



Bar Talk

March 26, 2014

www.fedbar.org/Chapters/Minnesota-Chapter.aspx

Pro Se Project Celebrates Banner Year

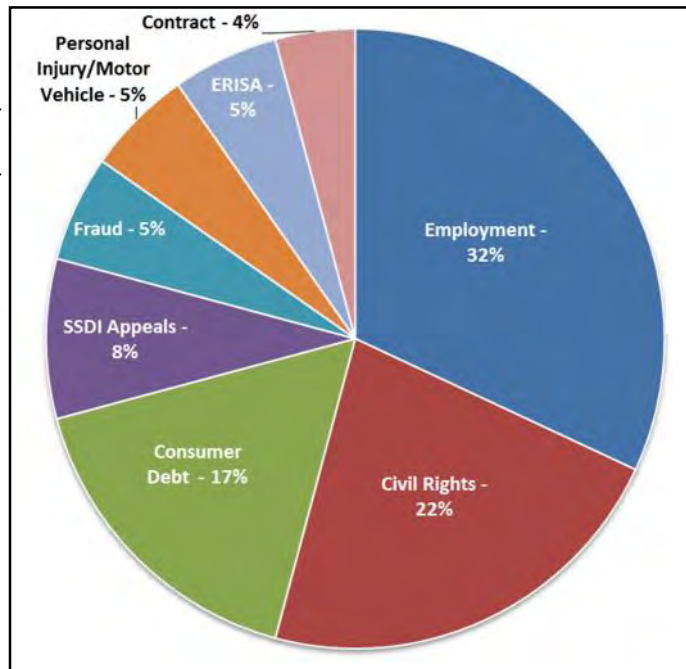
By Tiffany Sanders

The United States District Court for the District of Minnesota collaborated with the Minnesota Chapter of the Federal Bar Association (FBA) to create the *Pro Se* Project as a means to improve access to justice in our federal court and to address the growing challenges civil *pro se* litigants pose to our federal judicial system. The goal of the *Pro Se* Project is to provide civil *pro se* litigants the court refers to the Project with an opportunity to have a meaningful consultation with a volunteer lawyer and to help our federal court—which is consistently challenged by doing more with fewer resources—operate more efficiently.

This article, and the articles on pages 8, 9 and 10 of this issue, are based on the *Pro Se* Project's 2013 report. The full report is available on the Chapter's website.

2013 Highlights

- The court and the FBA held a reception on March 14, 2013, to recognize the volunteer attorneys who generously donated their time to assist *Pro Se* Project litigants in 2012. More than 75 people attended the reception. Chief Judge Michael J. Davis presented the volunteer attorneys with certificates of appreciation from the court and commended the volunteer attorneys for generously donating their time in the important and shared quest for equal justice.
- The court expanded the *Pro Se* Project with the Pilot Early Settlement Conference Project ("ESCP"), which was imple-



As the chart above demonstrates, the types of cases the court most often referred to the *Pro Se* Project in 2013 were employment discrimination, civil rights, and consumer debt cases. The court referred 72 cases to the *Pro Se* Project in 2013.

mented March 25, 2013. The distinctive feature of the Pilot ESCP is the court allows a volunteer lawyer to enter a limited appearance for the sole purpose of assisting the *pro se* litigant with a court-annexed early settlement conference. For a period of one year, the court is testing whether the Pilot ESCP assists in expediting the court's civil *pro se* docket and improving access to justice for the underserved.

- The *Pro Se* Project held its first full-day employment and civil rights seminar on April 18, 2013. Magistrate Judge Steven E. Rau and the Honorable Arthur J. Boylan, U.S. Magistrate Judge (Ret.), presented at the seminar with volunteer attorneys. More than 50 people attended, learned about employment and civil rights law—two types of cases the court most often refers to the *Pro Se* Project—and received free CLE credit.

- The *Pro Se* Project held a half-day Social Security Disability Income appeals seminar on May 16, 2013. Magistrate Judge Franklin L. Noel presented with volunteer attorneys. More than 30 people attended and received free CLE credit.

- The *Pro Se* Project continued its outreach in Duluth at the annual Law Day luncheon on May 1, 2013. Chief Judge Davis was the keynote speaker and he stressed the importance of *pro bono* work, encouraged participation in the *Pro Se* Project as a means to fulfill *pro bono* obligations, and recognized Duluth attorneys who have volunteered through the *Pro Se* Project.

- U.S. District Judge Patrick J. Schiltz and the *Pro Se* Project Coordinator presented to the litigation group at Dorsey & Whitney on the *Pro Se* Project on May 7, 2013. Judge Schiltz explained the benefits of volunteering through the *Pro Se* Project to the *pro se* litigants who have no legal training, to the court which is increasingly doing more with fewer

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Judge Boylan steps down after 17 years

By Timothy O'Shea and Ruth Rivard

Chief Magistrate Judge Arthur J. Boylan, of the U.S. District Court for the District of Minnesota, will always be known as the judge who helped save the 2011 season for the National Football League (NFL). The NFL settlement, however, was just one of the many cases he has brought to resolution. Now, after 17 years of being on the federal bench, Judge Boylan retired on January 8, 2014, but will continue to apply his acute resolution skills to help parties privately mediate their disputes.

