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Bar Talk

President's Welcome Message

By Adam Hansen



It is my great honor to welcome everyone to the Minnesota Chapter of the Federal Bar Association!

For more than 80 years, our Chapter has worked hard to serve our bench, bar, and broader community. As we embark on a new term, our mission and our values—upholding the rule of law, fostering diversity and inclusion in the legal profession, encouraging professionalism and civility, and engaging with our community—remain as vital as ever. With these values front and center, our Chapter is poised for an extraordinary year. Now that the worst of the Covid pandemic is hopefully behind us (note to reader: please knock on the most accessible wooden object), our Chapter is moving full steam ahead. I am beyond

excited by the incredible variety of dynamic programs and events our Chapter leaders have in the works in the coming year. Whether you're a seasoned FBA veteran or brand new to our organization, I hope you take the opportunity to get involved. All are welcome here. And at day's end, our Chapter owes its success to you: our members, who through your dedication and commitment bring our Chapter's work to life. Welcome!

Let me begin by highlighting some of the great things our Chapter has in store.

Since 2020, the FBA has partnered with the Court to develop the Minnesota Justice & Democracy Centers. These centers, located in the St. Paul and Minneapolis federal courthouses, will

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47th Annual Federal Practice Seminar Returns in Person

By Garrett Stadler

On June 14, 2022, the Minnesota Chapter held its 47th Annual Federal Practice Seminar at the Nicollet Island Pavilion in Minneapolis. It was the district's first in-person seminar since the start of the COVID-19 pandemic. Participants were welcomed by Magistrate Judge Hildy Bowbeer, Chief Judge John R. Tunheim, and Chapter President Daniel Hedlund of Gustafson Gluek PLLC.



The day began with a brief discussion by Shannon Elkins, Office of the Federal Defender for the District of Minnesota, detailing how adaptations to the pandemic have impacted criminal defendants. Ms. Elkins discussed benefits and drawbacks of remote proceedings, including challenges posed by limited in-person access to clients and the practical effect that remote proceedings can have on defendants' perceptions of the process. Ms. Elkins concluded by predicting adaptations that are likely to continue into the future.

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NLC Luncheon with Judge Stras

By Stephen Morrison

The Honorable David R. Stras, Circuit Judge for the U.S. Court of Appeals for the Eighth Circuit, was featured at the May Newer Lawyers Committee luncheon. Prior to his federal appellate appointment in 2018, Judge Stras served as an Associate Justice on the Minnesota Supreme Court and professor at the University of Minnesota School of Law. Over lunch, Judge Stras articulated a primer for appellate practice, delivered with entertaining and professorial anecdotes. He cold-opened by humorously reminiscing about his three days of relatively recent unemployment—between judgeships—during which time he had to figure out exactly how to enroll in healthcare benefits. This was likely a rhetorical reminder that judges are human, too.

Turning to appellate practice, Judge Stras reflected on state versus appellate judging. As a court of last resort, the Minnesota Supreme Court has mostly discretionary jurisdiction. During Judge Stras's tenure, this resulted in review of about 110 cases per year. Splitting those among the seven justices meant each justice was responsible for drafting about 15 to 20 opinions per year.

Things are different now at the Eighth Circuit. Of course, federal subject-matter jurisdiction is limited. Even though Judge Stras no longer encounters probate and domestic-relations matters, he estimated that his caseload effectively doubled after moving to the federal bench. Naturally, a heavier caseload means less time is devoted to each case.

Judge Stras's juxtaposition of state and appellate judging provided the groundwork for a few pointers for the appellate practitioner. First, clarity and brevity are critical. Crafting a clear presentation of the most salient facts and ensuring arguments are organized, not tangential, is key. Second, oral argument carries more weight in the federal appellate context. In fact, Judge Stras explained that since moving to the Eighth Circuit, oral argument has more frequently changed his mind. (He admitted, however, that this happens less over Zoom.) Oral argument can be a difference maker, so don't waste it.

NLC Luncheon, continued on page 11.



12th Annual Disability Justice Seminar: Changing the Conversation About Guardianship

By Irina L. Vaynerman and Chelsea A. Walcker

On May 3, 2022, the Minnesota Chapter of the FBA's Diversity and Inclusion Committee, Robins Kaplan LLP, and the Minnesota Governor's Council on Developmental Disabilities co-sponsored the 12th Annual Disability Justice Seminar. This year's seminar, entitled "Britney Spears and Disability Justice: How One Celebrity Changed the Conversation About Guardianship," attracted the largest number of attendees ever, with more than 250 attorneys and community advocates in attendance.

The seminar consisted of a panel discussion highlighting issues related to guardianship, conservatorship, and supported decision-making. Minnesota Supreme Court Chief Justice Lorie S. Gildea, appearing by video, provided opening remarks. Chief Justice Gildea discussed recent initiatives and technological innovations implemented by the State of Minnesota Judicial Branch to safeguard the rights of individuals under guardianship and conservatorship and to advance the use of supported decision-making in Minnesota. Following Chief Justice Gildea's remarks,

self-advocate Carrie Varner and Bud Rosenfield, Ombudsman for Mental Health and Developmental Disabilities, provided some examples of challenges and concerns that arise in guardianship and conservatorship matters.

Panelists included University of St. Thomas School of Law Professor Jennifer Wright and social worker Anita Raymond. They provided a legal overview of guardianship and discussed the shift to supported decision-making. Summarizing this important shift, Professor Wright explained, "Where we envision guardianship now is a process, not an end, and that process is intended, wherever possible, to lead to increased decision-making capacity on the part of the person subject to guardianship and increased support of their decision-making." Raymond similarly described how this shift is reflected in recent developments in Minnesota state law. For instance, as of 2020, Minnesota law clarifies that through supported decision-making, an individual receives support so they can make informed decisions consistent with their own desires, rather than having

Disability Justice Seminar, continued on page 16.

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bring together Minnesotans of all ages to learn—through visual displays, live events, and online interactive presentations—why justice and democracy matter in their lives. After many years of planning and hard work, the St. Paul Justice & Democracy Center is on track to open this winter. The Minneapolis Center will follow in late 2023 or early 2024. Chapter leaders Keiko Sugisaka, Elizabeth Bentley, and Jeff Justman are leading our efforts on this vital initiative.

The opening of the Justice & Democracy Centers should serve as an inspiration for our Chapter's other work, too. We are living through a unique moment in history—for our profession, our country, and the world. Our work as attorneys and officers of the court embodies the same principles carved into the cornerstones of justice and democracy: the fair application of neutral legal rules, scrupulous attention to facts and evidence, and respect for the constitutionally assigned role of every actor in our democratic order.

Much of our Chapter's programming in the coming year will reinforce these same themes. The Community Outreach Committee (led by Judge William Fisher, Vanessa Szalapski, Joey Balthazor, and Sam Walling) is planning a number of civics-oriented initiatives. In particular, our Chapter plans a long-awaited return (after an unfortunate Covid hiatus) of Court Camp: a week-long immersive experience where local students learn about our federal court system. And the Monthly Meetings Committee (chaired by Judge Eric Tostrud, Nate Louwagie, and Brittany Resch) plans to present a program on election administration in November.

Speaking of monthly meetings, I'm pleased to report that we plan to continue with in-person luncheons at the Minneapolis Club. At our first meeting, on September 14, we'll hear remarks from the Court's newest Article III judge, Judge Kate Menendez. The October 12 luncheon will feature reflections by Senior Judge Susan Richard Nelson. And the third lunch, on November 9 (the day after Election Day), will include a timely discussion on election law and administration.

Our Chapter's various practice groups (Intellectual Property, led by Magistrate Judge Elizabeth Cowan Wright, Molly Littman, and Sheila Niaz; White Collar Crime, led by Kim Svendsen, Nick Scheiner, and Matthew Ebert; Mass Tort, Multi-District Litigation, and Class Actions, led by Kate Baxter-Kauf, Stacey Slaughter, and Scott Moriarity) also promise a return to form. Stay tuned for CLE events and networking opportunities from these groups. I'm also happy to share that our Chapter is launching a brand-new practice group this year: the Civil Discovery Practice Group. This group will

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Clerk's Corner

By Andrew Pieper

Operational Updates

On June 17, Chief Judge Tunheim issued [General Order No. 37](#), which vacates General Order No. 35 and continues our Continuity of Operations status for the District for another 90 days. The Order directs court operations under exigent circumstances created by COVID-19.

Criminal Duty proceedings resumed in-person on July 5.

