



**Federal Bar
Association**
Minnesota Chapter

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Bar Talk

[www.fedbar.org/
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President's Welcome Statement

By United States Magistrate Judge Tony N. Leung



United States Magistrate Judge
Tony N. Leung

Welcome, everyone, to an exciting new year of the Minnesota Chapter of the Federal Bar Association!

Continuity and Change

The 2019–2020 installment of our organization promises to continue the nationally recognized professionalism, excellence, collegiality, and programs of Minnesota's federal bench and bar. Carrying on the rich history of the FBA-MN Chapter recognizes that we stand on the shoulders of those who came before us and celebrates the many ways members have shaped this Chapter into the organization it is today. I invite you to visit our website at <http://www.fedbar.org/minnesota.html> and click "History" to read more about the earliest roots of our organization and the new era starting about 1961. To that end, we will continue the flagship events, programs, and services that have built the collegiality, mutual respect, and exemplary reputation of the FBA-MN Chapter.

History also instructs that, to remain relevant and a leader, an organization must be dynamic. Thus, while sustaining continuity with the past, we must thoughtfully embrace ineluctable change. Society evolves and new challenges emerge that threaten to impede the realization of our common aspiration: equal justice under law. The changing faces of our nation and community inspired our organization to develop and implement a Diversity & Inclusion Plan that seeks to enhance participation of the historically underrepresented in Minnesota's legal community

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The Minnesota Chapter Hosts Two Events in Duluth

By Greg Brooker

Members of the Minnesota Chapter of the Federal Bar Association teamed up with several members of the federal bench at the Gerald W. Heaney United States Courthouse in Duluth for two successful events on May 2, 2019. The first event was an informative CLE on implicit bias coordinated by United States District Judge Nancy E. Brasel and Assistant Federal De-

fender Manny Atwal. The panelists for the CLE were Judge Brasel; Daniel Lew, Chief Public Defender for Northeastern Minnesota; Assistant United States Attorney Surya Saxena; and Greene Espel PLLP attorney Sybil Dunlop. The panelists discussed the latest research on implicit bias, how state and federal courts have addressed implicit bias among potential jurors,

and how implicit bias can impact the decisions of judges, court staff, prosecutors, and public defenders. Basic assumptions regarding implicit bias were challenged, and there were many informative questions posed to the panelists. The CLE took place in the restored courtroom of United States Magistrate Judge Leo I. Brisbois and was approved for elimination-of-bias credits.

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and the FBA-MN Chapter. The creation of a new leadership position titled the Strategic Initiatives/Affinity Bar Liaison Coordinator will help monitor our progress with the Plan's objectives. The FBA-MN Chapter will also encourage new programs aimed at reducing other barriers to justice, such as the high cost of litigation and the often staggering expenses of gathering and using big data and social media.

At bottom, the FBA-MN Chapter is an amazing organization because of its members and their spirit of volunteerism in the common pursuit of justice. Your generosity of time, efforts, and commitment are invaluable. The FBA-MN Chapter needs you. I encourage you to visit the website linked above to see the numerous ways that you can participate in and lead the myriad of events, programs, and services. To quote from John Donne's *For Whom the Bell Tolls*: "no [person] is an island . . . never send to know for whom the bell tolls; it tolls for thee."

Professionalism and Leadership

Professionalism and leadership start with excellence, a commanding knowledge of the law both substantively and procedurally. The FBA-MN Chapter holds an annual federal practice seminar and has Intellectual Property; White-Collar Crime; and Mass Tort, MDL, and Class Action Practice Groups. But even the most professional and best leaders cannot function at their peak without being mindful of, and tending to, their own wellness. Thus, the organization looks forward to continuing current, and developing new, programs that address issues of alcohol abuse, drug addition, stress, and workplace ergonomics. We have supported programs on mental health with Lawyers Concerned for Lawyers. Professionalism and leadership also require empathy. We are exploring ways to support visits by children of incarcerated caregivers.

Collegiality and Mutual Respect

One of the great dividends from participating in the FBA-MN Chapter is the collegiality developed by working together on programs or attending events, often with opposing counsel. The Monthly Luncheons are a great time to make peace with counsel whom you have just battled in the courtroom. Already, we have several dynamite speakers set for the fall. We are honored to have Eighth Circuit Judge David R. Stras as our kickoff speaker. He will be followed by Governor Timothy J. Walz. The annual Federal Judges' Dinner Dance is a time for breaking bread together—and showing if your dance skills are as good as your legal talents. Let's spread the word that there is an Affinity Bar reception at the beginning of the Dinner Dance. Please consider coming to the annual FBA-MN golf tournament even if you shoot a 55-66 like me. That's my score for nine holes when playing individually, but since there's usually at least one real golfer in your foursome, it's not a problem—in fact, it's a blast. Even if you can't make the tee time, please join us for the late afternoon social hour.

Diversity Committee, Outreach Committee, and Pipeline Opportunities

All are welcome here. The FBA-MN Chapter includes appellate, district, bankruptcy, and magistrate judges; law clerks; lawyers from the U.S. Attorney's Office and Office of the Federal Defender; private criminal and in-house counsel; attorneys from solo-practice and big, medium, and small firms; civil rights advocates; and law students. I repeat, *all are welcome*.

The Diversity Committee is one of the most active in our Chapter. Its mission includes "support[ing] the full and equal access to, and participation by, all individuals in the Association." The Diversity Committee will continue to plan and co-sponsor numerous programs and events throughout the year. One promising program being explored as a pilot project is an FBA-MN LSAT Scholarship Program that would try to improve the pipeline of underrepresented students in law schools. Last year, the Diversity Committee supported or led programs such as: Implicit Bias CLE, featuring Senior United States District Judge Mark W. Bennett (Ret.); Leadership Summit on Gender Equality; Mental Health and Double Stigma; Fifth Annual Affinity Bar Meet & Greet; National Security, Economic Espionage, and Racism? Pitfalls for All STEM Professionals in a New Era of US-China Relations; Minority Judges Reception; and the Disability Justice Seminar, among others.

