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Bar Talk

President's Welcome Message

By Katie Barrett Wiik

Happy fall and welcome to another exciting year of Minnesota Chapter activities! We appreciate your membership and look forward to a year chock-full of insightful and timely CLE programming, including our monthly lunches (occurring the second Wednesday of each month, skipping December this year) with engaging topics and speakers. We are energized to plan and execute the 2024 editions of our Chapter's hallmark events, including our Federal Practice Seminar, Federal Judges' Dinner Dance, Court Camp, and much more. We are primed for another bar year involving rich collaboration with our legal community's affinity bars and other bar-association partners in both our social and substantive programming.



As I begin my service as Chapter President, I am inheriting a healthy and vibrant organization. This is primarily thanks to the impressive leadership of Adam Hansen last year and a number of outstanding Chapter presidents, from both the bench and bar, who served before him. The Chapter officers are aided by an extensive and talented slate of dozens of Chapter leaders—the vast majority remain in service as Chapter leaders this year—as all are devoted to making their own corner of our bar association the best it can be.

Some highlights from the 2022–2023 bar year include a wildly successful return to our summer Court Camp for high schoolers, a well-attended (and thankfully non-super-spreader event) Judges' Dinner Dance, the opening of the Justice & Democracy Center in the St. Paul courthouse, and learning that the Twin Cities and our Chapter will be the host city for the National FBA Conference in September 2025. We have also successfully transitioned our *Pro Se* Project leadership to our new Coordinator, Jackie Bailey, and she continues to connect volunteer attorneys with *pro se* litigants in need of assistance. Over the summer, we launched a

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Celebrating the Opening of the Justice & Democracy Center in St. Paul

By Elizabeth Bentley



The U.S. District Court for the District of Minnesota and the Minnesota Chapter of the Federal Bar Association are excited to announce that the Justice & Democracy Center of Minnesota ("J&DC") at the Warren E. Burger Federal Building and U.S. Courthouse in St. Paul is now open to the public. The J&DC reflects a collaboration between the Court and the Minnesota legal community to address the decline in civics education in recent years.

The J&DC's mission is "to promote public understanding of the rule of law and the role of an independent judiciary in our democracy through free, accessible, and equitable educational programming, both virtual and in-person." It accomplishes that goal with on-site permanent and rotating exhibits, an informational website with educational resources and curriculum support for teachers, and close collaboration with Court staff and judges to enhance school-age children's exposure to and understanding of the judicial system.

The Court and the Chapter celebrated the St. Paul Center's opening on June 21, 2023, with a reception for early supporters of the initiative. Individuals from the Court, Chapter leadership, and

J&DC Opening, continued on page 10.

Eighth Circuit Judicial Conference Held in the District of Minnesota

By Devin T. Driscoll

The Eighth Circuit Judicial Conference was held at the Radisson Blu Mall of America in Bloomington from July 12th to July 14th.

Full judicial conferences of the U.S. circuit courts—meaning gatherings open to both bench and bar—are typically convened biennially “for the purpose of considering the business of the courts and advising means of improving the administration of justice within such circuit.” 28 U.S.C. § 333. The conference program committee, which was chaired by Chief Judge Patrick J. Schiltz, assembled an outstanding program of speakers and panelists on a broad range of civil, criminal, and bankruptcy topics.

The conference’s first day featured a conversation with Associate Justice Brett M. Kavanaugh of the United States Supreme Court, who is currently serving as the Circuit Justice for the Eighth Circuit. The conversation was moderated by Eighth Circuit Chief Judge Lavenski R. Smith and Judge Sarah E. Pitlyk of the Eastern District of Missouri. Judge Pitlyk clerked for Justice Kavanaugh when he was a judge on the D.C. Circuit.



Also featured during the first day’s programming were two plenary CLE presentations: the first focused on the broadcasting of civil and criminal proceedings, and the second focused on the issue of judicial safety and security. The former was a lively panel discussion featuring two state-court judicial officers; Minnesota District Court Judge Peter A. Cahill and Iowa Chief Justice Susan Christensen. Judge Cahill described his experience with the live broadcasting of the murder trial of Derek Chauvin. Chief Justice Christensen discussed the Iowa judicial

branch’s longstanding practice of livestreaming court proceedings. Both justices advocated for greater use of broadcasting in the federal courts.

The second program of the day featured remarks from two speakers: Judge Esther Salas of the District of New Jersey and Mark Lanterman, a longtime expert in protecting privacy and uncovering cyber fraud. Judge Salas described the assassination attempt against her, which resulted in the tragic murder of her son and shooting of her husband. The horrible events were perpetrated by a self-proclaimed men’s rights activist. Judge Salas discussed how the tragedy spurred her to seek state and federal legislation that better protects the private information of judicial officers. Mr. Lanterman demonstrated how easily such personal information can be found online in the absence of such legislative protection.

The second day of the conference featured three plenary CLE presentations. The first, a panel discussion—led by Senior Judges Susan Richard Nelson and Donovan Frank—focusing on the success of reentry, diversion, and veterans’ courts, both at the state and, increasingly, at the federal level. The second, a Supreme Court update moderated by Eighth Circuit Judge David Stras. And the third, a presentation on gun and violent crime prevention, moderated by United States Attorney Andy Luger.

