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**Federal Bar
Association**
Minnesota Chapter

Bar Talk

United States District Judge Eric C. Tostrud Welcomed to the Bench

By Rachel Kitze Collins



U.S. District Judge Eric C. Tostrud

On September 6, 2018, by unanimous voice vote, the United States Senate confirmed Eric C. Tostrud to a seat on the United States District Court for the District of Minnesota. Together with the appointment and confirmation of United States District Judge Nancy E. Brasel, the District of Minnesota returns to full strength for the first time in more than two years.

Judge Tostrud grew up in Woodbury, Minnesota. His father, Jerrol, worked for West Publishing for thirty-six years. His mother, Alleen, taught high school history and English before deciding to stay home with her three children. Judge Tostrud's parents were active in the community, which he describes as close knit and full of role models; he could learn something from everyone.

Judge Tostrud graduated from St. Olaf College in 1987 with degrees in political science and speech. The Tostruds are legacy Oles—Judge Tostrud's parents, siblings, spouse, children, and many other relatives all attended St. Olaf. Judge Tostrud met his wife, Laurie, at St. Olaf. They

Judge Tostrud, continued on page 2.

Chief United States District Judge John R. Tunheim Delivers State of the District Address

By Chad Pennington

Chief United States District Judge John R. Tunheim delivered the State of the District of Minnesota address at the January 9, 2019, monthly luncheon. Chief Judge Tunheim reported that the state of the District is strong.

The District celebrated many highlights in 2018, including the following:

- United States District Judges Eric C. Tostrud and Nancy E. Brasel assumed active status of the third and sixth District Judgeships, replacing United States District Judges Ann D. Montgomery and Donovan W. Frank, who assumed senior status.
- United States Magistrate Judge Elizabeth Cowan Wright was appointed to replace United States Magistrate Judge Franklin L. Noel, who retired after twenty-nine years of service.

Chief Judge Tunheim's Address, continued on page 2.

Judge Tostrud, continued from page 1.

have two children, Elsa, who teaches high school math in Forest Lake, and Ty, who is a senior at St. Olaf.

Judge Tostrud's St. Olaf constitutional law class with Professor Charles Umbanhowar made him realize he would enjoy law school. But the decision to go to law school was not pre-ordained. Judge Tostrud considered enrolling in seminary or becoming a high school social studies teacher but decided on law school as a good first step.

Judge Tostrud began law school at the William Mitchell School of Law in the fall of 1987. It was not until a couple of months into law school that Judge Tostrud felt a sense of purpose and a calling. His favorite instructor was Professor Eric Janus, who taught civil procedure. Professor Janus asked his students to "dig deep and learn the difficult aspects of the law," but "was always attentive to the practical consequences of whatever you were studying."

Professor Janus suggested that Judge Tostrud apply for a clerkship following law school. The late United States District Judge Edward J. Devitt of the District of Minnesota hired Judge Tostrud on the spot during his interview. Judge Tostrud describes his clerkship with Judge Devitt as the

"greatest job I'll ever have, including this one." The highlight of his time with Judge Devitt was the trial of Walter Leroy Moody, Jr., who had been accused of sending the mail bombs that killed United States Eleventh Circuit Judge Robert S. Vance and civil rights lawyer Robert Robinson. Judge Tostrud said that both the prosecution and defense did an excellent job litigating the case and that he learned a great deal from that experience.

Sadly, Judge Devitt passed away on March 2, 1992, during Judge Tostrud's clerkship. Judge Tostrud reflects that, while all who knew Judge Devitt had great respect for him, their respect was "immeasurably greater" if they were around him during the last few days of his life because he died "with such grace and such dignity."

Shortly after Judge Devitt passed away, Judge Tostrud went to clerk for United States District of Columbia Circuit Judge George E. MacKinnon. Judge Tostrud describes Judge MacKinnon as an independent thinker who always had a particular and precise way of viewing a problem. The worst thing to say to him was "I know what you mean," then state what you thought he meant, because "you were never precise enough."

Judge Tostrud, continued on page 4.

Chief Judge Tunheim's Address, continued from page 1.

- United States Magistrate Judges Steven E. Rau and Tony N. Leung and part-time United States Magistrate Judge Jon T. Huseby were reappointed to another term.
- Erica MacDonald was appointed United States Attorney and Kito Bess was appointed Chief United States Probation and Pretrial Services Officer.
- The Fergus Falls courthouse is undergoing renovations.

Chief Judge Tunheim reported that civil and criminal filings were down in 2018. As to the civil docket, health care and pharmaceutical cases comprised the largest case filings in the District, followed by civil right and labor disputes. As to the criminal docket, drug offenses were the most common charged offenses, followed by fraud and firearm indictments. The District presided over twenty-two criminal and nineteen civil trials in 2018. At the end of 2018, eight multi-district actions were pending in the District.

During 2018, Probation and Pretrial Services actively managed 1,436 cases, closed 287 cases, and revoked 142 supervised releases. Supervised release revocations in the District were slightly lower than the national average. Seven people completed reentry court programming in 2018.