On July 11, attorneys and pro se parties were granted electronic access to their sealed cases only. The change applies to new cases going forward and will not be applied retroactively. If an attorney or pro se party would like to request sealed access to a previously filed case, please contact the ECF Helpdesk at (612) 664-5155. The Clerk's Office will continue to file sealed documents in sealed cases if received from an attorney. The Clerk's Office will add sealed access for that attorney and contact the attorney to let them know that they can file documents in sealed cases themselves. Please note, counsel must exchange sealed documents outside of ECF.

Also on July 11, the Clerk's Office implemented centralized receipting, which centralized receipting functions from all court locations to the Minneapolis courthouse. Minneapolis will serve as the primary location to accept and process mail and in-person payments. However, customers will have the option to make online criminal debt payments using public terminals via Pay.gov at all four courthouse locations.

Celebrating the Past and Present

The past several months have been full of celebrations.

On May 4, the Court officially unveiled the plaque honoring former Congressman Martin Sabo. The plaque, which is near the bottom of the escalators on the first floor of the Minneapolis Courthouse, recognizes Congressman Sabo's life and accomplishments—including his key role in securing nearly \$100 million in funding to construct the Minneapolis Courthouse and in securing funding to purchase the Fergus Falls Courthouse from the Postal Service.

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Our New Chief Judge, the Honorable Patrick J. Schiltz

By Kristen Marttila and Amanda Mills



Judge Patrick J. Schiltz began a seven-year term as chief judge of the District of Minnesota on July 1, 2022, succeeding Chief Judge John R. Tunheim. Among Chief Judge Schiltz's new responsibilities is caretaker of a bejeweled, floppy bow tie originally belonging to the first chief judge of the District, Chief Judge Gunnar Nordbye. In the past, the jaunty accessory has been referred to as a "western bow tie," but in a ceremonial handover of the tie during the annual Federal Practice Seminar on June 14, 2022, Chief Judge Tunheim noted that it should instead be called "western neckwear." After all, at some point, the District likely will have a female chief judge, and she, too, will assume the role of caring for—and potentially even wearing—this piece of Minnesota history. Following the transfer of the neckwear, Chief Judge Schiltz gave brief remarks about challenges facing the District and the federal judiciary.

In follow-up comments to Bar Talk, Chief Judge Schiltz noted that his top priority for his term as chief judge is to keep "the trains running on time—making sure that the work of the Court gets done and done well." For many years, the Court has relied on its senior judges to help maintain manageable caseloads for the active judges. The majority of the District's senior judges are now taking fewer civil cases, which will result in substantially higher caseloads for the District's active judges. As a result, Chief Judge Schiltz noted, "We are probably going

to need to rethink the way that we do our work; for example, the district judges may find themselves unable to schedule oral argument on every civil motion, and the magistrate judges may not be able to conduct settlement conferences in every civil case."

Another concern for Chief Judge Schiltz is judicial security, particularly in a time of striking political polarization. Courts have seen a substantial increase in the threats made against judges, and Chief Judge Schiltz sees significant challenges in protecting judges both inside and outside the courthouse—an effort that would require the help of both Congress and the Minnesota Legislature.

Finally, Chief Judge Schiltz is concerned about the myriad threats to judicial independence, including those from prominent politicians in both parties seeking to punish judges for unpopular rulings and those from mobs seeking to intimidate judges by showing up at their homes. Chief Judge Schiltz noted:

In our highly polarized era, an independent judiciary is the glue that holds this country together. Not only do most Americans not understand that, but most Americans know virtually nothing about the judiciary. Our Court has long been at the forefront of civic education, and our efforts will increase with the opening of our Justice & Democracy Center in the St. Paul Courthouse.

Chief Judge Schiltz is a native of Duluth, Minnesota, where he graduated summa cum laude from the College of St. Scholastica; he then graduated magna cum laude from Harvard Law School, where he was an editor of the Harvard Law Review. Thereafter, Chief Judge Schiltz clerked for Justice Antonin Scalia on both the D.C. Circuit and the United States Supreme Court. He then practiced law at Faegre & Benson LLP in Minneapolis.

In 1995, Chief Judge Schiltz left private practice to join the faculty of Notre Dame Law School, where he taught Civil Procedure, Evidence, and Sports Law. While at Notre Dame Law School, Chief Judge Schiltz authored a law-review article titled "On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession." That article is one of the most widely read law-review articles ever published and was identified by the Washington Post as one of nine

Our New Chief Judge, continued on page 19.

Federal Practice Seminar, continued from page 1.

The day progressed with a panel discussion about hate crimes featuring Ms. Elkins; Deborah Watts of the Emmett Till Legacy Foundation; Andrew Morris, a public affairs and legislative liaison at the Council on Asian Pacific Minnesotans; Laura Provinzino, Assistant U.S. Attorney; and Kevin Lindsey, CEO at Minnesota Humanities Center. Ms. Watts began the discussion by providing insight into the tragic lynching of her cousin, Emmett Till, in 1955 and the courageous response by Till's family to confront injustice and spur justice over time. The panelists discussed state and federal efforts to address hate crimes, described evidentiary challenges in proving hate crimes, and called for legislative reform to address victimization. The panelists concluded by discussing efforts and opportunities to fight hate crimes in Minnesota.

Next, Dr. Xavier Amador from the LEAP Institute gave a remote presentation about the interaction between parties with mental illness and the justice system. Dr. Amador discussed challenges associated with misperceptions and assumptions about mental illness. Several attendees participated in interactive roleplay exercises that exemplified interactions with clients suffering from anosognosia—a condition in which a person is unaware of their own mental condition or delusional thinking. Dr. Amador provided communication strategies for lawyers and judges to facilitate de-escalation and cooperation with those suffering from mental illness.

There were two morning breakout sessions. The first session featured a panel discussion on the future of arbitration. Attendees heard from Liz Kramer, Solicitor General at the Minnesota Attorney General's Office; Laura Hammargren, Assistant General Counsel at 3M; June Pineda Hoidal of Zimmerman Reed LLP; Reena Desai of Nichols Kaster, PLLP; and Melissa Muro LaMere of Maslon LLP. The

panel unpacked the changing legal landscape of arbitration in light of recent statutory changes and three recent Supreme Court decisions.

The second session featured a panel discussion on Article III standing in environmental litigation. The panel included Richard Duncan of Faegre Drinker Biddle & Reath LLP, Laura Matson of Lockridge Grindal Nauen PLLP, Frank Bibeau of the Center for Democratic Environmental Rights, and Virginia McCalmont of Forsgren Fisher McCalmont DeMarea Tysver LLP. The panel began by addressing jurisdictional obstacles litigants face when making environmental claims in federal court. The panelists dissected Supreme Court precedent and examined a novel "Rights of Nature" approach that aims to provide a means to potentially overcome those obstacles. This theory advocates that an ecosystem has legal personhood status and rights to defend itself against legal harms, including environmental degradation.

During lunch, the "passing of the torch" ceremony commenced, in which Chief Judge Tunheim passed the Chief's bowtie to his successor, Judge Patrick J. Schiltz. Judge Schiltz became the Chief Judge of the United States District Court for the District of Minnesota on July 1, 2022.

Following the passing of the torch, Kristen Clarke, Assistant Attorney General of the Civil Rights Division at the U.S. Department of Justice, gave the keynote address on civil rights enforcement efforts. Ms. Clarke discussed the Civil Rights Division's enforcement priorities, including voting rights, rights restoration, election law,



racial justice, and gender-based violence. Assistant U.S. Attorney Greg Brooker moderated a Q&A following Ms. Clarke's remarks.

After lunch, Faris Rashid of Greene Espel PLLP discussed how law firm operations and litigation practices have adapted in response to the COVID-19 pandemic. Mr. Rashid emphasized how technology has become paramount for law-firm operations, whereas physical office space has become less crucial. Mr. Rashid predicted that flexible work schedules permitting both remote and in-person work arrangements will likely endure in the post-pandemic world.

The day progressed with a panel discussion about access to juror information in the social media age, featuring Chief Judge Toddrick Barnette, Hennepin County District Court; Doug Kelley of Kelley, Wolter & Scott, P.A.; Chao Xiong, Managing Editor at *Sahan Journal*; Brandon Mitchell, a juror in the state criminal trial of Derek Chauvin; and Leita Walker of Ballard Spahr LLP. The panel discussed how high-profile state and federal cases in the Twin Cities have brought public access to juror information into the spotlight. Panelists shared perspectives from local media, the bench, jurors, and pro bono counsel representing jurors. The panel examined the importance of ensuring juror privacy, juror safety, and the integrity of the

Complex Litigation Topics Explored in Virtual CLE Panel

By Catherine Peterson

The Chapter's Mass Tort, Multi-District Litigation, and Class Action Group sponsored two virtual CLE panels last spring, held on April 28 and May 9, 2022. The panels addressed legal developments and best practices in topics related to complex litigation.