Judge Boylan, the son of Irish immigrant parents who came to the United States in the late 1920s, grew up on the West Side of Chicago. He became a huge sports fan, watching the Chicago Blackhawks, White Sox, and Bears.

Judge Boylan left Chicago to attend St. Mary's University in Winona, Minnesota. While he enjoyed the move to small-town Minnesota, the judge admits he missed the bustle of the city (and the occasional Chicago-style hot dog). While attending college, Judge Boylan met his wife, Kate. After graduating in 1971, they married and moved back to Chicago, where he attended the Chicago-Kent College of Law, earning his J.D. in 1976.

Returning to Minnesota, Judge Boylan joined the law firm of Hulstrand, Anderson & Larson (now known as Anderson, Larson, Hanson & Saunders, P.L.L.P.), where he practiced for 10 years. In 1986, Judge Boylan was appointed to the Minnesota State Court for the 8th Judicial District, where he served as a district court judge for 10 years before his appointment to the federal bench. Judge Boylan says, "It has been an honor to have served on both the state and federal benches," and hopes to be remembered as a hardworking judge who loved the law. Paul Schulstad, who has served as Judge Boylan's law clerk for more than 27 years, says that the judge's skills as a judge and his effectiveness at helping parties resolve their disputes arise out of his sincere respect and personal concern for others—whether staff, lawyers, judges, or litigants. His patience and insistence on professional civility are hallmarks of that respect. He has loved being a lawyer and a judge and has never shied away from a challenging task.

In addition to his work in the courtroom, Judge Boylan has been frequently invited to speak on a variety of legal issues throughout the country, including teaching other judges about settlement techniques. Judge Boylan has also been active in bar associations. He is a past president of the Minnesota Chapter of the Federal Bar Association and served as president-elect of the Minnesota District Judges Association until his appointment to the federal bench. He is a former chair of the Minnesota State Bar Association's Committee on Rules of Professional Conduct and a recipient of the Minnesota Bar Association President's Award.

Judge Boylan's is known as being a fair, practical, and even-tempered judge. The majority of his time in federal court re-



The Hon. Arthur J. Boylan retired in January after serving as a magistrate judge for 17 years. (Photo by Bill Klotz/Minnesota Lawyer)

volves around conducting settlement conferences. While the calendar includes medical device and pharmaceutical cases, Minnesota's vibrant entrepreneurial community translates into a docket full of complex business disputes, including employment, class actions, patents, and securities law.

Although Judge Boylan has ruled on many important issues and authored countless opinions during his time on the bench, it is his effectiveness in settling cases that is truly extraordinary. Judge Boylan has helped parties settle and mediate literally thousands of cases.

Litigants often request that the judge help them resolve their disputes. Robert R. Weinstine, a founding partner of Winthrop & Weinstine, P.A., in Minneapolis, described how Judge Boylan got involved in a high-stakes business dispute shortly before trial and helped the parties settle the case in just two days. Weinstine says that "Judge Boylan is incredibly well prepared" and believes that he is "effective at settling so many cases because he has the unique ability to bond with parties. He is able to personalize his discussions with the parties such that the parties want to find a way to resolve their differences. Judge Boylan is quietly tenacious and he works hard to ensure that both sides feel that they are getting a fair shake."

(Continued on Page 12)

This article was originally published in The Federal Lawyer in December 2013 and is reprinted here with permission.

Courts scrutinize requests for fees

By Jessica L. Klander

In two recent decisions, the district courts either denied or drastically reduced the attorneys fees sought, finding the requested amounts “unreasonable.” Notably, both fee motions were unopposed and the courts acted *sua sponte* in reducing the awards.

Fouks v. Red Wing Hotel Corporation

Fouks v. Red Wing Hotel Corp., Case No. 12-CV-2160 (JNE/FLN); 2013 WL 6169209 (D. Minn. Nov. 21, 2013), involved class action claims arising out of the alleged failure to properly redact consumer debit and credit card numbers from receipts pursuant to the Fair and Accurate Credit Transaction Act (“FACTA”). The plaintiffs did not seek actual damages. The parties reached a settlement by which the class members would receive vouchers for discounts at the hotel, the class representatives would both receive \$4,000, and a \$20,000 cy pres donation would be made to an area nonprofit. The court preliminarily approved the settlement. The plaintiffs’ counsel thereafter brought a motion for final approval of the settlement and for attorneys’ fees and costs. The defendant did not oppose the plaintiffs’ motion. The district court granted final approval of the settlement as modified but denied, without prejudice, the plaintiffs’ motion for attorneys’ fees and costs.

The district court found that the plaintiffs’ request for \$65,000 in attorneys’ fees was “unreasonable” under the circumstances. The court expressed “grave concerns” with the 182 hours allegedly expended and the \$400 hourly rate that was “far in excess of what would be reasonable” on the “short-lived, straight forward case.” The court found the billable time unreasonable, in light of the fact that the parties began discussing settlement early, the case did not involve motion practice, and a “majority of counsel’s written submissions” were “boilerplate.”