CLE breakout session topics included the application of the Fourth and Fifth Amendments to new technology featuring expert Professor Orin Kerr of the University of California, Berkeley School of Law. Chief Judge Schiltz moderated an update on proposed Federal Rule of Evidence 107 on the issue of illustrative aids. The Chief Judge served on the committee that drafted the proposed rule. Finally, Judge Nancy E. Brasel led a discussion featuring the work of the Judicial Conference of the United States, which is considering the future of remote court proceedings in the federal system. Judge Brasel serves on a Judicial Conference subcommittee that is drafting the proposed policy.

In addition to the CLE offerings, the conference featured a Bench and Bar Reception at the Mill City Museum in Minneapolis; a special outing to a performance of *Into the Woods* at the Guthrie Theater; and a fantastic luncheon presentation featuring Judge Carlton W. Reeves of the Southern District of Missouri, who began his term as the Chair of the United States Sentencing Commission in August 2022. ■

Devin T. Driscoll is a senior associate at Fredrikson and Byron, P.A., with a practice focused on business litigation, environmental and energy litigation, eminent domain litigation, and appellate matters. He is a co-editor of Bar Talk and adjunct professor of law at the University of Minnesota Law School, where he teaches a course on state constitutional law.

Judge Jerry W. Blackwell Provides Reflections and a Call to Action at May Chapter Luncheon

By Pat Hauswald

For the final luncheon of the spring season, the Chapter gathered in a sun-dappled ballroom at the Minneapolis Club to hear remarks from its newest member of the District bench, the Honorable Jerry W. Blackwell.

After noting that he would not dare give a how-to lesson about judging after just arriving to the bench, Judge Blackwell provided “10 Things He Wished He Could Tell a Judge While a Practitioner But Never Could.” Drawing laughs and knowing nods, Judge Blackwell shared lessons from his 35 years as a trial lawyer about courtrooms, trials, and judging that he will carry with him to guide his service on the bench.

Turning to a more serious topic, Judge Blackwell reflected on the Rule of Law and how it (and other notions like it) can easily be reduced to a catchphrase, a kind of shibboleth, that gets put up on a mantle as something apart from us and how we function as a democratic republic. He shared two stories to illustrate his perspective.

First, he recounted a childhood experience in rural North Carolina. He and other boys in the neighborhood would sometimes swim in a pond at a farm on the other side of dense woods behind his house. A so-called neighbor Archie, who owned the farm, would shoot at the boys with rock salt for swimming in the pond. Even as youngsters they knew that Archie should not have been shooting at them. But they also knew that calling the police would only bring more trouble for them, and none for Archie, a hostile white man using a firearm to shoot at children. In this, he learned that there is nothing inherently sacrosanct about the Rule of Law. Stripped to its essentials, the Rule of

Law is the “business end” of justice—the law in the end is what gets enforced, and its moral force and fiber reflect the consciousness of the people who give it life.

As a second example, Judge Blackwell explained how the federal government forcibly removed the Cherokee people from their lands in Georgia in the Trail of Tears, despite the Supreme Court having ruled that the gold-yielding lands at issue legally belonged to the Cherokee nation as a sovereign. The ruling did not matter. President Andrew Jackson’s defiant response to the Supreme Court was, “John Marshall has made his decision, now let him enforce it.” The political and moral forces of the Rule of Law are both wholly derivative. The potency of the Rule of Law is directly tied to and derived from the public’s trust and respect for the Court as an institution. To earn and keep that trust, it is not enough for the Court to be just in its analyses and rulings; it must also appear to be just in the public view.

Judge Blackwell closed with a call to action for the lawyers in attendance: to use the legal profession to expand access to the justice system for the poorest and least among us. Doing so truly promotes equal justice and, ultimately, true respect for the Rule of Law. Judge Blackwell asked Jacqueline Bailey, the coordinator of the FBA *Pro Se* Project, to stand and be recognized, pointing the audience to the Project as an immediate opportunity to promote equal justice by helping pro se litigants in need.

For information about the *Pro Se* Project and how to get involved, contact the *Pro Se* Project Coordinator Jacqueline Bailey at coordinator@proseproject.org. ■

Pat Hauswald is a law clerk for Judge Jerry W. Blackwell and former law clerk for Minnesota Court of Appeals Judge Kevin G. Ross. Before joining Judge Blackwell’s chambers, Pat consulted for ServiceNow, Inc., served as nonpartisan legal counsel in the Minnesota Senate, and practiced as a litigation associate at Blackwell Burke P.A.

A Dynamic 2023 Minority Judges Reception

By Katie Barrett Wiik



The District provided a warm welcome to practitioners, affinity bar leaders and members, judges from all of Minnesota’s courts, summer associates, and law clerks at the Diana E. Murphy U.S. Courthouse in Minneapolis on June 15, 2023, for the Minority Judges Reception.