The first panel, "Pre-Trial and Early Case Coordination: Multidistrict Litigation vs. Coordinated and Consolidated Class and Mass Actions," featured the Honorable Donovan W. Frank, Senior U.S. District Judge for the District of Minnesota. The panel was moderated by Dan Gustafson of Gustafson Gluek, PLLC, who focuses on litigating antitrust, product defect, and consumer fraud matters. Representing the plaintiffs' perspective on the panel was Stacey Slaughter, a partner at Robins Kaplan, LLP, whose experience includes consumer class action and complex commercial litigation. The defense side was represented by Christine Kain, a partner at Faegre, Drinker, Biddle & Reath, LLP, who defends a variety of clients in class action, mass torts, product liability, and consumer fraud cases, and Holley Horrell, an attorney at Greene Espel, PLLP, whose practice areas include complex business litigation. Dan led the panel in a constructive discussion about strategy in the initial phases of complex litigation matters.

Opening topics included jurisdictional and venue questions at the pre-trial stage and pre-consolidation considerations. Stacey noted the trend of plaintiffs' counsel agreeing early on to voluntary stays pending a decision on consolidation to prevent inconsistent rulings. The panel discussed factors in considering consolidated and coordinated actions versus deciding to move for a Multi-District Litigation (MDL), with Holley noting that efficiency will drive the strategy.

Turning to the early stages of MDLs, the panel discussed the importance of an early status conference when an MDL is ordered. At these, Judge Frank said his goals are to inform counsel of his priorities, establish the leadership structure, and understand where the cases are and whether there are parallel proceedings in state court. He said the key is that lawyers on all sides should know they have immediate access to the judge.

Judge Frank also discussed the importance of seeking early input from counsel to establish reporting and time-keeping procedures, short-form complaints, and administrative details. When cases are pending in state court, it is important to coordinate to minimize inefficiencies. Christine noted the trend of seeing more judicial involvement in selecting cases for bellwether trials, with Dan adding that the court would like to see a case that would assist in a possible settlement. The panel also addressed prioritizing diversity among coun-

sel and judges in MDLs, including ways to facilitate experiences for newer attorneys and judges.

After acknowledging the trend of fewer cases being granted MDL status, the panel concluded with a discussion about direct-action plaintiffs coming into the MDL at later stages of the litigation. In those situations, coordination is necessary to avoid disruption and potential concerns about discovery. Judge Frank pointed out that pretrial orders are a means to address discovery issues if cases come in at later stages of the litigation. Attorneys looking for a reference should check the District of Minnesota's website, <https://www.mnd.uscourts.gov/mdl-cases>, for examples of pretrial orders that address these types of issues.

The second panel, "Discovery in Complex Cases: Best Practices on Cutting-Edge E-Discovery Issues in Complex Litigation," featured the Honorable Elizabeth Cowan Wright, Magistrate Judge for the District of Minnesota. Kate Baxter-Kauf, a partner at Lockridge Grindal Nauen PLLP concentrating her practice on data breach and antitrust litigation, moderated the event. Representing the plaintiffs' perspective was Brian Clark, another partner at Lockridge, who leads the firm's e-discovery practice group. Representing the defense viewpoint was Niloy Ray, a shareholder at Littler Mendelson where he litigates e-discovery and electronic evidence issues. The panel addressed topics related to trends emerging from COVID-19, challenges and discovery disputes related to data collection from electronic devices, and the benefits of prioritizing efforts early in the litigation to avoid disputes later.

The opening question focused on e-discovery disputes emerging from COVID-19. Judge Wright observed that over the past three years, she has seen more e-discovery disputes focused on the collection of informal communications, which present two related issues: the increased use of personal devices to conduct business activities and redactions for responsiveness and relevance. Judge Wright then shared her perspective on COVID-19's impact on judicial proceedings in general. While acknowledging considerations concerning cost, environment, and family, she also identified concern with the lack of civility among attorneys, as virtual appearances invite the loss of some of the courtroom decorum. Another concern: attorneys reading their argument, which is more difficult for the court reporter and not as persuasive. She observed that in-person appearances provide more opportunity for attorneys to resolve issues before and after hearings. Ultimately, she explained that deciding between remote or in-person hearings is a question of balance, determined hearing-by-hearing.

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Special Session for Judge Richard H. Kyle

By Anita Terry

On June 15, 2022, the United States District Court for the District of Minnesota held a special session to honor the late Judge Richard H. Kyle. Courtroom 7D in St. Paul rang with laughter as fellow judges, former law clerks, family, and friends recounted the indomitable spirit of the judge most knew as “Sarge.”

Then-Chief Judge John R. Tunheim presided over the proceedings, noting that but for an electrical issue, the ceremony would have been held in the Devitt Courtroom. Other speakers wondered whether Judge Kyle might have had a hand in the electrical difficulties, given his deep involvement in the renovation of the St. Paul Courthouse and his famous impatience with public ceremonies. But it was fitting for the ceremony to be held in what was Judge Devitt’s actual courtroom because Judge Kyle’s clerkship with Judge Devitt sparked a lifelong love of the federal court.

Chief Judge Tunheim first recounted Judge Kyle’s life and 29 years of service on the federal bench. Next, Judge Kyle’s son, the Honorable Richard H. Kyle Jr., told of his father’s dedication to Judge Devitt’s famous [“Ten Commandments for the New Judge.”](#) Although Judge Kyle struggled with the admonishment to “be patient,” Judge Kyle Jr. noted that in his father’s copy of the pamphlet, each reference to the word “patient” was underlined at least once. And Judge Kyle was famous for adhering to the commandment that “a lazy judge is a poor judge,” coming to chambers before 6:00 a.m., six days a week.

The Ten Commandments were a recurring theme. Judge Kyle’s first law clerk, Lydia Crawford, reflected on another commandment: “Don’t take yourself too seriously.” She spoke about the family atmosphere in chambers, where humor, often in the form of good-natured teasing, was “an inte-



gral part of every day and a necessary counterbalance to the important and serious work.”

Judge Donald D. Alsop, who as Chief Judge administered Judge Kyle’s oath of office in 1992, regaled attendees with tales of Judge Kyle’s initial years on the bench. Judge Alsop noted that he learned from Judge Kyle to sneak out the back door at a reception or court event, something the Judges now call “pulling a Kyle.” Judge Paul A. Magnuson reminisced about what he considered early-morning breakfasts with Judge Kyle at 8:00 a.m., later learning those were Judge Kyle’s third breakfasts. Judge Donovan W. Frank told of Judge Kyle’s trip to Virginia, Minnesota, to talk with him after Judge Frank’s nomination to the federal bench, being sure to tell Judge Frank about the “federal family,” something Judge Kyle prized. And former Magistrate Judge Arthur J. Boylan recounted tales of Judge Kyle and his court reporter, Bob Riley, and the mischief they made together. But Judge Boylan was careful to note that this mischief did not extend to Judge Kyle’s demeanor on the bench, which always reflected the utmost respect for

lawyers and litigants—consistent with Judge Devitt’s commandment to “be dignified.”

During the ceremony, Judge Magnuson presented Judge Kyle’s widow, Jane, with the flag that flew over the courthouse on the day of Judge Kyle’s funeral. Although the pandemic delayed the Court’s celebration of Judge Kyle’s service, the special session showed the indelible mark he left on all with whom he served in the District. ■

Anita Terry had the honor of clerking for the Honorable Richard H. Kyle from 1999 to 2000. She now serves as the career law clerk for the Honorable Paul A. Magnuson, a job she secured because of Judge Kyle’s recommendation.

Lean on Me

By Joan Bibelhausen



We all know a familiar version of the iconic 1972 Bill Withers hit, *Lean on Me*. Maybe it's the voice of Bill Withers himself, one of the

many cover versions, or, if you're lucky, the dulcet tones of Judge Donovan Frank, keynote speaker at the Lawyers Concerned for Lawyers (LCL) Stepping Up for Well-Being breakfast on June 2, 2022, in Minneapolis. Attendees received well-being kits that included a color-changing ice cream scoop in recognition of Judge Frank's well-known penchant for ice cream.