The district court also determined that the billing entries were unreasonably lengthy, duplicative, and that the attorney’s “exorbitant” \$400 hourly rate was not in line with other Minnesota consumer litigation attorneys. The court concluded that “[FACTA] cases are not complex. In 2003, Congress required electronically-generated debit and credit card receipts to contain no more than five digits. It takes no

more than the fingers on one hand to determine statutory compliance; the hours that counsel claims to have spent here are entirely unreasonable.”

Accordingly, the district court held that the fees motion was “purely speculative” and denied the motion without prejudice. The court also determined that the settlement would be approved but reduced the class representatives’ awards and indicated it would only reconsider a fee motion after the redemption period for the vouchers ended.

Zaun v. Al Vento, Inc.

Zaun v. Al Vento Inc., Civil No. 11-2024 (PAM/TNL); 2013 WL 268930 (D. Minn. Jan. 24, 2013), involved putative class action claims arising from the alleged failure of the defendant to redact the expiration date from its receipts under the Fair Credit Reporting Act (“FCRA”) and FACTA. No actual damages were alleged and therefore the claimed relief was limited to only statutory awards. After the parties settled, the plaintiff moved for attorneys’ fees and costs. The motion was not opposed by the defendant. The district court nonetheless denied, in part, the plaintiff’s motion, reducing the total award from the \$50,000 sought to just \$12,500.

The plaintiff argued that \$50,000 was reasonable because there had been “15 months of hard fought litigation” and a “fully briefed motion to dismiss.” The district court rejected these arguments, noting that the motion to dismiss was only necessary because counsel failed to amend the complaint to correct a “glaring deficiency” and therefore “any attorney hours expended on the motion to dismiss were due to counsel’s own lack of diligence and should not be fully compensated.” The district court also disagreed with the plaintiff’s characterization that the case was “hard-fought for 15 months,” noting that settlement discussions began early, there was no dispute that a FACTA violation occurred, and the matter was fully-settled within eight months.

The district court also rejected the plaintiff’s request for hourly attorney rates of \$400-\$450 and 152 allegedly

logged hours because it was “egregiously inflated” given the “simple and straightforward” nature of the case. The district court noted that the attorneys’ billing statements did not reflect minimal work, included double-billing, and inconsistencies, even though the pleadings contained largely “boilerplate language” and were nearly identical to another case brought by the named-plaintiff.

The district court explained that while it did “not criticize the use of previous legal arguments in identically situated memoranda; the problem lies in attempting to recover full attorney time for drafting memoranda that so clearly were not drafted for this case. Counsel’s billing practices do not inspire confidence in the remainder of the time billed to this matter.” Based on these considerations, the plaintiff’s attorney-fee award was significantly cut.

In addition to the attorneys’ billing practices, the *Zaun* court cited public policy considerations in reducing the award, concluding that “this case, and cases like this one, do not serve the public interest in any way. They do not address any wrong or make anyone whole, because no consumer has or can suffer any actual damages from this particular violation of the statute. These cases exist only to generate attorneys’ fees.” The district court therefore ordered a 75% reduction of the amount requested.

Conclusion

These recent decisions illustrate that Minnesota courts closely scrutinize attorney-fee requests to determine if they are “reasonable” under the circumstances. If a particular request is deemed “unreasonable,” the court is free to act pursuant to its inherent authority to reduce the award. Attorneys cannot rely on the fact that a motion is unopposed and must ensure that the amounts requested are adequately supported.

Jessica L. Klander is an attorney at Bassford Remele, where she focuses her practice on representing businesses and individuals against professional liability and malpractice claims, and advising businesses on compliance with federal credit and collection laws.

2014 FBA Law Student Reception

February 4, 2014—Merchant & Gould



The Minnesota Chapter hosted its Eighth Annual Law Student Reception on February 4, 2014, at Merchant & Gould in Minneapolis. More than 90 students attended the event, which included remarks by the U.S. District Judge Joan N. Ericksen, Minnesota Chapter President, and Adine S. Momoh, co-chair of the Minnesota Chapter's Law Student Outreach Committee.

At left, the Magistrate Judge Tony N. Leung talks with students at the reception. (Photo contributed by Erica Davis)

Right: Rachel K. Zimmerman, Minnesota Chapter Vice President, spoke at the reception. (Photo contributed by Erica Davis)



About 90 law students attended the reception, which was held at Merchant & Gould. (Photo contributed by Erica Davis)

2014 FBA Law Student Reception



Left: Hamline professor Mary Trevor, Assistant Dean of Students and Multicultural Affairs Andrew Crouse, and Career Services Director Nancy Lochner. (Photo contributed by Erica Davis)

Right: Law Student Outreach Committee members Lauren D'Cruz of Lind Jensen Sullivan & Peterson and Tammy Schemmel of Barna Guzy & Steffen. (Photo contributed by Erica Davis)



Left: Law Student Outreach Committee Members Erica Davis of the Wilson Law Group (left) and Paige Stradley of Merchant & Gould. (Photo contributed by Erica Davis)

U Chapter hosts John Borrows

By Dustin C. Jones

On November 7, 2013, the Federal Bar Association's Student Chapter at the University of Minnesota Law School hosted John Borrows, Indigenous Law Scholar, Professor of Indigenous Law, Comparative Law, and Human Rights, and Robina Chair in Law, Public Policy & Society. Professor Borrows received his J.D. in 1990 from the University of Toronto along with an LL.M. in 1991. He completed a Ph.D. in 1994 at Osgoode Hall Law School. Professor Borrows spoke about the complexities surrounding criminal jurisdiction and Native American Tribes. He sketched the historical development within Federal Indian Law of Native American Tribes initially being inherently sovereign domestically dependent nations, and thus able to exercise jurisdiction over matters occurring on reservations (*Worcester v. Georgia*, 31 U.S. 515 (1832)).