The Community Outreach Committee seeks to strengthen the Chapter's mission by "engaging with community members, outside organizations, and schools through events, activities, and other programs." The Committee partnered with the Minnesota Hispanic Bar Association to create the Latino Legal Experience II. It is also exploring the possibilities of helping facilitate the visits of children to their incarcerated mothers at the federal correctional institution located in Waseca, Minnesota. In 2019, much effort led to the successful continuation of Court Camp, a pilot program started in 2018. Court Camp brings Minneapolis public high school students to the courthouse for five days of mock trials and other learning opportunities. This is one of the programs that needs volunteers for 2020—the bell's tolling for you.

In addition to these efforts at diversity and inclusion, the Association also has representatives to the national Federal Bar Association and designees focusing on the Eighth Circuit, New Lawyers, Law School Outreach Liaisons, and Affinity Bars/

President's Welcome, continued on page 3.

Senior United States District Judge Ann D. Montgomery Celebrated at Portrait Ceremony

By Forrest Tahdooahnippah

On June 28, 2019, the official portrait of Senior United States District Judge Ann D. Montgomery was unveiled at the federal courthouse in Minneapolis. The portrait was painted by Kyle Keith and will hang in Judge Montgomery's courtroom in Minneapolis.

Those at the unveiling ceremony enjoyed a jovial and humorous atmosphere. Remarks were made by United States Magistrate Judge Katherine Mendendez, Chief United States Magistrate Judge Aurther J. Boylan (Ret.), Senior United States District Judge Ellen Segal Huvelle of the District of Columbia (via video), Federal Defender Katherian Roe, and Lewis Remele. All remarked on Judge Montgomery's wit and sense of humor as a friend and her uncanny unflappability on the bench. The remarks also celebrated Judge Montgomery's mentorship, particularly of female attorneys. Judge Montgomery's distinction as the first-ever "judicial mother" (becoming a mother during her tenure as a judge) in Minnesota history was also noted. The remarks emphasized Judge Montgomery's origins in Litchfield, Minnesota and her embodiment of Midwestern values such as humility and integrity.

Judge Montgomery was joined at the unveiling ceremony by her family, including husband Ted Smetak and her

siblings, cousin, children, and grandchildren. Her grandsons Jack Khawam and Rory Miller unveiled the portrait. Many of Judge Montgomery's former law clerks were also in attendance and issued a "Law Clerks' Decree," which celebrated Judge Montgomery's lasting commitment to Girl Scout Law.



Judge Montgomery shares remarks at her portrait ceremony

Judge Montgomery was nominated by President Bill Clinton on November 27, 1995, and received her commission on August 6, 1996. Prior to her appointment to the U.S. District Court, she served as a federal magistrate judge, a Hennepin County municipal court judge, and a Hennepin County judge. Judge Montgomery is a graduate of the University of Minnesota Law School and the University of Kansas. She played basketball at the University of Kansas and remains a committed fan of Jayhawk athletics. ■

Forrest Tahdooahnippah is a partner in Dorsey & Whitney's Intellectual Property Litigation Group. He clerked for Judge Montgomery from 2010–2012.

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Strategic Initiatives.

Access to Justice

Lack of legal representation is a barrier to justice. The FBA-MN Chapter's commitment to reducing this barrier continues with a second decade of support for our nationally recognized *Pro Se* Project, which connects pro se individuals with volunteer attorneys. As mentioned above, the high cost of litigation is another barrier to justice. This is a difficult issue, and the Chapter strives to develop programs that assess the problem, facilitate discussion, and endeavor to formulate solutions so that those with fewer resources (indigent, poor, middle-income, and undocumented individuals, as well as small and medium-sized businesses) will have access to representation. In-house counsel will also be encouraged to engage in such programs.

Communication

Communication is a key ingredient to our Chapter's success. We are always looking for volunteers to write stories and attend events for *Bar Talk*, our Chapter's award-winning newsletter. It's a lot of work—the bell's tolling for you, again. There is also a newly formed Digital Communications Committee. Volunteers are needed there as well. Accurate and timely communication ensures that our members can fully realize the benefits of the Chapter.

Conclusion

There is a lot of work behind the success of the FBA-MN Chapter. With your generosity of time and talents, we will continue the upward trajectory of this great organization. I am honored to work with you! ■

Ninth Annual Disability Justice Seminar Issues Resounding Call to Action

By Irina Vaynerman

On April 30, 2019, the Minnesota Chapter of the Federal Bar Association's Diversity Committee and Robins Kaplan LLP co-sponsored the Ninth Annual Disability Justice Seminar. This year's seminar, entitled "Employment Barriers and Opportunities for Individuals with Disabilities," attracted the largest number of attendees ever, including attorneys and advocates from law firms, non-profits, and the government sector.

The seminar consisted of a panel discussion about employment barriers and opportunities for individuals with disabilities. The panelists provided legal overviews, applicable advice to employers, and first-hand experience from people with disabilities seeking employment in the workplace. Matthias Niska, an Employee Relations Consultant at Wells Fargo and an attorney with an expertise in disability-related employment law, kicked off the panel discussion by providing a summary of applicable legal principles for employment discrimination law. Niska also discussed how both employers and individuals can challenge their own biases during the hiring process. Niska described the bias as "the soft bigotry of low expectations." To combat discrimination, he identified three tools: education, exposure, and empathy. The "empathy piece is most important," Niska stressed, while explaining that employers need to understand that people with disabilities want to succeed in the workplace just like people without disabilities. Niska cautioned that empathy should not turn into paternalism, however. As Niska aptly described, "an employer should expect an employee with a disability to arrive on time but take a different route."

Niska emphasized that employers should move beyond the bare bones of legal compliance to best practices of increasing employment opportunities for people with disabilities.

Reid Scheller, an individual with a disability who is a self-advocate and who works at the Dakota County Western Service Center, also cautioned the audience to check their biases, explaining that "when you've met one person with one disability, you've met [only] one person with one disability." Scheller is a high school graduate, has completed multiple programs that support young people with disabilities, and has excelled in his employment at Dakota County Western Service Center. In short, he's thriving. Enthusiastic about Scheller's success, the Executive Director of the Minnesota Governor's Council on Developmental Disabilities, Colleen Wieck, Ph.D., told him, "I've been waiting my whole life to meet you!" Dr. Wieck and the Council are dedicated to providing information, education, and training to increase the independence, self-determination, productivity, integration, and inclusion of people with developmental disabilities and their families. Dr. Wieck explained that ensuring that training programs exist and that employers allow people with disabilities the opportunity to succeed at work is critical for creating more success stories like Scheller's.

