

Volume 12  
Issue 2  
December 12,  
2018

[www.fedbar.org/  
Minnesota.html](http://www.fedbar.org/Minnesota.html)

### Inside This Issue:

Diversity Profile: Federal Public Defender Katherian Roe	2
FBA Committees Honored for Inclusion	5
Supreme Court Upholds Minnesota Statute	6
Clerk's Corner: Top 9 CM/ ECF Filing Tips	8
Leadership Applications and Nominations	14



**Federal Bar  
Association**  
Minnesota Chapter

# Bar Talk

## New Faces on the Eighth Circuit Court of Appeals

*By Timothy J. Droske*

The past two years have seen remarkable turnover at the Eighth Circuit. The departures of Eighth Circuit Judges Kermit E. Bye (N.D.), William J. Riley (Neb.), and Diana E. Murphy (Minn.) resulted in the nomination and confirmation of Eighth Circuit Judges Ralph R. Erickson (N.D.), L. Steven Gras (Neb.), and David R. Stras (Minn.). In addition, Judge Roger L. Wollman's (S.D.) decision to take senior status has led to the nomination of Jonathan A. Kobes, still pending at the time of this writing. Considering that the Eighth Circuit has only eleven active judges, this means that more than a quarter of the active bench is new—a number that will climb to more than a third if Kobes is confirmed. This is not altogether unprecedented—in the three-year span from 2002–2004, five judges were appointed, changing the composition of nearly half of the Eighth Circuit's bench of active judges. Only two new judges, however, were appointed in the intervening twelve years, meaning that the three recent appointments have brought a host of new faces to a bench that had been relatively unchanged for more than a decade.

Judge Erickson was appointed on October 13, 2017 and has spent his legal career in North Dakota. He graduated from the University of North Dakota Law School and, after time in private practice, served for decades as a judge—first as a county and state district judge and, then, in

*Eighth Circuit Judges, continued on page 2.*

## United States Magistrate Judge Elizabeth Cowan Wright's Path to the Federal Bench

*By Marc Betinsky*



U.S. Magistrate Judge Elizabeth Cowan Wright, former teacher, earned her Master's in Business Administration from the University of Iowa, and the family then moved to the Des Moines area.

It is not simply metaphoric to say that Minnesota's newest United States Magistrate Judge, Elizabeth Cowan Wright, came a long way to obtain her current position. Magistrate Judge Wright was born in Halifax, Nova Scotia, and her route to the St. Paul federal courthouse took her through Champaign, Illinois; Iowa City and Ames, Iowa; and back to Champaign before she became a Minnesotan in 1998. Given her new job, it is safe to say she will not be leaving the state any time soon.

Though Magistrate Judge Wright was born in the Canadian Maritimes, she moved to Champaign in 1980, after her father finished medical school in Canada. Shortly thereafter, her parents divorced, and Magistrate Judge Wright and her two sisters moved with their mother to the Iowa City area. Magistrate Judge Wright's mother, a

Magistrate Judge Wright attended high school in Ankeny, Iowa, where she excelled in academics and participated in debate, mock trial, and Model United Nations. Although she was always interested in the law, Magistrate Judge Wright also enjoyed math, physics, and chem-

*Magistrate Judge Cowan Wright's Path, continued on page 3.*

*Eighth Circuit Judges, continued from page 1.*

2003, as a United States District Judge for the District of North Dakota. His nomination to the Eighth Circuit by President Trump received wide bipartisan approval, including the overwhelming support of both the Democrat and Republican senators from North Dakota. At his confirmation hearing, Judge Erickson summed up his view of what it means to be a judge: “Those of us who are judges stand on the shoulders of other giants. Justice Marshall, Justice Holmes, Justice Taft, Justice Warren. What they tell us is that as judges we have no politics or creed. We have no constituency, save the Constitution and the laws. That’s what being a judge in my life is all about.”

Judge Grasz was appointed on January 4, 2018 and is a graduate of the University of Nebraska system for both his undergraduate and law degrees. He spent over a decade of his career as the Chief Deputy Attorney General in the Nebraska Attorney General’s Office and, from 2002 until his appointment, was with the law firm of Husch Blackwell LLP in Omaha. Regarding the transition from his position as an advocate to his new role as a judge, Judge Grasz drew the analogy at his confirmation hearing to Nebraska Cornhuskers football and the difference between being “a linebacker ... tr[ying] as hard as he can to help the Cornhuskers win” to being one of “the guys in the striped shirts”—a neutral official—who has “to apply the rules of the game fairly and as consistently as they can possibly do.”

Judge Stras was appointed to the Eighth Circuit on January 31, 2018, after spending eight years on the Minnesota Supreme Court. He received his bachelor, master, and law degrees from the University of Kansas and, after multiple clerkships and time in private practice, went into academia, teaching at the University of Minnesota Law School, before joining the Minnesota Supreme Court in 2010. Judge Stras stressed at his confirmation hearing that he “will remain committed to interpreting and applying the law in an impartial manner,” as he had on the Minnesota Supreme Court, and that his “guiding principle” is to “take each case on its own.”

As the members of the local federal bench continue to change, *Bar Talk* will continue to profile these new judges, including features in coming issues of the two newest members of the U.S. District Court for the District of Minnesota—Judge Eric C. Tostrud and Judge Nancy E. Brasel. ■

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*Timothy J. Droske is co-chair of Dorsey & Whitney LLP’s Appellate Practice Group.*

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## Profiles in Diversity: Federal Public Defender Katherian Roe

*By Kelly Keegan*

Katherian Roe is the Federal Defender for the District of Minnesota, and has led and shaped the Office of the Federal Defender for the past twelve years. She currently oversees a staff of twenty-one, including eight Assistant Federal Defenders, and nearly 140 attorneys on the Criminal Justice Act (CJA) Panel, who are appointed to represent federal defendants. The workload is immense; the Office supervises approximately eighty-five percent of all federal criminal cases in Minnesota and represents defendants charged with the most serious crimes and who often face lengthy mandatory minimum sentences.

