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Bar Talk

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United States District Court Judge Nancy E. Brasel's Journey to the Federal Bench

By Tiana M. Towns



U.S. District Judge Nancy E. Brasel

The August 2018 confirmation of United States District Judge Nancy E. Brasel filled a judicial vacancy that had existed since 2016. Armed with her commitment to both public service and social justice, a love for deep analytical thinking, and the unmatched camaraderie of the local bench, Judge Brasel has embraced the opportunity to be a part of the “federal family.”

Since she was young, Judge Brasel has valued family and education. Her parents consistently reminded and encouraged her to take academics seriously. Growing up, she watched her mother pursue a career in the then-budding and little-known area of computer science, working with punch cards on computer processors filling the inside of an entire office space at John Deere. Her step-father enjoyed a career teaching and studying mathematics, and her father was a Presbyterian preacher.

Judge Brasel attended Trinity University in San Antonio, Texas. She believed her next step was to become an English professor. With this focus in mind, Judge Brasel began a masters program in English Literature at the University of Texas at Austin. However, Judge Brasel only enjoyed some aspects of this experience. “I loved the analysis of the text and the stories,” she explained, “but did not care much for the isolation of the practice.” Specifically, she craved a more practical application of the analysis, reading, and storytelling that she enjoyed so much.

Judge Brasel, continued on page 2.

Federal Circuit Bar Association Visits Minnesota

By Caitlin L.D. Hull

On April 2, 2019, the Federal Circuit Bar Association traveled to Minnesota and hosted “Bench & Bar in Dialogue,” an afternoon of intellectual property CLE programs featuring perspectives from outside counsel, in-house counsel, and the bench. Chief Judge Sharon Prost of the United States Court of Appeals for the Federal Circuit and Federal Circuit Judges Jimmie V. Reyna, and Judge Kara F. Stoll also visited for oral arguments in two cases.

The program included presentations from local attorneys on “Six Hot Topics in Intellectual Property Law.” Patrick C. Bottini (Faegre

Baker Daniels LLP) began by reviewing patent venue trends and considerations in the years following the Supreme Court’s decision in *TC Heartland LLC v. Kraft Foods Group Brands LLC*. Katherine Rahlin (Fredrikson & Byron, P.A.) discussed the on sale bar and secret sales after the Supreme Court’s recent decision in *Helsinn Healthcare S.A. v. Teva Pharmaceuticals*. Rachel Zimmerman Scobie (Merchant & Gould P.C.) provided an overview of patent eligibility trends. Holley Horrell (Greene Espel PLLP) reviewed a Federal Circuit trade dress decision involving Converse sneakers. Forrest

Federal Circuit Bar Association Visits Minnesota, continued on page 2.

Judge Brasel, continued from page 1.

Judge Brasel first considered a career in the law when she was an LSAT instructor while at the University of Texas. Landing in that role was not intentional; she had not taken the LSAT and, initially, did not intend to. She simply needed a paying job while she continued full steam ahead in her graduate program, eventually earning a master's degree. But after a time of self-reflection, she realized that the law fit her personality and interests better.

Judge Brasel attended the University of Minnesota Law School, where she was managing editor of the *Minnesota Law Review*. At the same time, her sister began her residency at the University of Minnesota. The two became roommates and bonded over the shared experience of being in intensive and immersive academic programs.

Judge Brasel enjoyed the study and practice of law from the moment she began her studies. Contracts, her very first class, instantly became her favorite course. The elements she loved about her English and literature studies—reading and textual analysis—were the same things she found fulfilling in law school. She particularly enjoyed the Socratic method as another tool for learning and arming herself with new information. She appreciated her professors, who were always interested in the success of the students.

One of the professors who took a particular interest in Judge Brasel's success was Judge Donald P. Lay of the U.S. Court of Appeals for the Eighth Circuit. Judge Brasel fondly recounted the story of how her clerkship came to be. Judge Lay, impressed by her, approached Judge Brasel after class one day and asked her to be his clerk. "Nan," he called her, "you should really think about it." Judge Brasel, caught off guard and feeling wholly inadequate to accept the prestigious offer in the casual jeans she wore that day, waited a week to accept the clerkship offer so that she could do so in a suit. Judge Lay, delighted to have lined up such a bright clerk, reassured "Nan" that she did not have to wear a suit to accept the offer and encouraged her to be herself.