Senior United States District Judge Donovan W. Frank spoke on the panel and shared how he has witnessed negative stereotypes of disabled individuals manifest in court. He explained that, as part of shifting these stereotypes, employers should intentionally target their inclusion efforts to include people with disabilities. This is precisely what the

Disability Justice Seminar, continued on page 17.



L to R: Susan Lang, LuAnn Hudson, Judge Frank, Reid Scheller, Dr. Wieck, Matthias Niska, Chelsea Walker
Photo courtesy of Robins Kaplan

Minnesota Chapter Hosts Second Annual Court Camp For High School Students

By Reggie Aligada



Hayat Abdullahi questions Chad Pennington

Twelve enthusiastic students from several Twin Cities high schools participated in the second year of Court Camp, a program developed in a partnership between the Community Outreach and Diversity Committees of the Minnesota Chapter and the United States District Court for the District of Minnesota. This education initiative—the vision of United States District Judge Susan Richard Nelson—was held at the Minneapolis Federal Courthouse during the week of June 24–28, 2019.

In addition to Chapter members, several volunteers from court agencies, law enforcement organizations, and law firms participated in the program. During the five-day camp, students participated in a mock trial, learned about the judiciary, and heard presentations by several judges and attorneys practicing in federal court. Students attending the program came from several high schools, mostly within the Minneapolis Public Schools system.

Hayat Abdullahi, a court camp participant and aspiring lawyer, reflected on her experience at Court Camp. “Before going to court camp, I thought I had done all that I could to prepare for becoming a lawyer when I’m older.... But going to court camp, seeing a real trial, and meeting all those different types of lawyers and judges put it into perspective for me that nothing could have prepared me more than actually getting a hands on experience.”

With an expanded group of Chapter volunteers and several subcommittees, the program helped students better understand the justice system and prepare for a career in law. Several students received high school credit for their participation in the camp and plan to attend law school in the future.

Each student was paired with an attorney mentor who met with the student during the week of Court Camp. Students toured the courthouse, attended a naturalization ceremony, and attended a session of Reentry Court, a program that provides intensive supervision and programing to individuals on federal supervised release who recently completed a prison sentence. The week of intense experiential learning also included observing two criminal sentencing hearings and watching the closing argument of a criminal trial. The week’s programming culminated with a mock criminal trial presided over by Judge Nelson, in which the students acted as prosecuting and defense attorneys. Meals were provided for the students by Bassford Remele, Maslon LLP, Greene Espel PLLP, Halunen Law, Jones Day, Carlson Caspers, Apollo Law LLC, Fredrikson & Byron P.A., Best & Flanagan LLP, and Gustafson Gluek PLLC.



Osvin Navas presents his case to the Court

The Chapter plans to continue the Court Camp program in 2020. ■

Reggie Aligada is the First Assistant Federal Defender in the Office of the Federal Defender for the District of Minnesota and immediate past co-chair of the Community Outreach Committee for the Minnesota Chapter.

45th Annual Federal Practice Seminar and Mason Memorial Luncheon

By Brett D. Kelley

On June 20, 2019, attendees of the annual Federal Practice Seminar were treated to another action-packed event at Windows on Minnesota. The morning kicked off with a fiery discussion entitled “Immigration Issues in Federal Litigation.” The panel featured prosecutors from Immigration and Customs Enforcement (ICE), the Department of Homeland Security (DHS), and the United States Attorney’s Office, as well as defense attorneys and immigrant advocates. Panelists were Courtney Campbell, ICE; Colin Johnson, DHS; Ana Voss, United States Attorney’s Office; Sarah Brenes, The Advocates for Human Rights; Justin Cummins, Cummins & Cummins; and Bruce Nestor, DeLeon & Nestor. Professor Eric Janus, Mitchell Hamline School of Law, served as moderator.

The afternoon included a panel entitled “Journalism and Law in the Age of Fake News.” Media and entertainment attorneys Leita Walker of Ballard Spahr and Emily Caron of One Beacon Insurance Group were joined by journalists Briana Bierschbach of Minnesota Public Radio, Suki Dardarian of the *Star Tribune*, and Douglas Burns of the *Carroll Times Herald of Iowa*. They gave an informative discussion of how disinformation, the propagation of “fake news,” and escalating attacks against the press are affecting journalism.

Technology in the law graced the agenda for the second year in a row. Niloy Ray of Littler Mendelson P.C., Rachel Zimmerman Scobie of Merchant & Gould P.C., and Doug Micko of the Federal Defender’s Office discussed the effect of emerging technology on employment, intellectual property, and privacy law, respectively.

The day was punctuated with breakout sessions regarding a variety of civil and criminal subjects. United States District Judge Susan Richard Nelson; Senior United States Judge Donovan W. Frank; Manny Atwal of the Office of the Federal Defender; James Volling of

Faegre Baker Daniels LLP; and our new Chief Probation Officer, Kito Bess, presented on the District’s Federal Reentry Court. They were joined by several graduates and mentors from the program who discussed the trials and tribulations faced by federal inmates reentering society. United States Magistrate Judge Hildy Bowbeer, Rebekah Bailey of Nichols Kaster, PLLP, and Ray presented “Tips for More Effective Document Requests and Responses.” Anne Regan of Hellmuth & Johnson moderated “Hot Federal Practice Topics with In-House Counsel and Client” with Eileen Hunter, 3M; Sarah Strobel, U.S. Bank; and Kathryn Sozny, Medtronic. This year’s Supreme Court review was provided by United States Magistrate Judge Kate M. Menendez; Aaron Van Oort, Faegre Baker Daniels; and Mahesha Subbaraman, Subbaraman PLLC.

The Seventeenth Annual Mason Memorial Luncheon speaker was Michael Hurley, President of Team 3i LLC. Hurley, a Minnesota native, served as a CIA officer, counterterrorism expert, and adviser to the 9/11 Commission. Hurley spoke about ending the spread of global terrorism. He described the terrifying threats faced round the world and attempted to provide an optimistic outlook.

This year marked the tenth anniversary of the *Pro Se* Project, which fosters the goal of promoting equal justice for pro se civil litigants in the District. Attorney Dan Gustafson of Gustafson Gluek PLLC received a lifetime achievement award for his unparalleled contributions to the *Pro Se* Project.