Roe was born in Kansas City and raised in New York. During her early years, her mother worked two jobs to support Roe and her sister, to provide them with basic necessities, and to give them an opportunity to have more. Although Roe is Native American, Irish, and Chicana, it was her Native American heritage that informed her views on becoming a lawyer. She remembers watching television about Wounded Knee Occupation as a young teenager and seeing that Native defendants were not represented by lawyers from their community. She saw a need and felt an early desire to help people in her community. “I wanted to become a lawyer ever since I first knew what a lawyer was,” she says.

Her family was not keen on the idea of her becoming a lawyer. No one in her family had graduated from high school and there was a deep mistrust of the legal system. Her mother had a dream for her, but it was not to be a lawyer. Instead she thought young Roe, an avid sports fan and athlete, would make an excellent sportscaster. But Roe developed a special passion for representing the most disadvantaged, marginalized outcasts in society and set her sights on becoming a criminal defense attorney.



Katherian Roe

*Katherian Roe, continued on page 4.*

*Judge Cowan Wright's Path, continued from page 1.*

istry. Having seen first-hand the financial challenges her mother faced post-divorce, Magistrate Judge Wright opted for a degree in engineering instead of pursuing a degree in the liberal arts. She matriculated at Iowa State University, where she obtained a Bachelor's Degree in Aerospace Engineering, and then continued her studies at the University of Illinois, earning a Master's Degree in Mechanical Engineering. After graduation, she took a job with 3M as a process engineer, which brought her to Minnesota (Stillwater) for the first time. There, she oversaw a production line that manufactured automotive badging for companies such as Chrysler and Nissan. The job was fast-paced and required Magistrate Judge Wright to work with a lot of different people—skills that would come in handy later in her professional life. But even while working as an engineer, a career in law was always in the back of her mind.

Luckily, 3M was a place filled with talented scientists—and engineers—cum-lawyers—who helped foster Magistrate Judge Wright's legal interests. Specifically, Magistrate Judge Wright learned about patent law from 3M lawyers who encouraged her to apply to law school. She took the LSAT and, after scoring high enough to receive a full scholarship from William Mitchell College of Law, decided to begin the night program in the fall of 2002. Magistrate Judge Wright continued working at 3M for her first year of law school because she was unsure if she would like the law. Ultimately, her concerns were unfounded; she loved it.

Knowing that her engineering background would likely lead to a patent-law practice, Magistrate Judge Wright had summer associate positions at both Merchant & Gould and Faegre & Benson (now Faegre Baker Daniels) during her law school tenure. For her last three years of law school, she worked at Faegre during the school year. In 2006, Magistrate Judge Wright graduated *summa cum laude* and as valedictorian of her law school class. She was due to clerk for United States Eighth Circuit Court of Appeals Judge Donald P. Lay in the fall of 2006. Unfortunately, a few weeks before Magistrate Judge Wright was to start her clerkship, Judge Lay's health took a turn for the worse, and he passed away without Magistrate Judge Wright having had the opportunity to clerk for him.

Magistrate Judge Wright began working at Faegre in its patent prosecution group full-time in 2006, but continued to pursue a federal clerkship. She was lucky enough to land a position with United States District Judge Joan N. Erickson beginning in 2008. In the meantime, Magistrate Judge Wright transitioned from a patent prosecution practice to a patent litigation practice. For Magistrate Judge Wright, the

watershed moment was when Faegre IP litigator Jim Poradek stopped by her office and said: "What are you doing? You love litigation and being in court. You should be a litigator." Faegre fully supported Magistrate Judge Wright's clerkship (and transition to litigation), and she knew she wanted to return to Faegre when her clerkship ended.

First, though, would be a two-year sojourn into the inner workings of federal court. Magistrate Judge Wright thoroughly enjoyed her clerkship, handling all manner of cases and working on several trials (including a very educational trademark case involving champagne). Magistrate Judge Wright was especially impressed with the intellect of the judges on the federal bench and the "elegance" of federal court. Most importantly, her time with Judge Erickson taught her two critical lessons. First, she learned how vital it is for lawyers to be honest in their written submissions, recognizing both the strengths and weaknesses in their arguments and not distorting the record before the court. Second, she learned that it is incumbent upon lawyers to know the law thoroughly and not superficially, understanding the nuances.

Magistrate Judge Wright put these important lessons to practice when she returned to Faegre in 2010, eventually becoming a partner in its patent litigation practice. As a patent litigator, Magistrate Judge Wright's practice was almost exclusively federal, and she learned how to manage complex litigation along with the procedural and substantive intricacies of patent litigation. The things Magistrate Judge Wright enjoyed most about patent litigation were learning about new technologies and having the opportunity to work with creative, interesting people in every case.

Although she loved being a patent litigator, Magistrate Judge Wright always knew she wanted to return to the federal courts. Both her practice and her clerkship gave her a deep respect for the federal judiciary. From her practice, Magistrate Judge Wright knew that magistrate judges are instrumental in helping people resolve their disputes, and she thought her legal and engineering experience could be useful in that role. When the vacancy created by United States Magistrate Judge Franklin L. Noel's retirement was posted, Magistrate Judge Wright decided to apply. And the rest, as they say, is history.