Chief Judge Tunheim delivering
State of the District address

Chief Judge Tunheim's Address, continued on page 10.

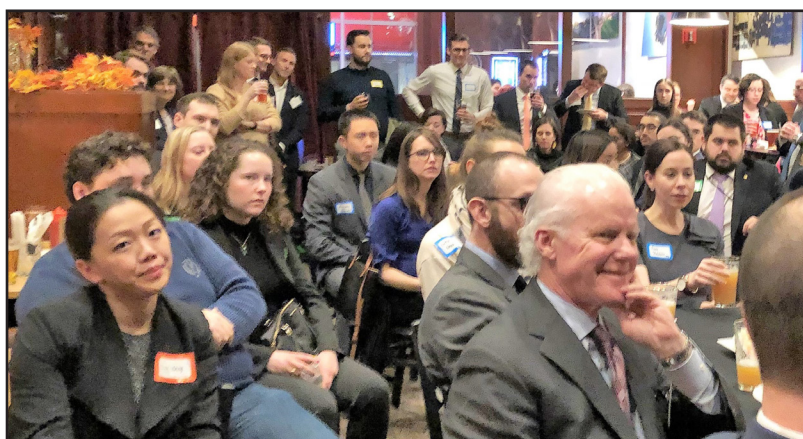
Pro Se Project: The Civil Equivalent of *Gideon v. Wainwright*

By Cassandra Jacobsen

On January 10, 2019, the *Pro Se* Project and the FBA Newer Lawyers Committee hosted over fifty attorneys at Bar Zia for an event called “*Pro Se* and a Pint.” Attendees heard from the *Pro Se* Project’s coordinator, Tiffany A. Sanders, United States District Court Judges, United States Magistrate Judges, and volunteers about this unique and important initiative of the United States District Court for the District of Minnesota and the Minnesota Chapter of the Federal Bar Association.

To improve access to justice in the District of Minnesota, the *Pro Se* Project provides pro se litigants, through a referral from a federal judge, an opportunity to consult with volunteer counsel. Where appropriate, the pro se litigant can be represented by volunteer counsel through trial. In 2018 alone, the program referred fifty-seven pro se litigants to volunteer attorneys.

The *Pro Se* Project benefits more than just the pro se litigants. United States Magistrate Judge Kate M. Menendez shared that participating attorneys make court appearances and argue motions—experiences often hard to come by for younger attorneys.



Pro Se and a Pint attendees learn about opportunities to serve.

Pro Se and a Pint, continued on page 6.

Eighth Circuit Holds Sovereign and Legislative Immunity Bar Claims Against Missouri State and Governor for Violations of the Sixth Amendment Right to Counsel

By Archana Nath

The Eighth Circuit held this month that sovereign and legislative immunity prevent a suit alleging Sixth Amendment violations from proceeding against the State of Missouri and the governor of Missouri, reversing an order by the District Court for the Western District of Missouri. *Church v. Missouri*, ---F.3d---, No. 17-2857, 2019 WL 149484 (8th Cir. Jan. 10, 2019); *Church v. Missouri*, 268 F. Supp. 3d 992 (W.D. Mo. 2017). In this putative class action, the plaintiffs allege Missouri failed to meet its constitutional obligation to provide indigent defendants with meaningful representation.

The district court opinion detailed a litany of inadequacies at the Missouri State Public Defender (“MSPD”), from severe underfunding to insurmountable caseloads and the repeated failure to provide adequate representation, or any representation at all, at various critical stages of a criminal

case. *Church*, 268 F. Supp. 3d at 997-1008. Missouri has the second-lowest average funding per case in the country (\$356 per case), and numerous studies over the years found the Missouri public defender system is “broken,” “on the verge of collapse,” and “lack[s] the necessary resources to provide competent representation.” *Id.* at 998-99.

The district court agreed with the plaintiffs that sovereign immunity does not bar their claims for injunctive relief against the State. *Id.* at 1009-10 (relying on *Wyman v. Mo. Dep’t of Mental Health*, 376 S.W.3d 16 (Mo. Ct. App. 2012)). As to the governor, the district court applied the *Ex parte Young* principle that sovereign immunity will not prohibit a suit seeking prospective relief for a violation of federal law if the state official has “some connection with the enforcement” of that law. *Church*, 268 F. Supp. 3d at 1011-12; see *Ex parte Young*, 209 U.S. 123 (1908).

Church v. Missouri, continued on page 6.

Judge Tostrud, continued from page 2.

Judge Tostrud knew from his civil procedure class and clerkships that he wanted to litigate. After his second year of law school, he began working at Lockridge Grindal Nauen P.L.L.P., and returned there after his two clerkships.

