

MINNESOTA CHAPTER OF THE FEDERAL BAR ASSOCIATION

Bar Talk



CHIEF JUDGE WILLIAM JAY RILEY



William Jay Riley was appointed by President George W. Bush to the Eighth Circuit Court of

Appeals, and took his oath of office on August 16, 2001. On April 1, 2010, Judge Riley became Chief Judge of the Eighth Circuit Court of Appeals.

Chief Judge Riley graduated from Nebraska Law School in 1972, where he was the Editor-in-Chief of the *Nebraska Law Review* from 1971-1972. Chief Judge Riley then clerked for the Honorable Donald P. Lay at the Eighth Circuit Court of Appeals from 1972-1973. Chief Judge Riley was a civil trial lawyer with the firm of Fitzgerald, Schorr, Barmettler & Brennan in Omaha,

Nebraska, from 1973-2001. Since 1991, he has served as an adjunct professor at Creighton University School of Law, teaching trial practice, and in 2006 he began lecturing on trial advocacy at the University of Nebraska-Lincoln College of Law.

Former Chief Justice William H. Rehnquist appointed, and Chief Justice John G. Roberts reappointed, Chief Judge Riley to serve on the United States Judicial Conference Committee on Criminal Law from October 1, 2005 to October 1, 2011.

JUDGE JAMES B. LOKEN COMPLETES HIS TERM AS CHIEF



On March 31, 2010, after completing his seven-year term, the Honorable James B. Loken stepped down as the Chief Judge of the United States Court of Appeals for the Eighth Circuit. Judge Loken has been succeeded by the Honorable William Jay Riley.

As chief, Judge Loken took a practical, efficiency-oriented

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approach to his duties, which included presiding over and administratively managing the *en banc* review process, overseeing the operations and finances of five Eighth Circuit departments, handling judicial complaints, and assisting in the general administration of the district courts in the Circuit—all while maintaining a full hearing schedule. Judge Loken also chaired the Eighth Circuit Judicial Council and was a member of the Judicial Conference of the United States, the policymaking arm of the federal courts.

Annual case filings for the Circuit during Judge Loken's term exceeded 3,000 and rose to more than 3,600 in 2005 as a result of increased immigration appeals. Annual case terminations increased during his tenure from just under 2,900 in 2003 to more than 3,100 in 2009. The number of pending cases has decreased from more than 2,300 in 2005 to approximately 1,900 in 2009. Judge Loken also helped eliminate the backlog of cases in the Staff Attorney's office through new streamlined procedures.

Judge Loken's efficient leadership was evident in his swift response to *United States v. Booker*, the Supreme Court case that struck down portions of the federal sentencing statute that made the United States Sentencing

Guidelines mandatory. The afternoon the case was issued, he convened a court meeting to discuss how to handle harmless error and plain error issues raised by the case. Within three months, the Court had heard arguments and issued its *en banc* opinion, authored by Judge Loken, in *United States v. Pirani*, clarifying the steps a defendant is required to take to preserve a *Booker* error for appeal. This rapid response by the *en banc* Court helped to ensure the orderly and consistent disposition of sentencing appeals following *Booker*.

Judge Loken's creative problem-solving was also apparent when he secured the renovation of the Eighth Circuit's facilities in the Warren E. Burger Federal Building in St. Paul. Recognizing that the Court was spending money to rent space it used only sparingly, Judge Loken worked with the General Services Administration and Administrative Offices of the United States Courts to exchange the unused space for a complete renovation of the Eighth Circuit's remaining facilities, including the building of standardized quarters for visiting judges and the refurbishing of three courtrooms. "I became the poster child for cost containment," Judge Loken explained.

Asked if there was anything about being Chief Judge that surprised him, Judge Loken admitted that he did not fully appreciate the importance of the Chief Judge's role presiding over official court functions, including at ceremonies honoring his colleagues on the Court. "You don't take any of that stuff lightly," Judge Loken stated, noting the importance of preparation to the Chief's public speaking duties.

