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**Federal Bar
Association**
Minnesota Chapter

Bar Talk

President's Message

By Judge Susan Richard Nelson



Judge Susan Richard Nelson

Let me begin by extending a very warm welcome to those of you who have been active and devoted members of our chapter of the Federal Bar Association in the past and to those of you who have just joined this remarkable organization. I am quite eager to share with you my excitement about the coming year. I also want to recognize the extraordinary accomplishments of this chapter over the past year.

Before I do so, I want to reflect for a moment about our greater mission. As a chapter, we are profoundly committed to the enduring values of our bar and bench—civility, professionalism, judicial independence, and equal justice for all. We have all sworn to protect the Constitution and the rule of law. In these times, our core mission may be at risk. Any student of history acknowledges that the rule of law is fragile. The strength of our organization lies not only in our heritage of professionalism and collegiality but also our ability to embody and live out these principles, not only through our commitment to diversity and inclusion within our organization but also through our outreach and civics initiatives to educate the community about these core, bedrock principles of democracy. Let's commit to work together this year to realize this important mission.

The accomplishments of this past year cannot be overstated. Our indefatigable leader, Tara Norgard, has left an important, meaningful legacy that has made us a better, more effective, and

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Magistrate Judge Michael J. Newman, FBA President, Visits Minnesota Chapter

By Kari Dahlin

The Minnesota Chapter was delighted to receive United States Magistrate Judge Michael J. Newman of the Southern District of Ohio, the 2016–17 FBA President, as a special guest for the May 2017 Open Doors to Federal Courts and FBA weekend. The weekend included a classroom visit at Roosevelt High School, a reception for the Open Doors program at the Minneapolis Federal Courthouse, and a Twins game.

As FBA President, Magistrate Judge Newman launched the Civics and Service to Others program, an initiative that engages students of all ages in learning about the federal courts. The program includes a “court camp,” in which federal judges meet with students in both classrooms and courtrooms to teach them about the federal court system. Students also meet with a variety of people who work in and for the courts, including assistant U.S. attorneys, assistant federal defenders, probation and pretrial officers, and federal law enforcement agents. “Court camp” also allows students to conduct mock trials in actual courtrooms. Middle and high school students participate in essay competitions, and the top high school winners receive a trip to the Supreme Court.

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more inclusive chapter. Her flagship accomplishment is the work she pioneered on diversity and inclusion at the helm of a blue ribbon Task Force. These are her words:

The Minnesota FBA's longstanding commitment to diversity and inclusion is fundamental to our organization. Thanks to the bold vision and relentless commitment of our past leaders, diversity is a mandate in our Chapter Bylaws, built into our governing structure, and incorporated into all of our organization's work. In recognition of this important history, and in preparation for the future, in 2017, the Minnesota FBA formed a Diversity & Inclusion Task Force. The Task Force was charged with preparing a strategic plan with specific goals and actions for our Chapter to continue its thoughtful and purposeful approach to diversity and inclusion across our organization. Members of the Task Force came from all areas of our community and dedicated countless hours to this effort with candid discussions, in-depth analyses of our legal and greater community, and critical thinking for our future. The result is an important roadmap to guide our organization in the years to come.

It is my intention to fully implement this thoughtful plan across the organization during 2017 and 2018 and to evaluate its impact at the end of my term. We are all deeply indebted to the exceptional work of this task force over the past year.

We had an engaging series of monthly lunches this past year and look forward to an exciting fall being actively planned by our co-chairs, Magistrate Judge Tony N. Leung and Liz Wright. Our first lunch is scheduled for Monday, September 11 with speaker Professor Carol Chomsky (University of Minnesota Law School) about a topic that has garnered a great deal of attention as of late—the 1862 Dakota War Trials and Mankato Mass Executions. On Tuesday, October 10, we will be treated to remarks by FBI Agent Jeffrey Van Nest about the critically important international work of the FBI since 9/11 investigating war crimes in which an American is a victim or perpetrator. On Wednesday, November 8, we will honor Senior Judge Donovan W. Frank, who has taken senior status, and his valuable contributions to the bench and to the community, particularly in the area of disability justice. We will keep you posted on our plans for future luncheons. Consider a season pass for the 2017–18 luncheon season.

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Magistrate Judge Newman is excited about how “super successful” the Civics and Service to Others program is in Minnesota and notes that the Open Doors program predates the Civics and Service initiative. Open Doors and Civics and Service to Others share similar goals. The purpose of Open Doors is to encourage all students, especially students of color and students from low-income backgrounds, to consider pursuing careers in the justice system. The backbone of the hugely successful program is the trained volunteer attorneys who visit high school classrooms throughout Minneapolis and St. Paul to share about their work as attorneys and to preside over both civil and criminal mock trial proceedings. Volunteer attorneys visited nearly 800 students this year.

Magistrate Judge Newman also has a personal connection to Minnesota. In 2009, he was one of only two lawyers in private practice in the nation selected for the FBA's Task Force on Diversity, chaired by United States District Judge Donovan W. Frank. Judge Frank and Magistrate Judge Newman have worked together for years on FBA projects, and Magistrate Judge Newman greatly admires Judge Frank.