Borrows discussed how the early John Marshall Court opinions described only two limitations on Tribes: 1) prohibition against dealing directly with other foreign nations; and 2) prohibition against alienating land to anyone other than the federal government. Next, Borrows described congressional curtailment of Tribal jurisdiction over criminal matters with the passage of the Major Crimes Act, 18 U.S.C. § 1153 (1885). In this Act, Congress exercised its "plenary power" to grant federal jurisdiction over certain crimes, even if the crime is committed on a reservation. Borrows finished his historical survey with a discussion of the passage of the Indian Civil Rights Act (1968) (ICRA), which Congress enacted to provide individual Tribal members with Bill of Rights-like protections because the constraints of the federal Constitution's Bill of Rights does not *per se* extend to Tribal governments. See *Talton v. Mayes*, 163 U.S. 376 (1896).

Professor Borrows focused the remainder of his talk on innovative and sophisticated methods that Tribes are currently using to enhance Tribal self-determination and restoration of Tribal jurisdiction over criminal matters. Some of these include Tribes possessing: jurisdiction over non-U.S. citizens; enhanced jurisdiction over non-Native Americans who are involved with domestic vio-



Professor John Borrows spoke in November at the University of Minnesota Law School (Photo by Dustin C. Jones).

lence against Native Americans through an amendment to the ICRA; and extended civil jurisdiction over criminal matters (i.e. regulatory offenses).

Dustin C. Jones is a 3L at the University of Minnesota Law School, President of the University of Minnesota Law School FBA Student Chapter, and a staff member on the *Journal of Law and Inequality: A Journal of Theory and Practice*.

WMCL Chapter sponsors networking event



Federal practitioners in Minnesota met with members of the Federal Bar Association, Student Chapter for William Mitchell College of Law on February 18, 2014. The meeting was an intimate networking event geared toward connecting students to practitioners to help foster meaningful professional relationships. With a high practitioner-to-student ratio, students felt encouraged to ask questions and learn more about federal practice and the different types of work available to them upon graduation. This was a very successful event with positive experiences all around. Many of the students and attorneys developed relationships and have decided to contact one another in the future. The Student Chapter of the Federal Bar Association would like to thank all of the practitioners who took the time to reach out and meet with the students. (Photo contributed by Ariel Howe)

Clerk's Corner: ECF Guidelines for Technical Difficulties

The Clerk's Office has updated its Civil and Criminal ECF Procedure Guides to provide instructions on how to file when the filer is experiencing technical difficulties (i.e. ECF is down, internet service is down, etc.). The Guides provide three options for when a filer has a deadline and the filer cannot file a document electronically because of a technical difficulty:

1. Complete the "ECF Form Declaration of Technical Difficulties" to explain the technical difficulty and why the filing is untimely. Serve courtesy copies of the filing on the Court and the parties entitled to service. File the document in ECF as soon as the difficulty is resolved and attach the "ECF Form Declaration of Technical Difficulties" to the filing.

2. Contact chambers to request an extension of time to file due to technical difficulties.

3. Submit the document in paper to the Clerk's Office. Documents filed conventionally are due in the Clerk's Office before 5:00 p.m. Central Time on the due date.

The Guides also provide guidance on how to open a new case with a statute of limitations deadline when the filer is experiencing technical difficulties. To see the updated Guides, visit the Court's website at www.mnd.uscourts.gov.

Clerk's Corner is provided by **Tricia Pepin**, Chief Deputy Clerk, and **Lou Jean Gleason**, Operations Manager.

Small, mid-sized firms “carry the weight”

Volunteer attorneys who participate in the *Pro Se* Project are a tremendous help to *pro se* litigants, our federal court, and to all federal practitioners with paying clients, whether civil or criminal. Each volunteer attorney's efforts collectively help make justice more accessible to those with limited means and work to unclog our federal court system.

Because the large law firms typically do not accept referrals involving the three types of cases the court most

often refers to the *Pro Se* Project—employment discrimination, civil rights, and consumer debt cases—the *Pro Se* Project consistently turns to the same small- and mid-sized firms and solo-practitioners on these three main types of referrals. As a result, and as the chart at right demonstrates, the small- and mid-sized firms and solo-practitioners “carry the weight” of the *Pro Se* Project in accepting the court's referrals.

(continued from Page 1.)

resources, and to the volunteer lawyers by enriching their practice, gaining experience, and preventing the “atrophy” that can occur when attorneys consistently practice in the same area of the law.

- On May 30, 2013, the *Pro Se* Project participated in the Chief Legal Officers Group's (CLOG) seminar titled, “Here for Good: Trends and Best Practices in Corporate *Pro Bono*.” Chief Judge Davis, along with Justice Wilhelmina M. Wright and Judge Jay M. Quam presented on a panel moderated by the *Pro Se* Project Coordinator. The panelists offered suggestions and examples of the various ways in-house counsel can assist courts in meeting challenges to the judiciary, including participation in the *Pro Se* Project and the Pilot ESCP.