Magistrate Judge Wright took her oath of office on September 4, 2018, and is chambered in St. Paul, in the space formerly occupied by United States Magistrate Judge Tony N. Leung (who has relocated to Magistrate Judge Noel's former Minneapolis chambers). She looks forward to the challenges ahead in her new position. ■

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*Marc Betinsky is an attorney at Gaskins Bennett & Birrell LLP in Minneapolis, where he practices in the areas of civil rights, personal injury, and business litigation.*

*Katherian Roe, continued from page 2.*

Roe graduated from Albany Law School and began her career practicing Indian Law. After three years in practice, she was awarded a highly competitive teaching fellowship at Georgetown University Law School and earned her LL.M in Trial Advocacy. That opportunity opened several doors for her and brought her to Minnesota to join the Office of the Federal Defender. After twelve years as an Assistant Federal Defender, she became a Hennepin County District Court Judge. Of her time on the bench, she says, “it was about having a broader impact instead of one client at a time.” She enjoyed being a judge and says her decision to leave was a tough one, but ultimately, when she had the opportunity to be appointed Federal Defender, she knew there was a great deal she could accomplish in that role, so she returned to the federal system.

One of the accomplishments Roe is most proud of is her work to develop the CJA mentorship program. Just as she was struck by the absence of Native attorneys representing Wounded Knee defendants, she was struck by the lack of diversity among the panel attorneys accepting CJA appointments. Soon after becoming Federal Defender, she began discussions with now-Senior United States District Judges Ann D. Montgomery and Michael J. Davis, and the possibility of the mentorship program was born. United States Magistrate Judge Kate M. Menendez and Ciresi Conlin

LLP partner and University of Minnesota Law School Professor Andrew H. Mohring, then senior staff members of the Office of the Federal Defender, were involved in developing the mentorship program from the beginning.

The support of the full bench made it possible to fund the program, to improve the high quality of representation provided to indigent defendants, and to move the indigent defense bar closer to being a reflection of the community it serves. The current class is the program’s fourth, and like the classes before it, it is diverse in terms of race, gender, age, and type of practice. While the program is competitive, anyone committed to the work and who is willing to work hard will receive fair consideration. Roe is extremely proud of the CJA mentor attorneys’ work and is encouraged that other districts have modeled similar programs after Minnesota’s.

According to Roe, the Federal Defender’s Office is now in a period of rebirth. It has spent several years hiring an extremely talented group of newer attorneys with varied life experiences to replace some of the more senior attorneys who have left to pursue opportunities on the federal and state benches, as supervisors in other federal defender offices, and in private practice. Roe is excited about her Office’s future and, in her typical understated tone, says, “we have a lot of folks doing really good work.” ■

*Kelly Keegan is an attorney in private practice at Keegan Law Office in Minneapolis, practicing in criminal defense, ex-pungements, and firearms law.*

## **Diversity and Community Outreach Committees Co-Sponsor “World Without Genocide” Event**

*By Irina Vaynerman*

On September 25, 2018, the Minnesota Chapter of the Federal Bar Association’s Diversity and Community Outreach Committees co-sponsored a lecture on the problem of statelessness along with a naturalization ceremony for an eighty-five year old German-Jewish Holocaust survivor, Fred Amram.

Amram was born in Nazi Germany in 1933. In 1935, the Nazi Party promulgated the Nuremberg Laws and stripped all German Jews, including Amram, of German citizenship. In 1939, days after World War II began, Amram and his family fled Nazi Germany. He was only six years old when he and his family arrived to New York City as refugees, eventually becoming American citizens. Amram moved to the Twin Cities and became a professor for the University of Minnesota, until he retired in 2001. After recently learning that Germany was seeking to reinstate citizenship for German-Jews, Amram accepted his birth country’s offer.

The Diversity and Community Outreach Committees co-sponsored Amram’s re-naturalization ceremony with the Germanic American Institute, Mount Zion Temple, and the United Nations Association of Minnesota. Amram received his citizenship documents from German Consul General Herbert Quelle, who warmly shook Amram’s hand while welcoming him as a German citizen. As a newly dual citizen of the United States and Germany, Amram addressed the audience and recognized the significance of his re-naturalization ceremony. “We are speaking about atoning, making amends,” Amram explained, while also emphasizing that he continues to mourn the six million Jews who were murdered in the Holocaust, including members of his own family.

After Amram’s German citizenship was reinstated, Ellen J. Kennedy, Ph.D., Executive Director of World Without Genocide and professor at Mitchel Hamline School of Law, discussed the persistent, global problem of statelessness and the millions of refugees fleeing wars worldwide.

*“World Without Genocide” continued on page 6.*



## ***Pro Se* Project and FBA Diversity & Inclusion Committee Receive Minnesota Lawyer Awards**

*By Tiffany A. Sanders*

The *Pro Se* Project and the FBA's Diversity & Inclusion Committee received *Minnesota Lawyer's* 2018 Diversity & Inclusion award and were honored at an October 3, 2018 reception at the Guthrie Theater. It was *Minnesota Lawyer's* second year of celebrating individuals' and organizations' contributions to promoting diversity and inclusion within Minnesota's legal community.

In selecting the *Pro Se* Project as a Diversity & Inclusion Honoree, *Minnesota Lawyer* focused on the Project's near decade of work in helping the indigent, disabled, and underserved gain access to justice, as well as the impressive work of the volunteer attorneys who have improved the administration of justice on behalf of more than 1000 individuals to date. The *Pro Se* Project is coordinated by Tiffany A. Sanders.