The Legal Education Committee extends its thanks to all of the speakers and volunteers for their contributions. The author also extends his thanks to outgoing Committee co-chairs, Adam Hansen and Laura Johnson, for their dedication and leadership this past year. ■

CLE Event Code: 274711; 5.75 Standard Credits

Brett D. Kelley is an associate at Kelley, Wolter & Scott, P.A., focusing on complex civil litigation and white-collar criminal defense. Kelley is also a member of the Legal Education Committee for the Minnesota Chapter.

For photos, see page 16.

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Following the CLE, Chief United States District Judge John R. Tunheim hosted a reception for Duluth-area lawyers in the historic hallway of the courthouse. Nearly fifty members of the bench and bar were in attendance at the reception. Among those in attendance were: Chief Judge Tunheim; United States District Judge Wilhelmina M. Wright; Judge Brasel; United States Magistrate Judges Becky R. Thorson, Kate M. Menendez, and Brisbois; United States Attorney Erica MacDonald; St. Louis County Attorney Mark Rubin; and 2018–2019 FBA-MN Chapter President Kelly Laudon. There were remarks by Chief

Judge Tunheim and United States Attorney MacDonald. The reception featured craft beer from Northeastern Minnesota as well as heavy appetizers. Courtrooms were open for tours during the reception.

Both of the events in Duluth were sponsored by the FBA Membership Committee and its 2018–2019 Co-Chairs, Joel Schroeder and Greg Brooker. The Duluth events were such a success that the Membership Committee is discussing sponsoring a similar event on the Iron Range next year. ■

CLE Event Code: 272661; 1.0 Elimination-of-Bias Credits

After twelve years in management at the United States Attorney's Office, Greg Brooker recently returned to the line as an Assistant United States Attorney and is happy to be practicing law again. He is a former Acting United States Attorney, former First Assistant United States Attorney, and former Chief of the Civil Division.



Surya Saxena and Daniel Lew discuss how implicit bias can impact criminal cases



Judge Brasel and Sybil Dunlop discuss implicit bias research

Eighth Circuit Holds that Denial of Religious Accommodations Does Not Give Rise to Title VII Anti-Retaliation Claim

By Sheri Stewart

In *Equal Employment Opportunity Commission v. North Memorial Health Care*, 908 F.3d 1098 (8th Cir. 2018), the Eighth Circuit Court of Appeals held that an employer's denial of a request for a religious accommodation and rescission of a conditional offer of employment did not violate Title VII's anti-retaliation provision. The Court indicated that such a denial should be brought as a disparate treatment claim.

Emily Sure-Ondara, a Seventh Day Adventist and registered nurse, attended an open house hiring event at North Memorial Health Care. She interviewed for a position with the Collaborative Acute Care for the Elderly (CACE) Unit. During the interview, Sure-Ondara learned that the applicable collective bargaining agreement for the CACE Unit required nurses to work eight-hour shifts every other weekend. Sure-Ondara did not disclose that, as a Seventh Day Adventist, she could not work from sundown on Friday to sundown on Saturday.

Instead, Sure-Ondara accepted a conditional offer of employment that stated: "You will be scheduled to work 8 Hour Night shifts, including every other weekend." *Id.* at 1099. When completing her pre-employment paperwork, Sure-Ondara disclosed for the first time that she needed "Friday nights off" to accommodate her religious beliefs. *Id.*

In response, North Memorial advised Sure-Ondara that the collective bargaining agreement required nurses to work every other weekend and that if she could not do so, North Memorial may need to offer the position to someone else. Sure-Ondara insisted she wanted the job and that she would "make it work," either by finding someone who would swap shifts or by "com[ing] in herself in an emergency or life-or-death situation." *Id.* at 1100.

North Memorial decided to rescind the conditional employment offer to Sure-Ondara for two reasons: First, it was

not realistic for Sure-Ondara to consistently find someone willing to work for her on Friday nights. Second, North Memorial was concerned that Sure-Ondara would not come to work unless she believed there was an emergency.

North Memorial advised Sure-Ondara that it could not grant her the requested accommodation and offered her the opportunity to work with North Memorial to identify other positions that may be available. Sure-Ondara insisted she could work without accommodation. North Memorial refused and reiterated that she could apply to work in another area. Sure-Ondara applied for other positions with North Memorial but was not hired.

Sure-Ondara filed a charge of discrimination with the EEOC, alleging in part that she was discriminated against because of her religious beliefs or in retaliation for requesting a religious accommodation in violation of Title VII. The EEOC filed an enforcement action claiming that North Memorial retaliated against Sure-Ondara for requesting a religious accommodation.

On North Memorial's motion for summary judgment, Senior United States District Judge David S. Doty held that the EEOC failed to establish a *prima facie* case of retaliation because "merely requesting a religious accommodation is not the same as opposing the allegedly unlawful denial of a religious accommodation." *Id.* at 1102. The Eighth Circuit affirmed, reasoning that "the fact that such a request [for a religious accommodation] is 'protected activity' does not mean it is always 'oppositional' activity." *Id.* at 1103. The court held that "when an employee or applicant requests a religious accommodation, and the request is denied by an employer...that accommodates reasonable requests that do not cause 'undue hardship,' there is no basis for an opposition-clause retaliation claim under § 2000e-3(a)." *Id.* Instead, the "exclusive Title VII remedy is an unlawful disparate treatment or disparate impact claim under § 2000e-2(a)(1)." *Id.* ■

Sheri Stewart is an attorney working in a wide variety of practice groups at full-service litigation firm Bassford Remele.

Girl Scouts Visit Court for Intellectual Property Event

By Tasha Francis and Ann Motl

On Saturday, April 13, 2018, the Intellectual Property Committee of the Minnesota Chapter of the Federal Bar Association and the United States District Court for the District of Minnesota sponsored an event for local Girl Scouts to earn their Intellectual Property Patch and Inventor's Badge. Fifteen volunteers, including United States District Judge Eric C. Tostrud and United States Magistrate Judges Hildy Bowbeer and David T. Schultz, spent the morning teaching fifty local Girl Scouts about the basic tenets of intellectual property law and the court system.

