domina, David A., Keynote Address (Invited), What is Really in the GIPSA Rules, Kansas Cattlemen’s Ass’n (Great Bend KS (Nov 2010)

Domina, David A., and Brian E. Jorde (Invited Presentation), What are the Proposed Fair Competition Rules & How Do They Work?, Independent Cattlemen of Nebraska (North Platte NE Oct 2010)

## **2009**

Domina, David A., Electronic Markets: Essential for Fair Competition at the Marketplace, Invited Comments (USDA Dec 2009)

Domina, David A., and C. Robert Taylor, “The Debilitating Effects of Concentration in Markets Affecting Agriculture,” Organization for Competitive Markets Special Competition Committee Report, (September 2009)

Domina, David A., Speaker & Model Oral Advocate, American Bar Association (ABA) Appellate Conference (Chicago IL, May 2009)

Domina, David A., Sell Your Product, Not Next Guy’s, *Nebraska Farmer*, (April 2009)

Domina, David A., How To Protect Your Forward Price, *Nebraska Farmer*, (March 2009)

Domina, David A., Keynote Speaker: Organization for Competitive Markets (OCM)

Annual Convention, St. Louis, MO (August 2009)

Domina, David A., Model Appellant's Brief, American Bar Association, Appellate Conference (2009)

Domina, David A., Proving Unfair Business Practices in Court, Am Ag Law Institute, Williamsburg VA (2009)

## 2008

Domina, David A., *What Is the Bailout Bill? The Emergency Economic Stabilization Act of 2008*, *Nebraska Lawyer*, (Nov-Dec 2008)

Domina, David A., Cited in *Forbes Magazine*, January 7, 2008

Domina, David A., Invited Speaker, Nebraska Judicial Resources Commission Conference (Lincoln NE 2008)

Domina, David A., Invited Keynote Speaker, Citizens for Rural Schools, in connection with *Koch et al. v. Freeholder Board* (December 2008)

Domina, David A., Invited Sermon, *Public Service and Church Lives*, Methodist Conference (Omaha NE February 2008)

Domina, David A., Defense of Ancient Acts: Trial of Persons Accused of War Crimes in WW II (Military Channel 2008)

Domina, David A., Defense of Ancient Acts: Trial of Persons Accused of War Crimes in WW II (History Channel 2008)

## 2007

Counsel, *Raisin Valley Farms et v USDA*, Petition for Writ of Certiorari from U S Supreme Court to U S Court of Appeals, Federal Circuit

Domina, David A., Speaker, Creighton Law School, Appellate Advocacy, (March 2007)

Domina, David A., Invited Speaker, Litigation Symposium for CFOs, (Birmingham, MI Jan 2007)

Domina, David A., Invited Speaker, Nebraska Appellate Judges Seminar (February 2007)

Domina, David A., Invited Sermon, First United Methodist Church (Omaha NE February 2007)

Domina, David A., Invited Speaker, Nebraska Judicial Networking Coalition (Feb 2007)

Domina, David A., Invited Speaker, Knox County [NE] Partnership Dinner

Recognized as Leading Lawyer in *Chambers USA*, by legal publisher “Chambers & Partners”

## 2006

Domina, David A., Trial Counsel to Nebraska Legislature in Prosecution of Articles of Impeachment against Constitutional State Officer. Result: 1<sup>st</sup> Impeachment Conviction since 1871. 1<sup>st</sup> conviction ever in trial before any state or federal court sitting as a Court of Impeachment.

Domina, David A., Selected Appellate Counsel: Nebraska’s Oldest Charitable Foundation, Founded by Former US Senator, founder of State’s Largest Newspaper.

Domina, David A., Appellate Counsel: Precedent – establishing cases involving corporate stock transfer restrictions, tort of outrage, prosecutorial immunity challenge, & attack on statute imposing “sales tax” on telephone service.

Domina, David A., Lessons as Counsel for Creditors of A Huge Cattle Rustler, Independent Cattlemen of Nebraska (October, 2006)

Domina, David A., Effective Oral Argument: Thoughts on Appellate Advocacy, *The Nebraska Lawyer*, April 2006. p 40-42.