Magistrate Judge Newman has an extraordinary record of public service. He has previously served the FBA as president of both the Cincinnati and Dayton chapters, Vice President of the Sixth Circuit, and a member of the national board of directors. He has volunteered with the Red Cross and Big Brothers Big Sisters, and has been involved in significant homeless outreach through the Cincinnati/Northern Kentucky Chapter of the FBA in conjunction with nonprofit organization Tender Mercies. Magistrate Judge Newman has been recognized by the Black Lawyers of Cincinnati and the Summer Work Experience in Law program, and sits on the statewide board of directors for the Law & Leadership Institute. In 2010, he received the Elaine R. 'Boots' Fisher National Public Service Award, given yearly to one lawyer in the nation for “exemplary community, public and charitable service.”

Magistrate Judge Newman's commitment to public service also extends to his work on the bench. In 2015, he took on the considerable task of creating and presiding over Ohio's first Veterans Court. Magistrate Judge Newman established the Veterans Court because he saw the same veterans before him again and again on misdemeanor disorderly conduct charges.

Visit, continued on page 4.

Chapter Sponsors Screening and Panel Discussion of “Untouchables”

By N. Chethana Perera

On August 22, the Chapter sponsored a screening and panel discussion of the film “Untouchable.” The film takes viewers into the lives of those branded sex offenders and those who have suffered sexual abuse. The film tells the story of Lauren Book, who was sexually abused by her nanny for years. Lauren’s abuse was so severe that she may not be able to carry a child full term. Lauren’s sexual abuse drove her father, one of the most powerful lobbyists in Florida, to successfully advocate for the harshest sex offender laws in the country. Lauren’s traumatic experience is then juxtaposed with the lives of sex offenders like Shawna Cloutre. Shawna, a loving mother of two, became a sex offender for life at nineteen when she had sex with a seventeen-year-old. Viewers saw Shawna’s yearning to show her daughter life outside of Oklahoma, and her inability to do so because of thousands of dollars in parole and treatment class fees, and weekly parole check-ins. The film showed Shawna’s fear of a Florida bill passing that takes away the parental rights of any sex offender—a bill that Lauren’s father is lobbying for.

After the film, U.S. District Court Chief Judge John R. Tunheim led a discussion panel with Patty Wetterling, a staunch advocate for child victims whose son Jacob was abducted in 1989, and Professor Eric Janus, a professor at Mitchell Hamline School of Law who studies the boundaries of the state’s ability to protect public safety through the civil commitment of individuals. Wetterling discussed how the classification of “sex offender” has become too broad and should not include people like Shawna. She went on to emphasize how the current laws would not have prevented her son’s kidnapping and sexual abuse. Wetterling discussed how “people forget the goal of preventing further sexual violence” and create pu-

Untouchables, continued on page 7.

Three Nominations to the Eighth Circuit Court of Appeals

By Stephen Safranski

For those who have noticed the drought of active federal judges within the Eighth Circuit—three vacancies on the eleven-member appeals court and two in the District of Minnesota—partial relief may be on the way. In its latest waves of judicial nominations announced in May, June, and now August, the White House nominated Minnesota Supreme Court Justice David R. Stras, U.S. District Court Judge Ralph R. Erickson, and L. Stephen (“Steve”) Grasz to replenish the Eighth Circuit to full capacity.

Born in 1974, Justice Stras, if confirmed, will replace U.S. Court of Appeals Judge Diana E. Murphy, who took senior status last year. A graduate of the University of Kansas Law School, Justice Stras clerked at the Fourth and Ninth Circuits and for Supreme Court Justice Clarence Thomas before entering academia. Before his 2010 appointment to the Minnesota Supreme Court, Justice Stras was a professor at the University of Minnesota Law School, where he taught and wrote in the areas of federal courts and jurisdiction, constitutional law, criminal law, and law and politics.

After graduating from the University of Minnesota Law School in 1984, Judge Erickson served as an associate at Ohnstad Twichell P.C., handling family law and municipal court matters, while also serving as a municipal prosecutor for three Fargo-area communities. After a brief stint at his own firm during an unsuccessful run for the North Dakota Legislature, Judge Erickson served as a state district court judge and then became a federal judge in the District of North Dakota in 2003. If confirmed, Judge Erickson will replace U.S. Court of Appeals Judge Kermit E. Bye, who took senior status in 2015, and has since retired.

Most recently, President Donald J. Trump nominated Steve Grasz to fill the vacancy left by Judge William J. Riley’s taking senior status this June. Born in 1962, Grasz graduated from the University of Nebraska College of Law in 1989. After serving as Nebraska’s Chief Deputy Attorney General until 1992, Grasz has been practicing appellate and business litigation, governmental affairs, and governmental ethics and election law as an attorney at Husch Blackwell’s Omaha, Nebraska Office.

Judge Erickson received a hearing before the Senate Judiciary Committee on July 25. On September 5, Senator Al Franken announced that he opposes Justice Stras’s nomination and will withhold his “blue slip” of approval of the nomination. Because the Senate traditionally requires a blue slip from both Senators of a nominee’s home state before the Senate takes further action on a nomination, this development could indefinitely delay or block Justice Stras’s confirmation. Meanwhile, two judicial vacancies in the District of Minnesota—filling the seats left open when U.S. District Court Judges Ann D. Montgomery and Donovan W. Frank took senior status last year—remain unaddressed. ■

Stephen Safranski is an attorney at Robins Kaplin LLP. His complex commercial litigation and appellate practice focuses on antitrust, unfair competition, trade regulation, and consumer protection matters, and he has represented individuals and businesses in federal district and appellate courts throughout the United States.