Judge Tostrud describes the lawyers and partners he worked with as smart, creative, great writers, great thinkers, and as having very high expectations. Judge Tostrud joined LGN expecting to do primarily intellectual property and antitrust litigation, but after a large client left the firm, he developed his own practice, he advises to focus on the health care, insurance coverage, fraud, and financial services fields. To build your own practice, focus on the quality of your work, because “clients find quality first.” Judge Tostrud notes that the practice of law is much more competitive now and that clients are more sophisticated and demanding, requiring lawyers to adapt and become more creative in how they approach the practice.

Judge Tostrud maintained an active pro bono practice at LGN, which included representing military veterans before the United States Court of Appeals for Veterans Claims. Judge Tostrud began teaching legal writing at William Mitchell soon after he started practicing and later taught federal jurisdiction at both William Mitchell and the University of Minnesota Law School. He took a full-time teaching position with Mitchell Hamline School of Law in 2015. Judge Tostrud says the most rewarding aspect of teaching is when students come back and tell him that they have encountered a professional experience that put their knowledge of the material to the test.

Judge Tostrud has also given back to his collegiate alma mater. In 2001, he founded the Kloeck-Jenson Endowment for Peace and Justice Studies at St. Olaf, in honor and in memory of his college roommate, Scott, his wife Barbara, and their two children, who died in a tragic car accident while Scott was working for USAID in Mozambique. Judge Tostrud describes Scott and Barbara as two people who were going to change the world for the better. He will never forget when, after they passed away, one of their friends asked, “Who will do their work?” They created the endowment to fund opportunities for students at St. Olaf to pursue work in civic engagement and public service.

In February 2018, President Trump nominated Judge Tostrud to the federal bench. During his clerkship with Judge Devitt, Judge Tostrud thought he would love the work of a judge. But, always practical, Judge Tostrud noted that while becoming a judge was something to think and dream about, it was not something he ever thought would come true. He advises that anyone interested in becoming a judge should apply multiple times, as most candidates face rejection several times before they are nominated. He expresses gratitude to United States Senators Amy Klobuchar and Tina Smith and former United States Representative Erik Paulsen for their work on his confirmation, as well as his co-nominee Judge Brasel for her support.

Regarding his approach to judging, Judge Tostrud refers to Judge Devitt’s “Ten Commandments for the New Judge,” the most important of which is “there are no unimportant cases.” Judge Tostrud wants the lawyers who appear before him to know that when he walks into court, he will have made his best effort to read everything every time. Judge Tostrud cites the *Pro Se* Project as an excellent opportunity for young lawyers not just to argue in federal court, but also to manage their own case and their own client. He also repeats the advice he gives when he teaches oral advocacy, namely that “it’s usually best if the person who writes the brief does the argument.”

Judge Tostrud’s first official act was presiding over a naturalization ceremony where 120 people became United States citizens. He reflects that his colleagues accurately described the ceremony as one of the few places judges go where “everybody is happy to be there.” At the ceremony, Judge Tostrud conveyed a message of gratitude, hope, and expectation. Gratitude for their efforts and choice to become American citizens, hope that America remained a land of opportunity for them and their families, and expectation that the new citizens would commit to civic engagement in their new country.

Judge Tostrud thanks his new colleagues on the federal bench for their warm welcome and guidance. Although there has been a lot to learn, he has immensely enjoyed his time on the bench and looks forward to many years to come. ■

Rachel Kitze Collins is an associate at Lockridge Grindal Nauen P.L.L.P. specializing in environmental, business, and employment litigation. As a law clerk at LGN, Rachel worked with Judge Tostrud and was a student in his federal jurisdiction class at the University of Minnesota Law School, as well as a fellow graduate of St. Olaf College. Rachel clerked for Judge Loken on the Eighth Circuit prior to joining LGN.

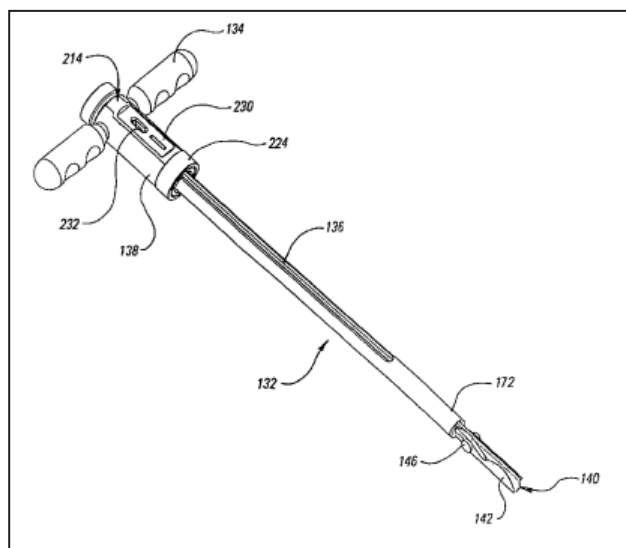
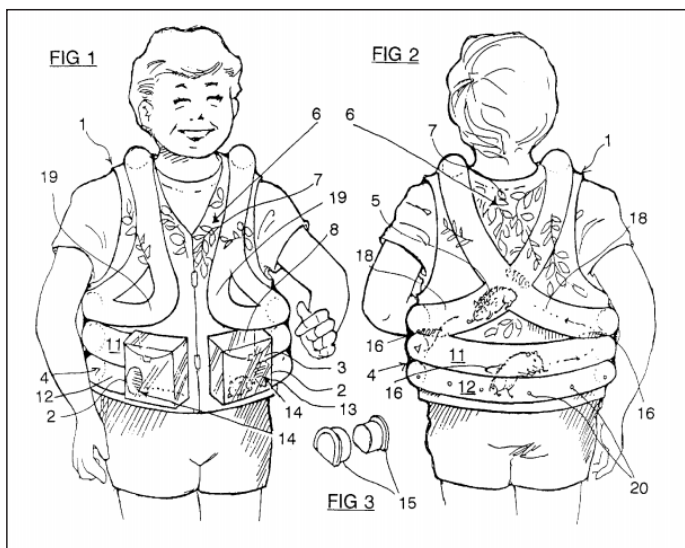
IP Committee and Newer Lawyers Committee Host Patent Litigation Primer