Judge Frank began his address this way:

*Sometimes in our lives,
We all have pain,
We all have sorrow,
But, if we are wise,
We know that there's always tomorrow.
Lean on me,
When you're not strong,
And I'll be your friend,
I'll help you carry on,
For, it won't be long,
Till I'm gonna need,
Someone to lean on.*

Judge Frank's remarks followed an ABA video that was created as part of a campaign to combat stigma, https://www.americanbar.org/groups/lawyer_assistance/profession_wide_anti_stigma_campaign/. Judge Frank, who previously served on and chaired LCL's Board of Directors, commended those who are involved in LCL and who stepped up to support the event and are working to make it okay to seek help, to get well, and to be well. He thanked attendees, including Chief Judge Tunheim, Chapter President Dan Hedlund, and other FBA board members. He noted, "The legal profession and the justice system as participants are on the front line to the greatest stressors in our society. Consequently, self-care and access to help is critical to serving clients and managing the impact on each of us."

Judge Frank called out stigma, clearly identified in earlier research on impairment in our profession, as the reason

for reluctance to seek the help that supports us in being our best. As a community we have an opportunity and an obligation to help to reduce that stigma—to reach out to each other, to offer and ask for support, and to continually look for the one small step we can take to move our profession forward. He stated that "we must behave like we are a professional family and that we indeed care and respect each other, because when that happens, we enhance the image of the profession and the justice system in the eyes of the non-lawyer public, while at the same time addressing the issue."

Judge Frank offered data showing that our profession is at greater risk than the population as a whole, with higher rates of depression, anxiety, substance use, and suicidal ideation. He reviewed the ways in which LCL can help the profession. As a non-profit organization, founded in 1976, LCL offers free and confidential help to members of the Minnesota legal community and their immediate family members with substance use and compulsive behavior issues, as well as other mental health, stress, family, financial and work-related problems. Services include assessments, referrals, short-term counseling, crisis response, case management, mental health group support, peer support, and education. LCL recruits, trains, and supports a diverse group of volunteers who support their colleagues and the organization.

Lawyers, judges, law students, legal organization staff, and their families may receive free counseling through LCL. There is someone to talk to 24/7. LCL also offers consultations and coaching to family members, employers, friends, colleagues, organizations, and concerned others.

LCL proactively reaches out to the legal community when traumatic or tragic events occur; provides extensive client and mentor follow-up to ensure continuing assistance; offers information about treatment resources, self-assessment tools, and overall support for the legal community; engages in extensive outreach; and serves as a resource to the profession on well-being initiatives. It is represented on various diversity committees to ensure equal access and that disability issues are addressed.

LCL is actively engaged in helping our profession face challenges. LCL will always prioritize serious issues such as substance use, depression, and other mental health issues that can cause the most distress. Well-being initiatives can help reduce our risk, but issues will still arise. It must be safe to seek help at any point along the spectrum. Support and engagement from people and organizations

USBC Clerk's Corner

By Tricia Pepin

Hello from the U.S. Bankruptcy Court! We hope that you had a wonderful summer.

On June 21, the [Bankruptcy Threshold Adjustment and Technical Corrections Act \(Pub. L. No. 117-151\)](#) was signed into law by the President. This new law:

1. Extends for two years the increase of the amount of debt, up to \$7,500,000, that debtors may be allowed to carry to qualify for small business reorganization under subchapter V (including retroactive application to cases commenced on or after March 27, 2022); and
2. Increases, for two years, the debt limit for individuals filing for bankruptcy under Chapter 13 to less than \$2,750,000 and allows both secured and unsecured debt to count toward this single limit.

As of August 1, the Clerk's Office implemented several updates to filing procedures and preferences. These changes include:

1. **Filing Preferences for Combined Documents.** Filers are now instructed that it is preferred they submit documents separately, rather than merging multiple documents into one PDF.
2. **Statement of Social Security Number.** All individual debtors must file a Statement of Social Security Number (National Form 121) with their petition to comply with Fed. R. Bankr. P. 1007(f).
3. **Notice of Withdrawal of Motion and Withdrawal of Objection to Motion.** A new "text only" event has been created to allow attorneys to withdraw a motion or an objection to a motion without uploading a document to the event.
4. **Motion to Redact Personal Identifiers.** When a personal identifier is found within a publicly filed document, the Clerk's Office will docket a notice directing the filer to correct the filing by filing a motion within seven days. In accordance with Fed. R. Bankr. P. 3037(h), filers must file a motion to redact, along with a correctly redacted copy of the improperly redacted document, and pay a \$26 filing fee.
5. **Removal of Notice of Entry and Filing Order Stamp.** On July 6, 2022, the Clerk's Office discontinued the use of the "Notice of Entry" and "Filing Order or Judgment" stamp on the Court's orders. Please refer to the Notice of Electronic Filing (NEF) for information on when the order or judgment was entered on the docket.
6. **Chapter 11 First Day Motions.** Several new events were created to allow attorneys to file Chapter 11 First Day motions directly in CM/ECF.

To read more about these changes, including filing guidance, please visit the U.S. Bankruptcy Court's website at www.mnb.uscourts.gov. All CM/ECF filing questions may be directed to the [Help Desk](#) at (612) 664-5275. And please let the Court know if there are ways that we can better serve the members of our bar and public. ■

Tricia Pepin is the Clerk of the District of Minnesota U.S. Bankruptcy Court.

White Collar Crime Summer Social

By Amanda Mills

The White Collar, Compliance, and Criminal Law Committee hosted its first annual happy hour since the pandemic on June 28, 2022, in the 15th floor atrium of the Diana E. Murphy U.S. Courthouse. Chapter President Daniel Hedlund, Assistant U.S. Attorney and Chief of the Fraud and Public Corruption Section Joe Thompson, Federal Defender Katherian Roe, and the Honorable John R. Tunheim addressed the attendees. The speakers applauded the collegiality among the group and thanked the private defense bar for its active participation in the District of Minnesota's Criminal Justice Act panel. Special thanks to everyone who attended the social, as well as the Minnesota Chapter, the District of Minnesota, and Fredrikson & Byron for co-hosting the event. ■



Amanda Mills is Co-Chair of the Chapter's White Collar Crime Committee. She is also a litigator at Fredrikson & Byron, specializing in complex commercial litigation and white collar and regulatory defense and investigations.

Bar Associations, Governor, and Supporters Attend Annual Minority Judges Reception

By Ashley Bradley and Laura Newberry

On June 16, 2022, the U.S. District Court for the District of Minnesota hosted the Ninth Annual Minority Judges Reception at the Diana E. Murphy U.S. Courthouse in Minneapolis. Over 200 attendees gathered to honor Minnesota's minority judges and celebrate diversity, both on the bench and in legal practice. The timing of this year's reception correlated with Juneteenth National Independence Day. Last year's reception honored Minnesota U.S. Senator Tina Smith, who headed the effort to get the bill passed in 2021 to make Juneteenth a national holiday.

Former Chief Judge John R. Tunheim delivered the opening remarks, recognizing Judge Michael J. Davis for his role initiating the annual reception in 2013 and affirming diversity's positive impact. Throughout the night, Chief Judge Tunheim, Judge Wilhelmina M. Wright, and many of the affinity bars acknowledged Minnesota's great strides in advancing diversity in the judiciary as well as the continuous progress needed moving forward.

Governor Tim Walz, along with Lieutenant Governor Peggy Flanagan—both in attendance—were presented with glass gavels as a token of thanks for their role in appointing diverse judges. During Governor Walz's term, almost 60% of his appointments have been women. The remarks concluded with a reminder that there is a seat in the judiciary for all, encouraging college students, law students, and members of the Minnesota bar to continue on the path forged by the diverse lawyers who went before them.



Along with the Minnesota Chapter of the Federal Bar Association's Diversity Committee, the event was supported by the Minnesota Association of Black Lawyers, Minnesota Asian Pacific American Bar Association, Minnesota Hispanic Bar Association, Minnesota American Indian Bar Association, Minnesota Lavender Bar Association, Somali American Bar Association, Hmong American Bar Association, Minnesota Women Lawyers, and Twin Cities Diversity in Practice. Photos courtesy of Caroline Yang and the District of Minnesota. ■

Ashley Bradley and Laura Newberry attended the Minority Judges Reception when they were summer associates at Dorsey & Whitney LLP. They are now 3Ls at Washington University School of Law and the University of Wisconsin Law School, respectively.