In selecting the FBA Diversity & Inclusion Committee, *Minnesota Lawyer* made particular note of the Committee's recent, vigorous activity, including the implementation of its first strategic Diversity & Inclusion plan and its sponsorship of an inspiring four-part hate crime series that promotes the Committee's goal to help make the legal profession and community as inclusive as possible. Vildan Teske and Danielle Mair co-chair the Diversity & Inclusion Committee.

*Minnesota Lawyer* worked with members of the Minnesota State Bar Association Affinity Bar Associations to develop criteria for the Diversity & Inclusion award. An outside panel of judges selected the honorees by looking closely at individuals and organizations with a consistent track record in advocating for diversity and inclusion—not only in words, but in action.

The *Pro Se* Project and the FBA's Diversity & Inclusion Committee were profiled in *Minnesota Lawyer's* Diversity & Inclusion magazine. ■

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*Tiffany A. Sanders is the Pro Se Project Coordinator.*

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L to R: U.S. Sr. District Judge Michael J. Davis, Tiffany Sanders, Daniel Gustafson, U.S. Sr. District Judge Donovan W. Frank, U.S. District Judge Wilhelmina M. Wright, Rachel Zimmerman Scobie, Lora Friedemann

*“World Without Genocide” continued from page 4.*

During the ceremony, Amram noted that, as a German-Jewish citizen, he feels he is playing a “teeny part in standing up against” the “growing right wing” in Germany and is showing the world that, despite religious and ethnic differences, “we really are brothers and sisters.” The spirit of the re-naturalization ceremony and Amram’s words carry even greater significance in the aftermath of the recent anti-Semitic murders of congregants at a Pittsburgh synagogue. ■

*Irina Vaynerman is an associate patent litigator at Faegre Baker Daniels LLP and maintains a strong pro bono practice. Irina is a member of the Diversity Committee for the Minnesota Chapter of the Federal Bar Association.*

## United States Supreme Court Reverses Eighth Circuit and Upholds Minnesota’s Revocation-on-Divorce Statute in *Sveen v. Melin*

*By Karin Ciano*

Our story begins in December 1997. *Candle in the Wind* topped the Billboard 100; the movie *Titanic* dazzled audiences worldwide; and a Minnesota couple, Kaye Melin and Mark Sveen, got married. Sveen purchased a life insurance policy naming Melin beneficiary and his adult children from a previous marriage contingent beneficiaries. In 2001, the Minnesota legislature amended the probate code to provide that a divorce decree automatically revokes the beneficiary status of an insured’s former spouse, unless (among other exceptions) the decree provides otherwise. See Minn. Stat. § 524.2-804.

In 2007, Sveen and Melin divorced. Although the divorce decree awarded Melin a snowmobile and an all-terrain vehicle, it said nothing about Sveen’s life insurance benefit. Sveen died in 2011, never having changed Melin’s beneficiary status.

The insurance company brought an interpleader action to determine whether Sveen’s death benefit should go to Sveen’s children or to Melin. Sveen’s children argued that the statute applied to bar Melin’s claim to the proceeds. Melin argued that she and Sveen orally agreed to maintain her beneficiary designation such that the statute unconstitutionally impaired her rights in the policy.

United States Senior District Judge Paul A. Magnuson granted summary judgment for Sveen’s children, holding that the statute was not unconstitutional because it did not substantially impair Melin’s contractual rights. Melin appealed to the United States Court of Appeals for the Eighth Circuit. The Eighth Circuit reversed, citing *Whirlpool Corp. v. Ritter*, 929 F.2d 1318, 1324 (8th Cir. 1991), holding that that retroactive application of the statute substantially impaired Sveen’s right to designate a beneficiary. Sveen’s children appealed to the United States Supreme Court.

In June 2018, the Supreme Court reversed the Eighth Circuit in an eight-one decision. Justice Elena Kagan, writing for the majority, framed the statute as a default rule used

“to resolve estate litigation in a way that conforms to decedents’ presumed intent.” *Sveen v. Melin*, 138 S. Ct. 1815, 1819 (2018). The majority noted that, as divorce rates increased, almost all states adopted revocation-on-divorce statutes, presuming “that the average Joe does not want his ex inheriting what he leaves behind.” *Id.*

Turning to the constitutional challenge, the majority acknowledged that the “threshold issue is whether the state law has operated as a substantial impairment of a contractual relationship”—that is, “the extent to which the law undermines the contractual bargain, interferes with a party’s reasonable expectations, and prevents the party from safeguarding or reinstating his rights.” *Id.* at 1821–22 (internal citations and quotation marks omitted).

The Supreme Court concluded that the statute is not unconstitutional because it was designed to reflect, not thwart, a policyholder’s presumed intent. Furthermore, given a divorce court’s power to change beneficiary designations, a beneficiary has no reliance interest in continued beneficiary status. Finally, if a policyholder wants to change a beneficiary designation, the policyholder can address the designation in the divorce decree or submit a post-divorce change-of-beneficiary form to the insurance company. In Justice Elena Kagan’s words: “The statute thus reduces to a paperwork requirement (and a fairly painless one, at that): File a form and the statutory default rule gives way to the original beneficiary designation.” *Id.* at 1823. In his first solo dissent, Justice Neil Gorsuch argued that the statute “substantially impairs contracts by displacing the term that is the ‘whole point’ of the contract”—the beneficiary designation. *Id.* at 1829–30.