By Kyle R. Kroll

On December 11, 2018, the Minnesota Chapter's IP Committee and Newer Lawyer Committee hosted a "Patent Litigation Basics" luncheon CLE panel in the jury assembly room of the Minneapolis Courthouse. Three panelists presented: Brian Bender, Ann Motl, and Nate Louwagie. Each of the panelists shared patent law knowledge, expertise, and experiences with a crowd of over thirty newer lawyers.

First, Bender provided an overview of patent prosecution—the process of applying for a patent with the U.S. Patent and Trademark Office ("USPTO"). Using as an example U.S. Patent No. 5,901,666, entitled "Pet Display Clothing" (see figures), Bender overviewed the key parts of a patent, such as the specification, description, and claims (including the critical difference between "having," "including," and "comprising" terms). He then explained the many considerations that go into commencing a patent infringement lawsuit.

Motl followed Bender with a discussion of the process for litigating patents. She overviewed the typical timeline for patent litigation, drawing on her experience as a former judicial clerk in the District. Motl also spoke on *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 137 S. Ct. 1514 (2017), the Supreme Court's recent decision on venue, and how it has impacted patent litigation practice throughout the country. Motl then explained some of the unique pleadings, motions, and steps in patent litigation, such as infringement contentions and technology tutorials.



Finally, Louwagie spoke about claim construction and *inter partes* review ("IPR") proceedings before the USPTO. Louwagie used as an example U.S. Patent No. RE42,757E, entitled "Expandable Reamer" (see figure), and United States District Judge Joan N. Ericksen's interpretation of the word "body" in *Spineology, Inc. v. Wright Medical Technology, Inc.*, No. 15-CV-180, 2017 WL 3172808, at *1 (D. Minn. July 25, 2017). Louwagie explained the rules of claim construction and how they were applied in *Spineology*—with no correction, to his relief, from Judge Ericksen, who happened to be in attendance! Louwagie further explained how district court litigation varies from administrative proceedings both substantively and procedurally. The panel ended with an engaging question and answer session. Thank you to the panelists for such an insightful CLE! ■

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.

Pro Se and a Pint, continued from page 3.

United States District Judge Eric C. Tostrud talked about the value of having your own client and learning the art of client management. Judge Tostrud encouraged participation in the *Pro Se* Project as an opportunity to add a new, challenging, and exciting dimension to one's practice.

Since many pro se litigants are unfamiliar with the legal system, cases involving pro se litigants often result in more work for the courts and opposing counsel. United States Magistrate Judge Steven E. Rau spoke about how the *Pro Se* Project lessens the burden on the court, opposing counsel, and paying clients by helping the pro se litigants navigate unfamiliar territory, which reduces the amount of diverted resources for all parties involved, including the judge, court personnel and parties.

Volunteers Kaitlyn L. Dennis, Zorislav Leyderman, and Peter Doely spoke briefly about their unique experiences representing pro se litigants through the *Pro Se* Project on matters outside their usual practice area, including religious protection and land uses cases. Leyderman was recognized for his particularly high-level commitment to the *Pro Se* Project, with Magistrate Judge Rau noting that Leyderman's cases through the Project have exceeded the double digits.

Participants also heard from Chief United States District Judge John R. Tunheim, United States District Judge Wilhelmina M. Wright, and United States Magistrate Judge Hildy Bowbeer, all of whom stressed the value of the program to the courts, attorneys, and pro se litigants.

If you are interested in getting involved, please contact Tiffany Sanders at proseproject@q.com. ■

Cassandra Jacobsen is a commercial litigation associate at Cozen O'Connor and is a member of the Bar Talk Committee.

Church v. Missouri, continued from page 3.

The court concluded the governor had the requisite "some connection" under *Ex parte Young* because he (1) is constitutionally responsible for law enforcement and executing the laws faithfully, (2) upheld the previous governor's use of executive authority to withhold \$7 million in appropriations that the Legislature had allocated to the MSPD, and (3) appoints all seven members of the MSPD Commission. *Church*, 268 F. Supp. 3d at 1011-1012.