Federal Practice Seminar, continued from page 5.

deliberation process while balancing the First Amendment interests of media.

In an afternoon breakout session, Clare Garvie, Distinguished Fellow at the Center on Privacy & Technology at Georgetown Law, discussed the use of facial recognition technology in law enforcement. For decades, facial recognition has been used as a routine investigative technique. Ms. Garvie explained that face recognition is a biometric investigative technique that has never had its reliability or scientific validity established. Ms. Garvie examined the usage of facial recognition in practice; the risk of error in its usage; the lack of controls, oversight, and disclosure to a defendant when used; and the potential constitutional ramifications of its use.

The second afternoon breakout session featured Magistrate Judge Elizabeth Cowan Wright; Kate Hibbard, Assistant General Counsel at Cargill; Robert Schug of Nichols Kaster, PLLP; and O. Joseph Balthazor Jr. of Taft Stettinius & Hollister LLP. The panel addressed the District of Minnesota's recently released [Electronic Discovery Guide](#), a practitioner's guide to electronically stored information (ESI). They focused specifically on e-discovery issues and challenges that counsel and clients should consider, including identification, preservation, collection, search, review, and production of ESI. The panel previewed conversations parties should have about ESI prior to the Rule 26(f) conference to facilitate agreement and cooperation.

Closing out the day, attendees were given the "U.S. Supreme Court Update," presented by Professors Elizabeth Bentley and Liliana Zaragoza of the University of Minnesota Law School and Mahesha Subbaraman of Subbaraman PLLC. The panel addressed several monumental cases decided in the Supreme Court's October 2021 term, Justice Stephen G. Breyer's legacy and retirement, the confirmation of Justice Ketanji Brown Jackson, and issues potentially impacting the institutional legitimacy of the Court.

Detailed information about the seminar, including the agenda, speaker bios, presentation materials, and CLE information, can be found at <https://www.fedbarmn.org>. ■

Garrett Stadler is an associate at Kelley, Wolter & Scott, P.A., where he focuses primarily on commercial litigation and white collar defense.

NLC Luncheon, continued from page 2.

Judge Stras segued from general principles into a handful of discreet practice tips for both written and oral advocacy.

Written Advocacy

First, the facts (statement of the case) section matters—it can make or break credibility. Judges often reference it when drafting opinions. Ensure citations are crisp and accurate. If the court cannot rely on the advocate's articulation of the record, the judge will likely "throw the brief aside" and start from scratch. And be honest. It's okay to emphasize the good facts, but don't ignore the bad ones; after all, if the court cannot do that, neither should the lawyers.

Second, address the question you want the court to answer. Avoid veering off subject and adhere to an identifiable organizational structure.

Third, write well. Judge Stras believes that law school does not always teach good writing. He provided a few suggestions for improving written advocacy. First, outline. If judges cannot follow your argument, it makes it that much more difficult to persuade them to adopt your position. Second, signpost. Inform the reader where you are heading, when you are "switching gears," and when you have reached the end. Third, use headings. In addition to the obvious organizational benefit, the headings could be the last—or only—thing a judge is reminded of before argument. Fourth, use thesis sentences. Tell the judge why you're writing each paragraph. Fifth, persuade, don't entertain. Judge Stras admitted that as a judge, he likes to have fun (though not at the expense of the parties!). But entertainment is not the lawyer's job. The lawyer should focus on being persuasive and clear. Beware of literary references. Skip them unless you're dead-certain they will land with every potential panel member. Judge Stras emphasized this point with an unfortunate anecdote about an advocate who made a literary reference that he likely thought was clever. Unfortunately, it fell flat because not a single judge knew what he was talking about. Better to avoid this and channel cleverness into clarity.

Oral Advocacy

Judge Stras also shared tips for oral argument. First, answer the question. Responsive answers enhance credibility. Train yourself to answer each question with, "Yes, but" or "No, except." Remember: You can always finish your point

NLC Luncheon, continued on page 17.

NLC's Chief Judge Luncheons for Law Students, Final Series with Chief Judge Tunheim

By Stephen Morrison



For the last time, the Honorable John R. Tunheim, Chief Judge of U.S. District Court for the District of Minnesota, hosted the annual series of Chief Judge luncheons organized by the Chapter's Newer Lawyers Committee (NLC) at the Diana E. Murphy United States Courthouse in Minneapolis. The fully in-person series took place on June 15, 21, and 28, 2022, and about 180 people attended. These lunches provide attendees with the opportunity to meet the Chief Judge in a more casual setting, tour chambers, and gain insight into how the Court functions.

As with prior years, the Chief Judge graciously shared his stories and advice with law students. His discussion of his various roles in private, public, and international practice over the years showed the breadth of opportunities available to lawyers. The Chief Judge also highlighted the Pro Se Project, an initiative of the Court and the Chapter that connects civil pro se litigants with volunteer attorneys to improve the administration of justice. The project's coordinator, Tiffany Sanders, was invited to speak at one of the sessions and encouraged law students and newer lawyers to consider volunteering as a way to give back to the community and build their legal experience.

Overall, the series was a great success this year. NLC Co-Chairs Bernadette Senyana and Liz Scheibel planned the lunches, working closely with Chief Judge Tunheim's Judicial Assistant Karen Moldenhauer, who handled all the arrangements with the Court, and the Chapter's Communication Co-Chairs, who handled event registration. In addition, many NLC members volunteered to help host each session, with Kyle Kroll and Andrew Page giving introductory remarks at two of the sessions. Special thanks to Chief Judge Tunheim for helping host this event over the years and always making attendees feel welcome. ■

Bernadette Senyana is a corporate lawyer at DLA Piper LLP in Minneapolis. Her practice focuses on mergers and acquisitions and global carve-out and spin-off transactions. Bernadette has volunteered with the Minnesota Chapter since 2018 and served as a Co-Chair of the Newer Lawyers Committee last year.

Lean on Me, continued from page 8.



attending the event and allies is key to lowering that stigma. "Or, to quote the late Senator Paul Wellstone: 'We all do better when we all do better.'"

Judge Frank noted that "taking that one small step may mean something as simple but as important as taking one day at a time both for yourself and those around you. That is true for people whether they are in recovery and dealing with a well-being issue or available to assist someone, because that one small step each time it is taken reduces stigma and brings us all together when we feel like we can ask for help, [which] creates a healthier workplace and more productive employees."

LCL has served the legal profession in Minnesota for 46 years. As he described LCL's impact, Judge Frank walked along the path of his own history, which has included 46 years of recovery. He has been a champion for recovery and has set a shining example of what can happen when you ask for and accept help. In the ABA anti-stigma video Judge Frank said, "My life is fulfilling, serene, and successful." If you find yourself struggling personally and professionally in any way, LCL can help.

Rolling Stone called Lean on Me "a celebratory rallying cry of togetherness and resilience in times of trouble." That's the story of LCL: coming together and offering support and resilience in times of trouble. Call LCL. We'll help. 651-646-5590, help@mncl.org, www.mncl.org. ■

Joan Bibelhausen is the Executive Director of Lawyers Concerned for Lawyers.

Panel of Judges Discusses Mentorship

By Liz Scheibel

At the last monthly meeting of the past membership year, Manny Atwal hosted a panel of three faces familiar to Chapter members—Chief Judge John R. Tunheim, Senior Judge Donovan W. Frank, and Senior Judge Ann D. Montgomery—to talk about mentorship, including the importance of mentors to a lawyer’s career and the various forms mentorship can take.

Before that, however, the Chapter held a vote on the slate of nominees for the 2022–2023 bar year (which began September 1, 2022), and the nominees were elected. Dan Hedlund, then-President of the Chapter, was applauded for his leadership over the past year. Ms. Atwal was applauded for her work as Monthly Luncheon Co-Chair, with acknowledgements to Co-Chairs Barry Landy and Nate Louwagie.

The panel discussion opened with general remarks about mentorship. Judge Montgomery observed that a common denominator among successful lawyers is almost certainly that they had good mentors in their first years of practice. Chief Judge Tunheim encouraged the audience to get involved in any available program—many bar associations, law schools, law firms, and other workplaces offer mentorship programs. The enjoyment Chief Judge Tunheim has derived from mentoring was evident as he thought over the numerous new lawyers he had worked with over the years.