Judge Brasel began her clerkship with Judge Lay in 1996 after graduating *magna cum laude* from law school. Her clerkship office is located in the same courthouse where she presides today. As in law school, Judge Brasel dove head-first into her work and instantly fell in love with the information she gathered. She values the enriching experience of clerking for Judge Lay and his great affection toward his clerks. Judge Brasel particularly admired Judge Lay's ability to recall the facts of cases he had presided over. During her clerkship, Judge Brasel had the opportunity to travel to different circuits—the Second, Ninth, and Eleventh—with Judge Lay, where she was exposed to different styles of practice and legal analysis.

Judge Brasel, continued on page 6.

Federal Circuit Bar Association Visits Minnesota, continued from page 1.

Tahdooahnippah (Dorsey & Whitney LLP) discussed tribal sovereign immunity issues in administrative proceedings before the Patent Trial and Appeal Board. Finally, Dr. Tasha Francis (Fish & Richardson) provided an overview of recent developments in the Patent Trial and Appeal Board *inter partes* review process.

The Bench & Bar in Dialogue also included two moderated panels. The first panel focused on Section 101 and subject matter eligibility under the test set forth in *Alice Corp. Pty. Ltd. v. CLS Bank International*. Elizabeth Scheibel (Faegre) moderated a panel consisting of both inside and outside counsel: Chad Hanson (Medtronic), Kate DeVries Smith (Paul, Devries Smith & Deffner), and Nikola Datzov (Fredrikson). The second panel discussed *inter partes* review proceedings from the perspective of inside counsel, outside counsel, and the bench. Joseph Herriges (Fish & Richardson) moderated a panel consisting of United States Magistrate Judge Elizabeth Cowan Wright, James Smith (Ecolab), and Cyrus Morton (Robins Kaplan LLP).

The programming concluded with an hour-long conversation with the visiting judges. When asked by the moderators Rachel Clark Hughy (Merchant & Gould) and J. Derek Vandenburg (Carlson, Caspers, Vandenburg & Lindquist, PA), the judges provided insight on everything from brief writing preferences to use of demonstratives at oral argument. Judge Stoll emphasized the need for more fulsome discussion of case precedent—including relevant facts—throughout appellate briefs. Chief Judge Prost indicated a preference for short and concise briefs, with argument sections that can stand on their own. Judge Reyna said oral arguments are most effective when the attorney is in control of the pace and timing. All three judges agreed that demonstratives during oral argument are not an effective way of using a party's limited time.

Following the afternoon programming, attendees enjoyed a reception and dinner, during which they were able to network and enjoy visiting with the judges. ■

Catilin L.D. Hull is an associate at Dorsey & Whitney LLP practicing in the areas of intellectual property litigation, government enforcement and corporate investigations, and securities litigation.

Profiles in Diversity: Chief United States Probation and Pretrial Services Officer Kito Bess

By Chad Pennington



Kito Bess

Kito Bess is the Chief Probation and Pretrial Services Officer for the District of Minnesota. United States Probation and Pretrial Services is an arm of the federal judiciary and works closely with district courts at both the pretrial and post-conviction stages. Bess oversees a large staff of dedicated probation and pretrial services officers and supporting staff whose mission is to

facilitate the fair administration of justice, provide continuity of services throughout the judicial process, protect the community, and bring about long-term positive change in individuals under federal supervision. Bess's office also oversees the Prison and Reentry Education Program, which assists defendants and their families regarding sentencing, surrender, and reentry to the community.

Bess began his professional life wanting to work as a computer programmer. However, an internship with the Miami-Dade County Clerk of Court prompted Bess to change his major to criminal justice. In 1996, Bess secured his first probation officer position with the Florida Department of Corrections. In 2001, Bess accepted a federal probation officer position in the Southern District of Florida, specializing in presentence investigations. From there, Bess worked as a

probation officer in the Southern District of Iowa and as the Chief Probation and Pretrial Services Officer in the Eastern District of Louisiana. In the Eastern District of Louisiana, Bess and his staff worked with the United States Attorney and Federal Defender to assist nearly 700 inmates apply for early release under the Fair Sentencing Act.

Bess was happy to accept the chief position in the District of Minnesota and bring his family to the Twin Cities. Bess is excited about working on the different types of cases and unique issues in the District of Minnesota and is enjoying working with its strong support system. Bess noted that the District of Minnesota has excellent offender employment rates and that its programming is among the best in the nation at helping offenders navigate potential reentry challenges to successfully transition from supervision. Bess attributes the District of Minnesota's success to its emphasis on evidence-based probation practices and a focus on offender needs. To that end, Bess has prioritized offender mentorship and helping offenders find and foster a positive social network while on supervision.