Attendees mingled on the outdoor courthouse plaza, enjoyed delicious appetizers and drinks, and celebrated the many contributions of judges of color serving Minnesotans in our federal, state, and administrative courts. The Minority Judges Reception is an annual event sponsored by the District and the Chapter’s Diversity, Equity, and Inclusion

Committee, together with the the Minnesota Association of Black Lawyers, Minnesota Asian Pacific American Bar Association, Minnesota American Indian Bar Association, Minnesota Hispanic Bar Association, Minnesota Hmong Bar Association, Minnesota Disability Bar Association, Minnesota Somali Bar Association, Minnesota Lavender Bar Association, Minnesota Women Lawyers, and Twin Cities Diversity in Practice.

Minority Judges, continued on page 11.

Clerk's Corner

By Andrew Pieper

District News

Effective August 1st, the Court adopted amendments to Local Rules 83.5 and 83.7 reflecting significant changes to two important aspects of the local *pro hac vice* practice. Please see the [Court's website](#) for more information, including a letter from Chief Judge Patrick J. Schiltz regarding the changes.

The St. Paul Clerk's Office has officially reopened in the newly renovated space on the first floor of the St. Paul Courthouse, neighboring the new Justice & Democracy Center of Minnesota.

District Events

On May 15th, the Hmong American Day Public Art Reception was held at the Minneapolis Courthouse recognizing the innumerable contributions, vibrant cultures, and rich heritage of Asian Americans, Native Hawaiians, and Pacific Islanders. Former Governor Mark Dayton was one of the speakers at the event. In 2014, then-Governor Dayton proclaimed May 14th as Hmong American Day in Minnesota.



On June 8th, the Court hosted a reception at the St. Paul Courthouse during which we honored student art from the Metro Deaf School. The artists enjoyed visiting our new [Justice & Democracy Center of Minnesota](#), as well as visiting Judge Kate Menendez's courtroom.

The Court held the formal investiture for Judge Jerry Blackwell at the Minneapolis Women's Club on June 9th. In addition to performances by the Grammy Award-winning Sounds of Blackness, guests enjoyed music from Sam Reeves and Robert Robinson, as well as a drum piece by the Spirit Boy Singers. The ceremony was led by Chief Judge Schiltz and included remarks by Senator Amy Klobuchar, Judge Michael Davis, retired Minnesota Supreme Court Justice Alan Page, Judge Susan Richard Nelson and Thomas Nelson, and a reading of Judge Blackwell's Presidential Commission by Ann Loughlin of the Department of Justice.

In July, the Court was honored to co-host the 2023 Eighth Circuit Judicial Conference in Bloomington. Over 400 judges, attorneys, law clerks, and Court staff attended the conference. United States Supreme Court Associate Justice Brett Kavanaugh, pictured below with Chief Judge Schiltz and Eighth Circuit Chief Judge Lavenski Smith, shared interesting insights on what happens behind the scenes at the United States Supreme Court. Judge Esther Salas of the District of New Jersey shared the tragic story of the loss of her only son, Daniel Anderl, reminding us of the importance of judicial security. Lunchtime speaker Judge Carlton Reeves of the Southern District of Mississippi, the new chair of the U.S. Sentencing Commission, discussed the Commission's recent actions and plans. The agenda was absolutely packed with outstanding presentations by judges, professors, lawyers, and others from throughout the United States. Minnesota was well represented as host of the conference. Read more about the conference on page 2.

At the end of July, the Court, led by U.S. Bankruptcy Judge William Fisher, hosted Court Camp. Court Camp is a week-long opportunity for area high-school students to visit the courthouse and learn firsthand how the judiciary works. Nearly 30 students from more than 15 schools throughout the metro and greater Minnesota attended. Activities included judge panels, courthouse tours, a panel with Minnesota Attorney General Keith Ellison, mock trials, and a visit to the new Justice & Democracy Center of Minnesota. Read more on page 6.

The Minnesota Chapter of the American Board of Trial Advocates (ABOTA) honored Judge Susan Richard Nelson as their 2023 Trial Judge of the Year at a dinner at the Nicollet Island Pavilion on July 18th. Several of Judge Nelson's colleagues and many state-court judges joined the celebration.



The Court held the formal investiture of U.S. Magistrate Judge Douglas Micko on August 3rd at the Landmark Center in downtown St. Paul. Judge Wilhelmina Wright presided and Federal Defender Katherian Roe and attorney Brian Rochel of Kitzer Rochel, PLLP gave remarks. ■

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

Chapter Gathers at Affinity Bar Meet and Greet

By Megan Odom



On May 23, 2023, members of the Chapter gathered with other local bar associations for the 9th Annual Affinity Bar Meet and Greet. After two years of remote events, everyone was excited to mix and mingle in person at The Sewing Room at Eat Street Crossing. The menu included delicious food and beverage from local and diverse vendors, thanks to the Diversity, Equity, and Inclusion Committee's planning and good taste. In between bites, Magistrate Judge Docherty



shared brief remarks highlighting the Chapter's partnership with various affinity bar associations and relayed his enthusiasm about future collaboration. ■

Megan Odom is an associate at Ciresi Conlin, where she represents plaintiffs injured by defective drugs and devices in multi-district litigations (MDLs). Megan is the Affinity Bar Liaison Coordinator.