In sum, the Supreme Court considers a change of beneficiary form a “minimal paperwork burden[]” that is not a substantial impairment of contract. *Id.* at 1823. Minnesota lawyers should advise divorced and divorcing clients to check their insurance paperwork to be sure it reflects their intent. ■

*Karin Ciano is of counsel to the probate-litigation boutique Mason & Helmers and also practices as Karin Ciano Law PLLC.*

## Diversity Committee Sponsors Implicit Bias CLE

By Jeanette Bazis

On October 23, 2018, the FBA's Diversity Committee sponsored a CLE entitled "Implicit Bias in the Legal Profession." The CLE, hosted at Stinson Leonard Street, featured United States District Judge Mark W. Bennett of the Northern District of Iowa as the lead presenter, along with United States Magistrate Judge Becky R. Thorson, and Dr. Samantha D. Holmes, Ph.D., EDGE Litigation Consulting. The event was co-sponsored by Minnesota Women Lawyers and the Minnesota Hispanic Bar Association.

The panel began with an introduction to implicit bias (also referred to as unconscious bias) and the origin and scope of implicit bias, then moved to a discussion of the Implicit Association Test (IAT). The panel discussed how the test works and what it measures, including its validity and criticisms. Judge Bennett provided a background about cognitive psychological principles that underlie implicit bias and the emerging neuroscience of implicit bias.

After discussing the basis for implicit bias and the IAT, Judge Bennett presented on a host of studies applying implicit bias principles to the legal system. He focused on how implicit bias affects the justice system in criminal proceedings: from criminal investigations to arrest and prosecution decisions, bail and pretrial detention, plea bargaining, trial, and sentencing. The panelists also discussed ways

in which the judicial process is tainted by implicit bias in civil proceedings: from the pleading stage to motions to dismiss, summary judgment, and trial. In these contexts, Judge Bennett and the panelists discussed how judges, advocates, litigants, and jurors come to the table with implicit biases that influence how they understand facts, interpret evidence, parse legal principles, and make judgment calls.

The panelists then discussed how implicit biases pose barriers to hiring, retention, promotion, professional development, and full participation of lawyers of color, women, and other groups, supported by a number of scientific studies.

Finally, the panelists described practical ways to reduce the effects of implicit bias and how awareness of its effects can mitigate their impact. For instance, he encouraged all attendees to take one or more of the IAT tests.

Judge Bennett also discussed tactics he employs in his courtroom and in his judging to reduce the pernicious effects of implicit bias, as well as what other courts are doing to curb the effects of implicit bias. Tactics include educating prospective jurors about implicit bias, asking seated jurors to take a pledge against bias, and instructing the jury on implicit bias before opening statements and in final jury instructions. ■

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*Jeanette Bazis is an attorney at Greene Espel and practices in business and employment litigation. Jeanette is the Fellow's Chair of the FBA Foundation and is a member of the Minnesota Chapter's Diversity Committee.*

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## Andrew Luger Speaks to St. Thomas Law Students on Leadership

By Kiera Murphy

A person cannot be afraid to take risks and be criticized if he or she wants to be a leader. That proposition was the theme of Andrew Luger's presentation at St. Thomas Law School on lawyers' leadership roles in the community. Luger, former U.S. Attorney for the District of Minnesota and current Jones Day partner, also observed that it takes more courage to be a leader in today's day and age. This is because criticism strikes like lightning through the Internet and is increasingly personal in nature. Demonstrating his own comfort with risk-taking in contemporary times, Luger shared his experience developing anti-extremism programs, investigating the Jacob Wetterling case, and fighting human trafficking. When asked at the end of the presentation how a young lawyer builds resiliency to criticism and failure, he replied, "you have to go through some failures first." The FBA Student Chapter for the University of St. Thomas hosted Luger at this event at the start of the 2018 fall semester. ■



Andrew Luger speaking at St. Thomas Law School on September 6, 2018

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*Kiera Murphy is a third-year law student at the University of St. Thomas School of Law and president of the University of St. Thomas Federal Bar Association Student Chapter.*

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## Clerk's Corner: Top 9 CM/ECF Filing Tips

By Senior Case Administrator Lynnette Brennan and Senior Case Administrator Katie Thompson

The United States District Court for the District of Minnesota is committed to preparing an accurate and accessible docket. The following illustrates the top nine tips for filing information into the Court's information system, CM/ECF. We are interested in your feedback on how we can improve our docket. Please submit feedback to Clerk of Court [kate\\_fogarty@mnd.uscourts.gov](mailto:kate_fogarty@mnd.uscourts.gov).

### 1. Associating an Attorney with Proper Party (or Parties) by Filing Entry of Appearance

Many attorneys do not file an entry of appearance to note their participation in a case, but an entry of appearance is an important notification for the clerk's office and is necessary to ensuring proper notification and administrative procedures. Each attorney should file a Notice of Appearance to be added as counsel of record on the Court's docket and to receive NEFs. When filing a Notice of Appearance, a screen will appear that allows an attorney to associate with a party or parties. The attorney entering an appearance should select all parties s/he represents. The ECF system defaults to associate an attorney to the parties selected, as well as marks them as "Lead" and to receive NEF notices—"Notice."

### 2. Notice of Hearing on Motion

Use the event "Notice of Hearing on Motion" (found under Other Filings > Notices). Compare the document to the data fields and ensure that they match. Common errors include:

- Judge's Chambers is selected instead of the Courtroom for location;
- Incorrect Judge is selected;
- Notice of Hearing on Motion is filed as an Attachment to the Motion or Memorandum;
- Notice is not linked to the Motion or is linked to an incorrect Motion; and
- Filer selects the box that no hearing has been scheduled when a hearing is listed on the Notice.