Early in his career as a probation officer, Bess discovered that he could be most effective by using his own life experiences to connect with offenders and to develop trust. This trust helped Bess in assisting offenders in overcoming their personal obstacles and get on the right track. It is this work, which Bess calls restoring the individual, that motivates him and his office. Bess defines leadership as helping others recognize the servant in them. For Bess, being Chief means having an opportunity to help his staff help the people it serves or, as Bess would say, helping his staff restore the individual. ■

Chad Pennington is a law clerk for Senior United States District Judge David S. Doty and a member of the Bar Talk committee.

United States Magistrate Judge Kate M. Menendez Shares Practical Tips for Work-Life Balance

By Devin T. Driscoll

United States Magistrate Judge Kate M. Menendez once inadvertently worked through a preschool graduation. And, she says, you might have a similar experience—and that's okay. The theme of the March 20, 2019 Newer Lawyers Luncheon was *Designing a Legal Career to Balance Work and Life*. As Magistrate Judge Menendez made clear, seeking that balance is a career-long endeavor and one that will include occasional missteps.

Peppering the discussion with stories from both her time as a federal public defender and her time on the bench, Magistrate Judge Menendez focused on several key points. First, work-life balance is not just for those with children or family care-taking responsibilities. Indeed, Magistrate Judge Menendez said that too often the conversation around balance pits parents against nonparents, which is counterproductive. *Everyone* should be encouraged to make room for the things that sustain them: family, friends, and passions—regardless of their family situation.

Judge Menendez, continued on page 8.

Eighth Circuit Judge Jane L. Kelly Offers Lively Conversation about Appellate Advocacy for Newer Lawyers

By Kyle R. Kroll



Judge Kelly and event attendees

On February 12, 2019, Eighth Circuit Judge Jane L. Kelly joined newer lawyers from the District of Minnesota for a lively conversation about appellate advocacy at the Warren E. Burger Federal Courthouse in St. Paul. Fielding questions prepared by the Newer Lawyers Committee and from the more than thirty people in attendance, Judge Kelly provided a fascinating overview of her background and perspective, as well as practical appellate advocacy tips for newer lawyers.

Judge Kelly hails from Indiana. Before ever dreaming of becoming a lawyer or federal judge, she wanted to be a veterinarian or pilot. She attended Duke University and studied abroad in New Zealand. In 1988, she began studying at Harvard Law School, where she shared her 1L section with then-student Barack Obama. In 2013, President Obama appointed Judge Kelly to fill a seat that opened when Eighth Circuit Judge Michael J. Melloy took senior status.

Public service has been Judge Kelly's life-long calling. After law school, she started as a law clerk to Judge Donald J. Porter in the District of South Dakota. She then clerked for Judge David R. Hansen on the Eighth Circuit in Cedar Rapids, Iowa—where she would later chamber. Judge Kelly says her experiences clerking for these exemplary judges helped demystify the law and legal process.

After clerking, Judge Kelly served for almost twenty years as a federal public defender in the Northern District of Iowa, until the United States Senate unanimously confirmed her nomination for continued public service on the Eighth Circuit. She is currently the only Eighth Circuit judge nominated by a Democratic President.

The most important tip Judge Kelly offers to newer lawyers is to “know your case.” Know the facts and law at an intricate level, so you can answer the panel's questions not only as to the specifics of your case, but also from a global perspective. Another key tip is “answer the question, but don't just answer it; play with it!” Lawyers often resist engaging with the panel's questions and hypotheticals, but the most effective advocates heartily address the implications that hypothetical rules pose for their cases and others. If you plan to stick to a script, you likely will not be as effective.

Speaking of answering the question, some of the most effective rebuttal oral arguments are those that answer a question posed to the other side. Use rebuttals to get in a different answer, but from your perspective. This tactic has the dual benefit of both addressing a point of interest for the panel and countering the other side's position. Similarly, the best reply briefs do not rehash prior law or facts, but instead explain why the appellant still wins despite the appellee's arguments.

Don't be a victim of hubris! Overconfidence is one of the most common mistakes lawyers make. You should anticipate questions about the best and worst cases and facts for your side and be prepared to address them.