After a full seven-year term as Chief, Judge Loken looks forward to resuming the duties of an active Circuit judge; he expects most of the time he had previously devoted to his duties as Chief to be taken up with new committee assignments and screening panel and administrative panel matters. He is interested, however, in pursuing opportunities he did not participate in as Chief, including potentially sitting as a district court judge in a civil jury trial, or as a visiting judge in another Court of Appeals. "I told Chief Judge Kozinski [of the Ninth Circuit] that I'd go sit in the Ninth," Judge Loken explained. "They do need a lot of help!"

Joe Cassioppi is an associate in Fredrikson & Byron, P.A.'s Litigation Group. Joe clerked for Judge Loken from 2007-2008. **Jeff Justman** currently clerks for Judge Loken. Jeff will begin a clerkship with Judge Diana E. Murphy in August 2010.

DINNER-DANCE A SOLD-OUT SUCCESS

On Saturday, May 1, 2010, the Minnesota Chapter of the Federal Bar Association hosted its Annual Judges Dinner-Dance at

the historic Minikahda Club in Minneapolis. The event, organized by Fredrikson & Byron attorney Rachna Sullivan, was a

sold-out success. More than 300 members of the Federal Bar Association and numerous Federal

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CHIEF MAGISTRATE JUDGE RAYMOND ERICKSON RETIRES AFTER EIGHTEEN YEARS

On August 27, 2010, Chief Magistrate Judge Raymond L. Erickson will retire. His tenure on the bench has been marked by intellectual curiosity, judicial scholarship, and hard work. He will be missed but his contributions will live on.

Judge Erickson graduated from the University of Minnesota Law School in 1970. He served in the U.S. Army from 1970-1974. In 1972, he began practicing law as part of a private law firm in Duluth. For the next twenty years, he was known as a tenacious advocate for his clients and a well-respected and skilled adversary.

His tenure on the federal bench began in September 1992. Since that time, he has served the federal judiciary from his chambers in his beloved Duluth, with frequent trips to hear matters in both Minneapolis/St. Paul and Fergus Falls.

Whenever one speaks to attorneys about their experiences before Magistrate Judge Erickson, one comment invariably leads the discussion: they are both impressed by and thankful for the time and scholarship that Judge Erickson puts into his work. Judge Erickson's efforts have been particularly useful in the area of pre-trial discovery practices an area that at times lacks formal guidance through published judicial opinions. As more



than one attorney has commented, even when she lost a motion before Judge Erickson, the Court's opinion was always fully reasoned and explained. Indeed, Judge Erickson's opinions provide attorneys and their clients with invaluable guidance to help them work through most pre-trial disputes and, where possible, avoid the need to resort to the courts.

Attorneys also note that oral arguments before Judge Erickson are a pleasure. In addition to the opportunity to visit Duluth and the stately courtroom over which he presides, Judge Erickson's preparation and thorough, thoughtful questioning require attorneys to be on their toes and fully prepared. An oral argument before Judge Erickson is an invaluable experience, especially for newer attorneys.

In addition to the federal bar as a whole, Judge Erickson has left his mark on the approximately 35 to 40 newly minted law school graduates who have served as his judicial clerks. The primary lesson Judge Erickson teaches his clerks mirrors the lesson he imparts to the attorneys who appear before him: diligence and preparation are necessary to excel in the legal profession. Judge Erickson himself sets the standard. His judicial opinions are exhaustively researched to ensure the conclusions are grounded in established legal principles and supported by comprehensive legal reasoning. His standard of thoroughness is not limited to opinions that are meant for publication; Judge Erickson holds every written decision, whether the result of a formal hearing or an informal telephone conference, to this high standard.

As a result, Judge Erickson trains his clerks to be rigorous in their research and intellectually curious themselves. He does not limit himself to the research and arguments presented by the attorneys and does not allow his clerks to do so either. He also ensures that his clerks receive the benefit of witnessing the practical side of the practice of law: the sometimes tedious machinations of settlement conferences, the give-and-take necessary to resolve small and large discovery dis-

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putes, and arguments by some of the best attorneys Minnesota has to offer, to name just a few. In the end, after two years of rigorous training and mentorship, Judge Erickson's clerks move on to practice law with a wealth of experience and training that

places them ahead of many of their peers and, hopefully, with a love of the law.