Lunchtime Conversation with Judge Reyna

By Sheila Niaz

On May 8th, the Chapter's Intellectual Property Committee and the Minnesota Hispanic Bar Association sponsored a Lunchtime Conversation with the Honorable Jimmie V. Reyna of the Federal Circuit at Faegre Drinker in downtown Minneapolis. The event was a tremendous success, offering attendees the chance to learn from one of the most respected judges in the country, enjoy a delicious lunch, and network with fellow professionals in the intellectual property field.

Judge Reyna is a highly regarded judge who has served on the United States Court of Appeals for the Federal Circuit since 2011. He is known for his extensive legal expertise, having worked as a litigator and appellate lawyer for many years before his appointment to the bench. Judge Reyna continues to be actively involved in promoting diversity and inclusion within the legal profession and has been recognized for his contributions in this area.



The event was moderated by Judge Peter Reyes Jr. of the Minnesota Court of Appeals, also a respected member of the judiciary. Judge Reyes has a background in both criminal and civil law and has received numerous accolades for his legal work and community service.

During the conversation, Judge Reyna shared insights into his personal life, professional goals, and strategic development. The discussion was both informative and engaging, providing attendees with a unique opportunity to learn from a highly respected member of the judiciary.

Overall, the conversation proved to be a resounding success. Attendees were delighted with a sumptuous lunch while mingling with esteemed colleagues and industry experts. The event provided an excellent opportunity for participants to

build new connections, exchange insights and best practices, and foster meaningful relationships in the intellectual property field. ■

Sheila Niaz is a Co-Chair of the Chapter's Intellectual Property Committee. Sheila is a judicial law clerk for Judge Wilhelmina M. Wright. Before joining the Court, Sheila worked as a patent attorney at a Minneapolis firm specializing in intellectual property law.

Court Camp

By Vanessa Szalapski



Court Camp returned in full for the first time since 2019. After a three-year hiatus, the summer week-long program had an ambitious slate of activities for the participating high school students. The students spent each morning with a variety of presenters learning about various court roles, including prosecutors, criminal defense attorneys, probation officers, civil litigators, and courtroom staff. Other presenters included an FBI agent, a St. Paul police officer, and district court and bankruptcy judges. The students attended a motion hearing and a naturalization ceremony and met



drug dogs, who are always fan favorites. The students spent the afternoons working on a mock trial exercise that culminated with two mock trials on Friday. The program was a big success, and coordinators are already looking forward to planning next year's Court Camp. ■

Vanessa Szalapski is a healthcare litigation partner at Dorsey & Whitney LLP. She was also a Co-Chair of Court Camp 2023.

FBA's Annual Kick-Off Golf Tournament & Social Event

By Pete McElligott and Mary Riverso

The Town & Country Club in St. Paul hosted this year's Golf Tournament and Social Event for the third consecutive year and did not disappoint. Once again, the clouds parted, the sun shone, and the well-manicured greens reminded everyone to stick to their day jobs. For some, the sun shined a little brighter as the winning team—Will Paterson, Ryan Downs, Kyle Kröll, and Peter Economou—used their youthful exuberance to break the bottleneck at twelve under par. Congratulations to the champions and to all contest winners.



The golf clinic proved to be another success, encouraging future

prodigies and those interested in improving their game to join the festivities on a beautiful summer day with the help of Town & Country staff. Despite many deflated egos after 18 holes, FBA members gathered for the highlight of the August social season on the patio outside the clubhouse for food, drinks, and revelry.



A huge thanks to all the fantastic sponsors who helped make this event possible. If you are interested in serving on the planning committee for the 2024 event, please contact Pete McElligott (pmcelligott@anthonyostlund.com) or the Honorable Eric. C. Tostrud. ■

Pete McElligott is a shareholder at Anthony Ostlund Louwagie Dressen and Boylan P.A., where he regularly represents individuals and businesses in cases involving fiduciary duty issues and shareholder disputes. Mary Riverso is an Assistant United States Attorney in the Criminal Division at the U.S. Attorney's Office for the District of Minnesota.

Bankruptcy Clerk's Corner

By Tricia Pepin

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

The U.S. Bankruptcy Court implemented several Local Rule amendments to the 1000 and 9000 series, effective July 17, 2023. To see the amendments, visit the Local Rules page under the Code, Rules, Forms and En Banc Orders tab on the Court's website at www.mnb.uscourts.gov. The purpose of the amendments is to conform the Local Rules and Local Forms with the Federal Rules of Bankruptcy Procedure and current practice. These amendments are the first set of a larger project to substantively review all Local Rules.

In conjunction with the Local Rule changes, the Clerk's Office also implemented many changes in ECF and associated case processing procedures. Please review the [Attorney Procedures](#) page for the most current case filing guidance. To assist the bar with the changes in ECF, the Clerk's Office has created a CM/ECF Cheat Sheet chart to help identify the appropriate request for relief or ECF event, authority for such request, and ECF location for the event. The chart is also available on the [Attorney Procedures](#) page.

For the most up-to-date information on the U.S. Bankruptcy Court, visit the Court's website at www.mnb.uscourts.gov. And please let me 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.