- The *Pro Se* Project participated in the FBA Newer Lawyers Monthly Luncheon on September 27, 2013. Magistrate Judges Noel and Boylan presented on a panel with the *Pro Se* Project Coordinator to promote the Pilot ESCP and encourage newer lawyers to participate.

- The *Pro Se* Project participated in the Open World Program, Kyrgyzstan Rule of Law, in a panel discussion with Magistrate Judge Noel and Tricia Pepin, Chief Deputy Clerk of Court, on October 2, 2013. The panel presentation included the *Pro Se* Project, the Pilot ESCP, and the court's on-line resources for *pro se* litigants.

- Employment discrimination cases continue to be the type of case the court most frequently refers to the *Pro Se* Project. In an effort to increase the number of volunteer attorneys who accept employment discrimination cases, Magistrate Judge Noel and the *Pro Se* Project Coordinator presented before the National Employment Lawyers Association (NELA) on October 8, 2013, on the *Pro Se* Project and the ESCP.

- The *Pro Se* Project, in conjunction with the FBA Newer Lawyers Committee, conducted its third seminar this past year on December 11, 2013. The half-day seminar titled, “Techniques and Tools for the Efficient Volunteer Lawyer” included the participation of Magistrate Judge Noel, Magistrate Judge Jeanne J. Graham, Magistrate Judge Jeffrey J. Keyes, and Magistrate Judge Rau. More than 30 people attended the seminar, which was made possible by the 2013 Ilene and Michael Shaw Younger Lawyer Public Service Grant the Chapter received from FBA National.

To volunteer in the *Pro Se* Project contact Tiffany A. Sanders, *Pro Se* Project Coordinator, at proseproject@q.com or 612-965-3711.

PARTICIPATING FIRMS		Cases accepted
1	Barry & Helwig	1
2	Briggs and Morgan	1
3	Carlson Caspers	4
4	Chestnut Cambronne	1
5	Christensen Law Office	2
6	Consumer Justice Center	2
7	Daniels & Kibort	1
8	Dorsey & Whitney	2
9	Fabian, May & Anderson	1
10	Falsani, Balmer, Peterson, Quinn & Beyer (Duluth)	1
11	Faegre Baker Daniels	3
12	Friedman Iverson	1
13	Fruth, Jamison & Elsass	2
14	Fryberger, Buchanan, Smith, & Frederick (Duluth)	1
15	Greene Espel	1
16	Harvey Law Firm	4
17	Jardine, Logan & O'Brien	1
18	Joao M. da Fonseca, Attorney at Law	2
19	Karin Ciano Law	1
20	Kelly A. Jeanetta Law Firm	1
21	Keogh Law Office	1
22	Law Office of David L. Shulman	2
23	Law Office of Joshua R. Williams	1
24	Law Office of Zorislav R. Leyderman	1
25	Stinson Leonard Street	1
26	Lind, Jensen, Sullivan & Peterson	2
27	Lindquist & Venum	3
28	Maslon Edelman Borman & Brand	1
29	McGarry Law Office	1
30	McDonough & Nowicki	1
31	Merchant & Gould	2
32	Nichols Kaster	2
33	O'Meara, Leer, Wagner & Kohl	1
34	Oppenheimer Wolff & Donnelly	1
35	Paul Edlund Law Office	1
36	Robins, Kaplan, Miller & Ciresi	2
37	Thibodeau, Johnson & Feriancek (Duluth)	1
38	Thompson Hall Santi Cerny & Dooley	1
39	Unger Law Office	1
40	Wilson Law Group	1
41	Zimmerman Reed	1

Court implements Early Settlement Pilot Project

The court expanded the *Pro Se* Project and implemented the Pilot Early Settlement Conference Project (ESCP) on March 25, 2013, to assist *pro se* litigants with resolving all or parts their case, to allow volunteer lawyers an opportunity to more efficiently resolve cases, and to help the court better expedite its civil *pro se* docket. In short the Pilot ESCP operates as follows:

- At the initial scheduling conference of every civil case involving a *pro se* litigant, the magistrate judge will make an individual judgment as to whether the case will benefit from referral to the Pilot ESCP.

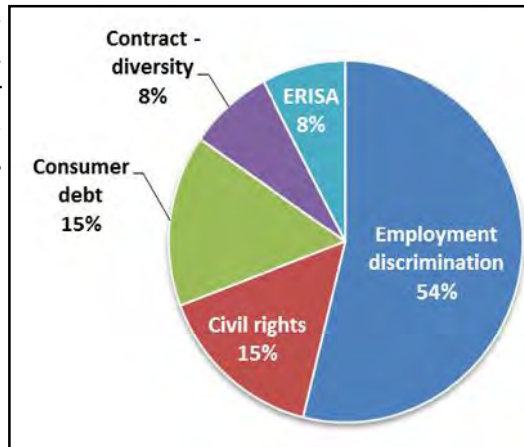
- If the court makes a referral to the Pilot ESCP, the *Pro Se* Project Coordinator will determine whether the *pro se* litigant is interested in participating in the Pilot ESCP. If so, the *Pro Se* Project Coordinator will attempt to locate a lawyer willing to assist the *pro se* litigant. The lawyer will enter a Notice of Limited Appearance as Special Settlement Conference Counsel.