Throughout the morning, the Girl Scouts learned about patents, trademarks, and copyrights. The Girl Scouts used their creative abilities to come up with a new invention and "draft" portions of patent applications. Next, they learned about trademarks, which involved a trademark scavenger hunt and designing a trademark for their new invention. The program concluded with a discussion about copyrights and the scouts performing a skit about their new inventions. A special highlight of the day was visiting the chambers and courtrooms with Judge Tostrud and Magistrate Judges Bowbeer and Schultz.

Based on the success of this event, a similar event is being planned for April 18, 2020. ■

Tasha Francis is the co-chair of the Intellectual Property Committee of the Minnesota Chapter and a patent litigation associate at Fish & Richardson.

Ann Motl is the co-chair of the Digital Communications Committee of the Minnesota Chapter and a patent litigation associate at Fish & Richardson.



Judge Tostrud and Magistrate Judges Schultz and Bowbeer with Girl Scouts



Girl Scouts draw their trademarks



Magistrate Judge Bowbeer leads eager learners

Opportunities for Involvement in the Minnesota Chapter of the Federal Bar Association

*Interested in getting involved in the Minnesota Chapter of the FBA?
Review the list of committees and groups below,
and feel free to reach out to the contacts
with further questions or to get involved.*

Annual Kick-Off Social Event and Golf Tournament: The Chapter's Kick-Off Social Event and Golf Tournament is a long-standing annual tradition that brings together members of the bench and bar to mark the Chapter's new season with friendly competition and camaraderie. To get involved, please contact chairs Phillip Goter (goter@fr.com) or Aaron Knoll (aknoll@greeneespel.com).

Bar Talk Newsletter Committee: The *Bar Talk* Newsletter Committee works to provide Minnesota FBA Chapter members with timely and valuable information about Chapter business through quarterly publication of the award-winning newsletter *Bar Talk*. To get involved in *Bar Talk*, please contact co-chairs Kari Dahlin (kmdahlin@arthurchapman.com) and Chad Pennington (Chad_Pennington@fd.org).

Community Outreach Committee: The Community Outreach Committee seeks to promote the Chapter's mission—to strengthen the federal legal system, the administration of justice, and the rule of law—by engaging with community members, outside organizations, and schools through events, activities, and other programs. To get involved in the Committee's activities, please contact co-chairs United States Bankruptcy Judge William J. Fisher (kristin_neff@mnb.uscourts.gov), Amy Conners (aconners@bestlaw.com), Lauren A. D'Cruz (ldcruz@schaeferhalleen.com), or Cari Heicklen (cheicklen@jonesday.com).

Digital Communications Committee: The Digital Communications Committee works to provide Minnesota FBA Chapter members with timely and valuable information about Chapter business through the Chapter website, the events platform, and timely emails to members. To get involved in the Chapter website, events platform, or emails, please contact co-chairs Leon Wells (lwells@fwhtlaw.com) or Ann Motl (motl@fr.com).

Diversity Committee: The mission of this Committee is to further diversity and inclusion within the Minnesota Chapter, our federal court system, the legal profession, and our greater community. Committee members plan events, seminars, and networking opportunities to bring together lawyers, judges, law students, and other community members. To get involved, please contact co-chairs United States Magistrate Judge Elizabeth Cowan Wright (Magistrate_Wright_Chambers@mnd.uscourts.gov), Danielle Mair (Danielle_Mair@mnd.uscourts.gov), or Uzodima Franklin Aba-Onu (fabaonu@bassford.com).

Grant Committee: The Grant Committee solicits and evaluates applications for FBA chapter grants from organizations whose activities are consistent with and advance the mission of the FBA and in particular have a focus on issues that are federal in nature. The Committee recommends to the Board of Directors which applicants in its judgment should be awarded grants and in what amounts. The Grant Committee Chairs, Keiko Sugisaka (keiko.sugisaka@maslon.com) and Surya Saxena (surya.saxena@usdoj.gov) are always looking for new Committee members. Please let them know if you'd like to join the Committee.

Intellectual Property Practice Group: The Intellectual Property Practice Group hosts a series of events designed to highlight cutting-edge legal issues in IP law and to bring together the judges and lawyers who adjudicate and litigate IP cases. If you would like to join the IP Committee or be included in its events, please contact co-chairs Tasha Francis (tfrancis@fr.com), United States Magistrate Judge Hildy Bowbeer (Bowbeer_Chambers@mnd.uscourts.gov), or Nathan Louwagie (nlouwagie@carlsoncaspers.com).

Law School Outreach Committee: Since 2012, the Law School Outreach Committee (LSOC) has served as a liaison connecting the Minnesota Chapter of the FBA with the FBA law school divisions of each law school in Minnesota. A key goal of the LSOC is to ensure that members of each school's law student division are getting the most out of their membership, including learning about federal practice areas; meeting members of the FBA, federal bar, and judiciary; and cultivating relationships within the legal community. To further these goals, the LSOC provides the local FBA Law Student Divisions with guidance on organizing events, obtaining funding, furthering diversity, and connecting with opportunities within the Minnesota Chapter of the FBA and FBA-National, and holds events to recognize and support law students within the Twin Cities area. To get involved, please contact law school liaisons Cassandra Jacobson (cjacobsen@cozen.com) or Christopher Proczko (proczkoc@ballardsphar.com).

Legal Education Committee: The Legal Education Committee organizes and presents the annual Federal Practice Seminar, a day-long program that is held each summer. The Federal Practice Seminar aims to foster improvements in the practice of federal law, including the elimination of bias and the promotion of diversity and high standards of ethical practice, facilitating the administration of justice, and promoting legal education. Committee members will meet regularly over the course of the bar year to identify innovative topics and speakers, develop the Seminar's content, and plan and execute the Seminar. To get involved, please contact Vice Presidents of Legal Education United States District Judge Eric C. Tostrud (tostrud_chambers@mnd.uscourts.gov) or Katherine S. Barrett Wiik (kbarrettwiik@bestlaw.com).

Mass Tort and Class Action Practice Group: The Mass Tort and Class Action Practice Group's mission is to address a spectrum of issues arising in cases in which a large number of plaintiffs assert common claims through programming and social events. The group focuses on both substantive and procedural legal developments and best practices. We are committed to advancing diversity and inclusion in these practice areas through our group's events and programming. To get involved, please contact co-chairs United States Magistrate Judge Becky R. Thorson (thorson_chambers@mnd.uscourts.gov), Tim Griffin (timothy.griffin@stinson.com), or Elizabeth Odette (erodette@locklaw.com).