Over the last eighteen years, Magistrate Judge Erickson's hard work has benefited us all. We wish him well in his future en-

deavors and thank him for his service to the federal bench.

Katie Pfeifer and **Thomas Jancik** are attorneys at Dorsey & Whitney LLP. Prior to joining Dorsey, they both clerked for Magistrate Judge Raymond L. Erickson. Tom also clerked for Judge Gerald W. Heaney on the Eighth Circuit Court of Appeals.

FBA PRESENTS 2010 LAW STUDENT AWARDS

On April 8, four outstanding law students, one from each of the metro-area law schools, received an award from the Minnesota Chapter of the Federal Bar Association. The Chapter is proud to sponsor the Law Student Award Program, which has been recognizing outstanding law students for over 20 years. The awards recognize excellence in the study of federal law and practice. Each recipient, a graduating student, is selected with the help of faculty members and deans at his or her law school, and receives an engraved plaque and a check for \$2,000.

Each of the four awards is named for an individual who has contributed significantly to

the federal legal system in Minnesota.

The **University of St. Thomas award** is named for the Honorable Earl J. Larson, who served as a federal district judge in the District of Minnesota. The Honorable John R. Tunheim, once a clerk to Judge Larson, presented the award to UST 3L **Amanda Schmall**.

The **Hamline University award** is named for the Honorable Jacob Dim, who served as a federal bankruptcy judge in the District of Minnesota. The Honorable Donovan W. Frank, a Hamline alumnus, presented the award to Hamline 3L **Brian Rochel**.

The **University of Minnesota award** is named for the Honorable Edward J. Devitt, who served as Chief Judge of the District of Minnesota for more than 25 years. Judge Devitt authored a landmark guide to federal jury practice and instructions. The Honorable Michael J. Davis, the current Chief Judge of the District, presented the award to U of M 3L **Jessica Edwards**.

The award for **William Mitchell College of Law** is named for Harry A. Sieben, who served as Clerk of Court for the District. The Honorable Joan N. Ericksen of the District of Minnesota presented the award to William Mitchell 3L **Ellen Aherns**.



Ellen Aherns receiving the William Mitchell College of Law Award from the Honorable Joan N. Ericksen.



The Honorable Michael J. Davis with University of Minnesota Award recipient Jessica Edwards and Ben Edwards.



The Honorable Donovan W. Frank presenting the Hamline Award to Hamline 3L Brian Rochel.

FROM 1975 TO 2010: A CONVERSATION ABOUT JUDGING AND MINNESOTA'S FEDERAL COURT

Collectively, Minnesota's Senior Judges have 130 years of experience on the bench. This June, as part of the FBA's annual Federal Practice Seminar, they have agreed to come together to have a conversation about judging and Minnesota's federal court.

Their tenure on the federal court spans from 1975, when Judge Donald D. Alsop joined Judges Edward J. Devitt, Earl R. Larson, and Miles W. Lord on the United States District Court for the District of Minnesota. Born and raised in Duluth, Judge Alsop served in the U.S. Army from 1945-1946. He funded his education through the GI Bill and graduated from the University of Minnesota Law School in 1952. Prior to his appointment, Judge Alsop practiced law in New Ulm with the firm of Gislason, Alsop, Dosland & Hunter. On August 8, 1974, the day before President Richard Nixon resigned as President, he appointed Judge Alsop to Minnesota's federal court.

Judge Paul A. Magnuson was appointed by President Ronald Reagan in 1981 to replace Judge Devitt on Minnesota's first judicial seat. A "farm kid" from South Dakota, Judge Magnuson came to Minnesota in 1955 to attend Gustavus Adolphus College in St. Peter, Minnesota. He attended William Mitchell College of Law and practiced law in St. Paul with the firm of

Levander, Gillen & Miller prior to his appointment.