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Magistrate Judge Kate M. Menendez and Joel Schroeder are already brainstorming new and exciting ideas for our annual seminar. Magistrate Judge David T. Schultz and Ben Kwan will organize and plan our special events. Adine Momoh and Katie Barrett Wiik are busy at work expanding our membership. Vildan Teske and Danielle Mair are looking forward to a busy and full season of programming for the Diversity Committee.

Dustin Massie, Ann Motl, and Sahr Brima will lead our Newer Lawyers Program and continue with our very successful focus on newer lawyers and vintage lawyers. Mike Sawers and Keiko Sugisaka will lead our Grant Committee, and Paige Stradley and Lauren D'Cruz will serve as our Law School Liaisons. Fran Kern, Nathan Louwagie, and Shannon Bjorklund will work tirelessly on our Communications Committee—keeping you well informed and publishing our popular *Bar Talk*.

Magistrate Judge Hildy Bowbeer and Tasha Francis are planning interesting programming as chairs of our Intellectual Property Practice Group, and Matt Forsgren, Lousene Hoppe, and Surya Saxena will chair our White Collar Crime Practice Group. Tim Griffin, Melissa Wolchansky, and Elizabeth Odette will serve as the chairs of our Mass Tort, Multi-District Litigation, and Class Action Practice Group.

I am excited to announce a new initiative this year—the formation of the Community Outreach Committee. Over the years, the Court and the Diversity Committee have offered a number of opportunities to our Chapter for important and critical outreach. To institutionalize these efforts and ensure that we remain focused on our core mission, I have appointed four co-chairs who are planning an extraordinary series of programs on social justice and civics initiatives with many of our community partners. Thanks to Adam Hansen, Amy Connors, Karen Schommer, and Reggie Aligada for accepting this challenge. We will keep you posted on these exciting opportunities.

I am so proud to announce that our Chapter will be prominently recognized on many fronts at the upcoming National FBA Convention. We are all particularly proud that our *Pro Se* Project will be featured as a model for effectively managing *pro se* litigation. Judge Wilhemina M. Wright, Magistrate Judge Franklin L. Noel, and Tiffany Sanders will make the presentation moderated by David Goodwin.

Please do not hesitate to contact me if you would like to be involved or would like to share a suggestion. Welcome again to our new year! ■

Judge Susan Richard Nelson is a United States District Judge for the District of Minnesota and President of the Minnesota Chapter of the Federal Bar Association.

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The veterans' alleged disorderly conduct largely consisted of emotional outbursts triggered by post-traumatic stress disorder ("PTSD"). The goal of the Veterans Court is "taking people with PTSD and," instead of sending them to prison, "getting them the treatment" they need. The local VA hospital provides the program with a social worker, who serves as a veterans justice outreach coordinator and acts as a caseworker and mentor to help veterans obtain medical treatment, housing, and employment. To graduate from the six-month program, veterans must keep all medical appointments and not reoffend. Upon graduation, the misdemeanor charges are frequently dismissed. The Veterans Court has already graduated twenty veterans, and several more are currently in the program.

The institution of the Veterans Court has promoted increased cooperation between veterans and the police. The police are now working with veterans, and fewer veterans are being charged with crimes. "You're really trying to help people," the judge says. "To me that's a wonderful thing. That's how the system should work."

Magistrate Judge Newman's busy weekend in Minnesota was made possible by the assistance of teams of volunteers from both Open Doors and the FBA. ■

For photos from Magistrate Judge Newman's visit, see page 6.

Kari Dahlin is an associate at Bassford Remele, P.A.

Becky Baertsch and Theresa Anderson Named “Unsung Legal Heroes” for Leadership and Service to Community

By Chelsea A. Walcker

Becky Baertsch, Judicial Assistant to United States District Judge Donovan W. Frank, and Theresa Anderson, Judicial Assistant to United States Magistrate Judge Franklin L. Noel, were recently selected as Unsung Legal Heroes by *Minnesota Lawyer* for their work with the Open Doors to Federal Courts (“Open Doors”) program. The United States District Court for the District of Minnesota launched the Open Doors program eighteen years ago under the leadership of Judge Frank in order to encourage students from rural and inner-city areas to pursue careers in the judicial system. The program recently won the ABA’s Outstanding Law Day Activity award in 2010. Since the program’s inception, Baertsch and Anderson have been devoted leaders in the program, and have worked tirelessly to ensure its continued success.

The Unsung Legal Heroes Award honors legal professionals who have consistently gone above and beyond the call of duty in their work, often behind the scenes, and is reserved for the state’s most talented and dedicated legal support professionals. Baertsch and Anderson were nominated by an esteemed cross-section of judges, professors, and lawyers, and were chosen by a panel consisting of past honorees. As stated in their nomination, “[t]he hundreds of students, teachers, judges, lawyers, and others who have had the privilege of participating in the program over the past eighteen years owe a debt of genuine gratitude to Becky and Theresa, who have given their hearts and souls to this program to ensure its enduring success.”

Despite their integral roles in the success of the program, both Baertsch and Anderson attribute the success of the program to its many supporters. Says Baertsch: “It takes a village to make these community outreach programs happen. I am honored to accept this award on behalf of all of the volunteers throughout the District of Minnesota, Minnesota Chapter of the Federal Bar Association, and the affinity bar associations who have volunteered their time to make our programs such a success.” Similarly, Anderson states, “Becky and I are very lucky to work for people who value our ideas,” and emphasizes the importance of “[l]awyers from a broad range of perspectives and life experiences” who “volunteer in the planning of the curriculum and in the classrooms in part to educate, and in part to inspire the students to pursue a career in the legal field.” Both Baertsch and Anderson encourage legal professionals from a broad range of backgrounds and perspectives to volunteer with the program.