**IMPORTANT: Enter all hearing information, including the date, time, location, and judge, then select the appropriate (motions).**

**Please select the appropriate Judge's Courtroom in the location field, unless specifically directed to schedule the hearing in chambers.**

**IMPORTANT: Be sure to check the box next to the motion below to which the hearing relates.**

*Notice of Hearing on Motion*

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**Motion Hearing**

Date   Time  ☐ AM ☐ PM

Location  Judge

### 3. Sealed and Redacted Filings and Statement Regarding Redaction

Reading the on-screen tips will help guide you. If you are unsure about what information should be entered in each field, call the ECF Help Desk for assistance at 1-866-325-4975. Common errors include:

- Statement not linked to all applicable previous docket entries;
- Filer does not give access to other parties; and
- Additional text and numbers are added to the docket entry.

Access to Entries and Documents: If you selected the correct party (or parties) to have access to the sealed document, they will have access, provided that they are logged in to ECF when they click on the hyperlink number in the email to access the document.

### 4. Stipulations and Other Jointly Signed Documents

For any attorney who has consented to the document, enter the names of the parties represented by that attorney, as they appear on the docket. Example: Attorney Richard Roe represents Candy Cane and Jack Frost. Enter the names "Candy

*Filing Tips, continued on page 9.*



*Filing Tips, continued from page 8.*

Cane” and “Jack Frost” into the “Party Name” fields. Common errors include:

- Names of “Other Signers” are not entered;
- Name of filer is entered in addition to other signers;
- Name of attorney is entered instead of party to the case;
- “Plaintiff” or “Defendant” is entered instead of the party name; and
- Additional language such as “Plaintiff” is added to the party name.

#### **ECF Filing Tips**

Other than you as the filer, enter **Names of the PARTIES (not counsel)** who have signed this stipulation.

1. Party Name:

2. Party Name:

3. Party Name:

4. Party Name:

5. Party Name:

#### **5. Incorrect Event Selected for Filing**

On the CM/ECF menu bar, there is a Search tab. Click on the word “SEARCH,” and a small, pop-up window appears. Enter one or two key words to receive all available events. The results will be displayed on the screen with hyperlinks to the corresponding events. Click on the hyperlink to begin your filing. If you are unsure about what event to use, call the Help Desk at 866-325-4975.



#### **6. Re-filing Documents Before Calling the Help Desk**

Call the Help Desk at 866-325-4975 before re-filing and a case administrator will assist with a solution.

#### **7. Signature Format and Missing Information on Attorney Signature Block**

Please utilize the following signature block sample:

s/Richard Attorney  
 Bar Number  
 Attorney for Candy Cane and Jack Frost, Plaintiffs (or Defendants)  
 12345 Winter Lane, Suite 99  
 Minneapolis, MN 55415  
 Telephone: (999) 999-9999  
 Fax: (999) 999-9999  
 E-mail: Richard.Attorney@LawOffice.com

*Filing Tips, continued on page 10.*

*Filing Tips, continued from page 9.*

## 8. Select Appropriate Parties When Filing on Behalf of More Than One Party

How to select more than one party: hold down the “Ctrl” key (on your keyboard), then click on each of the parties to select the filer(s) of the document. Each party should be highlighted in blue.

Criminal cases with more than one defendant: You will see all defendants. It is crucial to select only the individual defendant(s) for whom you are filing. If the first (top) box is selected, your document will be placed on the docket for every defendant in the case.

## 9. Exhibit Labels

Select the Category “Exhibit(s)”, tab over to the Description field and enter the exhibit label (i.e., A, 1, and so forth).

- Do not type in the word “Exhibit”, “Ex”, or “Exhibits” in the Description field as this results in double wording. ■

**ECF Filing Tips**

If breaking exhibits into separate sections, please further describe the exhibits.  
 \* For the pdf uploaded as the **Main Document**, enter the Exhibit numbers(s) below.  
 \* For pdfs uploaded as **Attachments**, select **Exhibit(s)** from the **Category** drop-down, and adding additional text into the **Description** field, i.e. A-C, D-G.  
 \* Reminder: Do NOT use this event to file the **Redacted Document** or the **Statement instead of Redacted Document** for your exhibit. Please use the respective event from the **Other Filings >Other Documents** menu.

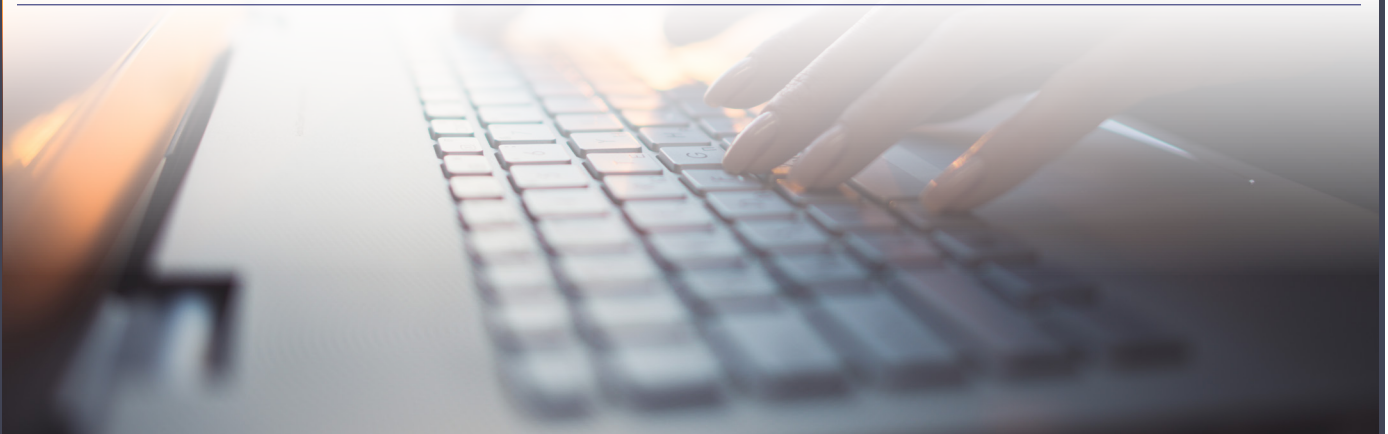
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**Main Document**  
 No file selected.