On appeal, while the Eighth Circuit first concluded the state had waived its Eleventh Amendment immunity by removing the case to federal court, it also held that states enjoy a broader immunity, which applies to *all* private suits and is not waived by removal. *Church*, 2019 WL 149484, at *2. The court held that, based on Missouri Supreme Court precedent, the bar on all suits against the state includes suits for prospective equitable relief. *Id.* at *3-*4. The Court further held that the *Ex parte Young* doctrine did not apply to the claims against the governor. The Court rejected the

first two bases for the district court's "some connection" conclusion under *Ex parte Young*, ruling: the governor's general constitutional enforcement authority and his statutory power to aid in prosecutions (not defense) did not provide a sufficient connection, nor did the governor's administrative power to appoint all seven members of the MSPD Commission. *Id.* at *6-*9. The court did not analyze plaintiffs' argument that the governor's appropriation-reduction authority meets the "some connection" requirement, and instead relied on the separate doctrine of *legislative immunity*. *Id.* at *9-*12.

The *Church* case is proceeding with the remaining defendants: the director of the MSPD office and the commissioners of the MSPD Commission. Without the state and governor in the action, however, the court cannot order Missouri to provide additional funding. The district court could still order other relief, but the question is whether such relief would be enough to mend a broken system. ■

Archana Nath is a business litigator who assists clients in matters involving health care and ERISA litigation, patent disputes, and general business disputes. A former judicial clerk for the Minnesota Supreme Court, Archana has served as lead attorney in numerous Medicare, Medicaid, and ERISA, actions nationwide for health insurers, plan sponsors, and administrators. She also represents patentees and accused infringers in patent infringement and invalidity matters across the country.

Open Doors to Federal Courts 2019 Reaches Most Students Ever

By Theresa Anderson

Open Doors to Federal Courts is a longstanding initiative of the United States District Court for the District of Minnesota, supported by the Federal Bar Association and members of the local bench and bar. It is one of the court's earliest, most popular, and most fun community outreach initiatives. Open Doors brings programming into area high schools to build bridges between the judicial system and students. In addition to educating students about how courts operate, Open Doors strives to encourage all students, particularly students of color and students from diverse and low-income backgrounds, to imagine careers for themselves in the law. Open Doors also teaches students about important substantive issues, which in the past have included such diverse topics as Dred and Harriet Scott, the Reconstruction Amendments to the U.S. Constitution, and the legacy of Justice Thurgood Marshall. Open Doors also encourages students to debate and discuss issues of equal justice, fairness, and bias in the legal system.

Open Doors 2019 promises to have its best year yet! A new and energized steering committee is working to expand its reach and impact. The committee is made up of judges and lawyers from both federal and Hennepin County courts, as well as court staff and representatives from the U.S. Probation Office. Open Doors hopes to connect with more young people in more schools than ever before. Not only is it continuing to partner with Minneapolis and St. Paul Public schools, it is building relationships with charter schools in the Twin Cities. It is working to bring Open Doors to schools

in northern Minnesota and will be visiting high schools in Bemidji and Cass Lake for the first time this year. Open Doors has also partnered with the Minnesota Hispanic Bar Association to bring the program to a local dual-immersion high school that serves a predominantly Latinx community. For the first time, this team will conduct Open Doors mock trials in Spanish!

Open Doors is striving to bring more judges and lawyers into classrooms. This year it is specifically focused on recruiting young attorneys, attorneys of color, and people with diverse practice areas and diverse career paths. Lawyers practicing in all areas and in all courts are encouraged to volunteer. Open Doors offers high school students the opportunity to see and learn from diverse lawyers. It wants to send the message to students that the courts are open to everyone and that legal careers are within their grasp. There is no better way to communicate this message than to have our volunteers reflect the diversity of the students' classrooms.

Please keep your eyes open for volunteer opportunities. Our primary weeks of activity this year will be in the month of March, so mark your calendars. Open Doors will be rolling out a new, more efficient on-line volunteer sign-up system very soon. As in previous years, Open Doors will offer two nights of training to prepare volunteers for classroom sessions. Open Doors welcomes your involvement and encourages you to share this information with friends and colleagues not active in the FBA. ■

Theresa Anderson is a Courtroom Deputy for U.S. Magistrate Judge Elizabeth Cowan Wright. She was the Courtroom Deputy for Magistrate Judge Franklin L. Noel for five years until his retirement, and prior to that she was the criminal duty clerk for the U.S. District Court, District of Minnesota. She got her start in the courts as a Senior Court Clerk in Hennepin County Juvenile Court, where she learned about the nearly insurmountable hurdles children and families born into poverty face every day and how those hurdles intersect with the judicial system.