As a direct result of Baertsch and Anderson’s unwavering support of the program’s educational efforts regarding the justice system, hundreds of students, judges, lawyers, and legal professionals are brought together every year to learn from each other. The entire legal community owes Baertsch and Anderson its appreciation. Baertsch and Anderson will be recognized together on September 7, 2017, at the Hyatt Regency in downtown Minneapolis. *Minnesota Lawyer* will publish a special section profiling the honorees following the event. ■



From left to right, Unsung Legal Heroes honorees
Theresa Anderson and Becky Baertsch

Chelsea A. Walcker is an associate at Robins Kaplan LLP, focusing her practice on complex business litigation and appellate matters.

Judge Newman's Visit photos



Federal Defender Katherian D. Roe and U.S. District Judge Ann D. Montgomery attended the Open Doors Federal Courts reception.

U.S. District Judge Donovan W. Frank (left), and Tara Norgard (right) welcomed Magistrate Judge Michael J. Newman (center) to Minnesota.



Marjan Batchelor, Faegre Baker Daniels, and Faith Jackson, City of Minneapolis Department of Civil Rights enjoyed the event.

Maribel Andrade and Kiah Smith, U.S. Probation and Pretrial Services, and Kelly Laudon, Lindquist & Vennum, joined the Open Doors reception.



Recent Supreme Court Case Triggers Spike in Patent Lawsuits

By Shannon Bjorklund and Payton George

A patent case decided by the U.S. Supreme Court last term could have far-reaching effects for litigation in Minnesota and beyond. For decades the patent venue statute, 28 U.S.C. § 1400(b), had been interpreted to allow a patentee to file in any jurisdiction with personal jurisdiction over the defendant. This led to a remarkable concentration of cases; nearly half of the patent infringement cases filed in 2016 were filed in two jurisdictions: the Eastern District of Texas (38%) and the District of Delaware (10%). The other 52% of cases were spread among the remaining ninety-two district courts across the nation, with only sixteen cases (0.4%) filed in Minnesota in 2016.

On May 22, a unanimous Supreme Court overturned this precedent in *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 137 S. Ct. 1514 (2017). The Court ruled that, for purposes of § 1400(b), “a domestic corporation ‘resides’ only in its State of incorporation,” transforming the “residency” of many corporations from fifty states to a single state. *TC Heartland*, 137 S. Ct. at 1517.

The effects of this ruling have been immediate and significant. In the first six weeks after *TC Heartland* was decided, the Eastern District of Texas received only 14% of new filings—less than half its typical percentage of cases. In the two months following *TC Heartland*, eleven patent lawsuits were filed in the District of Minnesota, up from three filed in the two months before *TC Heartland*. While these numbers are not staggering, they point to a modest but recognizable increase in patent litigation filed in Minnesota.

Some litigants are seeking to keep their options open by focusing on a portion of the patent venue left untouched by

TC Heartland. The venue statute provides for jurisdiction (1) “where the defendant resides,” or (2) “where the defendant has committed acts of infringement and has a regular and established place of business.” 28 U.S.C. § 1400(b). While the Supreme Court narrowed the first category, it left the second, before-rarely-used category unaltered.

As may be expected, litigants challenging venue have focused on the definition of an “established place of business.” A recent decision from the Eastern District of Texas, which is generally regarded as one of the most patentee-friendly jurisdictions, has interpreted the second prong of the patent venue statute quite broadly. See *Raytheon Co. v. Cray, Inc.*, No. 2: 2015-CV-1554 (E.D. Tex. June 29, 2017). United States District Judge Rodney Gilstrap fashioned a four-factor test—considering physical presence, defendant’s representations, benefits received, and targeted interactions within the district—where no single factor is required. For example, under this test, “a fixed physical location in the district is not a prerequisite” to a finding that a defendant has an “established place of business” in the district. *Id.* at *23. Defendants have appealed this ruling, which is currently pending before the Court of Appeals for the Federal Circuit on a petition for mandamus. *In re Cray, Inc.*, No. 17-129 (Fed. Cir.). The coming months and years will show whether the dispersion of patent cases nationwide will be an ongoing trend, or only a temporary blip. ■

Shannon Bjorklund is a partner at Dorsey & Whitney LLP focusing in intellectual property litigation. Payton George was a summer associate at Dorsey & Whitney LLP and a third-year student at the University of Minnesota Law School.

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nitive laws instead. She further articulated how these punitive laws have the damaging effect of increasing recidivism rates because “points of intervention are taken away.” Professor Janus then explained that, when a sex offender reenters society, s/he needs social support in the form of treatment, a job, and a place to live. Instead, current registration requirements and residency restrictions take those sources of support away. For example, residency restrictions force registered sex offenders out of most cities where they live with their families, have jobs, and seek treatment. Professor Janus concluded the panel with the challenge to change our laws in a way that “respects the pain and damage that sex offenders have done, but also understands the humanity of offenders, and encourages us to think about prevention as a way of respecting that pain.” ■



Chief Judge Tunheim, Patty Wetterling, and Professor Janus participated in a discussion of issues raised in “Untouchables.”

N. Chethana Perera is a third-year law student at Mitchell Hamline School of Law.

**CLERK'S
CORNER**

**New Capability for Electronic Miscellaneous Case Filing
Starting September 2017**

By Tricia Pepin and Lou Jean Gleason

The United States District Court for the District of Minnesota is excited to announce that beginning in September, attorneys will be able to electronically file miscellaneous cases. A miscellaneous case may be filed for administrative matters that require resolution through the judicial system (e.g., motion to quash a subpoena, receiverships, letters rogatory, registration of judgment, petition to enforce IRS summons, etc.).