Judge James M. Rosenbaum was appointed to the bench in 1985. By this time, Congress had expanded the number of judgeships to seven. Judge Rosenbaum was raised in St. Paul, attended the University of Minnesota Law School and worked in Chicago for VISTA before returning to Minnesota to practice law. From 1981 to his appointment by President Reagan in 1985, Judge Rosenbaum served as the United States Attorney for the District of Minnesota.

Judge David S. Doty received news of his appointment in February 1987 on a ski vacation. When President Reagan called to ask if he was still interested in the appointment, Judge Doty said "Yes, I am." Shortly thereafter, Judge Doty was confirmed to replace Judge Lord, who had retired in 1985. Prior to his appointment, Judge Doty was a partner in the Minneapolis law firm of Popham, Haik, Schnobrich, Kaufman & Doty and was active in civic and professional matters, serving as President of the State Bar Association and as Chair of the judicial merit selection board established by Governor Al Quie. Raised in Minneapolis, Judge Doty was a Captain in the U.S. Marine Corps from 1952-1958 before attending the

University of Minnesota Law School.

As the third of four generations of lawyers, Judge Richard H. Kyle graduated from the University of Minnesota Law School, clerked for Judge Devitt, and practiced for many years with his father in St. Paul at the Briggs & Morgan law firm. He also served from 1968-1970 as Minnesota's Solicitor General. Appointed by President George W. Bush shortly after Clarence Thomas was nominated to the United States Supreme Court, Judge Kyle was confirmed by the Senate in 1992.

On June 22, 2010, these five Judges have agreed to share their reflections—and their stories—in a conversation moderated by Judge Rosenbaum at the FBA's annual Federal Practice Seminar. Mark your calendars and be sure to attend!

COURTS SPLIT ON CLASS ACTION FAIRNESS ACT QUESTION

Since its enactment in 2005, the Class Action Fairness Act (CAFA) has provided a means for federal courts to hear more class action lawsuits. Yet in many of those suits, courts have denied class certification. One remaining unresolved issue is whether federal jurisdiction under CAFA continues to exist after the denial of class certification. Indeed, courts within the District of Minnesota disagree on the issue. *Compare Delsing v. Starbucks Coffee Corp.*, No. 08-1154, 2010 WL 1507642, at *1-2 (D. Minn. Apr. 14, 2010) (CAFA jurisdiction survives denial of class certification), *with Arritt v. Relia-Star Life Ins. Co.*, No. 07-1817, 2009 WL 1703224, at *2 (D. Minn. June 18, 2009) (denial of class certification determines that no CAFA jurisdiction exists).

CAFA provides:

The district courts shall have original jurisdiction of any civil action in which the matter in controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and is a class action in which . . . any member of a class of plaintiffs is a citizen of a State different from any defendant . . .

28 U.S.C. § 1332(d)(2)(A) (2005). CAFA defines a “class action” as “any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought

by 1 or more representative persons as a class action.” *Id.* § 1332(d)(1)(B). CAFA applies “to any class action before or after the entry of a class certification order by the court with respect to that action.” *Id.* § 1332(d)(8). A “class certification order” is “an order issued by a court approving the treatment of some or all aspects of a civil action as a class action.” *Id.* § 1332(d)(1)(C).

A. Decisions Holding Jurisdiction is Retained Following Denial of Class Certification.

Several courts—including three courts of appeals and one court in the District of Minnesota—have held that subject matter jurisdiction under CAFA does not depend on class certification. They have determined that jurisdiction turns on whether the action was *filed* as a class action, and not on whether the action was eventually *certified* as a class action. *See, e.g., United Steel, Paper & Forestry, Rubber, Mfg., Energy, Allied Indus. & Serv. Workers Int’l Union v. Shell Oil Co.*, No. 10-55269, 2010 WL 1571190, at *3-4 (9th Cir. Apr. 21, 2010); *Cunningham Charter Corp. v. Learjet, Inc.*, 592 F.3d 805, 806-07 (7th Cir. 2010); *Vega v. T-Mobile USA, Inc.*, 564 F.3d 1256, 1268 n.12 (11th Cir. 2009); *Delsing*, 2010 WL 1507642, at *1-2.