Lawyers frequently worry about developing a thorough record in the district court. Judge Kelly recommends creating a checklist of the elements you need to prove below and regularly consulting the checklist to ask what more you can do to prove each of those elements. Newer lawyers need to stay focused on proving each element throughout the life of the case. Thinking about the elements regularly and proactively will likely prevent any record-related issues on appeal. Similarly, lawyers should take every opportunity to object to adverse rulings. Don't forget to make your opposition known, or it might be waived!

Although comprehensiveness is key at the trial court level, the best appellate advocates are extremely focused on appeal. Don't include more arguments, facts, and issues than you need. Including unnecessary detail distracts the judges from reading and remembering the most important facts and arguments. It is not always apparent to the judges which facts are key, and key facts can become lost among a sea of insignificant facts. The same goes for arguments.

Finally, Judge Kelly encourages newer lawyers to find their own style—what works for them. “Be yourself,” she says. Don't try to be something you are not. Judge Kelly's final word of advice to newer lawyers is to “love what you do.” The Newer Lawyers Committee greatly thanks Judge Kelly for taking time out of her busy schedule to share her wisdom. ■

Kyle Kroll is an attorney with Winthrop & Weinstine and focuses on business litigation, especially matters involving intellectual property, antitrust, unfair competition, fraud, and appellate work. He is co-chair of the Newer Lawyers Committee.

Newest FBA Members Gather at Reception and Share About Diverse Backgrounds and Future Plans

By Kyle R. Kroll

On February 25, 2019, Dorsey & Whitney LLP hosted the annual Law Student Reception, bringing together law students, federal practitioners, and judges for mingling, mentoring, and fellowship. Students from all three of the local law schools joined Chief United States District Judge John R. Tunheim, United States District Judge Patrick J. Schiltz, United States Magistrate Judge Becky R. Thorson, FBA President Kelly Laudon, partner Michelle S. Grant, and members of the bar for an evening of lively discussion.

Conversation focused on attendees' backgrounds and dreams for the future. Each had a unique prior life: a media buyer, math professor, graphic designer, pharmaceutical researcher, lobbyist, United States Senate staffer, economist, missionary, consultant, businessperson, and anti-corruption prosecutor—just to provide some samples. Each had a fascinating story of their path to the law.

The discussions also turned to the future. The students aspire to be federal clerks, international patent lawyers, health law specialists, judges, politicians, human rights advocates, and change makers. For those with some years of practice under their belt, the aspirations were (in some cases) more modest: a surfer, world traveler, child's-college-fund-financier, voice actor, chocolatier, vintner, and astronaut. It is never too late, right?

Hearing each person, both new and familiar, share where he or she has been and where he or she is going was a pleasant combination of surprise and intrigue. Next time you are talking with another FBA member or law student, I encourage you to ask them about their past and future. There is always more than meets the eye, and you are guaranteed to be impressed with what you learn. Thank you to the Law Student Liaisons and Outreach Committee and Dorsey & Whitney for hosting this year's event. ■

Kyle Kroll is an attorney with Winthrop & Weinstine and focuses on business litigation, especially matters involving intellectual property, antitrust, unfair competition, fraud, and appellate work. He is co-chair of the Newer Lawyers Committee.

Report from National FBA Leadership Summit in Washington, D.C.

By Kiera Murphy

I want to thank the Minnesota Chapter for graciously sponsoring me to attend this year's National Federal Bar Association Leadership Summit in Washington, D.C. It was a huge honor and privilege to attend. Besides having the opportunity to network with chapter leaders from around the country and to learn about initiatives and strategies for improving and growing the FBA, I attended events at the United States Court of Appeals for the Armed Forces and the United States Supreme Court. I even met Justice Neil M. Gorsuch. Though he probably will not remember me, I will remember one very astute piece of advice he gave: go on a long vacation after taking the bar exam.

Interestingly, I always received the same response when I told other attendees that I am from the Minnesota Chapter. That response was something like, "the Minnesota Chapter is so big and so engaged," "a lot of great ideas come from the Minnesota Chapter," or even "so you're part of the Minnesota mafia?" Though I am a relatively new participant and certainly cannot take credit for building the Chapter's great reputation, it was nonetheless a point of pride to hear these comments. I also learned during discussions with other attendees that the Minnesota Chapter is at the forefront of integrating diversity and inclusion initiatives and engaging and partnering with law students. Since one of the improvement areas for national membership engagement is converting law student members into attorney members after they graduate, I am guessing Minnesota may be a leader in that area as well.