The Clerk's Office is developing the events and procedures for filers to electronically open miscellaneous cases and pay the filing fee through Pay.gov. This process will eliminate the need for attorneys to mail or deliver their initiating case documents and payment to a federal courthouse to open a new miscellaneous case. Due to the simplicity of opening a miscellaneous case, hands-on training is not necessary, but the Court's ECF helpdesk (612-664-5155) will be available for questions if they arise. Look for our announcement of the exact date in September on the United States District Court's website and in your email. ■

The Clerk's Corner is provided by Tricia Pepin, Chief Deputy Clerk, and Lou Jean Gleason, Operations Manager. If you have a question or topic you would like addressed in the Clerk's Corner, please contact Tricia Pepin at tricia_pepinmnd@uscourts.gov.

2017 Luncheons for Summer Associates and Clerks

By Briana Al Taqatqa and Randall Hanson

On June 30, 2017, summer associates and law clerks made their annual trip to the federal courthouse in Minneapolis to enjoy a lunch hosted by United States District Chief Judge John R. Tunheim. Chief Judge Tunheim began the talk by tracing his academic and professional history through to his current position as the Chief Judge of the District of Minnesota. He then highlighted his work on international Rule of Law Initiatives and emphasized the continued need to improve judicial understanding overseas. The talk ended with a question-and-answer period to allow the audience an opportunity to learn more about Chief Judge Tunheim's career and thoughts about the legal practice.

A few weeks later, on July 19, United States District Judge Patrick J. Schiltz hosted the second summer luncheon at the federal courthouse. Judge Schiltz opened the floor up for questions right away and addressed topics that included his time as a clerk for United States Supreme Court Justice Antonin Scalia, a well-received article he wrote for the Vanderbilt Law Review titled "On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession," and tips for those who aspire to the federal bench. Judge Schiltz ended the

afternoon by encouraging all of the attendees to seek out a judicial clerkship, whether at municipal, bankruptcy, state, federal, or even the Supreme Court level. He assured his audience that there is no greater experience for law students and new lawyers. ■

Briana Al Taqatqa is a third-year student at Mitchell Hamline School of Law and was a 2017 summer associate at Dorsey & Whitney LLP. Randall Hanson is a third-year student at the University of Wisconsin Law School and was a 2017 summer associate at Dorsey & Whitney LLP.

Pro Se Project Update

By Tiffany A. Sanders

Regular *Bar Talk* readers know it has been a while since the last *Pro Se* Project column, and a lot has happened since then. To bring readers up to date, this column begins with an overview of *Pro Se* Project volunteer attorneys, types of cases, and *in forma pauperis* information for 2016 referrals. Next, the column highlights 2017 *Pro Se* Project events and outreach efforts, followed by a preview of what is to come for the *Pro Se* Project.

Pro Se Project 2016 Year in Review

The success of the *Pro Se* Project is due to the tremendous law firms and volunteer attorneys who accept *Pro Se* Project referrals and work directly with the civil *pro se* litigants the court refers to the Project. The generous contribution of time and talent by volunteer lawyers enables the *Pro Se* Project to serve the court, assist *pro se* litigants, and enhance access to justice. The following chart lists the participating law firms, the volunteer attorneys who provided their legal services to *Pro Se* Project litigants, and the number of referrals the law firms accepted in 2016.

1.	Apollo Law†	Adam W. Hansen	1
2.	Baillon Thome Jozwiak & Wanta†	Christopher D. Jozwiak Dustin Massie	2
3.	Briggs and Morgan	Phil Schenkenberg Erin Altman	1
4.	Carlson Caspers Vandenburgh Lindquist & Schuman	Jeffer Ali Saukshmya Trichi Alexandra J. Olson	2
5.	Collins, Buckley, Sauntry & Haugh	Daniel L. McGarry	2
6.	Consumer Justice Center	Thomas J. Lyons, Jr.	1
7.	Dorsey & Whitney	Bryan C. Keane Shannon McNeal Theresa Bevilacqua	2
8.	Dykema Gossett	David P. Graham Jared D. Kemper	1
9.	Fabian May & Anderson	Jeffrey P. Anderson Nicholas G. B. May	2
10.	Faegre Baker Daniels	Dianne C. Heins Cicely R. Miltich	2
11.	Felhaber Larson	David L. Hashmal	1
12.	Foley & Mansfield	Lisa Lamm Bachman Wyatt S. Partridge	1
13.	Fredrikson & Byron	Lora Mitchell Friedemann Katherine J Rahlin Leah Janus	3
14.	Fryberger, Buchanan Smith & Frederick	Donald C. Erickson	2
15.	Goetz & Eckland	Gregory J. Young	1
16.	Gustafson Gluek	Daniel E Gustafson David A. Goodwin Brittany N. Resch	2
17.	Hanson Lulic & Krall	Joseph F. Lulic	2
18.	Hellmuth & Johnson	Anne Regan	1