Membership Committee: The Membership Committee is responsible for developing and implementing the Chapter's annual membership recruitment and retention programs, engaging in membership outreach to new members with an increased focus on diversity and inclusion with respect to members from the affinity bars, public sector, in-house, and greater Minnesota communities, as well as updating the Chapter's Membership Plan. Members of the Membership Committee review the Chapter's membership reports, which FBA-National submits to the Chapter monthly, and contact those whose memberships have recently lapsed. To get involved, please contact co-chairs Joel Schroeder (jschroeder@bestlaw.com) or Adam Hansen (adam@apollo-law.com).

Monthly Luncheons: From September through May of each year, the FBA hosts a series of monthly luncheons at The Minneapolis Club on topics of interest to the federal bench and bar. In addition to the opportunity to hear from engaging speakers on engaging topics, the luncheons also offer opportunities for FBA members to network with each other and the federal judges, many of whom are in attendance. Please check the Chapter's website and calendar for additional details. The co-chairs of Monthly Luncheons are United States District Judge Nancy E. Brasel and Jeff Justman. For more information about the FBA monthly luncheons, please contact Jeff Justman (Jeff.Justman@FaegreBD.com), Kristen Draves (Kristen.Draves@FaegreBD.com), and Lori Swanson (Lorrell.Swanson@FaegreBD.com).

Newer Lawyers Committee: The Newer Lawyers Committee is responsible for coordinating a series of monthly luncheons hosted by the federal bench for lawyers who have been practicing for five or fewer years. These luncheons present an excellent opportunity for newer lawyers to gather with federal judges on an informal basis. The committee also hosts events throughout the year on topics of interest and importance to newer lawyers and the federal bar. To get involved, please contact co-chairs Kyle Kroll (kkroll@winthrop.com) and Alia Abdi (Alia.Abdi@zimmreed.com).

Pro Se Project: The *Pro Se* Project is an important initiative of the United States District Court, District of Minnesota, and the Minnesota Chapter of the Federal Bar Association to improve the administration of justice. The *Pro Se* Project strives to provide civil pro se litigants who receive a judicial referral to the *Pro Se* Project with the opportunity to meaningfully consult with volunteer counsel and thereby enhance access to justice in our federal courts. Thanks to the generous contribution of time and talent by more than 450 volunteer lawyers, the *Pro Se* Project has served in excess of 1,400 pro se litigants over the past decade. Nationally recognized for its work with indigent and disabled individuals, the *Pro Se* Project received the American Bar Association's prestigious Harrison Tweed Award. For more information on the *Pro Se* Project or to volunteer, contact Tiffany Sanders at proseproject@q.com or 612.965.3711.

Special Events Committee: The Special Events Committee plans and organizes special events, including the FBA Dinner Dance, for the Minnesota Chapter. To get involved, contact co-chairs Laura Johnson (Laura.Johnson@FaegreBD.com) or Arthur G. Boylan (aboylan@anthonyostlund.com).

White Collar Practice Group: The White Collar Practice Group brings together prosecutors from the United States Attorney's Office and defense attorneys practicing in federal court to plan CLEs and social events designed to promote collegiality among lawyers from both sides of the courtroom. To get involved, please contact co-chairs Marnie Fearon (marnie.fearon@gpmlaw.com) or Joseph Thompson (joseph.thompson2@usdoj.gov). ■

Equal Justice Lives: The 38th Annual Law Day Testimonial Dinner

By Drew P. Schaffer



L to R: Adine Momoh, Rachna Sullivan, Jeff Bouslog, and Vince Louwagie at the Law Day Testimonial Dinner

Every year on the first of May, Law Day reminds us of the significance and wonder of the rule of law, the Constitution of the United States, and the foundational American promise of equal justice for all. Minnesota's legal community marks Law Day by coming together for The Fund for Legal Aid's Annual Law Day Testimonial Dinner, where it celebrates the work Mid-Minnesota Legal Aid does to protect Minnesotans' most basic civil and human rights. Legal Aid vindicates these rights by representing clients facing legal threats to their health, family, personal safety, financial security, housing stability, and other critical concerns in both state and federal courts, as well as a variety of administrative forums.

This year's 38th Annual Law Day Testimonial Dinner was held on May 14, 2019 at the Hilton in Downtown Minneapolis. Legal Aid client Chinyere Britt spoke about her experience with Legal Aid, including attorney Brittany McCormick's brilliant legal representation when Britt faced the simultaneous loss of her home, job, and wealth after someone she knew and trusted tried to take advantage of her.

McCormick found and resolved multiple legal issues, and Britt felt supported and empowered to sell her home, to protect her wealth, and to stabilize her life. Through Legal Aid's empowering representation, Britt realized the promise of equal justice for all.

Over 10,000 Minnesota households benefit from Mid-Minnesota Legal Aid's legal representation every year. However, Mid-Minnesota Legal Aid is forced to turn away sixty percent of eligible prospective clients due to lack of resources. As a result, the promise of equal justice for all remains elusive for many Minnesotans.

The 2019 Law Day Testimonial Dinner did its part to deliver new resources for Legal Aid. Revenue from nineteen underwriters and ticket sales for the event raised around \$440,000. During the event, attendees responded to a special request and raised over \$100,000 toward the critical need for fair, safe, and stable housing. The event was a success and provided resources for Legal Aid to protect more Minnesotans' health, homes, safety, and stability.

As the evening drew to a close, attendees had the pleasure of hearing a passionate keynote address entitled "Equal Justice Lives" from Seventh Circuit Judge Ann Claire Williams (Ret.). Judge Williams spoke (and sang) inspirationally, reminding attendees of the wonderful community of



John Sonsteng and Annamarie Daley at the Law Day Testimonial Dinner

Law Day, continued on page 17.

Law Students Excel at Thurgood Marshall Moot Court Memorial Competition

By Frances Fink

Four University of Minnesota Law School students traveled with their coaches to Washington, D.C. in March 2019 to participate in the Federal Bar Association's Annual Thurgood Marshall Moot Court Memorial Competition. Team members included Josiah Young (2L), Alex Kane (3L), Peter Estall (3L), and Frances Fink (3L). The team was coached by Assistant United States Attorneys Surya Saxena and Bahram Samie.

