



Bar Talk

Inside This Issue:

Senior Judges Featured	1
Federal Defender Katherian Roe	2
Clerk's Corner	3
World Without Genocide CLE	4
Newer Lawyers Committee Winter Social	4
Bankruptcy Clerk's Corner	5

February Monthly Luncheon Features Senior Judges

By David Hahn



A lively conversation with two of our District's treasured senior judges brightened an otherwise dreary Valentine's Day at the Chapter's February Monthly Luncheon. With Judge Nancy Brasel moderating, Senior Judges Paul Magnuson and Ann Montgomery reflected on their long and distinguished careers both on and off the bench, offering humor, advice, and the occasional war story.

Judge Brasel began the conversation by asking Judges Magnuson and Montgomery how civil litigation had changed over the course of their judicial careers. Most notable for Judge Magnuson has been the transition to the Electronic Age, which in his view has brought tremendous advantages but also new challenges, especially for attorneys who are unable to successfully leverage new technology in their practice. Judge Montgomery remarked on the increasing diversity of the Bar, noting the encouraging progress she has seen since earlier in her career when a former district judge—upon seeing that women would represent both parties in the case before him—exclaimed that it must be “Ladies’ Day in court.”

Acknowledging strong participation in the Chapter by practitioners of criminal law, Judge Brasel next asked the panel members to share their thoughts on the evolution of the United States Sentencing Guidelines from binding to advisory. Both Judges agreed that the Guidelines offer the greatest value as a place to start, rather than end, the sentencing analysis, believing that the binding Guidelines at times prevented courts from exercising their judgment to impose a just sentence. Asked about the pre-Guidelines regime in which he began his judicial service, and which was defined by judicial discretion, Judge Magnuson replied: “What the heck? I like judicial discretion!”

Acknowledging the many newer lawyers in attendance, Judge Brasel then asked the Judges what advice they would offer their younger selves. The responses were both simple and timeless. Judge Montgomery: “Be yourself.” Judge Magnuson: “Tell the truth.”

As the lunch hour came to a close, the Judges recalled some of the most meaningful and comical moments they had experienced over the years. Both emphasized the fulfillment they felt at the conclusion of every successful jury trial. Judge Magnuson knows of no better means to fairly resolve a dispute and hopes we as a profession can find a way to make trials less expensive for all involved. Judge Montgomery agreed, expressing her concern that civil jury trials might go the way of the rotary telephone—a tool that worked pretty well until, for some reason, it was abandoned. To the appreciation of the audience, Judge Montgomery also shared two vivid memories of physical comedy, which included an unsolicited “rear view” of a criminal defendant during her days as an assistant U.S. attorney and an abrupt encounter with a locked door as she attempted a dramatic exit from her courtroom after delivering a broadside on the need for civility and professionalism to lawyers both from the U.S. Attorney’s Office and the defense in a criminal matter.



Judge Brasel spoke for all in the audience and the broader legal community when she thanked Judge Magnuson and Judge Montgomery for their decades of service to the District and the nation. Many thanks to them, and to Judge Brasel, for a worthwhile event. ■

David Hahn is an attorney at Lockridge Grindal Nauen PLLP., where he focuses his practice on business litigation, employment law, and administrative law.

January Luncheon Informs Audience About the Office of the Federal Defender

By Alyssa Schaefer



Chapter members gathered on Wednesday, January 10, 2024, for the Chapter's Monthly Luncheon featuring a conversation with the District's Federal Defender, Katherian D. Roe. Judge Katherine M. Menendez, who served as an assistant federal defender under Ms. Roe, led the discussion, introducing Ms. Roe as one of the best litigators she'd ever witnessed.

Recognizing that the room was likely filled with many civil practitioners not well versed in criminal law, Ms. Roe began with an explanation of the Office of the Federal Defender. Ms. Roe described the creation and development of the Office and the vast array of cases that the Office takes on. This description included a brief introduction into the Criminal Justice Act ("CJA") Panel—a panel of private criminal litigators that assist the Office of the Federal Defender in representing eligible defendants under the CJA. The CJA Panel provides much-needed assistance to the Office, where resources—both in terms of lawyers and financial support—are scarce. Only 10% of all federal criminal defendants

have private counsel. In addition, in multi-defendant cases, the CJA Panel is essential to avoid conflicts of interest.

Ms. Roe described what makes her most proud since her appointment to the Office in 2006—the people. She described the pride she has for the assistants who come through the Office and grow as litigators and leaders through their tenure. Gesturing towards Judge Menendez, she noted they often go on to do great things within the legal community. Judge Menendez asked how Ms. Roe mentors those in her office. Ms. Roe emphasized that her mentorship style depends on the individual, but that a lot of her focus is on slowly building confidence over time so that the attorneys she mentors have solid ground underneath them as they grow. Both Ms. Roe and Judge Menendez recounted stories of being thrown into the deep end when they were new assistant federal defenders. Judge Menendez thanked Ms. Roe for the mentorship role she played in her early years in the Office, including sacrificing nights with her young family to help train Judge Menendez in the art of cross examination.