Domina, David A., Chapter Author, *The Abundance of Our Faith: Award-winning Sermons on Giving Plus Suggestions for Group Discussion* (Skinner House 2006)

Domina, David A., *The Trial Judge’s Role in Nebraska Appellate Jurisdiction* Neb Judges, in Convention, 2006 (Invited Written and Oral Presentation to All State Judges)

Domina, David A., *Final Orders. Nebraska’s Quagmire*, NSBA Continuing Legal Ed, Lincoln, NE (March 2006)

## 2005

Domina, David A., Invited Appellate Counsel, *Amicus Curiae* Group of Organizations with Membership totaling more than 50 million Americans, *R-Calf USA v. USDA*, U.S. Court of Appeals, 9<sup>th</sup> Cir. (2005).

Domina, David A., Changing Methods for Changing Clients and Times, Nebraska Association of Trial Attorneys, 2005.

Domina, David A., Trial Counsel, Five 2005 cases involving jury verdicts in excess of \$1 million.

Domina, David A., 2005 Trial Counsel, complex claims resolving matters in excess of \$200 million in U.S. Bankruptcy Court.

Domina, David A., Guest Lecturer, Independent Courts, University of Nebraska at Omaha.

## 2004

Domina, David A., Lead Trial Counsel, *Pickett v Tyson Fresh Meats, Inc.* (formerly *IBP, Inc.*) US Dist Ct MD AL (tried to verdict - \$1.28 billion)

Domina, David A., Proving Anti-Competitive Conduct in the U.S. Courtroom: The Plaintiff's Argument in *Pickett v Tyson Fresh Meats, Inc.*, *Journal of Agricultural & Food Industrial Organization*: Vol. 2: Iss. 1, Article 8.

Domina, David A., *Julia is A Federal Juror*. VOIR DIRE (American Board of Trial Advocates Fall 2004) p. 12-23.

Domina, David A., *International Meat Trade Issues* (Salzburg, Austria) Paper & Lecture (Invited Presentation November 2004)

Slowiaczek, John and David A. Domina, The Equitable Distribution of Farms, *Journal of the American Academy of Matrimonial Lawyers*, 18 (2) (2004)

Domina, David A., *Defining Competition in US Courtrooms*, Invited Presentation to University of Nebraska - Lincoln (Invitation of College of Law & Dept of Agricultural Economics)

Domina, David A., Trial Counsel, Four 2004 cases with verdicts in excess of \$ 1 million.

## 2003

Domina, David A., *Discovery in Complex Cases*, Digilearn Online CLE. Approved NY, MO, TX, CA, etc.

Domina, David A., *Discovery in Complex Dissolution Cases*, Nebraska State Bar Ass'n, October 2003

Domina, David A., *Antitrust: Time to Raise Awareness Among the Bar*, Digilearn Online CLE. Approved NY, MO, TX, CA, etc.

Domina, David A., *It's Time for Antitrust To Move West*, Wyoming Trial Lawyers Ass'n, Invited Presentation, (Cody, WY June 2003).

Domina, David A., *Pickett v. IBP, Litigation to Change the Way Cattle are Marketed* Wyoming Livestock Assn. & R-CALF, WY State Fair,) Douglas, WY, (August 2003)

Domina, David A., *Antitrust Litigation and Livestock Marketing*. Invited Presentation, Livestock Marketing Assn (Ogallala, NE, June 2003)

## 2002

Domina, David A., *It's Time for Antitrust to Come to The Prairie*  
The Nebraska Lawyer, December 2002. p 7-12.

Domina, David A., *Antitrust Litigation and the Packers & Stockyards Act of 1921*  
Invited Presentation, Austin TX Atty Conf (November 2002)

Domina, David A., *Battling Market Concentration in the Courtroom*  
Invited Presentation, Org for Competitive Markets Annual Convention (Omaha NE, August 2002)

Domina, David A., *Leveling the Playing Field. Fair Competition for America's Producers*,  
Invited Presentation, Nebraska Farm Bureau, Humphrey, NE, (March 2002)

Domina, David A., *Litigation and Fair Competition for America's Producers*  
R-CALF (Rural Cattlemen's Action Legal Fund National Convention, Kansas City, MO, (January 2002)

Domina, David A., *Northwest US Cattlemen's Update Livestock Litigation and Developments*, Billings, MT, (December 2002)

Domina, David A., *Unfair Competition Through Vertical Integration. Unfair Price Competition*, Invited Presentation, Attorney's Conference, Org for Competitive Markets, Austin, TX