Let me say thank you again for the opportunity to attend the Leadership Summit. I promise not to be one of the law student members who fails to convert their membership into an attorney membership. ■

Kiera Murphy is a third-year law student at the University of St. Thomas School of Law. She will be starting as an associate with the Minneapolis office of Faegre Baker Daniels LLP in September 2019.

Judge Brasel, continued from page 2.

Following her clerkship, she joined the Minneapolis office of Leonard Street & Deinard as an associate. In 1999, she joined Greene Espel PLLP as a member practicing complex litigation and became partner in 2002. In 2008, Judge Brasel left the private sector to become a federal prosecutor with the United States Attorney's Office for the District of Minnesota. As an AUSA, she prosecuted more than eighty defendants in white collar and narcotics cases. She enjoyed this role because she was permitted to advance justice and because she was in the courtroom frequently, another aspect of practice she loved.

In 2011, Governor Mark Dayton appointed Judge Brasel to a seat on the Fourth Judicial District Court of Minnesota. Judge Brasel served on the Fourth District for seven years, presiding over juvenile, adult criminal, and civil division cases. Judge Brasel spent three of those years in juvenile court, which she describes as some of the most important work she has done and has seen done. She believes that every Minnesotan should spend a day watching juvenile court; it is a life-changing experience that gives a greater appreciation for the justice system and a better understanding of people.

Each of these experiences inspired Judge Brasel's current process on the bench. She and her clerk individually read through all of the papers with a critical eye and then they discuss their independent perspectives while keeping an open mind to new arguments and viewpoints.

Since joining the federal court, Judge Brasel has been particularly impressed by the senior judges, who are frequently willing to teach and take on different tasks if it will result in a better work product from the bench. Judge Brasel credits the support of her federal colleagues with creating an environment that is inviting for newcomers as they get up to speed.

Judge Brasel was able to witness the support of the greater "federal family" when she attended new judge training with other federal court freshman judges in Atlanta and Washington, D.C. During the training session, she joined judges at the Supreme Court of the United States for a dinner hosted by the Justices themselves. At this dinner, Judge

Brasel was chosen as the "class speaker." In her speech, she acknowledged the vast backgrounds and interests among the new class of federal judges, made light of the collective tension in the group about the merits of the current college football playoff rules, and reminded the audience of their shared values of hard work and independence.

Judge Brasel values good advocacy and has important practice pointers for the new and old practitioner alike:

- Oral argument matters. Judge Brasel never goes into an oral argument without an open mind. Use oral arguments to clarify or highlight points in your arguments and to answer the questions that she has.
- When it comes to oral arguments, she believes the person who wrote the brief should get the chance to argue. This will give young attorneys a shot at getting experience early on. She is pleased that she sees more of this as she spends more time on the bench and encourages the local legal community to continue progress in this direction.
- Organize your arguments with clear headlines. Judge Brasel thinks in outline form, and she encourages attorneys to piece arguments and claims together by breaking them down, element by element or factor by factor. Frame your briefs and your arguments this way.
- Bonus pointer: Advocacy by list of string cites is not advocacy. If you have to use string cites, this means your argument is not fully developed. Draft arguments with clarity and pick your best two cases to use as support.
- Double-bonus pointer for new lawyers: Take ownership of your mentorship. Judge Brasel believes in the power of mentorship and champions. She has had plenty in her life. But mentorship is a two-way street. Judge Brasel described a time when she was a young attorney and admired a senior attorney from afar. One day she cold-called him and explained that she was interested in the type of work he did. That relationship eventually turned into one of her most important mentoring relationships. ■

Tiana Towns is an associate in the Trial Group of Dorsey & Whitley LLP, where she practices in the area of construction and real estate, intellectual property, and commercial litigation.