Federal Judges' Dinner Dance

Honorary members of the Federal Bar, Chapter members, and their guests gathered for the annual Federal Judges' Dinner Dance on Saturday, May 13, 2023, at the Minikahda Club in Minneapolis. The evening included a social hour, dinner, remarks from Chapter President Adam Hansen, and live music from The Dap Squad. Approximately 300 guests attended, including many members from Minnesota's federal and state-court benches. This year's event was organized by the Chapter's Vice Presidents for Special Events, Cassandra Jacobsen and Rory Collins. ■



Civil Discovery Practice Group Overview of Document Discovery

By Zach Wright

The Chapter's new Civil Discovery Practice Group got off to a hot start, hosting its first CLE over lunch on April 25 at the offices of Stinson LLP. Sharon Markowitz, a partner at Stinson, and Brittany Resch, an attorney at Turke & Strauss LLP, led an engaged and lively group of attendees through a presentation aptly titled "Document Preservation, Collection, and Production 101."

Retired Magistrate Judge Hildy Bowbeer opened the event by speaking about the importance of competent counsel and clear communication in the discovery process, particularly in discovery of electronically stored information (ESI). Judge Bowbeer also discussed the Group's recently revised eDiscovery Guide for practitioners, available on the District's [website](#), before turning the floor over to the two presenters.

Resch began the substantive portion of the luncheon by explaining the high-level discovery rules and framework for preservation, collection, and eventual production of documents. Audience members discussed the duty to preserve documents and interpreting the meaning of "reasonably anticipates litigation." This is a fact specific inquiry, and counsel would do well to have a thorough understanding of a client's business, the anticipated scope of discovery, the parties' claims and defenses, and the typical practices before the court in question. The group agreed that this is a fact specific that hiring vendors to assist with document collection, though potentially expensive, was usually necessary given the breadth of ESI today. Resch finished her portion of the presentation with a reminder that the rules do not require perfection but do require reasonableness under the circumstances.

Markowitz then turned the discussion to the specific mechanics of preservation, collection, and production. For preservation, it is important to communicate with anyone reasonably likely to have relevant documents and (in situations with more sophisticated clients) at least one person capable of suspending any auto-delete or similar information management policies or programs. Interpreting the terms "document" and "preserve" broadly can help to avoid discovery issues down the road. For collection, communication with the clients is key. Both Markowitz and Resch noted they normally work through document-collection questionnaires with custodians at the start of the collection process. This enables attorneys to understand where and how different types of documents are stored. Finally, for production, developing and documenting a search protocol should be a top priority. A protocol is an important tool in cases involving large amounts of documents or ESI. Negotiating with opposing counsel on keywords and other search techniques can streamline the discovery process for all involved.

The CLE finished with the presenters sharing situations where a proactive approach to potential ESI discovery problems could have a beneficial impact later on, including discovery involving ongoing conversation strings, foreign-language documents, encryption and passwords, and where maintaining the security of produced documents is necessary.

Many thanks to all the attendees, Judge Bowbeer, the two excellent presenters, as well as the Chapter, the District, and Stinson for supporting this event. ■

Zach Wright is an associate at Stinson LLP and represents clients in an array of industries, with a focus on energy, environmental, mining, and transportation issues.

Newer Lawyers Committee Continues Lunch Series with Judge Wright

By Abou B. Amara Jr.



On May 18, 2023, the Minnesota Chapter's Newer Lawyers Committee hosted its monthly Judge's Luncheon with Judge Wilhelmina Wright. Co-Chairs Olga Tymouch and Abou Amara led a conversation with Judge Wright about her childhood, her pathway to the law, and joy she has experienced serving as a justice for the Minnesota Supreme Court and as a federal judge for the District of Minnesota. Judge Wright also answered questions posed by several students about the skills she believes are necessary to be an effective advocate and an all-around stellar attorney. ■

Abou B. Amara Jr. is a complex litigation attorney at Gustafson Gluek PLLC, focusing his class action practice in antitrust, civil rights, consumer protection, data breach, securities, and mass tort. He recently served on the Federal Judicial Selection Committee formed by Senators Amy Klobuchar and Tina Smith.

IP Odyssey: Navigating the Latest Developments in Intellectual Property Law

By Sheila Niaz

On May 2nd, 2023, intellectual property enthusiasts embarked on an exciting adventure at the “IP Odyssey: Navigating the Latest Developments in Intellectual Property Law” event hosted by the Chapter’s Intellectual Property Committee and Winthrop & Weinstine, P.A. The event promised attendees unparalleled insights into the latest case developments in patent, trademark, copyright, and trade secret law within the District and the Eighth Circuit.

Attendees had the flexibility to participate in the CLE-accredited event in a hybrid format, either in-person or remotely via Zoom. The dynamic panel featured four expert speakers, each with a unique focus on IP Law. Sheila Niaz, a clerk for Judge Wilhelmina M. Wright, shared her insights on patent law. Megan Miller of Winthrop captivated the audience with her comprehensive understanding of trademarks. Grant Fairburn of Frederickson & Byron, P.A. provided a fascinating analysis of copyrights. And Kyle Kroll of Winthrop spoke about trade secrets, rounding out the group with his extensive knowledge in the field.



The speakers presented two or three recent cases in their respective areas of IP law and engaged in a riveting discussion with the audience accompanied by a PowerPoint presentation. Attendees had the opportunity to ask questions and interact with the speakers, gaining valuable insights into IP’s latest developments.