These courts rely on the statutory language of CAFA and well-settled case law regarding removal actions. Specifically, the

courts note that the statutory definition of “class action” is “any civil action *filed*” under Rule 23 or a state correlative. Additionally, the courts explain that Congress could have used “certified” instead of “filed” or included some other language if Congress had intended that a properly removed class action be remanded if certification was denied. These courts also invoke the principle that “jurisdiction once properly invoked is not lost by developments after the suit is filed.” *See, e.g., United Steel*, 2010 WL 1571190, at *3-4 (quoting *Cunningham Charter Corp.*, 592 F.3d at 807 (citing *St. Paul Mercury Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 293-95 (1938))).

In addition to the statutory text, some of these courts consider the legislative history and purpose of CAFA to support their interpretation. *See Cunningham Charter Corp.*, 592 F.3d at 807; *see also* S. Rep. No. 109-14 at 1-6 (2005) (providing CAFA’s purpose and legislative history). In line with the legislative history, some courts have noted that, if CAFA jurisdiction is lost when class claims are no longer operative, plaintiffs could engage in forum shopping by withdrawing their class claims in order to manufacture a remand to state court or a dismissal without prejudice. *See, e.g., Genebacher v. CenturyTel Fiber Co. II*, 500 F. Supp. 2d 1014, 1017 n.3 (C.D. Ill. 2007).

B. Decisions Holding No Jurisdiction Following Denial of Class Certification.

Numerous other courts—including two courts of appeals and one court in the District of Minnesota—have either suggested or concluded that subject matter jurisdiction no longer exists following a denial of class certification. *See, e.g., In re TJX Cos. Retail Sec. Breach Litig.*, 564 F.3d 489, 492-93 (1st Cir. 2009); *County of Nassau v. Hotels.com*, 577 F.3d 89, 91-92 (2d Cir. 2009); *Avritt*, 2009 WL 1703224, at *2; *Falcon v. Philips Elecs. N. Am. Corp.*, 489 F. Supp. 2d 367, 368 (S.D.N.Y. 2007); *McGaughey v. Treistman*, No. 05-7069, 2007 WL 24935, at *1 (S.D.N.Y. Jan. 4, 2007).

Some of these courts focus on the language of Federal Rule of Civil Procedure 12(h)(3), which provides: “If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.” These courts conclude that the denial of class certification means the court has determined that it no longer has the subject matter jurisdiction granted exclusively to class actions under CAFA, so it can no longer retain the case. *See Giovanniello v. New York Law Publ’g Co.*, No. 07-1990, 2007 WL 2244321, at *2-4 (S.D.N.Y. Aug. 6, 2007).

Others engage in statutory interpretation of § 1332(d)(8), which states that CAFA “shall apply to any class action before or after the entry of a class certification order.” These courts reason by

negative implication that where there is no class certification order, the court is divested of jurisdiction. They also look to § 1332(d)(2) and note that § 1332(d)(8) would be “a superfluous partial restatement of § 1332(d)(2)” if § 1332(d)(8) were interpreted to indicate that a court has jurisdiction both before and after an order either granting or denying class certification. *See, e.g., Avritt*, 2009 WL 1703224, at *2.

Most of these courts explain that class certification is not a prerequisite to subject matter jurisdiction, but that if class certification is denied and there is no “reasonably foreseeable possibility” of subsequent class certification, the court loses subject matter jurisdiction. *See, e.g., id.* These courts generally reason that the denial of class certification is not a change in a jurisdictional fact like citizenship or the amount in

controversy, which would not divest the court of diversity jurisdiction, but rather a legal conclusion alleged in the complaint and decided by the court, which means that jurisdiction never properly existed in the first place. *See, e.g., id.; Falcon*, 489 F. Supp. 2d at 368.