- After the *pro se* litigant and Special Settlement Conference Counsel meet and discuss the Pilot ESCP, the *pro se* litigant will sign a Declaration of the *Pro Se* Party ("Declaration"), which describes the Pilot ESCP and the limited scope of assistance Special Settlement Conference Counsel will provide. The lawyer will file the Declaration with the court.

- The court will thereafter schedule a settlement conference to occur within ninety (90) days of the filing of the Notice of Limited Appearance and Declaration.

- The Special Settlement Conference Counsel will assist the *pro se* litigant in preparing for and participating in the court-annexed settlement conference.

- If the case settles at the settlement conference, the court will handle it as any other settled case. If the case does not settle, the *pro se* litigant and the Special Settlement Conference Counsel will decide whether the Special Settlement Conference Counsel will enter full appearance.



As these charts demonstrate, the types of cases the court most often referred to the Pilot ESCP were employment discrimination, civil rights, and consumer debt cases.

TYPE OF CASE	# of Referrals
Employment discrimination	7
Civil rights	2
Consumer debt	2
Contract – diversity	1
ERISA	1
TOTAL	13

- If within 15 days after the settlement conference, Special Settlement Conference Counsel has not entered a full appearance, the court will enter an Order Relieving Special Settlement Conference of Limited Appearance and the case will proceed pursuant to the Pretrial Scheduling Order.

- At the conclusion of the settlement conference, the *pro se* litigant, Special Settlement Conference Counsel, opposing counsel, and the magistrate judge will complete a survey regarding their participation in the Pilot ESCP.

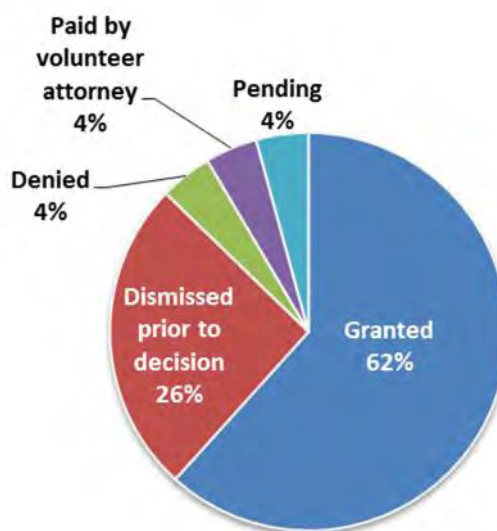
FIRMS PARTICIPATING IN ESCP	# of Referrals
Briggs and Morgan	1
Barry & Helwig	1
Daniels & Kibort	1
Fabian May & Anderson	1
Gaskins, Bennett, Birrell, Schupp	1
Law Office of David L. Shulman	1
Law Office of Zorislav R. Leyderman	1
Nichols Kaster	2
Robins, Kaplan, Miller & Ciresi	1
The Muller Law Firm	1
Trepanier MacGillis Battina	1
Wilson Law Group	1

2013 Pro Se Project IFP Referrals

Of the 72 *Pro Se* Project referrals from the court, 54 *pro se* individuals potentially qualified to submit an IFP application (in other words, 54 individuals were either plaintiffs or their cases originated in federal court). Of these 54 potentially IFP qualifying individuals the court referred to the *Pro Se* Project, 47 *pro se* litigants filed IFP applications, or 87% of the potentially IFP qualifying individuals. The following charts demonstrate the IFP applications for *pro se* individuals the court referred to the *Pro Se* Project.

Out of the 47 IFP filings, there were 31 IFP applications where the *pro se* litigant's case was not dismissed prior to the IFP determination, the IFP application is not pending, and the volunteer attorney did not pay the filing fee. Of these 31 IFP applications, the court granted IFP status in 94% of the *Pro Se* Project cases. The following charts demonstrate the IFP determinations for *pro se* individuals the court referred to the *Pro Se* Project.

IFP DETERMINATIONS	# of Referrals
Granted	29
Dismissed (voluntarily or involuntarily) prior to determination	12
Denied	2
Paid by volunteer attorney when filing Amended Complaint	2
Pending	2
TOTAL	47



2014 Federal Judges' Dinner-Dance

Musical performance by

The Steele Brothers

Saturday, May 3, 2014

6 p.m. to Midnight

The Minikahda Club

Individual ticket: \$80

Individual ticket (govt. atty): \$60

Please RSVP by April 18, 2014 by e-mailing rsvp.fba@stinsonleonard.com

Spouses and friends welcome; they need not be FBA members to attend



Discovery Management.

dis•cov•ery man•age•ment

\'nait,aul\ \dis-\'kə-v(ə-)rē\

noun

- 1 a. the act or process of partnering with a nationally trusted company that will guide your organization clearly through each step of the complex discovery process with best-practices and proven workflows
- 2 a. a programmatic approach with cost-predictable, flat-rate, fully-managed discovery programs to suit your unique business needs
- b. flexible and dynamic multi-year engagements which help lower capital expenditures and improve defensibility by use of an expert partner



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For more information, please contact
Adam Rubinger at 612.834.2000

Court approves new student practice rule

By Greg Brooker

On November 18, 2013, the U.S. District Court approved a new local rule governing student practice in federal court in Minnesota. Modeled after the successful state court rule on student practice, the new federal local rule broadens the category of eligible law students who may practice in federal court and streamlines the process of approving law students for student practice.