Domina, David A., *Litigation to Meet Price Emergencies. Combating Unfair Monopsony Power*, Price Crisis Meeting & Seminar, Org for Competitive Markets R-CALF & Nebraska Cattlemen, Omaha, NE (May 2002)

Domina, David A., *Litigation to Meet Price Emergencies. Combating Unfair Monopsony Power*, Price Crisis Meeting & Seminar, Organization for Competitive Markets & R-CALF, (Amarillo, TX, June 2002)

Domina, David A., *Litigation to Meet Price Emergencies. Combating Unfair Monopsony Power*, Price Crisis Mtg & Seminar, Org for Competitive Markets & R-CALF, (Memphis, TN, June 2002)

## 2001

Domina, David A., *Trial of Large Livestock Nuisance Cases; Preventive Practice and Practicalities*. (Invited Presentation, Midwest Pork Producers, Sioux City IA)

Domina, David A., *Voir Dire in an Urban Setting*, Invited Presentation (NATA, Lincoln NE Sept 2001)

Domina, David A., *New Rules: Expert Witnesses. Schafersman v Agland Coop, A Summary*, NATA, (Omaha NE 2001)

Domina, David A., *The Beginning: Ethical Study, Ethical Practice*, (Invited Presentation), All Class Orientation, University of Nebraska College of Law (Sept 2001)

Domina, David A., *Counsel, Williams v State, Petition for Writ of Certiorari from U S Supreme Court to U S Court of Appeals, Eighth Circuit*

## **2000**

Domina, David A., *Objection! A Powerful Word! Prairie Barrister* (Summer 2000)

Domina, David A., *Keynote Address: Concentrated Markets: Risks to American Security, Competitive Market Conference* (Kansas City MO, July 2000)

Domina, David A., *Closing Argument – Law & Presentation*, (Lorman, NATA 2000)

Domina, David A., *Medical Examinations – Limitations, Prairie Barrister* (Fall 2000)

Domina, David A., *Focused Trial Practice, Small Firm v Mega Practice* (Univ of NE)

## **1999**

Lead Trial Counsel, 12-week trial, Dispute Among Prominent Michigan Family (Circuit Court Oakland County MI)

Domina, David A., *Medical Examinations and Rule 35, Prairie Barrister* (Fall 1999)

Domina, David A., *Impeachment of Andrew Johnson, VOIR DIRE* (ABOTA, Fall 1999)

Domina, David A., *Implications of Nebraska's Impeachment Experience for the Impeachment of President Clinton*, (Invited Presentation) (UNL 1999)

## **1998**

Domina, David A., *Lead Trial Counsel, CenTra v Chandler Ins Co.*, U S Dist Ct MD Okla (shareholder derivative action against officers of public company)

Domina, David A., *Opening Statements – Law & Presentation*, (NATA, Lincoln NE)

Domina, David A., *Medical Examinations – Techniques for Combating Abuses*, (NATA, Omaha NE)

## **1997**



Domina, David A., *Orientation to the Legal Profession*, Guest, University of Nebraska College of Law (Lincoln NE)

Domina, David A., *Ethical Dilemmas in Daily Practice*, Guest, University of Nebraska College of Law (Lincoln NE)

Domina, David A., Rule 35 and Medical Examinations. *Prairie Barrister* (Spring 1997)

Domina, David A., How Important Is Trial By Jury? *VOIR DIRE* 4(4) (1997)

Domina, David A., Speaking, Sharing, Acting, Invited Sermon First United Methodist, Omaha, NE

### **1996**

Domina, David A., Recipient, Skinner Sermon of Year Award, (Unitarian Univ Ass'n Of North America 1996)

Domina, David A., Invited Keynote Sermon, General Assembly (Unitarian Univ Ass'n 1997) (1997 Sermon of the Year Award Winner—North America).