Judge Montgomery discussed the Office of the Federal Defender’s Second Chair Training Program, which she helped get off the ground. The program pairs newer lawyers with seasoned defense attorneys and provides in-depth, extensive training so that this District’s CJRA panel—the attorneys appointed to represent indigent criminal defendants when the Federal Defender cannot take the case—continues to provide excellent representation. Federal Defender Katherine Roe was recognized for her leadership of this program, which has been an inspiration to other offices throughout the country.

Assistant U.S. Attorney Greg Booker was invited on stage to introduce a similar program that U.S. Attorney offic-

es around the country are planning. In this program, an AUSA can work part-time instead of retiring and work on cases in close partnership with a newer attorney, with mentoring being an explicit job description.

Judge Frank then described the mentorship aspect of the District’s re-entry program. While other federal courts have similar programs, Minnesota’s is the only one that pairs participants with a mentor. It has become clear to Judge Frank that the mentor relationship is deeply meaningful to those involved, and he believes it is driver of the program’s success. Ms. Atwal emphasized that mentors come from all walks of life: neither all former defendants nor all individuals without criminal histories, but instead a mix. The role mentorship plays in this program highlights how mentors help people in all aspects of life—it’s about jobs and careers, yes, but it’s also about everything else. Part of being a good mentor is seeing and hearing the whole person, not just the role (recently released from prison, new associate in the office, or match from a law school program) that brought the mentee to the mentor.

Each judge shared memories of their mentors. Famous names were mentioned, like Judge Diana Murphy and Justice Rosalie Wahl, and some less well-known, like Judge Frank’s father or the prosecutors who first taught Judge Montgomery. But universally, the impact these mentors had appeared to feel fresh to the judges, as their continued affection and respect for their mentors was obvious. It was also observed that for some people, a few hugely important mentors will stick out in their minds over the course of their careers, while for others, mentor means a larger group of people, perhaps changing as different parts of life and career come and go.

In closing, Ms. Atwal exhorted everyone to go out and tell a mentor “thank you.” If you were not in attendance, or you were but didn’t do your homework, here’s another chance: Pick up your phone, open your email, start a text, grab a pen. Tell your mentors how much they’ve meant to you. ■

Liz Scheibel is a Co-Editor of Bar Talk and has just finished clerking in the District of Minnesota, first for Magistrate Judge Elizabeth Cowan Wright, then for District Judge Eric C. Tostrud—and she is deeply grateful to both for their mentorship. She is currently enjoying a fall break, wooooooooooooo!

The Unwritten Rulebook: A Law Student's Crash Course in Soft Skills and Social Etiquette in the Workplace

By Leona B. Ajavon



Learning to navigate professional spaces can add a layer of pressure for those entering the practice of law. On April 21, 2022, the Chapter's Mentorship Committee hosted an online event entitled "The Unwritten Rulebook: A Law Student's Crash Course in Soft Skills and Social Etiquette in the Workplace" to help ease some of that pressure.

The program was led by attorney Alison Plavin, Director of Associate Advancement at Taft Stettinius & Hollister LLP. She discussed how to prepare for different types of professional events and how to carry yourself while in a professional setting, and she emphasized the importance of common courtesy and kindness.

Everyone knows it is important to be prepared when entering a professional setting, but not exactly what it entails. Being prepared means:

- Researching the company or firm, and the people, you will be meeting.
- Knowing whether the event will be indoors or outdoors.
- Planning with the weather in mind: Is a hair tie, an umbrella, a heavier jacket, or a change of shoes in the forecast?

Presentation is equally as important as being prepared. You only have one chance to make a first impression. Through the years, ideas about professional dress have evolved. Most importantly when deciding what to wear, think about the culture of your work environment to guide your decision. Plavin advised attendees:

- For a first meeting or job interview, a business professional or business formal look of a full suit with a matching dress, skirt, or pants and a pressed collared shirt with a tie should suffice. Always remember, it is better to be more conservative than underdressed.
- Business casual and smart casual are a little more relaxed than business professional and business formal. Depending on a workplace's culture, this look might consist of khakis, dark colored jeans, polos, dress shirts and blouses, or a knee-length dress or skirt with a tailored blazer or sports jacket.
- Regardless of what category of attire you wear, always remember: no wrinkles, no stains, no pet hair, and no baggy or revealing clothes.

Anxiety about handling basic logistics at a professional event can distract from making the connections those events are intended to foster. Consider these tips:

- Try holding your appetizer plate in your left hand so your right hand is free to shake hands.
- Put your personal belongings underneath your seat so you are not distracted by notifications on your phone.
- For more elaborate place settings, always begin by using the utensils on the outside and work your way to the inside.
- Wait until everyone at your table has been served before you begin eating.
- Ask for items to be passed to you, rather than reaching over others.

The Unwritten Rulebook, continued on page 18.

President's Welcome Message, continued from page 3.

focus on the important work of developing collaborative, fair, and efficient discovery best practices for the bench and bar. I want to extend my gratitude to recently-retired Magistrate Judge Hildy Bowbeer, Niloy Ray, and Simeon Moreby for serving as inaugural committee members.

Last (and not at all least) on the events front, Chapter leaders are planning a wide array of programs, events, and other offerings. The Continuing Legal Education Committee (Magistrate Judge David Schultz, Manny Atwal, and Mike Rowe) looks to build on the recent in-person seminar with a full-day Federal Practice Seminar in the spring. The Special Events Committee (Rory Collins and Cassandra Jacobsen) has begun planning the annual Judges' Dinner Dance. The annual golf tournament (planned by Peter McElligott and Mary Rivero), our Chapter's longest-running event, will return as well. And for our newest and soon-to-be newest lawyers, the Newer Lawyers Committee (Olga Tymouch and Abou Amara) and Law School Outreach Committee (Hannah Leiendecker and Emily McAdam) are planning a wide range of programs and outreach events. Our Mentorship Committee (Kristen Marttila and Chelsea Walcker), a more recent initiative in the Chapter, looks to build and strengthen relationships between lawyers (and future lawyers) of every vintage.

I hope you're as inspired as I am by what our Chapter offers. We owe a debt of gratitude to the leaders and members who helped shape this organization into what it is today. (I am especially grateful to our Chapter's immediate past presidents, Tara Norgard, Judge Nelson, Kelly Laudon, Magistrate Judge Tony Leung, Vildan Teske, and Dan Hedlund, for their mentorship, leadership, and patience.) Now 80 years on, I hope that our Chapter lives up to its founding principles: professionalism, collegiality, respect for the rule law. But it is no less important that our Chapter continues to grow, evolve, and improve. With an eye on the future, I want to highlight some of our most important strategic goals.

For more than two decades, our Chapter has placed diversity and inclusion in our profession and our legal system at the center of its mission. Promoting diversity and inclusion is more critical now than ever. As Minnesotans, we've seen close up in recent years the heinous effects of discrimination. But we've also seen a renewed commitment to civil rights and a deepening understanding that there is no rule of law without Equal Justice Under Law. Our Chapter's commitment to diversity and inclusion reflects these principles. And our Chapter's Strategic Plan for Diversity and Inclusion molds these ideals into actions: engaging and communicating with our diverse legal community, increasing the diversity of FBA leadership, highlighting diversity and inclusion through programming and speakers, and building external partnerships to advance our diversity-and-inclusion goals. These goals and actions touch every corner of our organization. But a few of our leaders and programs deserve a special mention. Christine Jordan, Chris Pham, and Magistrate Judge John Docherty lead the Diversity and Inclusion Committee—long our Chapter's largest and most active committee. Our Chapter continues to co-sponsor an annual Leadership Summit on Gender Equity and the Law. Surya Saxena serves as our Affinity Bar Liaison coordinator. And Adine Momoh takes the helm this year as our Chapter's Strategic Initiatives Coordinator—ensuring that we honor the goals set out in the Strategic Plan.

Our Chapter's commitment to diversity and inclusion intersects with another strategic goal: building our Chapter membership. The Membership Committee, led by Timothy Griffin and Aaron Knoll, will continue with outreach efforts to members of affinity bars, attorneys in Greater Minnesota, and lawyers working in small firms, non-profits, and government agencies—all groups that have historically been underrepresented in our ranks. At the same time, our Membership Committee faces unique challenges—and opportunities—as we emerge from the Covid pandemic. Historically, our Chapter has been one of the largest FBA chapters in the country (and certainly the best!), with more than 900 members. During the pandemic, those numbers declined. In addition, the FBA changed its membership model from rolling memberships to memberships that turn over annually for everyone on October 1. The transition between the two systems caused some understandable confusion. Moving forward, though, we have a tremendous opportunity to take our membership to the next level. I urge you to renew your membership before the October 1 deadline—and encourage (at least) three colleagues to do the same.