November Luncheon Focuses on Attorney Wellness

By Chad Pennington

Few lawyers would disagree that the legal profession is stressful. Indeed, countless studies have shown that the legal profession ranks among the most stressful and that substance and alcohol abuse rates among practitioners are disproportionately high. On November 14, 2018, the monthly luncheon featured a vibrant discussion on work-related stress and its deleterious effects on the legal profession. The luncheon, entitled "Lawyer Well-Being: A Time for a Positive Change," included a distinguished group of panelists: Minnesota Supreme Court Associate Justice David L. Lillehaug; Robin Wolpert, Sapientia Law Group, and Chair, Lawyers Professional Responsibility Board; and Susan Humiston, Director, Office of Lawyers Professional Responsibility.

The panel began its discussion with an exploration of why harmful stress is so pervasive in the legal profession. The panelists agreed that the combination of litigation deadlines, the service orientation of legal work, and the professional challenges inherent to managing client expectations, demands, and potentially adverse outcomes, engenders a uniquely stressful profession. The panelists agreed that when taking on a client's cause, lawyers take on much of the client's concern and stress. That stress inevitably affects lawyers' well-being.

November Luncheon, continued on page 8.

November Luncheon, continued from page 7.

The panelists also agreed that the professional consequences of this unique stress can be significant and long lasting. Humiston stated that many of the cases of lawyer discipline addressed by the Professional Responsibility Board unfortunately center on poorly managed stress. In her experience, lawyers overwhelmed by stress are substantially more likely to commit ethical lapses and are less likely to provide competent legal representation.

The panelists agreed that a culture shift in the legal profession is long overdue. Wolpert suggested that lawyers be willing to seek out help early on when feeling stressed or overwhelmed. She also explained that, perhaps more importantly, professional organizations such as law firms do a better job creating space to allow lawyers to seek help and to provide a supportive framework when help is sought. The panelists agreed that far too often the stressed lawyer becomes the isolated lawyer, which must change.

The November luncheon was a valuable reminder that while stress is a normal part of legal practice, when that stress becomes too much, bearing it alone should not be the profession's default rule. Lawyers must get better at asking for stress-related help, and legal organizations must get better at providing it. As lawyers, although we represent different clients and opposing interests, we can and should work together to relieve workplace stress. ■

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



L to R: Robin Wolpert, Susan Humiston, Minnesota Supreme Court Associate Justice David L. Lillehaug, Joan Biebelhausen

Gateway to Legal Education Seeks to Expand Access to Legal Profession

“The idea of the program is to reach out to undergraduate students who come [from] populations traditionally underrepresented in legal education and the legal profession.... What we really tried to do was think of every possible barrier that somebody from a non-traditional or under-represented population in the legal profession might face and tried to eliminate the barriers.”

- Mark Gordon, President and Dean of Mitchell Hamline School of Law

By Le’Royce Walker

In fall 2018, Mitchell Hamline School of Law announced an innovative new program, the Gateway to Legal Education. The program’s mission is to expand access to the legal profession to underserved communities. These communities are disproportionately underrepresented within the justice system, yet they are a vital component lacking within the profession of law.

Mitchell Hamline School of Law has ventured out of the traditional model of teaching law by creating comprehensive programs that offer affordability, convenience, and accessibility to aspiring law students who have been historically absent from this profession. One such program is the Gateway to Legal Education, a pioneering effort that builds upon Mitchell Hamline’s partially online blended learning options—Hybrid, Executive J.D., and Weekend—by providing online, law-related courses to underserved students at the undergraduate level as a means of introducing those students to the opportunities available in the legal profession. These courses are offered free of charge to undergraduate institutions that partner with Mitchell Hamline and make the courses available to their undergraduate students.

Beginning in January 2019, a group of undergraduate students at Delaware State University, a Historically Black College or University (“HBCU”), is participating in an online health law class taught by a Mitchell Hamline professor. In the summer of 2019, this same group of students will have the opportunity to visit the Twin Cities for Mitchell Hamline’s first Gateway to Legal Education Summer Immersion Program. During their visit to the Twin Cities, students will be introduced to many learning experiences and activities on campus and within the metro area. Each student will be paired with a Mitchell Hamline student mentor and mentor working in the Twin Cities legal community. Students enrolled in the Summer Immersion Program will also have access to a free Kaplan LSAT prep course. Students enrolled in other Gateway to Legal Education programs will receive the Kaplan LSAT prep course at a discount.

Mitchell Hamline is currently seeking additional undergraduate institution partners to participate in its Gateway to Legal Education program, and a new course for fall 2019 is in development. This program is an endeavor that Mitchell Hamline, under the leadership of President and Dean Mark Gordon and the Gateway to Legal Education Advisory Board, hopes will catapult the profession of law into a new era. The Gateway to Legal Education Advisory Board is comprised of leaders in the legal community and is chaired by Kevin Warren, chief operating officer of the Minnesota Vikings.