The Minnesota Chapter Thanks Becky Baertsch and Wishes Her Well in Retirement

The *Bar Talk* Committee extends warmest wishes to Becky Baertsch, Judicial Assistant to Senior United States District Judge Donovan W. Frank on her upcoming retirement. Becky has provided invaluable assistance with *Bar Talk* editing for years, and was a member of the editorial board when *Bar Talk* was first founded. Through this and other actions, Becky demonstrated her long-standing commitment to the Minnesota Chapter of the FBA. She will be greatly missed. The *Bar Talk* Committee, and the entire Minnesota Chapter, wish Becky the best in her next season. ■



Becky Baertsch, front center, with members of the Minnesota Chapter Long Range Planning Committee, L to R: Sr. U.S. District Judge Donovan W. Frank, Elsa Bullard, Jeffrey Justman, Becky Baertsch, Tara Norgard, U.S. District Judge Susan Richard Nelson, Michael Sawers, Kelly Laudon

Annual Minority Judges' Reception Celebrates Its Seventh Year

Submitted by the Diversity Committee



Judges attending the seventh annual Minority Judges' Reception

On March 14, 2019, the United States District Court for the District of Minnesota, along with the Minnesota Chapter of the Federal Bar Association's Diversity Committee and the Minnesota Association of Black Lawyers (MABL), hosted practitioners, judges, students, and staff at the Minneapolis United States Courthouse for the 2019 Minority Judges' Reception to celebrate the ever-growing diversity of the state, federal, and tribal benches in Minnesota. Chief United States District Judge John R. Tunheim and United States District Judge Wilhelmina M. Wright, along with Minnesota Supreme Court Justice Natalie Hudson and local affinity bar leaders, were present to introduce and recognize both the newly appointed and retiring judges within the various affinity bar memberships in Minnesota. This annual event began in 2013, when then-Chief United States District Judge Michael J. Davis hosted the first reception. At that time, there were thirty minority judges in attendance, with approximately eighty-five total attendees. This year, seventy-eight minority judges from the federal and state courts and thirty-four judges from the tribal courts were invited, and over 200 people were in attendance. ■



Chief U.S. District Judge John R. Tunheim addresses attendees alongside U.S. District Judge Wilhelmina M. Wright.



Retired Hennepin County Judge Pamela Alexander and others enjoy the reception.

Judge Menendez, continued from page 3.

Magistrate Judge Menendez emphasized that building trust, both with your spouse/partner and with your boss, is a critical tool for establishing a sustainable legal career. As an example, the judge discussed the role District of Minnesota Federal Defender Katherian Roe played in her life. Roe provided Magistrate Judge Menendez with opportunities for professional growth—like successfully arguing *Johnson v. United States* before the Supreme Court—while also trusting her to frequently work from home and structure a schedule that worked for her and her family.

What if, asked one luncheon guest, one cannot find her own Katherian Roe? Magistrate Judge Menendez replied that such a person need not be a supervisor—particularly in the more diffuse management structure of a law firm. They can be a mentor, a sponsor, or a confidant. And, she added, we all should play that role where we can, to build a culture of sustainability and support. “When you become bosses, be sure to walk the walk.”

Magistrate Judge Menendez also encouraged attendees to “find a place to work you love sooner, rather than later.” Such a workplace should affirm and validate you. Which is not to say, Magistrate Judge Menendez noted, that she was encouraging rash decision-making or insinuating that she never had a tough day as a public defender. But long-term success requires reflection—and a commitment not to be beholden to a salary alone.

Balance is something each individual must define for him- or herself. It takes diligence, buy-in from the people in our lives, and a recognition that we will sometimes fail. But with a commitment to being intentional, we can build sustainable and satisfying careers. ■

Devin Driscoll is a judicial law clerk for Minnesota Supreme Court Justice David L. Lillehaug. A 2018 graduate of the University of Minnesota Law School, Devin served as president of the University’s FBA Division and received the FBA’s Judge Edward J. Devitt Award for excellence in the study of federal law and practice.

Chapter Members Earn Attorney of the Year Honors

By Chad Pennington

On February 13, 2019, Minnesota Lawyer held its annual Attorney of the Year Award Ceremony at the Hyatt Regency Minneapolis. The annual awards are given to outstanding groups, teams, individuals, and those recognized for their exemplary dedication and service to the legal profession.

FBA group winners included Jen Cornell (Nilan Johnson Lewis PA) for her work on *Promvongsa v. Joswiak*; Edwin Caldie (Stinson Leonard Street LLP), Robert Kugler (Stinson), Brittany Michael (Stinson), Benjamin E. Gurstelle (Briggs & Morgan PA), Lauren E. Lonergan (Briggs), and John Darda (Maslon LLP) for their collective work on the *Archdiocese of Saint Paul and Minneapolis* bankruptcy matter; Joseph Herriges (Fish & Richardson), Rob Courtney (Fish & Richardson), Conrad Gosen (Fish & Richardson), Diane Peterson (Kutak Rock LLP), Aaron Myers (Kutak Rock), Niall MacLeod (Kutak Rock), and Michael Okerlund (former Arctic Cat in-house counsel) for their collective work on the *Arctic Cat* patent litigation; Dion Farganis, Richard Landon, Daniel R. Shulman, and Joy Anderson, all of Gray Plant Mooty, for their collective work on *Cruz-Guzman v. State*; United States Magistrate Judge David T. Schultz, Haley Schaffer (3M), Catherine Ahlin-Haverlson (Maslon),