If you weren't already convinced, I hope I've made the case that our FBA Chapter is a very open and engaging place. On that note, I'll conclude by encouraging one and all to get involved in the work of our Chapter. Please feel free to reach out to me or any of our committee chairs to learn more about opportunities to contribute and volunteer. (For a rundown of Chapter initiatives, visit [this page](#).) However you get involved, I very much look forward to seeing you all in the coming year.

Welcome!

Adam

Adam Hansen is an attorney at Apollo Law, where he represents employees and consumers in the United States Courts of Appeals and Supreme Court.

Clerk's Corner, continued from page 3.

On May 18, a celebration was held in Fergus Falls to reopen the renovated courtroom and unveil the bust honoring Judge Edward Devitt. The restoration is historically correct to match its original construction in 1902.

On June 6, the Court dedicated a bust and celebrated the distinguished life and career of the late Judge Gerald Heaney of the Eighth Circuit Court of Appeals at the Heaney Federal Courthouse in Duluth.

Then, on June 15, the Court celebrated the life of Judge Kyle. Judge Magnuson presented Jane Kyle, Judge Kyle's wife, with the flag that was flown over the St. Paul Courthouse on the day of his funeral. Read more about the Special Session honoring Judge Kyle on page 7.

On June 16, over 200 people attended the Minority Judges Reception. Governor Walz and Lt. Gov Flanagan and judges from all over the state celebrated all that has been done to build a bench that is more reflective of our communities. Read more about the Minority Judges Reception on page 10.

On June 30, then-Chief Judge Tunheim hosted an open house in his chambers on his last day as Chief Judge of the District. Colleagues on the bench, court staff, and Chapter leadership stopped in to celebrate Chief Judge Tunheim's years of excellent leadership of the District.

It is tradition in our District for the retiring Chief Judge to present the incoming Chief Judge with a western bow tie. This tradition is known as the "passing of the neckwear" and dates to the Honorable Gunnar Hans Nordbye, who served for 46 years on the federal bench (1931-1977). The neckwear has been transferred by every outgoing chief judge to every incoming chief judge for well over half a century. During the Federal Practice Seminar on June 14, outgoing Chief Judge Tunheim passed this symbolic neckwear to incoming Chief Judge Patrick J. Schiltz. Read more about the passing of the neckwear and Chief Judge Schiltz on page 4. ■

Andrew Pieper is Chief Deputy Clerk for the District of Minnesota.

Disability Justice Seminar, continued from page 2.

a guardian making a decision that is adversarial to an individual's wishes. Raymond explained that the recent shift in state law "puts the onus on the systems that support individual best practices to work towards the eventual termination [of guardianship]," which includes "an ongoing assessment, working with the person under guardianship regarding what their needs are and what they want, and what supports can be built in."

Discussion about the state of the law and recent developments set the stage for the final portion of the seminar, a conversation between the Honorable Donovan W. Frank and advocates Carrie Varner and Bonnie Jean Smith. Varner and Smith discussed their first-hand experiences with Minnesota's guardianship process. Varner devastatingly described her experience in a "sham conservatorship" as an adult and how, after years of working her way through the legal system, she was never notified of the termination of her conservatorship that had occurred six years earlier. Judge Frank stressed the importance of lawyers becoming involved in pro bono initiatives through the Pro Se Project to represent individuals like Varner to ensure that such injustices are not repeated and to "confront the unfair stereotypes and assumptions" surrounding guardianship. Smith shared her own experience serving as the guardian for her two adult sons who have disabilities. She emphasized the challenges that her sons face because of their intersectional identities as Black men with disabilities. Quoting the late Senator Paul Wellstone, Judge Frank wrapped up the discussion by encouraging attendees, "We all do better when we all do better."



The Diversity and Inclusion Committee extends its thanks to all of the speakers and the event planning committee members, including the Honorable Becky R. Thorson, Danielle Mair, Dr. Colleen Wieck, Emily Tremblay, Tara Norgard, Professor Elizabeth Schiltz, Bahram Samie, and Ann Motl. To learn more about these issues, visit the Disability Justice Resource Center at <https://disabilityjustice.org/>. ■

Irina L. Vaynerman is the Deputy Commissioner of the Minnesota Department of Human Rights. Chelsea A. Walcker is an Assistant United States Attorney for the District of Minnesota. Disclaimer: The views expressed in this article are the personal views of the authors and do not reflect the views of the authors' employers.

Complex Litigation, continued from page 6.

The panel then turned back to e-discovery, discussing the challenges of collecting cell phone data. Brian noted that while cell phones are not new, they present new challenges. Brian and Niloy agreed that the same phone is commonly used for both personal matters and work matters, presenting relevance and preservation issues. They addressed the use of remote collection methods, which Brian noted was more common in rural areas pre-COVID-19.

The panel then addressed post-email electronic communications, which Niloy explained refers to applications like Slack, Teams, Yammer, Jabber, and Google Chat. Like cell phones, these apps can blend personal and business activities and create preservation and relevance difficulties. Judge Wright noted ESI protocols can address these issues early in the litigation and encouraged parties to communicate about such concerns.

The panel closed with further discussion about the importance of taking steps to address challenges early in the litigation. Brian encouraged participants to “front load” efforts to avoid disputes. Niloy agreed, advising being active early on, not just reactive. Judge Wright recommended attorneys lean on their e-discovery experts as resources. She advised attorneys to be thoughtful and refer to the Minnesota E-Discovery Guide on the District of Minnesota’s website, <https://www.mnd.uscourts.gov/file/ediscovery-guidepdf>, as a place to start. ■

Catherine Peterson is an associate at Lockridge Grindal Nauen PLLP, where she practices in the Consumer Practice Group. She is admitted to the Virginia State Bar. She also serves in the North Dakota Army National Guard.

NLC Luncheon, continued from page 11.

after answering the question. Second, strive to be conversational. Ideally, oral argument is a conversation between the advocate and the court. (Judge Stras said to converse as if you were just having a beer with the judge.) Avoid passionate displays. At best, they distract; at worse, they undermine credibility. Third, be candid. Admit when you don’t know something, and don’t skirt around bad facts or law. Guessing or dodging around weaknesses jeopardizes the currency of persuasion—credibility.

The Newer Lawyers Committee is grateful to Judge Stras for sharing his time and tips, which are valuable for trial and appellate attorneys alike.

Stephen Morrison is a Business and Tort Litigation associate at Jones Day where he represents companies in an array of state and federal civil proceedings, focusing on antitrust, consumer law, and fraud investigation and litigation. Outside of practice, he enjoys a good meal and being outside—if at all possible, at the same time

Judge Stras also shared tips for oral argument. First, answer the question. Responsive answers enhance credibility. Train yourself to answer each question with, “Yes, but” or “No, except.” Remember: You can always finish your point after answering the question. Second, strive to be conversational. Ideally, oral argument is a conversation between the advocate and the court. (Judge Stras said to converse as if you were just having a beer with the judge.) Avoid passionate displays. At best, they distract; at worse, they undermine credibility. Third, be candid. Admit when you don’t know something, and don’t skirt around bad facts or law. Guessing or dodging around weaknesses jeopardizes the currency of persuasion—credibility.

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The Unwritten Rulebook, continued from page 14.

To make the most of a professional event, consider in advance how you might handle common pitfalls. Social outings are a great way to network. Conversing with identified employers is good to do, but they should not be the only people you converse with. How you carry yourself and interact with others is equally as important during this time:

- If you arrive at an event where you don't know anyone, try making conversation with someone you see standing alone or introducing yourself to a small group.
- Alcohol is commonly consumed at professional functions; know your limit and stay within it.

The COVID-19 pandemic introduced a new and effective way of attending professional events online. If you are attending an event virtually, the rules of professionalism still apply, with a few extra considerations. Remember to:

- Use on-screen options to virtually wave or shake hands while greeting other participants.
- Appear on video, if possible, and consider a virtual background to minimize any distractions.
- To help you focus in this environment, close other windows that may be open on your computer, make eye contact, and consider taking handwritten notes.
- Obtain credentials to log in via phone or a mobile device in case your internet connection is interrupted.
- Be prepared to follow along with any printed notes previously shared.
- Dress appropriately—at least from the waist up!