Our democracy depends on leaders who know and value the role that law plays in building strong communities. Our nation is also becoming more diverse, and it is critical that leaders in the legal profession reflect the community around us. Mitchell Hamline is trailblazing in its innovative approaches to help diversify the profession, and welcomes the partnership and participation of the Twin Cities legal community in this effort. If you are interested in supporting or learning more about Mitchell Hamline’s work on the Gateway to Legal Education program, please contact Kathryn Russell (kathryn.russell@mitchellhamline.edu). ■

Le’Royce Walker is a mom of six daughters, a first-generation college graduate, and a first-year law student at Mitchell Hamline School of Law. Before law school, she worked over ten years as a social worker for various non-profits within the Twin Cities. She pursued law school to become a more-powerful change advocate and legal representative to those who are disproportionately affected by our judicial system.

Chief Judge Tunheim Address, continued from page 2.

The District had the highest number of terrorist-related cases in the United States. Chief Judge Tunheim highlighted that the District had implemented the Minnesota Extremism Disengagement Program, the first of its kind in the United States.

Chief Judge Tunheim also addressed the government shutdown and implications for the District in light of the lapse in funding. He explained that, since court functions are considered essential, staff would move to non-pay status after funding was depleted. The District had secured funding to maintain operations through late January but would be required to delay salary and juror payments if the shutdown had persisted. As to pending cases, fourteen stays had been issued in cases involving the United States as a party. Chief Judge Tunheim stressed that the District would work through the lapse in funding and continue to serve the people of Minnesota. ■

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

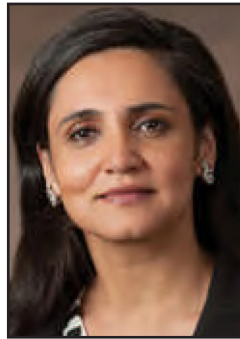
Presidents of the Minnesota Chapter of the FBA



**District Judge
Donovan W. Frank**
2010-2011



Patrick R. Martin
2011-2012



Rachna D. Sullivan
2012-2013



**District Judge Joan
N. Erickson**
2013-2014



**Rachel Zimmerman
Scobie**
2014-2015



Bill Otteson
2015-2016



Tara Norgard
2016-2017



**District Judge
Susan Richard
Nelson**
2017-2018



Kelly G. Laudon
2018-2019



**Magistrate Judge
Tony N. Leung**
incoming 2019-2020

Senior District Judge Donovan W. Frank Celebrated at Portrait Ceremony

By Amy Gernon



L to R: daughter Lindsay, mother Elaine Stadelman, Judge Frank, daughter Rachel, wife Kathy, daughter Hilary, and son-in-law Sterling Rector

On November 2, 2018, the official portrait of Senior United States District Judge Donovan W. Frank was unveiled during a special session of the United States District Court for the District of Minnesota in the Warren E. Burger federal courthouse in St. Paul. The portrait will be permanently displayed in Judge Frank's courtroom.

Portrait artist Cyd Wicker spoke about her inspiration for the portrait. She described the portrait as "very colorful," based in part on Judge Frank's decision to wear his favorite Jerry Garcia tie. Ms. Wicker explained that Judge Frank selected several meaningful objects to appear in the portrait, including rocks from the site of the Senator Paul Wellstone plane crash, a medallion representing his forty-two years of sobriety, a picture celebrating the Americans with Disabilities Act, his wedding ring showing his commitment to his wife Kathy and their five daughters, and the watch his mother Elaine gave him.

During the ceremony, several speakers recounted memories from Judge Frank's distinguished career. Chapter President Kelly Laudon thanked Judge Frank on behalf of the bar for teaching us to embrace "our best and authentic selves." Senior United States District Judge Michael J. Davis and United States Magistrate Judge Becky

R. Thorson spoke as friends and colleagues, using quotations about portrait art as inspiration to discuss Judge Frank's legacy. Dr. Colleen Wieck, Executive Director of Minnesota Governor's Council on Developmental Disabilities; Karen Loven, self-advocate; and Katie McDermott from The Arc Minnesota found creative ways to illustrate Judge Frank's hard work and friendship. Finally, Laura Johnson, a former career law clerk and fellow Iron Ranger, spoke on behalf of Judge Frank's law clerks, thanking him for his progressive work policies and for teaching us "so much about hard work and devotion to the law." And of course, each speaker mentioned Judge Frank's love of ice cream, a nod to which is hidden in the portrait.

The portrait was presented to Judge Frank by his family and is a tribute to Judge Frank's twenty years of service as a federal judge. Judge Frank closed the ceremony by describing his journey to becoming a federal judge and thanking the many people, including family, friends, professors, and colleagues, who supported him along the way.

President William Jefferson Clinton appointed Judge Frank to the Court on May 21, 1998, and he assumed his duties on November 2, 1998. ■

Amy Gernon is an attorney at Sapientia Law Group. She served as Judge Frank's career law clerk from 2006-2011.