But the fun didn’t stop there. After the panel discussion, Winthrop hosted an excellent social hour. Attendees had the opportunity to eat, drink, and socialize with fellow IP enthusiasts—the perfect way to wrap up the event.

The Intellectual Property Committee and Winthrop hosted an event that was both educational and fun, leaving attendees eagerly anticipating the next IP Odyssey. ■

Sheila Niaz is a Co-Chair of the Chapter’s Intellectual Property Committee. Sheila is a judicial law clerk for Judge Wilhelmina M. Wright. Before joining the Court, Sheila worked as a patent attorney at a Minneapolis firm specializing in intellectual property law.

Seasoned Litigators Offer Dynamic Panel Discussion Related to Women in MDL, Mass Tort, and Class Leadership

By Rachel Tack

On April 19, 2023, the Chapter virtually hosted a panel of female litigators to discuss Women in MDL, mass tort, and class leadership.

Over the last decade or so the number of women in MDL, mass tort, and class leadership has become increasingly relevant to discussions about diversity in leadership. In the legal profession, it is no secret that women are underrepresented in positions of leadership. For example, in 2015, only 24% of lead counsel in civil cases were women. Amanda Bronstad, *There Are New Faces Leading MDLs. And They Aren’t All Men*. LAW.COM, <https://www.law.com/2020/07/06/there-are-new-faces-leading-mdls-and-they-arent-all-men/>. And in 2020, 40% of the top thirty lawyers who led three or more MDLs were women. *Id.* Thus, the gap between women and men in leadership roles, while still very much existent, is narrowing. This is directly related to the plaintiffs’ bars and the bench’s push towards making leadership more diverse.

The primary goal of the April 19th panel discussion was to opine on leadership roles for women in MDL, mass tort, and class-action matters. The discussion covered a lot of ground, including why it is important to address diversity and the discrepancy between men and women in leadership, what or who is responsible for the progress we have made in these areas of diversity over time, and how women—especially younger women—can acquire leadership roles.

Why is it important to address diversity and the discrepancy between men and women in leadership? Although the answer to this question can be its own lengthy article, the panelists had some simple, yet important insights. First, the attorneys leading MDL, mass tort, and class action matters should reflect the diversity of the represented population and others impacted by the litigation, which includes women in nearly every case. Second, diverse leadership generally results in better outcomes for the clients and lawyers. Third, clients benefit from representation from lawyers with various levels

Women in Complex Litigation, continued on next page.

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the legal and business communities gathered to recognize the strong collaboration that made the Center possible. The group was welcomed with opening remarks from Chief Judge Patrick J. Schiltz, Judge John R. Tunheim, past and current presidents of the Chapter, and representatives from Split Rock Studios, the exhibit creators. The speakers noted the importance of civic education in many aspects of our democracy, including maintaining the legitimacy of our judicial system, ensuring protection of individual rights and liberties, and instilling a respect for the rule of law.

Following the remarks, guests explored the Center's interactive exhibits, which highlight the basics of our democratic structure, explain landmark cases, introduce the people that make up the court system, and emphasize the role that individuals can play in enhancing our democracy and judicial system. The Center is now open to school groups and members of the public.

A complementary center is under development at the Diana E. Murphy U.S. Courthouse in Minneapolis. For more



information about either center, visit the J&DC website: <https://justicedemocracymn.org>. If you or your organization are interested in contributing or collaborating, please reach out to Elizabeth Bentley, Co-Chair of the Chapter's Justice & Democracy Centers Committee. ■

Elizabeth Bentley is a member of the Chapter's Executive Committee and Co-Chair of the Justice & Democracy Centers Committee. She is a Visiting Assistant Professor of Law and the Director of the Civil Rights Appellate Clinic at the University of Minnesota Law School.

Women in Complex Litigation, continued from previous page.

of experience and expertise. Including women is one way to get that kind of experiential diversity. Lastly, and perhaps considered most important among the panelists, diversity in leadership promotes diverse perspectives and leads to innovation—an area in which the legal profession is notoriously behind the curve. Taken together, diversity has the power to positively impact the legal profession for firms, lawyers, and clients.

What or who is responsible for the progress the plaintiffs' bar has made so far in including women in leadership roles? Judges are taking the lead and forcing some changes that practitioners could not do on their own. Notably, judges have effective tools to promote diversity in leadership. First, judges can add developmental committees to leadership structures, which provide opportunities for younger, less experienced attorneys to get the experience they need to go for lead or co-lead counsel down the line. Second, judges can make individual appointments instead of firm appointments, which offer credentials to attorneys that carry over throughout a career. Third, judges can include annual or periodic reviews of leadership structures during litigation and long after making appointments to confirm that work is appropriately shared among the appointed leadership structure. Finally, judges can use their local protocols and standing orders to encourage firms and higher-level attorneys to allow younger lawyers to participate in status conferences and oral arguments, thereby promoting the foundational experience that young attorneys use for leadership applications. These judicial mechanisms ensure that experience is shared among lawyers interested in leading litigation, and also promote invaluable experience

for the next generation of lawyers who will be submitting applications for leadership in the future.