A major highlight of Ms. Roe's tenure as the District's Federal Defender is her oversight of the CJA Panel. Ms. Roe noted that clients don't often know the difference between representation provided by the Office or by a Panel member. Therefore, the Panel must provide the same high-quality representation as the Office and must reflect the community it serves. To that end, upon her initial appointment, Ms. Roe started a mentorship program within the Panel—the Second Chair (Mentor) Program. The program has been so successful that it is now being adopted by districts across the country. The program emphasizes that lawyers cannot just be brought into the Panel without training, and therefore serves as an intensive training program to ensure every Panel member is able to provide appropriate representation to clients. Today, the program includes 16 members that are former mentees.

Ms. Roe and Judge Menendez next discussed what it means to Ms. Roe to have a "client-centered defense." Ms. Roe emphasized that a client-centered defense focuses on what the client wants out of their representation, which does not always mean achieving the objectively "best" result. In a client-centered defense, an attorney cannot substitute his or her judgment for the client—the client must always be at the center of decision making. Ms. Roe noted that what she misses the most since taking on her leadership role as Federal Defender is the individual relationships she developed with her clients.

In addressing the biggest changes that Ms. Roe has seen in the Office since her tenure began, Ms. Roe highlighted how mandatory minimum sentences and so-called "trial penalties" have become strong forces that push defendants into entering plea deals. She also discussed how sentencing guidelines are now recommendations. Because of this, sentencing memorandums are now a key part of trial strategy that need to be thought about at the inception of cases.

When asked to describe the most challenging case of her career, Ms. Roe discussed the kidnapping and murder case of Jacob Wetterling, which had remained unsolved for 26 years. She discussed that when the case came into her office, she and her coworkers had to put aside their personal feelings and conduct their defense in a manner that served the best interests of their client. Ms. Roe went on to discuss the difficulty of that case for her and her colleagues, where they knew key facts about the case that they may never have been able to disclose, and how the weight of those secrets took an emotional toll. Although the facts in that case were eventually disclosed, in some cases heavy secrets are kept forever.

Ms. Roe ended the conversation with a request—that the Office of the Federal Defender receive more equitable funding. The Office receives a fraction of the funding the District's U.S. Attorney's Office receives. In addition, a hiring freeze is in effect in federal defender offices across the country. Ms. Roe asked for member support to remove the freeze and to bolster funding. U.S. Attorney Andrew M. Luger voiced his support for Ms. Roe's request. The Luncheon ended with all assistant federal defenders standing and receiving a whole-hearted round of applause from attendees for all the hard work they and the Office do. ■

Alyssa Schaefer is a trial associate at Dorsey & Whitney LLP where her practice focuses on commercial litigation and antitrust and competition law.

Clerk's Corner

By Andrew Pieper



Judge Transitions

Judge Wilhelmina M. Wright retired from judicial service, effective February 15, 2024. The Court has begun to celebrate Judge Wright's astonishing career with more to come.

New District Judge Jeffrey M. Bryan was administered the oath of office on December 1, 2023, filling the vacancy created when Judge John R. Tunheim took senior status. Judge Bryan is chambered on the 3rd floor of the St. Paul Courthouse.

Chambers Update

In early March, Judge Katherine M. Menendez will be moving to the 14th floor of the Minneapolis Courthouse. Judge David S. Doty has moved to the 10th floor of the Minneapolis Courthouse.

Naturalization Ceremonies

The Court continues to welcome new citizens at naturalization ceremonies throughout the state. Chief Judge Patrick J. Schiltz and Magistrate Judge Dulce J. Foster naturalized over 800 new citizens in one day at the Earle Brown Heritage Center in Brooklyn Center. Judge Eric C. Tostrud traveled to the College of Saint Benedict and Saint John's University in St. Joseph to naturalize new citizens. Additionally, Judge John R. Tunheim administered the oath at Westminster Presbyterian Church in Minneapolis.



Chief Probation Officer Departure

On January 17, 2024, the Court held a celebration of departing Chief Probation Officer Kito Bess's work in our District and throughout the country. Chief Judge Schiltz, Judge Tunheim, and Judge Susan R. Nelson all spoke and expressed their admiration of Chief Bess and their appreciation for all that he has accomplished during his term as Chief Probation Officer.



Benchmarks Senior Judge Series

The Court held its first *Benchmarks Senior Judge Series* with Judge Susan R. Nelson interviewing Judge David S. Doty about his journey to the bench and the landmark cases over which he presided.