Domina, David A., *Trial; A Primer*, Nat't Inst Legal Ed (1996)

Domina, David A., Commercial Transactions & Litigation Risks, *Voice Magazine* Midwest Retailers 1996)

Domina, David A., Love, Money & Unitarianism, Series, Invited Sermons Unitarian Church, Omaha, NE

### **1995**

Domina, David A., *Closing Argument -- Technique & Sincerity*, (Neb State Bar 1995)

Domina, David A., *Masters in Trial*, American Board of Trial Advocates Kansas City MO)

Domina, David A., *Unitarianism & Spirituality: Parallels & Paradoxes*, Series of Invited Sermons, Second Unitarian Church, Omaha, NE

Domina, David A., *The Energy of Action...The Duty of Unitarian Universalism*, Invited Sermon, Midwest Conference, UUA, Des Moines IA

**1994**

Domina, David A., *Preventing and Trying Nuisance Claims*, (Sioux City IA)

Domina, David A., *Nuisance Law and Livestock Producer's Risks* Nebraska Cattlemen's Assn (Ogallala NE)

Domina, David A., *A New Member Looks at the Church*, Series of Invited Sermons, Multiple Sites, Omaha, NE

**1993**

Domina, David A., Expert Witness Direct & Cross Examination, (NATA Lincoln NE)

Domina, David A., UCC Issues for Grocers, *Voice* (Midwest Retailers 1993)

Domina, David A., *Jones v Clinton*, Appellate Advocacy, Nat'l Inst Legal Edu & Eighth Circuit (1993)

**1992**

Domina, David A., Selected, University of Nebraska College of Law Representatives – Decade of the 1970s

Domina, David A., Guest Lecturer, Sociology & the Law, Dana College.

**1991**

Domina, David A., *Masters in Trial*; Am Bd of Trial Advocates (Omaha NE)

Domina, David A., *Back From the Future & Then Into It*, Series, Invited Sermons, Omaha NE

**1989**

Domina, David A., *Interviews, Beauty Contests, and Client Counsel Selection* (Small Law Firms Representative) Am Bar Assn Convention

Domina, David A., Attorneys Dispel Myth of 'Small Town Lawyer.' *The Nebraska Transcript*, Vol 23 Issue 213, Spring 1989.

Domina, David A., *Cutshall Program*, CBS News 60 Minutes (August & December)

**1988**

Domina, David A., Comparative Negligence, A Plaintiff's Perspective, (7<sup>th</sup> Jud Dist Annual Convention, Invited Paper, Norfolk NE 1988)

Domina, David A., *Disappearance & Defense*, CBS News 60 Minutes, (2 segments 1988).

**1987**

Domina, David A., Leadership and the Law, Nebraska Youth Leadership Counsel  
(Invited Presentation 1987)

Domina, David A., Can Economic Development Efforts Make A Difference in  
the Midwest's Smaller Cities? (Norfolk NE 1987)

Domina, David A., What Responsibility: Manufacturing Quality Products that Do  
Not Work As Applied? (Lansing MI 1987).

**1986**

Domina, David A., Candidate, Governor of Nebraska  
(Author, Position Papers:  
Infrastructure Improvements, Revitalization of Rural Nebraska, Nebraska Law  
and Market Fairness, Nebraska Tax Policy: Time for an Overhaul: Nebraska:  
Priorities for a New Millennium; The Benefits of Consolidating State Law  
Enforcement Resources; Corrections to Prevent Recidivism, Not Just to Punish;  
Stopping Meth in Nebraska; Capitalizing on Nebraska's Water Resources)

**1985**

Domina, David A., Products Liability Trial and Practice, Neb State Bar Cont Legal  
Education Studies (Lincoln NE 2005).

Domina, David A., Nebraska's Future with Conservation: Can Wind Become A Product?  
(WIFE, Kearney NE 1985)

**1984**

Domina, David A., *Trial Demonstration & Techniques* NATA

Domina, David A., Trial Services, Impeachment Proceedings, Attorney General of  
Nebraska (Nebraska Supreme Court 2004) (Vote: 4: convict; 3 acquit).

**1983**

Domina, David A., Appointed (Concurrence of Governor and Attorney General), Chief  
Investigator, Commonwealth Savings Co. Collapse, Investigation of Attorney  
General of Nebraska, Investigation of Nebraska Investment Guarantee Ass'n)

Domina, David A., and John Miller, *Report to the Citizens of Nebraska on Public Officials & Their Conduct – Failure of Commonwealth Savings* (Delivered to Clerk, NE Legislature, December 2003)