How can women successfully move for and obtain leadership roles? This is the million-dollar question, and one not easy to answer. Unfortunately, acquiring a leadership role in an MDL, mass tort, or class-action matter is not a science. There is no step-by-step process that, if followed, results in leadership appointments. A large part of securing a leadership appointment is being in the right place at the right time and getting lucky. However, the panel provided principles to follow to increase your chances: Be hungry; ask for work; do a great job on any work you have the opportunity to do; and ask the court to appoint you to a leadership position. These are particularly important suggestions for less-experienced attorneys seeking their first appointments and have worked for the panelists when acquiring their many distinguished leadership positions.

The panel included: Yvonne M. Flaherty, partner at Lockridge Grindal Nauen; Kate E. Jaycox, partner at Robins Kaplan; Catherine Sung-Yung K. Smith, partner at Gustafson Gluek; and Genevieve Zimmerman, partner at Meshbesh & Spence. Rachel Tack, an associate at Zimmerman Reed, moderated the panel discussion. All panelists have been appointed to various leadership roles in MDL, mass tort, and class-action matters.

Thank you to the panelists and Kate Baxter-Kauf, Stacey Slaughter, and Scott Moriarty, Co-Chairs of the Chapter's Class Action, Mass Tort, and MDL Committee, for organizing the panel. ■

Rachel Tack is an associate Attorney at Zimmerman Reed LLP and a member of the firm's Consumer Protection, Data Privacy, and Intellectual Property practices. She primarily represents patients and consumers in litigation against healthcare providers and other entities for alleged data privacy violations and small business owners in litigation against social-media companies for alleged copyright and trademark infringement.

Minority Judges, continued from page 3.



Wright recognized and thanked U.S. Senator Amy Klobuchar and retired Justice Alan Page for their continued dedication to the fair administration of justice in Minnesota. Judge Wright commended Justice Page’s “gifts of wisdom, insight, and commitment to justice” and



spoke of how he motivated so many others to honor him with their own service. Justin Page, supervising attorney at Mid-Minnesota Legal Aid’s Minnesota



Disability Law Center and Justice Page’s son, accepted the award and spoke on his father’s behalf. Mr. Page noted the influence that trailblazers like Judge Constance Baker Motley as well as Justice Page’s wife Diane Sims Page had upon his life and work. Mr. Page also noted the significant impacts that the family’s Page Foundation has made upon the lives of its more than 9,000 scholars since the Foundation’s founding in 1988. The Foundation’s goal is to encourage, motivate, and assist Minnesota’s students of color in the pursuit of post-secondary education, and, in the process, change the future.

Professor John Bessler, professor of law at the University of Baltimore and Senator Klobuchar’s husband, accepted the Court’s recognition on the Senator’s behalf. He relayed her good wishes and support for the judicial branch and the event. Judge Blackwell closed out the program, and the room was immediately abuzz with high-energy conversations, as attendees rekindled connections and made new ones. The 2023 Minority Judges Reception was a vibrantly successful event. ■

Chief Judge Patrick J. Schiltz kicked off the speaking program with welcoming remarks and statements of appreciation to the sponsoring organizations and attendees. Judge Jerry Blackwell then took the mic and ably served as emcee for the remaining program—introducing a representative from each of the co-sponsoring Affinity Bars to share highlights of their work and to recognize by name their members who joined the bench in Minnesota in the last year.

On behalf of the Court, Judge Wilhelmina



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Katie Barrett Wiik is a partner in the Minneapolis office of Saul Ewing LLP, where she has a commercial litigation and appellate-focused practice. She currently serves as the Chapter’s President.

President's Welcome Message, continued from page 1.

new Chapter webpage—available at <https://www.mnfedbar.org>—and we will continue to expand and improve our communication and calendaring capabilities as our Chapter leaders gain competence in using our new digital tools. And I must mention with pride that our *Bar Talk* newsletter will once again receive an Outstanding Newsletter award at the 2023 National FBA Conference in just a few weeks!

However, these many accolades and shining moments should not deter us from reflecting upon how we can improve. Having discussed my federal bar service with others in our legal community, I was dismayed to hear from a number of lawyers our bar's reputation for being stuffy and elitist; a community that can be hard to break into. Although I believe those generalizations are far less true than they were a decade or two ago, reduced exclusion is not true inclusion. For the moments that we resemble those descriptions, we must do better.

I challenge us all to ensure that as individual members and leaders, we are open to welcoming all lawyers into our community, whether they routinely practice in federal court or simply wish to learn more about federal substantive law or procedure. Whether they have been practicing for decades, five years, or five months. Whether they look, speak, or dress like you, or not. If our Chapter table is not big enough to make space for everyone, then we need to build a longer table. A table with lots of different types of seats and spaces at the table with no seat all, for those who bring their own.

There is no tension between promoting a rigorous legal practice on the one hand, and recognizing and honoring the myriad lived experiences of our practitioners on the other. In my view, we cannot achieve the former without intentionally doing the latter. Our Chapter members and leaders who work in solo or smaller firms, practice outside the metro area, work in public service, come from historically marginalized groups, and face barriers—structural or personal (or both)—in their everyday lives and law practice, enrich our chapter in meaningful ways. Key Chapter leaders whose work is focused squarely upon these efforts this coming bar year include Diversity & Inclusion Committee Co-Chairs Judge John Docherty, Natasha Townes Robinson, and Aaron Knoll, as well as Strategic Initiatives Coordinator Adine Momoh and Affinity Bar Liaison Coordinator Megan Odom. These leaders' specific focus on building a longer Chapter table, however, does not relieve the rest of us from dedicating ourselves to this critical work. Each of us must play a part.