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19.	Karin Ciano Law	Karin Ciano	1
20.	Kelly A. Jeanetta Law Firm	Kelly A. Jeanetta	1
21.	Law Office of Richard G. McGee	Richard McGee	1
22.	Law Offices of Wayne G. Nelson	Wayne G. Nelson	1
23.	The Law Office of Zorislav R. Leyderman	Zorislav R. Leyderman	3
24.	Lind, Jensen, Sullivan & Peterson	Lauren A. D'Cruz	1
25.	Lindquist & Vennum	Thomas M. Jancik Gretchen L. Gurstelle Kirstin Kanski	4
26.	Lockridge Grindal Nauen	Scott A. Moriarity	1
27.	Lommen Abdo	Bryan R. Feldhaus	1
28.	Maslon	Keiko L. Sugisaka	1
29.	Meagher & Geer	Molly R. Ryan	1
30.	Meshbeshier & Associates†	Richard E. Student	1
31.	Nichols Kaster	Steven Andrew Smith Paul J. Lukas	2
32.	Peterson & Fishman	Fay Fishman	2
33.	Robins Kaplan	Holly H. Dolejsi	1
34.	Seiler Schindel†	Andrew S. Dosdall	1
35.	Shulman & Buske	David L. Shulman	1
36.	Stanek Law Office†	Jon Stanek	1
37.	Stinson Leonard Street	Edwin H. Caldie Robert Kugler	1
38.	Stoel Rives	Andrew J. Pieper	1
39.	Trepanier Macgillis Battina	Bryan R. Battina	1
40.	Warner Law Office	Daniel E. Warner	1
41.	Weinrich Law Office	Gerald S. Weinrich	1
42.	Winthrop & Weinstine	Thomas H. Boyd Michael A. Rosow Lisa B. Ellingson Paul Robbennolt	2
43.	Zimmerman Reed	Jacqueline A. Olson Michael Laird	2

† Denotes new law firm participation in the *Pro Se Project*

Pro Se Project Referrals by Nature of Suit

With judges exercising discretion in referring *pro se* litigants to the *Pro Se Project*, the court refers a variety of cases each year. In 2016, the court most often referred civil rights cases to the *Pro Se Project*, followed by Social Security appeals, and employment discrimination cases. Since the *Pro Se Project's* 2009 inception, 2016 is the first year employment discrimination cases did not surpass all other types of cases the court referred to the *Pro Se Project*. The following chart lists the nature of suit for the cases the court referred to the *Pro Se Project* in 2016, and the number of each type of case the court referred.

Pro Se Project, continued on page 14.

Chapter Hosts Successful 2017 Federal Practice Seminar

By Barry Landy

On June 20, 2017, the Minnesota Chapter of the Federal Bar Association held its annual Federal Practice Seminar at the University of St. Thomas School of Law. The day began with United States District Chief Judge John R. Tunheim welcoming the participants and providing an overview of the State of the District. Chief Judge Tunheim explained that the District continues to have an incredibly active docket, with multiple multi-district litigation matters pending before the Court and bellwether trials set to begin in the fall. Chief Judge Tunheim also mentioned that the District is hoping for swift appointments and confirmations for its two vacant Article III positions.

The first panel of the day discussed employments rights and options for individuals with disabilities, and included United States Senior District Judge Donovan W. Frank; Karen Loven; Shaemus O'Meara, shareholder at O'Meara, Leer, Wagner, and Kohl; and Professor Elizabeth Schiltz, University of St. Thomas School of Law. The panel discussed the benefits and drawbacks of sheltered workshops for disabled individuals and the importance of incorporating individuals with disabilities into the workforce.


The day progressed with a video of United States Supreme Court Justice Sonya M. Sotomayor's visit to Minnesota, organized by United States District Judge Ann M. Montgomery. The next panel discussed challenges and opportunities facing the immigration system, and included Jim Stolley, Chief Counsel for the District of Minnesota for U.S. Immigration and Customs Enforcement; Loan Huynh, shareholder at Fredrikson & Byron; Miriam Jordan, National Immigration Correspondent for *The New York Times*; and John Keller, Executive Director of the Minnesota Immigrant Law Center, with Professor Linus Chan from the University of Minnesota moderating. The panel had a spirited discussion on current immigration issues and concerns regarding the administration's travel ban and new immigration policies.

During lunch, Professor Richard Painter gave the Mason Memorial speech, discussing the importance of ethics in both the private and public sectors. He described his service from 2005 to 2007 as the chief ethics counsel to President George W. Bush, and discussed the importance of deterring securities fraud and improving ethics of corporate managers and lawyers. He also described his involvement in a lawsuit with Norm Eisen, former chief ethics counsel to United States President Barack H. Obama, against President Donald J. Trump for allegedly violating the Constitution's Emoluments Clause.

United States Magistrate Judge Kate M. Menendez and Aaron Van Oort, partner at Faegre Baker Daniels, LLP then presented major Supreme Court decisions from the previous year. Following that presentation, United States Magistrate Judge Hildy Bowbeer; Andrew Mohring, former First Assistant Federal Defender (and current partner at Ciresi Conlin LLP); Mark Afinson, attorney; and Professor Sharan Sandseen, Mitchell Hamline School of Law, discussed the new local rule for sealing documents from both the criminal and civil perspectives. The seminar ended with a lively conversation with United States Senior District Judges David S. Doty and Donald D. Alsop, and United States District Judge James M. Rosenbaum (Ret.) reflecting on their experiences on the bench, moderated by United States District Judge Susan Richard Nelson. ■

Barry Landy is an attorney at Ciresi Conlin LLP focusing on complex litigation and a member of the Chapter federal practice seminar committee.