Domina, David A., Investigation, Impeachment, Nebraska Attorney General

**1982-86** Nebraska Board of Education, Lands and Funds

**1975-82** *Developments in Nebraska Law – Government, Municipalities Schools, Civil Procedure. Annual Presentations*

**1973-79** Lawyer, Judge Advocate General Corps, United States Army and Army Reserve

**1972-73** Associate Editor, Nebraska Law Review

**1972** *Appellate Review of Workers Compensation Cases, Nebraska Law Review, 1972.*

**1969-72** Member, National Moot Court Team, University of Nebraska

### **Representative Services As Guest Speaker**

University of Nebraska 100<sup>th</sup> Anniversary of the *Nebraska Law Review*.  
Speaker Representing the decade of the 70's of the *Nebraska Law Review*  
Topic: "Impact on Advocacy" April 9, 2022

Nebraska State Chamber of Commerce, August 2014  
Nebraska Educational TV & Public Radio Debate, September 2014  
Nebraska State Fair Debate, September 2014

Guest Sermon: UUA General Convention, Washington 1995  
Guest Sermon: UUA Midwest Convention 1996  
Guest Sermons: Numerous Churches

USDOJ/ USDA Ag Market Competition Workshops  
Duke University College of Law  
University of Nebraska Dept of Ag Economics

Creighton University College of Law  
University of Nebraska College of Law  
Kansas Cattlemen's Association

South Dakota Stock Growers Association  
Montana Stock Growers Association  
Nebraska Cattlemen's Association  
Department of Justice & USDA Workshop  
Independent Cattlemen of Nebraska  
R-CALF USA National Conventions

Madera County, California, Chamber of Commerce & Farm Bureau  
Independent Pork Producer Groups  
Organization for Competitive Markets (OCM)  
Central California Raisin Valley Producers

UNL Midwest Pork Conference  
Nebraska Pork Producers  
81-91 Pork Producers  
Affiliated Foods Annual Conferences

National Grocers Association  
Salzburg Austria International Legal Conference  
U.S. Congressional Inquiry Committee  
Concentration in Agricultural Markets

American Board of Trial Advocates  
Wyoming Trial Lawyers Association  
Nebraska Trial Lawyers Association  
Nebraska Bar Association  
American Bar Association  
Nebraska Paralegal Association  
Numerous Veterans Day & Memorial Day speeches

## Volunteer

Counsel for Environmental Groups, Keystone XL Pipeline Litigation  
Counsel for Protestants, Whiteclay Liquor Distribution Closure  
Counsel for Victims of Law Enforcement Gun Violence  
Counsel, Reproductive Rights Services  
Death Penalty Defense & *Habeas Corpus*  
Defense of Accused State Legislator  
Defense of Accused Judge  
Defense of Numerous Lawyers in Disciplinary Matters  
Accepted Court Appointment in Highly Public  
Capital and Life Incarceration Defenses  
Numerous Bar Association Activities  
Numerous Churches, Schools, Universities Presentations  
BOLD Nebraska, Environmental Efforts  
Pro Bono: *Van Groningen v. City of Lincoln*, District Court, Lancaster County, Nebraska,  
Case No. CI 07-4595 (2007)  
National Organization for Women  
Feminist, Inc.  
Nebraska Easement Action Team  
Independent Cattlemen of Nebraska, Inc.  
*Moats v. Nebraska Republican Party*  
Organization for Competitive Markets  
American Board of Trial Advocates

**Service as Expert Witness**

<b>Year</b>	<b>Case</b>	<b>Court/Case Number</b>	<b>Lawyer</b>	
2013	<i>DCR Const v Travelers</i>	District Court, Thayer County Case No. CI08-101 Case No. CI11-104	Bruce Loren W. Palm Beach, Florida	<u>Y</u> Report <u>Y</u> Testimony
2013	<i>KCI Enterprises v. Holm Wright</i> Disclosure of conflict of interests.	Superior Court, Maricopa County, AZ Case No. CV2011-01383	Jason Bruno	<u>N</u> Report <u>  </u> Testimony
2012	<i>McCord v. Piuze</i> Fee dispute – division of contingent appellate fee	District Court Lancaster County, NE Case No. CI 06-3284	R. Mullin P. Ezzell	<u>Y</u> Report <u>Ct</u> Testimony
2011	<i>Rothlisberger v. Centris Federal Credit Union, et al.</i> Perfection of RE lien	District Court Sarpy County, NE Case No. CI 11-622	Larry Welch, Sr.	<u>N</u> Report <u>N</u> Testimony
2010	<i>Dowding v. Freidman</i> Fee dispute—division of contingent fee	District Court Saline County, NE Case No. CI 08-72	Joseph Dowding	<u>Y</u> Report <u>N</u> Testimony