There are many ways that we can build a longer Chapter table. One thing each of you can do is to invite along a more junior colleague or two to attend an FBA event with you. My first involvement in our Chapter happened when I was a newly practicing attorney. Now retired Magistrate Judge Becky Thorson, then a partner at my first law firm, invited me to attend a diversity committee meeting with her. While walking to the event, I recall her explaining the strong relationships she had made through the FBA and the many benefits I would likely find from building external relationships with practitioners. I might get to know some of the federal judges too! Judge Thorson's presence during that first meeting quelled my nerves and offered legitimacy to my seat at that table. Not long after that meeting, Judge

Thorson invited me and a few other newer lawyers to attend an FBA monthly lunch with her.

Judge Thorson's personal invitation opened the door to the Chapter when I did not have any other connections. It made all the difference. I was intentionally and personally included. As a result, I became a committed Chapter member and eventual leader. I have benefited tremendously from the practice skills and relationships that I have built through my engagement with our Chapter. May we all muster the same bandwidth and energy to do the same for others who can strengthen and benefit from our chapter community over the next bar year.

Our Chapter's free membership to law students is another powerful means of growing and sustaining our Chapter. We can support our Law School Outreach chairs Hannah Leiendecker and Lisa Beane in many ways: by showing up at their events; by demonstrating our willingness to connect with law students; and by personally welcoming and inviting individual students we meet to and encouraging them to attend an event with us and, once there, introducing them to others in our Chapter.

I want to mention another goal and an anticipated legislative initiative for this year. We hope to increase the number of Chapter members who serve on our *Bar Talk* committee and write articles for our award-winning *Bar Talk* quarterly newsletter. This year's *Bar Talk* committee Co-Chairs, Donna Reuter, Alyssa Schaefer, and Devin Driscoll, are looking for committee members and authors to share the sizable and nearly constant workload of creating content for our publication. If someone from your firm or office is not serving on the *Bar Talk* committee yet, this can be an opportunity for you to share a service opportunity with a colleague. For all the legal writing we lawyers do, I promise that drafting a *Bar Talk* article is a manageable, refreshingly informal writing opportunity. When your colleague takes the time to author an article, share that internally to reinforce that service. For those of you Chapter leaders regularly planning events, please build into your event planning checklist identifying a putative article writer and offering that likely author as a resource to the *Bar Talk* committee.

Another focus for our bar leaders this year relates to needed reforms to Minnesota state law to protect judicial officers' (i.e., federal and state judges and their staff) data privacy. These public servants serve our community and our democracy, yet are the objects of hostile rhetoric and data breaches. Together, these attacks tangibly undermine their independence and the rule of law. We anticipate that our Chapter members can support these efforts in a number of ways, which we will share in the coming months as the legislative efforts get underway.

I will end this welcome article where I began—with my heartfelt gratitude to our Chapter leaders past, present, and future, and with immense enthusiasm for our collective work ahead this bar year. Thank you for your membership and active investment of your time into our Minnesota Chapter. Let's make it a memorable and impactful year!

Best wishes,

Katie ■

Katie Barrett Wiik is a partner in the Minneapolis office of Saul Ewing LLP, where she has a commercial litigation and appellate-focused practice.

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' and the tagline is 'Serving the federal practitioner and the federal judiciary since 1920.'



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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 features the FBA logo and a navigation menu with items: 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 that says "Create your account here and join today!". A red arrow points from this link to the text in the paragraph above. The page also includes a section titled "In This Section" with links to Membership Categories, Chapters, Sections and Divisions, FBA Member Plus Program, and Membership FAQ. A "Resources" section is partially visible at the bottom.

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

Upcoming Events:

Wednesday,
October 11, 2023
Monthly Luncheon

Wednesday,
November 8, 2023
Monthly Luncheon

Wednesday,
January 10, 2024
Monthly Luncheon

Wednesday,
February 14, 2024
Monthly Luncheon

Wednesday,
March 13, 2024
Monthly Luncheon

Wednesday,
April 10, 2024
Monthly Luncheon

Wednesday,
May 8, 2024
Monthly Luncheon

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Editors-in-Chief

Donna Reuter

Devin T. Driscoll

Alyssa Schaefer

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 <http://www.fedbar.org/Chapters/Minnesota-Chapter/Chapter-Initiatives.aspx> for a full list of committees and information about how to get involved.

Luncheon Season Passes:

Please note, the Chapter is also pleased to offer season passes for the luncheons. A season pass is a great way to save on the cost of lunches. Per-lunch rates for the remainder of 2023 will be \$55 for members at private firms and \$35 for public/non-profit members.

This year's season pass saves you money and provides you more than one free lunch.

- Private members: \$375
- Public/non-profit members: \$200

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:

April Monthly Luncheon (Magistrate Judge Foster) - 1 standard credit (484854)

May Monthly Luncheon (Judge Blackwell) - 1 standard credit (482423)



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