Preparation for the competition began in September. The students worked in pairs as they honed their arguments about whether a corporation or a guarantor may state a claim for marital discrimination under the Equal Credit Opportunity Act. In January, the students and coaches met weekly to practice for the oral argument.

The competition was held in Washington, D.C., in conjunction with the FBA's annual meeting. The two competition teams argued before panels of FBA members from across the nation. Young and Kane won both of their preliminary rounds and advanced to the first elimination round, which was held at the United States District Court for the District of Columbia. They won their next two elimination rounds and advanced to the semifinal round at the United States Court of Appeals for the Armed Forces. They finished their run in the semifinals and placed third of forty teams.

The team members spoke highly of their FBA moot court experience. Kane described the time spent with his partner and coaches: "The preparation really paid off for us. Josiah and I spent many hours working out our writing style and approach, delving deep into the details of the issue. Our coaches used the practices to reveal holes and inconsistencies in our arguments, forcing us to rethink our approaches and methods." Estall described the contributions of coaches and judges: "The critiques of our coaches, of their gracious colleagues who sat in as guest judges, and of each other were all incredibly valuable in helping us prepare, illuminating both our strengths and our weaknesses, encouraging us to further develop creative arguments, and recognizing our progress." The author of this article agrees. The Thurgood Marshall Moot Court Memorial Competition was an amazing learning experience, and it was very enjoyable working with teammates and coaches to prepare for the tournament. ■

Frances Fink is a 2019 graduate of the University of Minnesota Law School. She is clerking this term for the Minnesota Supreme Court before joining Foley & Lardner as an associate in its Milwaukee office.



L to R: Bahram Samie, Josiah Young, Alex Kane, and Surya Saxena

White Collar Practice Group Explores Gender Bias in Criminal Law

By Chad Pennington

On June 13, 2019, the White Collar Practice Group of the Minnesota Chapter of the Federal Bar Association and the Minnesota Women's White Collar Defense Association held a joint presentation on gender bias and discrimination in the practice of criminal law. The event was held at the office of Gray Plant Mooty in Minneapolis. The presentation was led by a panel discussion which included United States District Judge Susan Richard Nelson, Manny Atwal (Federal Defender's Office), Julie Allyn (United States Attorney's Office), and Aaron Morrison (Wold Morrison Law) and was followed by a social hour and further discussion.

The panel's discussion focused on relevant studies and statistics regarding the gender gap in the practice of law with a special emphasis on criminal law. Judge Nelson offered a valued historical perspective and insight on how gender disparities have evolved and improved during her career. Atwal and Allyn, as practitioners, offered important perspectives from differing positions in federal criminal practice and observations on the unique challenges women defense attorneys and prosecutors experience in the practice of federal criminal law. In addition, Morrison offered his observations on gender bias in federal criminal practice and provided an important perspective as the sole male member of the panel.

The statistics showed that although there have been significant improvements in reducing the gender gap, persistent gender inequalities remain in the legal profession. The panel, and the attendees, discussed other, new strategies to improve

White Collar, continued on page 17.

Clerk's Corner

By Tricia Pepin

Chat With Us!

The Clerk's Office now offers online chat as an option for communicating with the Office. The online chat function can be accessed on the Court's main webpage at <https://www.mnd.uscourts.gov/>. The Clerk's Office plans to expand the use of online chat, including to the ECF helpdesk, over the next few months.

New Process to Protect Child Victims and Witnesses in Criminal Cases

On June 4, 2019, the Court issued a general order regarding notice and transcript procedures for criminal cases that concern a child. The new procedures are intended to facilitate compliance with 18 U.S.C. § 3509(d), which limits disclosure of "the name or any other information concerning a child." The procedures require attorneys to file a notice when a criminal case involves a child victim or witness. The order also instructs that transcripts filed in criminal cases that involve a child will initially be filed under seal so that redactions may be made to comply with 18 U.S.C. § 3509(d). Parties are instructed to follow the procedures in Local Rule 5.5 to request redactions. The Statement of Redaction form has been updated to reflect this new process. Please read the order for more information. The order is available at <https://www.mnd.uscourts.gov/cmecf/18USC3509d-order.pdf>.

Follow the Court on LinkedIn!

The Court has a LinkedIn page! See what is happening at the Court by following us on LinkedIn: <https://www.linkedin.com/company/u-s-district-court-district-of-minnesota/>. ■

Tricia Pepin is the Chief Deputy Clerk at the United States District Court for the District of Minnesota. If you have a question or topic you would like addressed in the Clerk's Corner, please contact Tricia at tricia_pepin@mnd.uscourts.gov.

Chief United States District Judge John R. Tunheim Hosts Summer Associates and Law Clerks for Summer Luncheons

By Kau Guannu

This summer, Chief United States District Judge John R. Tunheim hosted two luncheons at the Minneapolis Federal Courthouse for summer associates and law clerks. At the June 19, 2019 luncheon, Chief Judge Tunheim opened with a synopsis of the federal court system, covering venue, case distribution, and the active case load of the Court. Being as busy as

he is, Chief Judge Tunheim told the summer associates and clerks that he continues to learn new things every day. The opportunity for continued learning, along with the other abundant opportunities available in federal court, are some of the reasons Chief Judge Tunheim provides clerkship opportunities on a term basis and encourages attorneys to make appear-

ances in federal court early in their careers. The luncheon ended with a question-and-answer session, during which Chief Judge Tunheim talked about the importance of strong and succinct brief writing, preparedness and flexibility with respect to oral advocacy, and the benefits of clerking and getting involved in local and state bar associations. ■

Kau Guannu is a 3L student at the University of St. Thomas School of Law and was a 2019 summer associate at Felhaber Larson.



Chief Judge Tunheim with Felhaber Larson summer associate Kau Guannu



Chief Judge Tunheim with Ballard Sphar summer associates Naphtalie Librun-Ukiri (left) and Addison Morgan (right)



Chief Judge Tunheim addresses luncheon attendees

Federal Practice Seminar, continued from page 6.