There is a significant split among district and circuit courts as to whether CAFA jurisdiction remains after class certification is denied. The Eighth Circuit has yet to address the issue. Thus, whether federal jurisdiction exists or expires after a denial of class certification remains an open question.

Kari Hainey is a shareholder at Nilan Johnson Lewis and a member of the FBA Communications Committee. She clerked for Judge Paul A. Magnuson from 2004 to 2007.

Anishinabe Legal Services, Regional Native Public Defender Corporation, the Legal Department of the Leech Lake Band of Ojibwe, and the Minnesota American Indian Bar Association announce an

INDIAN LAW CLE

Demystifying Public Law 280, the Indian Child Welfare Act and Everything Else You Want to Know About Indian Law but Were Afraid to Ask

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Northern Lights Casino
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Registration is \$210 for the two-day seminar, including lunches and Thursday’s dinner. MAIBA, early-bird, non-attorney, and one-day rates available. For more information, contact:
Jodi Drews, 612-596-1805; jodi.drews@co.hennepin.mn.us
Reid Raymond, 612-348-9893; reid.raymond@co.hennepin.mn.us

WATCH FOR NEXT YEAR'S SEASON OF NEWER LAWYERS LUNCHEONS.

Each year the Minnesota Chapter of the FBA, through the Newer Lawyers Committee, presents a series of in-chambers luncheons hosted by members of Minnesota's federal bench. These monthly in-chambers luncheons are informal and open to lawyers who have been practicing for fewer than five years. The Newer Lawyers Committee would like to thank all the judges who have taken time to share their thoughts this past year with newer lawyers of Minnesota's federal bar. During the 2009-2010 luncheon season, the following judges presented on the following topics:

Judge Joan N. Ericksen	<i>Jury Trials</i>
Judge Richard H. Kyle	<i>Motion Practice</i>
Magistrate Judge Susan Richard Nelson	<i>Role of the Magistrate Judge</i>
Judge Donovan W. Frank	<i>Criminal Law for the Civil Litigator</i>
Judge James M. Rosenbaum	<i>Courtroom Technology</i>
Judge Robert J. Kressel	<i>Where the Bankruptcy Court Fits within the Federal System</i>
Magistrate Judge Jeanne J. Graham	<i>Settlement Conferences</i>
Judge John R. Tunheim	<i>Summary Judgment</i>
Judge James B. Loken	<i>Appellate Practice</i>

In addition, on May 18, 2010, the Honorable Ann D. Montgomery will conclude this year's season and will discuss *Trial Practice*. The Newer Lawyers Committee encourages all lawyers who have been practicing for fewer than five years to watch for and attend next season's luncheons hosted by our federal bench.

On July 1 and July 8, 2010, Chief Judge Michael J. Davis will host the FBA Summer Associate and Law Clerk Luncheon to discuss federal practice and the federal court system. Watch for invitation and registration forms later this month. Please feel free to circulate the invitation to summer associates and law clerks who may be interested in learning more about federal practice and joining the FBA.

The Newer Lawyer Committee of the Minnesota Chapter of the FBA is co-chaired by Tammy J. Schemmel, an attorney at Barna, Guzy and Steffen, Ltd. and former law clerk to United States Magistrate Judge Janie S. Mayeron; and Kirstin D. Kanski, an attorney at Lindquist & Vennum, P.L.L.P. and former law clerk to United States District Court Judge David S. Doty.