The new local rule allows students who are paid or unpaid interns representing any federal, state, local, or other governmental unit or agency to be eligible to practice before the federal court. The previous rule was limited to students enrolled for credit in a "law school clinical program." The new rule also broadens the definition of clinical programs to include students "enrolled for credit in a law-school supervised program." The new rule retains the provision that a law student practicing under the rule must not accept compensation in connection with any case, except that paid interns may receive compensation from their government employer.

The broadening of the category of eligible students will allow the U.S. Attorney's Office and the Federal Public Defender to authorize their interns to appear in federal court under the supervision of an assistant U.S. attorney or federal public defender. Under the new rule, law interns at the U.S. Attorney's Office, for example, could assist in the criminal petty offense calendar before U.S. Magistrate Judges. The U.S. Attorney's Office currently operates three law-school supervised programs in which interns work on civil rights enforcement, habeas corpus, and civil health care fraud cases. Under the new local rule, these students could appear in feder-

al court in these civil cases.

The new student practice rule also streamlines the process by which students are authorized to practice in federal court. The previous rule required the dean of the law school to submit to the Chief Judge a list of students enrolled in law school clinical programs. The Chief Judge then approved the list and filed it with the clerk of court. Under the new rule, the attorney supervising the student must complete a certification form verifying that the student meets the requirement of the local rule and file it with the clerk of court and also file it in each case in which the student is appearing. The certification is effective for one year.

Like the old rule, the new student practice rule requires the law student to be supervised by a member of the district court bar. The supervising attorney must assume full responsibility for the law student's work and accompany the law student to every court appearance. The supervising attorney must also be the attorney of record in the case in which the student is appearing. Only law students who have completed the equivalent of at least two semesters of full-time study at an ABA-accredited law school are eligible to practice under the local rule.

The new rule is Local Rule 83.8 and can be found on the district court's website. The certification form is also available online.

Greg Brooker is the First Assistant U.S. Attorney in the U.S. Attorney's Office for the District of Minnesota. He is a member of the Federal Practice Committee.

SAVE THE DATE

40th Annual Federal Practice Seminar

Thursday, June 26, 2014

The Depot Minneapolis - 225 South Third Avenue - Minneapolis, Minnesota

(Continued from Page 2)

Then there is the infamous bitter labor dispute of 2011 between the NFL owners and players. After a failed round of mediation before the Federal Mediation and Conciliation Service, the court appointed Judge Boylan to bring together billionaire owners and millionaire players on a new collective bargaining agreement. The heart of the issue was how to divide the league's staggering \$9 billion in revenue. Behind the scenes, Judge Boylan worked tirelessly and patiently to find common ground among the competing interests between the NFL owners, players, and even their attorneys.

Ultimately, Judge Boylan helped the NFL owners and players resolve their labor dispute, which led to a historic 10-year collective bargaining agreement. There is no doubt that NFL fans, and the world of fantasy football, are both forever grateful. After reaching a settlement, NFL Commissioner Roger Goodell summed up Judge Boylan's efforts: "On behalf of the NFL, our teams, and players, I want to express our deep appreciation to Chief Magistrate Judge Arthur Boylan. Judge Boylan was the court-appointed mediator, but his contributions far exceeded that role. His patience, determination, and commitment helped keep everyone focused on the goal and helped lead us to today's announcement."

While Judge Boylan is likely best known for these high-profile cases involving complex issues and large sums of money, he has used these same skills to settle numerous smaller matters that greatly impact many individuals. For example, Judge Boylan helped bring resolution to a family whose mother and her current boyfriend were brutally murdered by an ex-boyfriend whose entrance into the home was allegedly undetected due to a faulty security system. He was also able to bring parties together in a case that involved the families of multiple children injured in a bus crash caused by faulty brakes.

Judge Boylan has often said to attorneys and parties that "judges are ordinary people; don't be overly impressed by the robe. It is more im-



"Judges are ordinary people; don't be overly impressed by the robe. It is more important that we talk candidly so that we are on the same page."

-The Hon. Arthur J. Boylan

portant that we talk candidly so that we are on the same page." Thus, it is not surprising that so many people enjoy working with the judge and feel comfortable having him resolve their disputes.

Judge Boylan summed up his feelings after being on the federal bench for 17 years by stating:

I have had fun. When I was in private practice, I loved the trial work. I think what attracted me to the bench was the ability it gave me to be in court every day. Not just occasionally, as a trial lawyer, but every day.

Ultimately, dealing with people, especially in settlement, is most enjoyable. I like to learn about what brought the case into court. Mediation is my real strength. I'm passionate about it. I work hard to help the parties find a resolution. I find it very rewarding when I'm able to help get the impossible case settled.