Attachments	Category	Description
1. <input type="button" value="Browse..."/> No file selected.	Exhibit(s)	<input type="text" value=""/>

*Lynnette Brennan and Katie Thompson are Senior Case Administrators in the Clerk's Office for the District of Minnesota.*





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## Highlights from the 2018 Golf Tournament and Kickoff Social Event

By Aaron Knoll and Phillip Goter

Our Chapter held another successful golf tournament and kickoff social event at Midland Hills Country Club on August 27, 2018. Despite a lightning storm that rolled through near the tail end of play, roughly fifty players were able to finish most or all of the course in otherwise comfortable weather.

Thanks to all of our sponsors! Without their support, we would not have had the great prizes, social hour, and hole sponsorships.

### Hole-in-One Contest Sponsors

- Gustafson Gluek
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- Winthrop & Weinstine



Though players tried their best, the hole-in-one contest prize—a Toyota Camry—went unclaimed again this year.

Following the round, the social hour included the traditional contest prize announcements and featured a birthday tribute to U.S. District Judge Donald D. Alsop.

A tremendous thanks to all those who helped plan and execute the event. If you are interested in serving on the planning committee for the 2019 season, please contact Aaron Knoll ([aknoll@greeneespel.com](mailto:aknoll@greeneespel.com)).

We look forward to seeing all of you at the Golf Tournament Committee's event in 2019! ■

*Aaron Knoll is an attorney at Greene Espel PLLP, where he focuses on commercial litigation, renewable-energy disputes, and internal and agency investigations. Phillip Goter is an attorney at Fish & Richardson P.C. He represents his clients in patent disputes and other intellectual property litigation and counsels startup clients seeking to protect and commercialize their intellectual property.*



Tom Morin, Michele Fisher, Steve Smith, Matt Morgan



U.S. Sr. District Judge David S. Doty, Joe Dixon III,  
Bill McNab, Bill Otteson

*Golf Photos, continued on page 13.*



*Golf Photos, continued from page 12.*



Tom Radio, Tom Nelson, Bob Torgerson, Hennepin Cnty.  
District Judge Thomas M. Sipkins



William Manske, Michael Reif,  
Cyrus Morton, Luke Hasskamp



Chris Morris, Jackie Wilson, Craig Foss,  
Jessica Klander



Cort Sylvester, Doug Elsass, Vince Louwagie, Bill Hittler



Patrick Newman, Tim Gephart, Heidi Staloch, Michael Klutho



Christopher Proczko, Brian Pousson, Brittany Resch, Troy Martell



David Goodwin, Joshua Rissman, Kevin Decker



Chris Haugen and Terri Running



Tory Langemo, Matt Potter, Nate Prosser, Scott Lombard



Shawn Raiter, Hon. Chris Wilton, John Bjorkman, Rhett McSweeney



Aaron Knoll, Monte Mills, Phil Trebatoski, David Carrier



Mark Giga, Mike Levy, Phillip Goter, Pat Connell

## Application/Recommendation for Executive Committee Positions

**Deadline:** February 20, 2019, submit to [klaudon@jonesday.com](mailto:klaudon@jonesday.com)

The Minnesota Chapter of the Federal Bar Association seeks outstanding, service-minded individuals who reflect the breadth and diversity of the Chapter's membership to fill Executive Committee (officer and committee co-chair) positions for the 2019–20 year (Sept. 1, 2019 – Aug. 31, 2020). The current leadership roster is available online at [http://www.fedbar.org/Chapters/Minnesota-Chapter/Officers\\_1.aspx](http://www.fedbar.org/Chapters/Minnesota-Chapter/Officers_1.aspx). Details on initiatives for which each leader is responsible are at <http://www.fedbar.org/Chapters/Minnesota-Chapter/Chapter-Initiatives.aspx>. The application form will also be posted on the website and will be distributed to membership by email in January 2019.

All applications and recommendations will be considered by the Chapter's Nominations Committee. Committee chair positions will be appointed by the Chapter President, and officer positions will be nominated by the Nominations Committee for election by the membership. Prior experience serving on a Chapter committee or otherwise providing leadership within the Chapter is preferred for those seeking appointment or nomination to the Executive Committee. Completed forms may be emailed to President Kelly G. Laudon at [klaudon@jonesday.com](mailto:klaudon@jonesday.com). The deadline for the submission is **February 20, 2019**.

Name of applicant or recommended candidate: \_\_\_\_\_

Applicant/candidate's contact information (organization, email, phone number, and mailing address):  
\_\_\_\_\_

Requested/recommended Committee Chair/Officer position(s) (in order of preference):  
\_\_\_\_\_

Name and contact information of person submitting a recommendation:  
\_\_\_\_\_

For those submitting a recommendation, have you discussed your recommendation with the candidate and has the candidate indicated an interest and willingness to serve in the recommended position(s)? \_\_\_\_ Yes \_\_\_\_ No

1. For applicants: Why are you interested in serving in the role(s) designated above, and what experience and qualities would you bring to your work as a Chapter leader?