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IP Litigation Section Hosts Program on Trade Secrets

By Sarah Jack

Just over a year after the passage of the Defend Trade Secrets Act (“DTSA”), the Minnesota Chapter of the Federal Bar Association sponsored a CLE titled “Well-Kept Secrets: A Panel Discussion About the Defend Trade Secrets Acts.” The Minneapolis office of Fish & Richardson hosted the event on Thursday, May 25, 2017, which was attended by law students, judicial clerks, and practitioners.

The panelists were David A. Prange of Robins Kaplan LLP, Professor Sharon K. Sandeen of Mitchell Hamline School of Law, and Adam R. Steinert of Fredrikson & Byron, P.A. Professor Sandeen provided valuable insight into the larger impact of the DTSA based on her research in the area of trade secret law, and Prange and Steinert provided practical lawyering advice derived from their many years of practice.

Each panelist seemed to agree that the DTSA has not revolutionized the area of trade secret law. Rather, the DTSA provides one more tool for a trade secret plaintiff to use in such an action. One point of focus for the discussion was on the provision of the DTSA that requires employers to notify employees of whistleblower protections in order to receive enhanced damages under the DTSA. The panelists generally agreed that the decision whether or not to update employment contracts was often specific to each employer. Some companies may prefer not to inform their employees of special protections and may value withholding that information over the benefits of the enhanced damages provision of the DTSA.

The panelists also agreed that the actual impact of the civil seizure provision of the DTSA has been much smaller than anticipated. Prior to enactment, some commentators thought the provision might result in judges regularly authorizing immediate confiscation of property that threatens to reveal a trade secret. The civil seizure provision does allow a judge to order such a seizure when necessary to avoid disclosure of a trade secret, but, since the standard for a court utilizing this remedy is so high, very few trade secret plaintiffs have received the benefit of the provision. Rather, courts remain more favorable to temporary restraining orders to protect trade secrets under imminent threat of disclosure. ■

Sarah Jack is a third-year student at the University of Iowa College of Law and was a 2017 patent litigation summer associate at Fish & Richardson P.C.

2017-2018 Monthly Luncheon Series

September 11, 2017 (Monday)

October 10, 2017 (Tuesday)

November 8, 2017 (Wednesday)

December 12, 2017 (Tuesday)

January 10, 2018 (Wednesday)

February 14, 2018 (Wednesday)

March 14, 2018 (Wednesday)

April 11, 2018 (Wednesday)

May 9, 2018 (Wednesday)

All luncheons will begin at noon at the Minneapolis Club.

Pro Se Project, continued from page 10.

NATURE OF SUIT	
Civil Rights	25
Social Security	12
Employment Discrimination	10
Contract	8
Consumer Rights	4
Personal Injury/Product Liability	3
Federal Communications Act	2
Tax	2
Copyright Infringement	1
Diversity-Libel, Assault, Slander	1
ERISA	1
Fair Labor Standards Act	1
National Labor Relations Act	1
Personal Property	1
Racketeer Influenced And Corrupt Organizations Act	1
Securities/Commodities	1
Trademark Infringement	1
TOTAL	75

***Pro Se* Litigant Participation and Volunteer Attorney Involvement**

Once the court issues a referral to the *Pro Se* Project, the litigant's participation is voluntary. Of the seventy-five cases the court referred to the *Pro Se* Project in 2016, eleven *pro se* litigants declined to participate, and in four referrals, the case was dismissed prior to the *pro se* litigant expressing his/her interest—or lack thereof—in participating.

When a *pro se* litigant chooses to participate in the *Pro Se* Project, the goal is to connect the litigant with a volunteer attorney who will provide a meaningful legal consultation. Once the *Pro Se* Project goal is met, the volunteer attorney decides whether to provide the *pro se* litigant with any additional legal assistance. The chart below lists the level of involvement of the volunteer attorneys who accepted the court's *Pro Se* Project referrals, *pro se* litigants' declination to participate, and the number of referrals for each category.

Volunteer Attorney Involvement and <i>Pro Se</i> Litigant Participation	
Consultation with volunteer attorney	39
Volunteer attorney entered notice of appearance	16
<i>Pro se</i> litigant declined to participate	11
Case dismissed prior to placement	4
Volunteer attorney entered limited appearance	4
Court rescinded referral	1
TOTAL	75

In Forma Pauperis

Of the seventy-five cases the court referred to the *Pro Se* Project in 2016, *pro se* litigants filed *in forma pauperis* ("IFP") applications in forty-one cases. The Court dismissed six of those cases prior to making an IFP determination. With the remaining thirty-five IFP applications, the court granted IFP status in thirty-one cases, or in 89% of the cases referred to the *Pro Se* Project. Among the remaining thirty-six referrals with no IFP application, in twenty-two cases the *pro se* litigants were ineligible to apply for IFP status, as the case was removed from state court, the *pro se* litigant was the defendant, the case was transferred from another District, or the individual the court referred to the *Pro Se* Project was a non-party witness.

Pro Se Project, continued on page 15.

Pro Se Project, continued from page 14.

The design of the *Pro Se* Project, where judges exercise discretion in referring cases to the *Pro Se* Project, permits the *Pro Se* Project to help bridge the gap in which *pro se* litigants often find themselves. This gap exists for individuals who fail to qualify for IFP status yet are unable to afford an attorney to represent them in federal court. Even *pro se* plaintiffs with claims lawyers often handle on contingency fee bases can fall into this gap. Often, *Pro Se* Project plaintiffs who have arguably meritorious claims normally handled on a contingency fee basis have low potential damages. As a result, *Pro Se* Project plaintiffs—plaintiffs with IFP status granted, plaintiffs with IFP status denied, and plaintiffs who do not apply for IFP status—find themselves unable to retain an attorney on a contingency fee basis, and unable to afford the hourly rate of an attorney to litigate their case in federal court. The court’s referral of the eleven cases where the *pro se* litigants declined to file an IFP application and the four cases where the court denied IFP status enabled the *Pro Se* Project to assist *pro se* litigants who find themselves in this unfortunate gap and thereby better promote equal justice under the law.