Once you have landed your job as an attorney, maintaining professionalism will always play a key role. Always carry with you these general rules that are sure to lead you in the right direction:

- Identify who your mentors and allies are and use them as a resource.
- Acknowledge and treat everyone with respect and courtesy.
- Respond to emails and phone calls promptly and in kind (the same way it was received) while always matching formality.
- Watch your language and be aware of who can hear your conversation.
- Listen actively and observe those around you.
- Always bring a notepad and pen to take notes.
- Arrive on time and remember the maxim “to be early is to be on time, to be on time is to be late, and to be late is unacceptable.”

As Plavin acknowledged in her presentation, many standard ideas about workplace etiquette were developed in earlier generations and reflect the gender, race, and class of people who held decision-making roles at that time. While Plavin emphasized the importance of always being prepared, presenting yourself well, and maintaining collegiality amongst professionals, she also made sure to discuss the importance of staying true to yourself. Different professional environments may have different cultural expectations and paying attention to those expectations can help law students and newer lawyers assess which workplaces they feel comfortable in and thrive wherever they land. ■

Leona B. Ajavon is an associate at Lockridge Grindal Nauen in the firm's antitrust practice group.

Federal Judges' Dinner Dance Returns

Honorary members of the federal bar, Chapter members, and their guests enjoyed the return of the Federal Judges' Dinner Dance, after a two-year pandemic break, on Saturday, May 7, 2022, at the Minikahda Club in Minneapolis. The evening included a social hour, dinner, remarks from Chapter President Dan Hedlund, and live music from the Seviles. Approximately 300 guests attended, including many members from Minnesota federal and state court benches. This year's event was organized by the Chapter's Vice-Presidents for Special Events Adine S. Momoh and Jeff Justman. ■



Our New Chief Judge, continued from page 4.

works that every law student should read. In 2000, he left Notre Dame Law School to become the founding associate dean of the University of St. Thomas School of Law where, among other things, he oversaw the design of the building and the hiring of the school faculty.

Chief Judge Schiltz was appointed to the United States District Court for the District of Minnesota by President George W. Bush on April 26, 2006, and took office on May 30, 2006. He has served on various committees of the Judicial Conference of the United States, most recently as Chair of the Advisory Committee on the Federal Rules of Evidence since 2020. His term as Chief Judge runs through June 30, 2029. ■

Kristen Marttila and Amanda Mills previously clerked for Chief Judge Schiltz. Kristen is a partner at Lockridge Grindal Nauen PLLP, where her practice focuses on representing plaintiffs in antitrust and other consumer-oriented class actions. She is Co-Chair of the Chapter's Mentorship Committee. Amanda is a litigator at Fredrikson & Byron P.A., specializing in complex commercial litigation and white collar and regulatory defense and investigations. Amanda is Co-Chair of the Chapter's White-Collar Crime Committee.



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RENEW NOW



Federal Bar Association

RENEW NOW

- FBA memberships expire on September 30 each year.
- Renew to stay on the MN Chapter email list.
- (Really, do it now. Renewal processing can be slow.)
- <https://www.fedbar.org/>

The screenshot shows the Federal Bar Association website. The top navigation bar includes links for Membership, Events, Government Relations, About, The Federal Lawyer, Foundation, and Member Tools. The Member Tools dropdown menu is open, and the 'Renew My Membership' option is highlighted with a red circle. Other options in the menu include Update My Profile, Member Directory, Event Registration, and Leadership Portal. The page title is 'Benefits of Membership'.

Opportunities for Involvement in the Minnesota Chapter

Interested in getting involved in the Minnesota Chapter of the FBA?

A full list of committees and initiatives is available on the Chapter's website, and all groups welcome members who wish to get involved, so feel free to reach out to the respective contacts with questions.

The below committees are currently actively seeking new members or volunteers for their initiatives and therefore offer especially good opportunities for Minnesota FBA involvement.

Bar Talk Newsletter Committee: Bar Talk seeks Committee members to: proofread Bar Talk just before publication 4 times a year and write 1-2 articles per year. No Bluebooking skills required! Contact the Bar Talk Co-Chairs/Editors: Megan Odom (MLO@ciresiconlin.com), Liz Scheibel (emcavert@gmail.com), and Donna Reuter (reuter.donna@dorsey.com).

Class Action, Mass Tort, and Multidistrict Litigation Practice Group: We welcome attorneys of all experience levels, practice areas, practice settings, and on both sides of the "v." If you are interested in joining, please reach out to Co-Chairs Stacey Slaughter (sslaughter@robinskaplan.com), Kate Baxter-Kauf (kmbaxter-kauf@locklaw.com), and Scott Moriarty (samoriarity@baillonthome.com).

Golf Tournament Committee: The Annual Golf Tournament and Social Event is a long-standing tradition that brings the bench and bar together for some friendly competition and camaraderie. To get involved with planning, sponsorship, registration, or tournament logistics, please contact Co-Chairs Pete McElligott (pmcelligott@anthonyostlund.com) and Mary Rivero (mriverso@winthrop.com)

Mentorship Committee: The Mentorship Committee is seeking volunteers to join the Committee or to serve as mentors for law students and high school students interested in the legal profession. Mentors may also, but need not, join the Committee. Please contact Co-Chairs Kristen Marttila (kgmarttila@locklaw.com) and Chelsea Walcker (chelsea.walcker@usdoj.gov) to volunteer.

Newer Lawyers Committee: The NLC is the perfect introduction to FBA activities and bar association involvement. This is an active Committee where everyone can meaningfully contribute, whether in more visible and time-consuming roles (e.g., speaking at events, directly working with more experienced attorneys and judges) or smaller, behind-the-scenes roles, as you prefer. You decide if you are a "newer" lawyer; there is no rule about who can be a member. Contact Co-Chairs Olga Tymouch (otymouch@winthrop.com) and Abou Amara (aamara@gustafsongluek.com) with questions or to join. Not-new lawyers: consider referring a colleague to us.

These committees need you! Contact them and get to work!



Federal Bar Association

Minnesota Chapter

Monthly Luncheon Season Pass

Minnesota Chapter of the Federal Bar Association Monthly Luncheon Series 2022-2023 Season Pass

The Minnesota Chapter of the FBA cordially invites you to become a Season Pass holder for the 2022-2023 monthly luncheons. The Season Pass is available to FBA members only and guarantees your seat at a reduced rate.

Presentations for this year include:

Wednesday , September 14, 2022	<i>A Conversation with Judge Kate M. Menendez</i> United States District Judge, District of Minnesota
Wednesday , October 12, 2022	<i>A Conversation with Judge Susan Richard Nelson on Transitioning to Senior Status</i> Sr. United States District Judge, District of Minnesota
Wednesday , November 9, 2022	<i>Election Day Recap</i> Christopher B. Chapp, Associate Professor of Political Science St. Olaf College

Purchase your season pass for the upcoming FBA Luncheon Season (9 monthly luncheons from September 2022 to May 2023) at the registration link below.

Please note that we ask Season Pass members register for each individual lunch they plan to attend for planning purposes as well, but the registration for the specific lunches will be not be any additional cost.

[Get more information](#)

[**Register Now!**](#)

Upcoming Events:

Wednesday,
September 15 to
Saturday, September 17
*FBA Annual Convention
in Charleston, SC*

Wednesday,
October 12, 2022
*Investiture of
Bankruptcy*

Wednesday,
October 12, 2022
Monthly Luncheon

Wednesday,
November 9, 2022
Monthly Luncheon

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Editors-in-Chief

Megan L. Odom

Donna Reuter

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Bar Talk is the official newsletter of the Minnesota Chapter of the Federal Bar Association, published quarterly by the *Bar Talk* Committee. For any inquiries or article suggestions, please contact **Elizabeth Scheibel** (emcavert@gmail.com), **Megan Odom** (MLO@ciresiconlin.com), or **Donna Reuter** (reuter.donna@dorsey.com).

A special thank you to **Allegra Print & Imaging** for formatting this issue.

Want to get involved in the Minnesota Chapter of the Federal Bar Association? Visit <http://www.fedbar.org/Chapters/Minnesota-Chapter/Chapter-Initiatives.aspx> for a full list of committees and information about how to get involved.

Online Registration:

The Minnesota Chapter of the FBA utilizes an online registration system for the monthly Minneapolis Club luncheons. A registration link will be sent to you via e-mail for each luncheon. One feature of the system is the automatic calendar entry; just click "Add to Calendar" from the registration system or your confirmation e-mail. Registration coordinators have the option to register multiple attendees in a single registration.



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