COME JOIN US FOR THE
36TH ANNUAL FBA SEMINAR
TUESDAY JUNE 22, 2010
THE GUTHRIE THEATER

This year marks the 36th Annual FBA Seminar and it promises to be another great event. This year's seminar will be on Tuesday June 22, 2010, at an exciting first-time venue—the Guthrie Theater. The plenary sessions will be held in the McGuire Proscenium Stage, and the Mason Memorial Luncheon in the Level 5 Cafe. The line-up will begin with a discussion, by Judge Patrick J. Schiltz, Greg Garre of Latham & Watkins, and Professor Stephen Burbank of the University of Pennsylvania Law School, of the *Iqbal/Twombly* line of Supreme Court decisions. Mr. Garre was the Solicitor General under George W. Bush who argued *Iqbal* at the U.S. Supreme Court and appeared before the Senate Judiciary Committee supporting *Iqbal*, while Professor Burbank testified in front of Senate Judiciary committee opposing *Iqbal*. Other speakers in the morning panel will share their insights on recent Supreme Court and Eighth Circuit law, as well as the new Federal Rule of Evidence 502 and new Local Rules. Afternoon break-out sessions will focus on employment and intellectual property topics, with a panel on FLSA collective actions and another on “The Top Ten Things Every Lawyer Needs To Know About Social Media and IP.” A seminar favorite—a panel of permanent law clerks—will provide their unique view. Capping off the day will be a panel of all of our senior judges sharing their collective judicial wisdom and observations after a combined 130 years on the federal bench. We can all toast the presenters at a happy hour at the Guthrie.

Our speaker for this year's Mason Memorial Luncheon will be Professor Sherilynn Ifill from the University of Maryland who will speak on the importance of judicial diversity. She is back in Minnesota for a repeat performance of her well-received presentation at the Eighth & Tenth Circuits' Judicial Conference in Duluth in August 2009. Here's just a sampling of what some of the judges have to say about Professor Ifill:

Magistrate Judge Arthur J. Boylan:

“I thought her talk was terrific. It was one of those rare instances when the speaker immediately captures everyone's attention. I thought her insights on the topic of diversity were very thoughtful and thought-provoking. It is not too often that a convention speech leads to spontaneous discussions between audience members as they leave the room. Her speech did.”

Chief Judge Michael J. Davis:

“Professor Ifill is an outstanding legal scholar and speaker on the issue of diversity in America. Her presentation at the joint Circuit Conference was the most intellectually challenging speech at the conference. I cannot wait to hear her again at the Mason Memorial lecture.”

Registration materials are available on the Chapter's website, www.fedbar.org/minnesota.html

We look forward to seeing you at this year's FBA Seminar!!

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Judges attended. The night began with a jam-packed cocktail hour in the Minikahda's beautiful living room and patio, and moved into the Ballroom for dinner, where guests dined while looking out over Lake Calhoun as the evening shadows fell. During dinner, outgoing Chapter President Lora Friedemann spoke briefly to ex-

press how much she enjoyed her year of service to the - Chapter. She observed that the members of Minnesota's federal bar are extremely lucky to practice before such smart, passionate, and fun judges, a sentiment with which the crowd wholeheartedly agreed. After dinner, a "casino" opened up in the patio and guests were able to hone their gambling skills without

the risk of losing any hard-earned money. Then the band took the stage and the group spent the rest of the evening boogieing down like only federal litigators can do. All in all, it was a lovely evening.

Kevin Riach is a litigation associate at Fredrikson & Byron, P.A.

OPEN DOORS

The Open Doors to Federal Courts Program took place on April 15 at the federal courthouse in St. Paul. Students from Lester Prairie High School in Lester Prairie and Johnson High School in St. Paul visited the federal courthouse to participate in a day-long program. The students observed and participated in a mock civil trial raising First Amendment issues related to student activity on a social media website. The trial was hosted by Assistant Federal Defender Manny Atwal and Assistant United States Attorney Ann Anaya, with the Honorable Donovan W. Frank presiding.

The afternoon included a career showcase featuring the FBI, the Secret Service, the Minneapolis Police Department, U.S. Probation and Pre-trial Services, and the Federal Protective Service.



Assistant Federal Defender Manny Atwal with students.



Assistant United States Attorney Ann Anaya with students.

DISTRICT OF MINNESOTA TO HOST EIGHTH CIRCUIT JUDICIAL CONFERENCE

The District of Minnesota will host the Eighth Circuit Judicial Conference on August 11-13, 2010, at the Marriott City Center, located at 30 South Seventh Street in Minneapolis. The program, "Lawyering in the 21st Century," intertwines the federal bench and practitioners for three days of CLEs and social events. Chief Judge Michael J. Davis has spearheaded the planning effort, with the help of social committee chair Judge Joan N. Ericksen. "It should be an event that any practitioner should want to come to," said Chief Judge Davis.