<i>In Forma Pauperis</i> Filings		<i>In Forma Pauperis</i> Status	
<i>Pro se</i> litigant filed IFP application	41	Court granted IFP status	31
<i>Pro se</i> litigant declined to file IFP application	12	Case dismissed prior to IFP determination	6
No IFP application filed – <i>pro se</i> litigant is defendant	12	Court denied IFP status	4
No IFP application filed – case removed from state court	8	TOTAL	41
No IFP application – case transferred from another District	1		
No IFP application – non-party witness	1		
TOTAL	75		

***Pro Se* Project in 2017**

U.S. District Chief Judge John R. Tunheim kindly invited Tiffany Sanders to present on the *Pro Se* Project at the court’s January 26, 2017 bench meeting. Sanders discussed the *Pro Se* Project’s 2016 Year End Report, including the participating law firms and volunteer attorneys, with the judges and magistrate judges.

U.S. Magistrate Judge Franklin L. Noel included the *Pro Se* Project in his newer lawyers luncheon on February 23, 2017. Magistrate Judge Noel and Sanders introduced the newer lawyers to the *Pro Se* Project; explained its benefits for *pro se* litigants, the court, and the volunteer attorneys; and encouraged participation.

In planning his Duluth court hearings for March, U.S. District Court Judge Michael J. Davis generously offered to participate in *Pro Se* Project outreach in Duluth. On March 22 and 23, 2017, Judge Davis and Tiffany Sanders met with Duluth *Pro Se* Project volunteer attorneys to thank them for their valuable participation and to encourage others to participate.

On March 5, 2017, the Minnesota Chapter hosted a luncheon for FBA President U.S. Magistrate Judge Michael J. Newman from the Southern District of Ohio, and included the *Pro Se* Project in the Chapter initiatives presented. Sanders provided a thorough overview of the *Pro Se* Project to Magistrate Judge Newman, who expressed his desire to encourage other FBA chapters to implement similar programs in their Districts.

The Gustafson Gluek law firm—a tremendous supporter of the *Pro Se* Project and involved in the largest *Pro Se* Project case in its continued representation of over 700 class members housed at the Minnesota Sex Offender Program—hosted the *Pro Se* Project’s reception to thank 2016 volunteer attorneys and supporters. The reception was a fun, well-attended event, and included Chief Judge Tunheim, among many other judges.

Looking Ahead

The FBA selected the *Pro Se* Project to present at its 2017 annual meeting and convention in Atlanta. U.S. District Judge Wilhelmina M. Wright, Magistrate Judge Noel, David Goodwin of Gustafson Gluek, and Sanders will participate in a panel discussion titled “The *Pro Se* Project: Ways the Minnesota Chapter’s Award-Winning Initiative Can Help Your District or Chapter Improve Judicial Economy, Access to Justice, and Federal Practice” Along with the FBA presentation in Atlanta, Sanders plans to submit a *Pro Se* Project article for publication in the *Federal Lawyer* magazine. ■

Tiffany A. Sanders is the Pro Se Project Coordinator and can be reached at proseproject@q.com or 612-965-3711.

Upcoming Events:

September 22, 2017

*Judge Edward J. Devitt
and Practical Justice*
1-5 p.m.
Mitchell Hamline School of
Law Auditorium

September 26, 2017

Newer Lawyer Luncheon
U.S. Sr. Judge Michael J.
Davis
Noon
Minneapolis Federal
Courthouse
Courtroom 13E

October 10, 2017

*"FBI International War
Crimes Work"*
FBI Agent and Counsel
Jefferey K. Van West
Noon
Minneapolis Club

October 12, 2017

*Wen Ho Lee and Its
Progeny*
11:30 am – 12:45 pm
Minneapolis Federal
Courthouse
15th floor, Courtroom of
U.S. Chief District Judge
John R. Tunheim

November 8, 2017

*"Chair Presentation and
Remarks"*
U.S. Sr. District Judge
Donovan W. Frank
Noon
Minneapolis Club

November 13, 2017

Newer Lawyer Luncheon
U.S. District Judge Patrick
J. Schiltz
Noon
Minneapolis Federal
Courthouse
2nd floor, Jury Assembly
Room

December 12, 2017

Monthly Luncheon
Noon
Minneapolis Club

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Bar Talk is the official newsletter of the Minnesota Chapter of the Federal Bar Association. It is published quarterly by the Communications Committee. For any inquiries or article suggestions, please contact **Fran Kern** at frances_kern@hotmail.com or **Shannon Bjorklund** at bjorklund.shannon@dorsey.com.

A special thank you to **Rebecca Baertsch**, Judicial Assistant to Judge Donovan W. Frank, for her proofreading expertise, and **Taya Swenson Schmid**, Dorsey & Whitney LLP, for her formatting assistance.

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. Also, Season Pass Holders must register for each luncheon online to select their meal choice and confirm their attendance.

If you have any questions about the registration system, please e-mail Liz Cowan Wright at liz.wright@faegrebd.com.