While Judge Boylan will continue to help others resolve their differences after he retires, he will also

continue to enjoy spending time with his family (including his seven grandchildren), golfing, and mastering the game of curling.

Although Judge Boylan will no doubt be deeply missed on the federal bench, it makes sense that one of the most respected judicial mediators in the country will continue to do what he does best—helping parties resolve their disputes.

Timothy M. O'Shea is a shareholder at Fredrikson & Byron P.A. in Minneapolis, where he specializes in complex commercial litigation and intellectual property litigation. **Ruth Rivard** is a shareholder at Stinson Leonard Street in Minneapolis and focuses her practice on intellectual property. Both authors previously clerked for Chief Magistrate Judge Boylan.

Calendar of Upcoming Events

April 14, 2014 | 12:00 p.m.

Newer Lawyers Luncheon: Summary Judgment

The Hon. Patrick J. Schiltz

Courtroom 14E, United State District Courthouse, Minneapolis

April 23, 2014 | 12:00 p.m.

Monthly Luncheon

The Hon. Jane Kelly

Minneapolis Club, Minneapolis

May 3, 2014 6 p.m.

Federal Judges' Dinner-Dance

The Minikahda Club, Minneapolis

May 28, 2014 | 12:00 p.m.

Monthly Luncheon

U.S. Attorney Andrew M. Luger

Minneapolis Club, Minneapolis

June 19 and 24, 2014 | 12:00 p.m.

Summer Associate Luncheon

The Hon. Michael J. Davis

Courtroom 15E, United States Courthouse, Minneapolis

Save the Date!

Federal Bar Association- Minnesota Chapter's
Annual Golf Tournament

Monday, August 25, 2014

Midland Hills Country Club

(Watch for Registration information in June 2014)

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Kathryn Uline

United States District Court, Clerk of Court's Office

A special thank you to **Rebecca Baertsch**, Judicial Assistant to the Honorable Donovan W. Frank, for her proofreading expertise.

Bar Talk is the official newsletter of the Minnesota Chapter of the FBA. It is published quarterly by the Communications Committee. For any inquiries or article suggestions, please contact: Michael Goodwin (michael.p.goodwin@comcast.net) or Tammy Schemmel (tschemmel@bgs.com).

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through the Federal Bar Association

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FEDERAL BAR ASSOCIATION APPLICATION FOR MEMBERSHIP (CONTINUES ON REVERSE)

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First Name _____ M.I. _____ Last Name _____ Suffix (e.g. Jr.) _____ Title (e.g. Attorney At Law, Partner, Assistant U.S. Attorney) _____

☐ Male ☐ Female

Have you been an FBA member in the past? ☐ yes ☐ no

Which do you prefer as your primary address? ☐ business ☐ home

Firm/Company/Agency		Number of Attorneys	
Address		Suite/Floor	
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()	()		
Phone	Fax	E-mail	

Address			Apt. #
City	State	Zip	Country
()	()		
Phone	Fax		
/ /			
Date of Birth	E-mail		

Bar Admission and Law School Information (required)

U.S.	Court of Record: _____
	State/District: _____ Original Admission: / /
Tribal	Court of Record: _____
	State: _____ Original Admission: / /
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Students	Law School: _____
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PRACTICE TYPE

Private Sector: ☐ Private Practice

☐ Corporate/In-House

Public Sector: ☐ Government

☐ Association Counsel

☐ Nonprofit

☐ University/College

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☐ Indian

☐ Antitrust/Trade

☐ Intellectual Property

☐ Bankruptcy

☐ International

☐ Communications

☐ Labor/Employment

☐ Criminal

☐ Military

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Members of the association distinguish themselves when becoming sustaining members of the FBA. Sixty dollars of the sustaining dues are used to support educational programs and publications of the FBA. Sustaining members receive a 5% discount on the registration fees for all national meetings and national CLE events.

	Private Sector	Public Sector
Member Admitted to Practice 0-5 Years	\$155	\$135
Member Admitted to Practice 6-10 Years	\$215	\$190
Member Admitted to Practice 11+ Years	\$255	\$220
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Open to any person admitted to the practice of law before a federal court or a court of record in any of the several states, commonwealths, territories, or possessions of the United States or in the District of Columbia.

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*For eligibility, date of birth must be provided

Sections and Divisions Total: \$ _____

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Your FBA membership entitles you to a chapter membership. Local chapter dues are indicated next to the chapter name (if applicable). If no chapter is selected, you will be assigned a chapter based on geographic location. *No chapter currently located in this state or location.

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Chapter Total: \$ _____

Payment Information and Authorization Statement

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☐ Check enclosed, payable to Federal Bar Association
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By signing this application, I hereby apply for membership in the Federal Bar Association and agree to conform to its Constitution and Bylaws and to the rules and regulations prescribed by its Board of Directors. I declare that the information contained herein is true and complete. I understand that any false statements made on this application will lead to rejection of my application and/or the immediate termination of my membership. I also understand that by providing my fax number and e-mail address, I hereby consent to receive faxes and e-mail messages sent by or on behalf of the Federal Bar Association, the Foundation of the Federal Bar Association, and the Federal Bar Building Corporation.

Signature of Applicant _____

Date _____

(Signature must be included for membership to be activated)

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