Multiple educational sessions involve panels of both judges and lawyers, and are specifically geared towards those practicing before the federal courts. The conference kicks off with a Wednesday evening reception hosted by the Eighth Circuit Bar Association and featuring the Benny Weinbeck jazz trio. Thursday's highlights include various panel discussions with

judges from throughout the Eighth Circuit and the nation, including our own Judge James M. Rosenbaum, District of Montana Judge Donald W. Molloy, Northern District of Iowa Judge Mark W. Bennett and Western District of Tennessee Judge Bernice B. Donald. The evening concludes with a bench and bar reception at the Walker Art Center recognizing the Honorable James B. Loken and the Honorable William Jay Riley, in honor of Judge Riley's April 1, 2010, transition to the position of Chief Judge of the Eighth Circuit Court of Appeals, replacing Judge Loken, who will remain on the bench.

Friday's program features a discussion with United States Supreme Court Justice Samuel A. Alito, Jr., who serves as circuit Justice for the Eighth Circuit. In addition, Eighth Circuit Judge Morris S. Arnold will moderate a panel including Eighth Circuit Judges Loken and Steven M.

Colloton and District Judge Patrick J. Schiltz. The afternoon session, "Batting Eighth," will be held at Target Field and includes baseball-related speakers like WCCO Radio host and *Star Tribune* columnist Sid Hartman. The conference wraps up with an evening baseball game between the Minnesota Twins and the Oakland A's—only after, of course, Justice Alito and Chief Judge Davis throw the first pitch.

CLE credits will be applied for. Information about the conference and registration can be found at: www.ca8.uscourts.gov/judconf2010. Any questions about the conference can be sent by e-mail to judconf@ca8.uscourts.gov or by calling the Circuit Executive's Office at 312-244-2600.

Molly Borg Thornton is an associate at Briggs & Morgan and a member of the Communications Committee. Before entering private practice, she clerked for the Hon. Paul A. Magnuson.

CALENDAR OF UPCOMING EVENTS

May 12, 2010

Monthly Luncheon at the Minneapolis Club

June 22, 2010

FBA CLE Seminar at the Guthrie Theater

August 11 – 13, 2010

Eighth Circuit Judicial Conference
at the Marriott City Center

August 30, 2010

Annual Golf Tournament
at Midland Hills Country Club

As this is the last issue of Bar Talk for the 2009-2010 season, we would like to take this opportunity to thank our hard-working and dedicated Communications Committee members. We worked with a great group of lawyers who contributed their time to writing articles, proofing each issue of Bar Talk, and keeping tabs on the Minnesota Chapter's activities. We would like to give special recognition to Kari Hainey and Keri McWilliams, who took time out of their busy schedules to format this season's issues of Bar Talk. Thanks to you all!

Congratulations to Annie Huang and Bill Hittler, who will be co-chairing the Communications Committee for the 2010-2011 season!

- Leah Janus & Anita Terry

Do you have news or an idea for a future issue of Bar Talk? Please contact Anita Terry at anita_terry@mnd.uscourts.gov or Leah Janus at LJanus@fredlaw.com to share.

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Busola A. Akinwale

Akinwale Law Office

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Briggs & Morgan

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Kerri Nelson

Holstein Law Group

Timothy M. O'Shea

Fredrikson & Byron

Erin A. Oglesbay

Winthrop & Weinstine

Bryan T. Symes

Seaton, Beck & Peters

Daniel J. Supalla

Briggs & Morgan

Anita L. Terry (Committee Co-Chair)

Law Clerk to Hon. Paul A. Magnuson

*Special thanks to **Rebecca L. Baertsch**, Judicial Assistant to United States District Judge Donovan W. Frank, for her proofreading expertise.*