Immigration Panel L to R: Eric Janus, Ana Voss, Courtney Campbell, Colin Johnson (leaning back), Sarah Brenes, Justin Cummins, Bruce Nestor



L to R: Jim Volling, Kito Bess, Reentry Court graduate Everett Ware, Judge Nelson



Fake News Panel L to R: Laura Johnson, Leita Walker, Douglas Burns, Suki Dardarian, Briana Bierschbach, Emily Caron

White Collar, continued from page 14.

gender inequalities. The panel and the attendees agreed that a useful new strategy to improve gender bias and discrimination is an overall mindfulness that the challenge still exists and for attorneys to take the time to improve

their own habits to promote an inclusive legal environment. In effect, the best new strategy is an old principle: take the time to treat opposing counsel, irrespective of gender, fairly, and with dignity and respect. ■

Chad Pennington practices with the Office of the Federal Defender-Fargo and is Co-Editor of Bar Talk.



L to R: Marnie Fearon, Judge Nelson, Manny Atwal, Aaron Morrison, Julie Allyn

Disability Justice Seminar, continued from page 4.

University of St. Thomas Law School has done. The final two panelists, LuAnn Hudson and Susan Lang, spoke about the Law School's commitment to hiring, training, and retaining employees who have disabilities. Hudson, an Administrative Assistant in the Dean's Office, is resolute in ensuring that people with disabilities can succeed when they work for the Law School. Lang has worked for the Law School as an office assistant for the past nine years and has developmental disabilities. She shared that the Law School treats her with dignity and respect, and she spoke proudly about her thirty-plus-year history of working in different customer service industries.

The event was powerful, illuminated with speakers sharing their personal successes and challenges as they battle discrimination in the workplace and the courtroom. Robins Kaplan attorney Chelsea Walcker moderated the event and led the group in sharing their personal stories and transformational experiences. Audience members left the seminar with Scheller's bold, unfaltering call to action: "To the employers in the room, give us a chance." ■

Irina Vaynerman is Deputy Commissioner for the Minnesota Department of Human Rights.

Law Day, continued from page 12.

justice-focused attorneys we are fortunate to have in Minnesota. She reminded attendees that equal justice lives in the work of Legal Aid and in all attendees' minds, hearts, and actions. Her coda, a beautifully sung *a cappella* rendition of "The Impossible Dream (The Quest)," ended the event on a literal high note and left attendees reflecting on what they can do going forward "to fight for what's right, without question or pause." Equal justice lives, indeed. ■

Drew P. Schaffer is the Executive Director of Mid-Minnesota Legal Aid, where he oversees Legal Aid's work to protect vulnerable people's basic civil rights in Hennepin County and central and western Minnesota, and statewide for people with disabilities.



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What's Happening in the Minnesota Chapter?

2019–2020 Monthly Luncheon Series

The Minnesota Chapter's monthly luncheons for the 2019–2020 season will be held at noon on the following Wednesdays, from September through May, at the Minneapolis Club, 729 Second Ave. S. The dates are as follows:

September 11, 2019
 October 16, 2019
 November 20, 2019
 December 11, 2019
 January 8, 2020
 February 12, 2020
 March 11, 2020
 April 8, 2020
 May 13, 2020

You can register for a season pass on the Chapter website.

Minneapolis Club
 729 2nd Avenue South
 Minneapolis, MN 55402

September 18: Newer Lawyers Committee Luncheon on Gender Equity in the Profession

The Newer Lawyers Committee is pleased to host a luncheon featuring a presentation by United States Magistrate Judge Steven E. Rau on the topic "Gender Equality in the Profession." This luncheon is graciously sponsored by Briggs and Morgan and will be hosted in the firm's Minneapolis office. Food from Soul Bowl will be provided free of charge. FBA members and non-members are invited to attend. Please RSVP on or before September 13, 2019. Elimination-of-Bias CLE credit will be requested.

Time: 12:00 pm – 1:00 pm

Location: Briggs & Morgan, 2200 IDS Center, 80 South Eighth Street, Minneapolis

Registration: <https://events.r20.constantcontact.com/register/eventReg?oeidk=a07egjp280r56d85b7e&ose-q=&c=b8ef7f60-d63e-11e8-b011-d4ae52806905&ch=b9030760-d63e-11e8-b011-d4ae52806905>

Questions and Requests for Accommodations: kkroll@winthrop.com

National FBA Membership Challenge

FBA National has instituted the 20K x 2020 Membership Challenge, the purpose of which is to grow the FBA membership to 20,000 by February 2020.

The Membership Challenge is a friendly chapter v. chapter competition to:

- Grow each chapter's membership by at least ten percent by February 29, 2020
- Earn cash and non-cash prizes
- Be recognized at the FBA Centennial Gala event at the March 2020 Leadership Summit

Look for more information from the Membership Committee soon. Additional information is available at <http://www.fedbar.org/Leadership/Leadership-Resources/FBA-Centennial-/20K-x-2020-ChapterChallenge.aspx>.

Upcoming Events:

September 18, 2019

Newer Lawyers Luncheon
"Gender Equality in the Profession"

United States Magistrate
 Judge Steven E. Rau
 12:00 pm
 Briggs & Morgan in Minneapolis

October 16, 2019

Monthly Luncheon
"A Conversation with our New Governor"
 Governor Timothy J. Walz
 12:00 pm
 Minneapolis Club

November 20, 2019

Monthly Luncheon
 United States Magistrate
 Judges Hildy Bowbeer and
 Becky R. Thorson
 12:00 pm
 Minneapolis Club

December 11, 2019

Monthly Luncheon
 12:00 pm
 Minneapolis Club

January 8, 2020

Monthly Luncheon
 12:00 pm
 Minneapolis Club

Editors-in-Chief
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Bar Talk is the official newsletter of the Minnesota Chapter of the Federal Bar Association, published quarterly by the *Bar Talk* Committee. For any inquiries or article suggestions, please contact **Chad Pennington** (Chad_Pennington@fd.org) or **Kari Dahlin** (kmdahlin@arthurchapman.com).

A special thank you to **Gerri Rishel**, Courtroom Deputy to Senior United States District Judge Michael J. Davis, for her proofreading expertise, and **Taya Swenson Schmid**, Dorsey & Whitney LLP, for formatting this issue.

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.



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