Justice & Democracy Center

The Justice & Democracy Center of Minnesota, newly opened within the St. Paul Courthouse, continues to welcome students from across the state. In the first few months of 2024, nearly 1,600 visitors are anticipated. Student field trips, Girl Scout and Boy Scouts of America workshops, adult learner events, and attendees of naturalization ceremonies are among the Center's visitors. For more information on visiting or supporting the Center, visit: justicedemocracymn.org.

Save the Dates

An Unfinished Journey: Civil Rights for People with Developmental Disabilities and the Role of the Federal Courts and I Am Art Show.

Please join us on Tuesday, March 19, for a free afternoon CLE followed by an evening art reception in the lobby of the Diana E. Murphy U.S. Courthouse from 5:00-7:00 pm. Registration is required and space is limited for the CLE: [register here](#). No registration is required for the evening event, which is family friendly and open to the public. Light appetizers and beverages will be provided, with spoken remarks and brief performances beginning at 5:30 p.m.

Minority Judges Reception

The 2024 Minority Judges Reception is slated for Thursday, June 20th at 5:00 p.m. More information to follow. ■

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

Chapter Co-Sponsors World Without Genocide's CLE on International Criminal Court

By *The Honorable John F. Docherty*

The Diversity, Equity & Inclusion Committee of the Chapter was proud to co-sponsor a CLE on the International Criminal Court's Agenda for 2024. The CLE was held virtually on January 29, 2024, and was presented by World Without Genocide ("WWG"), an organization devoted to international human rights advocacy and education based at Mitchell Hamline School of Law. The FBA's Diversity Committee has had a relationship with WWG for several years and co-sponsors multiple WWG events, including CLEs, each programming year.

WWG Executive Director and founder Ellen Kennedy began the CLE with a review of the International Criminal Court's history, its organizational structure, and how the permanent ICC differs from the temporary international criminal tribunals, such as the International Criminal Tribunals for the Former Yugoslavia and Rwanda, that the international community has used to seek justice in the past after major human rights outrages. These temporary tribunals were expensive because they were one-time organizations (start-up costs were incurred for every temporary tribunal as opposed to being incurred only once for a permanent court). Because they were temporary, they had low deterrent value. Kennedy explained that the ICC—whose passage from a theoretical legal idea to an operating court with a staff, a courthouse in the Hague, and a founding charter—lasted nearly fifty years, is permanent and its jurisdiction is not limited to any particular occurrence of serious human rights violations. The Court has jurisdiction over the international crimes of genocide, crimes against humanity, war crimes, and aggression. It is a court of last resort that only takes cases that national courts and prosecutors are unable or unwilling to take on themselves. Kennedy noted that one hundred and twenty nations recognize the ICC's jurisdiction. The United States, together with six other nations, does not.

Kennedy then described the ICC's organization and the various routes by which cases come before the ICC for investigation: referral by the UN Security Council; by the ICC's own chief prosecutor; or by any country where the crime occurred or whose nationals participated in the crime, among other possibilities.

World Without Genocide interns Jeanna Michalopolous (3L, University of Toronto) and Lindsey Hagan (3L, Fowler School of Law of Chapman University) then presented on the ICC's priorities for the upcoming year. Ms. Michalopolous discussed two new policies adopted by the ICC's Office of the Prosecutor. The first, a Policy on Gender-Based Crimes, focuses on a report on gender violence in Myanmar against Rohingya persons. Ms. Michalopolous also presented on the Office of the Prosecutor's new Policy on Children, which recognizes the ability of children to give evidence, taking into account children's development and memory. Ms. Hagen presented on efforts to codify the international crime of ecocide (deliberately causing severe, long-term damage to an ecosystem) into the Rome Statute (the Rome Statute is, in effect, the ICC's charter) and a new convention on evidence handling in international criminal cases, the "Ljubljana-The Hague Convention on International Cooperation in the Investigation and Prosecution of the Crime of Genocide, Crimes Against Humanity, War Crimes and other International Crimes." This convention entered into force on February 14, 2024.

WWG presents CLEs approximately once every four to six weeks on a variety of international human rights topics. Your DE&I Committee publicizes them to the membership of the Chapter, so if you are interested, watch your inbox. ■

The Honorable John F. Docherty is a United States Magistrate Judge for the United States District Court for the District of Minnesota.

The Night Before Wednesday

By *Joey Balthazor and Greta Wiessner*

On February 6, 2024, from 5:00-7:00 p.m., the Newer Lawyers Committee hosted a Winter Social at Graze Provisions and Libations for newer lawyers to network with each other. Faegre Drinker Biddle & Reath LLP sponsored the event.



'Twas the night before Wednesday, when all through the city,
Not a newer lawyer was working (ain't that a pity).
Drink tickets were placed at the food hall with care,
In hopes that newer lawyers soon would be there.