For recommendations: Why are you recommending this person for the role(s) designated above, and what experience and qualities would the person bring to her/his work as a Chapter leader?

\_\_\_\_\_  
\_\_\_\_\_

2. Describe your/the candidate's current and past involvement and leadership experience in Chapter activities and committees.

\_\_\_\_\_  
\_\_\_\_\_

3. Describe your/the candidate's current and past involvement and leadership experience in other bar associations or non-profit organizations.

\_\_\_\_\_  
\_\_\_\_\_

4. To be a candidate for the Executive Committee, a person must be a member in good standing of the Minnesota Chapter of the Federal Bar Association. Are you/the candidate a member in good standing of the Chapter?

\_\_\_\_ Yes \_\_\_\_ No, but I will join the FBA by April 1, 2019. ■

## What's Happening in the Minnesota Chapter?

### January 9: White Collar Committee to Host Social Mixer

The White Collar Committee of the Minnesota FBA will host a social mixer in the 15th floor atrium of the federal courthouse in Minneapolis. U.S. Chief District Judge John R. Tunheim will give opening remarks, and later, U.S. Attorney Erica MacDonald will speak about the economic crime enforcement work being done by the Department of Justice and U.S. Attorney's Office for the District of Minnesota. Food and beverages will be served and attendees are encouraged to mingle before and after the speaking portions of the program. The White Collar Committee would like to thank Fredrikson & Byron for its generous sponsorship of this event.

Time: 5:00 pm – 7:00 pm

Location: Minneapolis Federal Courthouse, 15th floor atrium

Registration: TBA

Questions: [alec.chiquoine@gmail.com](mailto:alec.chiquoine@gmail.com)

### January 10: *Pro Se* Project and a Pint (or Two)

The *Pro Se* Project and the Newer Lawyers Committee invite you to join judges, lawyers, and a *Pro Se* Project litigant for a couple of pints, food, and a casual discussion regarding the importance of pro bono work in our federal courts. U.S. District Judge Eric C. Tostrud and U.S. Magistrate Judges Steven E. Rau and Kate M. Mendendez will lead the conversation, and 1.0 CLE credit will be requested. The evening is made possible by the 2018 Ilene and Michael Shaw Younger Lawyer Public Service Grant.

Time: 5:00 pm – 6:30 pm

Location: Bar Zia, 420 S. 4th Street, Minneapolis

Questions: [motl@fr.com](mailto:motl@fr.com)

### January 17, 2019: Diversity Committee to Host 5th Annual Affinity Bar Meet-and-Greet

The Meet-And-Greet will connect the FBA leadership with leaders and members of the affinity bar associations. Complimentary appetizers and drinks will be served, and individuals are encouraged to attend and connect with the diverse members of our legal community. The Diversity Committee would like to thank Zimmerman Reed for generously hosting this event.

Time: 4:30 pm – 6:30 pm

Location: Zimmerman Reed, Minneapolis 1100 IDS Center

Registration: [derek.dixon@zimmreed.com](mailto:derek.dixon@zimmreed.com)



UPCOMING  
EVENTS



## Upcoming Events:

**January 9, 2019**

*Monthly Luncheon*  
Chief U.S. District Judge  
John R. Tunheim  
12:00 pm  
Minneapolis Club

**January 9, 2019**

*White Collar Practice  
Group Social Mixer*  
5:00 pm - 7:00 pm  
Minneapolis Federal  
Courthouse, 15th floor  
atrium

**January 10, 2019**

*Pro Se Project and a Pint  
(or two)*  
5:00 pm - 6:30 pm  
Bar Zia, 420 S. 4th Street,  
Mpls

**January 17, 2019**

*Affinity Bar Meet and  
Greet*  
4:30 pm - 6:30 pm  
Zimmerman Reed, Mpls

**January 30, 2019**

*Law Student Reception*  
Time TBA  
Dorsey & Whitney, Mpls

**February 12, 2019**

*Newer Lawyer Luncheon  
with Eighth Circuit Judge  
Jane L. Kelly (Tentative)*  
11:45 am  
St. Paul Federal Court-  
house

**February 13, 2019**

*Monthly Luncheon  
"Neuroscience and the  
Law"*  
Prof. Francis X. Shen,  
Univ. of Minn.  
12:00 pm  
Minneapolis Club

**March 13, 2019**

*Monthly Luncheon*  
U.S. District Judge Eric C.  
Tostrud  
12:00 pm  
Minneapolis Club

**March 20, 2019**

*Newer Lawyer Luncheon  
with U.S. Magistrate  
Judge Kate M. Menendez*  
12:00 pm  
Minneapolis Federal  
Courthouse

16

*Editors-in-Chief*

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**Frances Kern**  
**Ryan Merker**

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**Taya Swenson Schmid**

Bar Talk is the official newsletter of the Minnesota Chapter of the Federal Bar Association, published quarterly by the Communications Committee. For any inquiries or article suggestions, please contact **Shannon Bjorklund** ([bjorklund.shannon@dorsey.com](mailto:bjorklund.shannon@dorsey.com)) or **Kari Dahlin** ([kmdahlin@arthurchapman.com](mailto:kmdahlin@arthurchapman.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 layout assistance.

**Thank you to Xact Data Discovery for printing this issue of *Bar Talk*.**

*Want to get involved in the Minnesota Chapter  
of the Federal Bar Association? Visit <http://www.fedbar.org/Chapters/Minnesota-Chapter/Chapter-Initiatives.aspx> for a full list of committees  
and information about how to get involved.*

## 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.



**Federal Bar  
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