and Julian Zebot (Maslon) for their collective work on the *Douglas Tyrone Armstrong* death penalty case; and Surya Saxena (U.S. Attorney’s Office) and Lola Velazquez-Aguilu (formerly of the U.S. Attorney’s Office) for their work on the *Starkey Laboratories* fraud trial.

FBA team winners included Jeff Storms (Newmark Storms Dvorak LLC), and individual FBA winners included Peter Rademacher (Hogen Adams); Adine S. Momoh (Stinson); and Thomas H. Boyd (Winthrop & Weinstine).

FBA members recognized for outstanding service to the profession included retired United States Magistrate Judge Franklin L. Noel; Katherian D. Roe, Chief Federal Defender for the District of Minnesota; and Susan J. Link (Maslon).

As always, the event was well attended, and this year’s award winners were an optimal blend of seasoned and newer lawyers from both the private and public sectors. The winners’ cases ranged from civil to criminal, and from constitutional to statutory. These important cases greatly contributed to Minnesota legal practice. We look forward to the 2019 ceremony and the next group of outstanding lawyers. ■

Chad Pennington is a law clerk for Senior United States District Judge David S. Doty and is a member of the Bar Talk committee.

Annual Law Student Awards Ceremony Celebrates Student Achievement in the Study of Federal Law

By Frances L. Kern

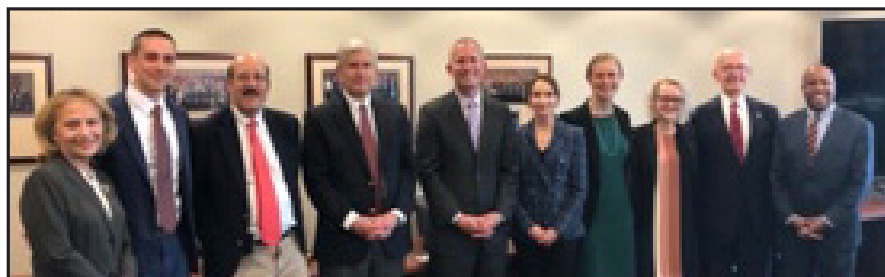
In keeping with longstanding tradition, the University of St. Thomas School of Law hosted the Minnesota Chapter's annual law student awards ceremony on April 24, 2019. The awards, whose names honor individuals who made significant contributions to the federal legal system in Minnesota, are presented to one graduating law student at each of the local law schools. The award winners have demonstrated excellence in the study of federal law and practice, and receive \$2,000 along with an engraved plaque.

After opening remarks from Dean Robert Vischer of the University of St. Thomas School of Law, four members of the District bench presented awards to students from the local law schools. Patricia Dana, a student at the University of St. Thomas, received the Judge Earl R. Larson award from U.S. District Judge Patrick J. Schiltz. U.S. District Judge Nancy E. Brasel and Sr. U.S. District Judge David S. Doty

presented the Judge Edward J. Devitt Award to University of Minnesota student Ellen Hunt. Patrick "Gus" Cochran, of Mitchell Hamline School of Law, received the Harry A. Sieben Award from U.S. District Court Judge Susan R. Nelson.

This year's ceremony marks the Chapter's thirty-seventh year of honoring the excellence of local law students. By encouraging and recognizing student achievement, the law student awards further the Chapter's mission of developing and maintaining high standards in the legal profession. The Chapter thanks the students, judges, law school deans, professors, and supporters for continuing the tradition of a successful and celebratory event. The Law School Outreach Committee also thanks Dean Vischer, Angela Dzik, and the University of St. Thomas School of Law for hosting the ceremony. ■

Frances L. Kern is a co-chair of the Law School Outreach Committee.



Judge Nelson, Gus Cochran, Mark Gordon (Dean, MHSL), Judge Schiltz, Robert Vischer (Dean, UST), Judge Brasel, Patricia Dana, Ellen Hunt, Judge Doty, Garry Jenkins (Dean, Minnesota).