The co-chairs arrived and tried all the spreads,
While dreams of FBA leadership danced in their heads.
Joey in his blazer, and Greta her dress,
Had just settled for a night full of stress.

NLC Winter Social, continued on next page.

NCL Winter Social, continued from previous page

When out in the food hall there arose such a clatter,
They sprang from their seats to check the client-matter.
Away to the bar they flew in a flash,
Newer lawyers galore! Time for a bash.

The room was chalk full of newly-formed peers,
How good it feels to have colleagues so near.
When what to their newer lawyer eyes did appear,
But a jug full of water, and a keg full of beer (just kidding).

With drinks in their hand, and smiles on their face,
They learned rather quickly what they cannot replace.
Friendship and collegiality—a community became,
And all that it took was learning a new name.

Now, Taft! Now, Robins! Now, Faegre and Byron!
On, Winthrop! On, Dorsey! On, Stinson and Larson!
To the top of the bar! To the top of the dockets!
Network away! Eat away! Fill all your pockets!

As newer lawyers join our bar with bright eyes,
It is our duty to help them rise.
If only there were a group, something more than a ditty,
Ah, that's right! The Newer Lawyers Committee!

The co-chairs sprang to their lectern in cheer,
To encourage all newer lawyers to join and have no fear.
But before they left, they said with delight:
“Happy networking to all, and to all a good night!” ■



Greta Wiessner and Joey Balthazor are the co-chairs of the Newer Lawyers Committee. Greta is an associate at Robins Kaplan LLP practicing plaintiff-side civil rights litigation. Joey is an associate at Taft Stettinius & Hollister LLP practicing intellectual property litigation.

Bankruptcy Clerk's Corner

By Tricia Pepin

Happy New Year from the U.S. Bankruptcy Court Clerk's Office!

The Court's "Open Chapter 11 Cases" webpage has been updated to include a new subscription option. Subscribers will receive an email when the webpage is updated with a new chapter 11 case filed in the District of Minnesota. The webpage is updated at 11:30 a.m. and 5:30 p.m. Monday through Friday. You can sign up for this new subscription service at: <https://www.mnb.uscourts.gov/open-chapter-11-cases>.

The Court has created new chapter 13 email addresses to communicate more effectively with the Court regarding chapter 13 hearings. To find a presiding judge's chapter 13 email address, visit the judge's page on the Court's website. ■

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

Introducing the Law School Outreach Committee and Free Student Membership

Since 2012, the Law School Outreach Committee (LSOC) has served as a bridge between the Minnesota Chapter of the FBA and passionate and engaged students at local law schools. The LSOC ensures that students get the most out of their memberships by helping students facilitate learning about federal practice areas; meet members of the FBA, federal bar, and judiciary; and cultivate relationships within the legal community. In doing so, the LSOC works with law school chapters to provide guidance on organizing events, obtaining funding, furthering diversity, and connecting to opportunities in the Minnesota Chapter and FBA-National.

FBA membership is currently **FREE for law students!**

Students are encouraged to take advantage of this join at <https://www.fedbar.org/membership/> so they can enjoy all the benefits the FBA has to offer. Chapter members are encouraged to **share this information with the students you mentor, work with, and teach.**

The screenshot shows the Federal Bar Association website. The browser address bar displays <https://www.fedbar.org/membership/>. The page header includes the FBA logo and navigation links: Membership, Events, Government Relations, About, The Federal Lawyer, Foundation, and Member Tools. The main heading is "Benefits of Membership". Below the heading, there is a link: "Create your account here and join today!". The page also features a sidebar with "In This Section" and "Resources" links.

To get involved, contact law school liaisons Hannah M. Leiendecker and Lisa Beane at hannah.leiendecker@faegredrinker.com and bean0040@umn.edu.



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Upcoming Events:

Wednesday,
April 10, 2024
April Chapter Luncheon

Wednesday,
May 8, 2024
May Chapter Luncheon

Saturday,
May 11, 2024
Federal Judges' Dinner Dance

Thursday,
June 20, 2024
Minority Judges Reception

Monday,
August 26, 2024
FBA Golf Tournament

8

Editors-in-Chief

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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 **Donna Reuter** (dreuter@crowell.com), **Devin Driscoll** (DDriscoll@fredlaw.com), or **Alyssa Schaefer** (schaefer.alyssa@dorsey.com). A special thank you to **Allegra Print & Imaging** for formatting this issue and to Consilio for printing this issue.

Want to get involved in the Minnesota Chapter of the Federal Bar Association? Visit www.mnfedbar.org/initiatives 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.

CLE Credit for Monthly Luncheons:

Attending the Monthly Luncheons also earns you CLE credits! If you attended these luncheons, here are the CLE codes and the credits approved:

January Monthly Luncheon (Katherian Roe) - 1 standard credit (499091)

February Monthly Luncheon (Senior Judges Panel) - TBD



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Association**
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