Patrick "Gus" Cochran



Patrica Dana



Ellen Hunt



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L to R: FBI Agent accompanying Jay Bratt, Jay Bratt, Brian A. Sun, Peter Zeidenberg, U.S. Magistrate Judge Tony N. Leung

Community Outreach Event on Impact of U.S.-China Relations for STEM Professionals

By Cari Heicklen

On April 4, 2019, the Minnesota Chapter of the Federal Bar Association's Diversity and Outreach Committees partnered with the University of Minnesota's China Center and the Kingsfield Law Office, PLLC to present a panel discussion entitled *Pitfalls for All STEM Professionals in a New Era of U.S.-China Relations: Economic Espionage, National Security, Racial Bias?* The event was held at the University of Minnesota's McNamara Alumni Center. Though CLE credit was offered and enjoyed by those lawyers in the audience (event code: 270217), this event was primarily intended as a community outreach event for those in the Twin Cities STEM community.

Moderated by United States Magistrate Judge Tony N. Leung, the panel featured Jay Bratt, Chief for Export Controls and Sanctions, Counterintelligence, and Export Control Section at the National Security Division of the U.S. Department of Justice; Brian A. Sun, former federal prosecutor and current Jones Day partner; and Peter R. Zeidenberg, Arent Fox LLP partner.

The panel discussion focused on national security threats emerging from economic relations between the U.S. and

China and how such threats have led to racial profiling of Asians and Asian Pacific Americans. Bratt opened the discussion with an acknowledgement of the injustices experienced by Asian and Asian American STEM community members, but stated that the U.S. Department of Justice strives to improve on how it prosecutes economic espionage cases while balancing the very real threat of espionage to our country. Sun and Zeidenberg, both well-known for their defense of individuals and companies in white collar criminal matters involving fraud, trade secret theft, economic espionage, and other espionage-related offenses, discussed their respective work defending Dr. Wen Ho Lee (*United States v. Wen Ho Lee*, No. 99-1417 JP, (D.N.M.)) and Dr. Xiaoxing Xi (*United States v. Xiaoxing Xi*, No. 15-CR-204, (E.D. Pa.)). Sun and Zeidenberg both offered suggestions to the audience on how to avoid the "pitfalls" that have landed their clients in trouble with the U.S. government. Sun additionally called upon the U.S. government to "get the science right" before charging an innocent person with a crime he or she has not committed and also called upon the STEM community to support each other, especially those who find themselves staring down the might of the U.S. government. ■

Cari Heicklen is in the Business and Tort Litigation Group at Jones Day where she represents clients in complex commercial litigation and arbitration matters. She is a co-chair of the Community Outreach Committee and a member of the Diversity Committee

What's Happening in the Minnesota Chapter?

January 9: White Collar Committee to Host Elimination of Bias CLE on Gender Discrimination

The White Collar Committee of the Minnesota FBA and the Minnesota Women's White Collar Defense Association will hold a presentation on gender discrimination in the practice of criminal law. A presentation on recent developments and statistics will be followed by a panel discussion with United States District Judge Susan Richard Nelson, Manny Atwal (Federal Defender's Office), Julie Allyn (U.S. Attorney's Office), and Aaron Morrison (private practice). A happy hour will follow. Elimination of bias CLE credit will be sought. The White Collar Committee thanks Gray Plant Mooty for its generous sponsorship of this event.

Time: 3:00 p.m. – 5:15 p.m.

Location: Gray Plant Mooty, Minneapolis

Upcoming Events:

May 9, 2019

*Newer Lawyers Committee
Triumphing Over Failure:
Sharing Lessons from
Minnesota's Accomplished
Attorneys CLE*
5:00 p.m.
Robins Kaplan

June 13, 2019

*White Collar Committee
Gender Discrimination in
the Practice of Criminal
Law Elimination of Bias
CLE*
3:00 p.m.
Gray Plant Mooty

June 19, 2019

*Law Student Luncheon
with Chief United States
District Judge John R.
Tunheim*
12:00 p.m.
Minneapolis Federal
Courthouse

June 20, 2019

Federal Practice Seminar
8:30 a.m. – 6:00 p.m.
Windows on Minnesota

July 11, 2019

*Law Student Luncheon
with Chief United States
District Judge John R.
Tunheim*
12:00 p.m.
Minneapolis Federal
Courthouse

August 26, 2019

Annual Golf Outing
Midland Hills Country
Club

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*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.



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