Pro Se and a Pint

L to R: Zorislav Leyderman, Tiffany Sanders, Peter Doely,
U.S. District Judge Eric C. Tostrud

November Luncheon
L to R: Minnesota Supreme Court Associate Justice David L.
Lillehaug, Susan Humiston, Robin Wolpert



Fifth Annual Affinity Bar Meet-and-Greet

L to R: Alia Abdi, U.S. Magistrate Judge Tony N. Leung, Danielle Mair, Vildan Teske, Uzodima Franklin Aba-Onu

Diversity Committee Co-Sponsors Implicit Bias CLE Addressing Mental Health and Double Stigma

By Chad Pennington

On November 8, 2018, Joan Bibelhausen, Executive Director of Lawyers Concerned for Lawyers (“LCL”), led a discussion at the Minneapolis federal courthouse entitled “Implicit Bias in the Legal Profession: Mental Health and Double Stigma.” The event was sponsored by LCL and the Diversity Committee.

Mental health issues are workplace diversity and inclusion issues, says Bibelhausen. Although state and federal laws prohibiting disability discrimination likely cover mental health issues, major obstacles still prevent mental health issues from proper recognition in the legal profession. For example, Bibelhausen stated that people may choose not to disclose their mental health issues to their employer, so there is far less tracking of success in hiring, promotion, and retention than in other areas of diversity and inclusion. Given this underrepresentation, LCL has joined with other affinity bars to embrace mental health in their broader diversity and inclusion missions. Bibelhausen stated that the need to recognize mental health obstacles is particularly crucial in the legal profession because so many lawyers have the actual or potential need for accommodation, whether the mental health challenge be sensory, psychiatric, or, most commonly, substance abuse.

The discussion focused on how implicit bias keeps lawyers from seeking help for mental health challenges. Bibelhausen stated that there is genuine stigma in the legal profession toward lawyers who seek help for, or even acknowledge that they suffer from, mental health challenges, including substance abuse. Individuals from other diverse groups within the legal profession may experience a double stigma or double disparate impact when suffering from an undisclosed mental health issue. Double stigmatized individuals are even less likely to ask for help.

The discussion identified strategies to address and mitigate mental health stigma and reduce the implicit bias that lawyers suffering from mental health challenges may suffer. Bibelhausen acknowledged the important work of Paulette Brown, a former ABA President and member of the ABA Diversity and Inclusion 360 Commission. The 360 Commission focuses on implicit bias and raises awareness of mental health disorders that have been overlooked in the legal profession. As Brown stated at a 2016 conference, “it must be acceptable for people to come out with mental health issues.” “We cannot avoid [mental health] issues and hope that they will go away.” “Perhaps then people needing help can seek the attention they need with less trepidation about reaching out. It is the only way to remove the stigma.”

LCL provides free and confidential peer and professional support to lawyers, law students, and their immediate family members suffering from mental health challenges. LCL also offers help and twenty-four hour counseling to those affected by alcohol, drugs, or other addictions; depression, anxiety, stress, and other life-related problems; and any condition that negatively affects the quality of one’s life at work or home. Although much work is needed, Bibelhausen is confident that the Minnesota legal community can reduce mental health stigma by bringing it out of the shadows. To learn more or to get involved with LCL, call 651-646-5590 or email help@mnlcl.org. ■

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



L to R: Colin Pasterski, Shaun Parks, Joan Bibelhausen, Uzodima Franklin Aba-Onu, Danielle Mair, Vildan Teske



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FBA Diversity Committee Hosts Fifth Annual Affinity Bar Meet-And-Greet

By Alia Abdi

On January 17, 2018, the Diversity Committee hosted its Fifth Annual Affinity Bar Meet-and-Greet event. The event, hosted at Zimmerman Reed, brought together Minnesota's affinity bar leaders, members, and FBA leadership. The participating affinity bar organizations included the Minnesota Association of Black Lawyers, the Minnesota Hispanic Bar Association, the Minnesota Asian Pacific American Bar Association, Minnesota Women Lawyers, the Minnesota Lavender Bar Association, Twin Cities Diversity in Practice, the Somali American Bar Association, and the Minnesota American Indian Bar Association. There was also an incredible attendance by members of the state and federal judiciary.

The Affinity Bar Meet-and-Greet provided an opportunity to connect attorneys and judges who are committed to encouraging and improving the diversity of the Minnesota bar. The event kicked off with a welcome by the co-chairs of the Diversity Committee who reaffirmed their commitment to advancing diversity through a series of upcoming events and initiatives. The event also included a warm welcome by United States Magistrate Judge Tony N. Leung on behalf of the Minnesota Chapter. Over good food, attendees discussed the activities of their respective bar associations and opportunities to collaborate with one another. The event was nothing short of uplifting as attendees left energized in their efforts to improve opportunities for the diverse groups within our legal community. ■

Alia Abdi is an attorney at Zimmerman Reed LLP practicing consumer protection, securities and financial fraud, and antitrust law. Alia is a member of the Diversity Committee.



Attendees enjoy making meaningful connections

Upcoming Events:

March 20, 2019

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

April 10, 2019

*Monthly Luncheon "Emerg-
ing Immigration Issues in
Federal Court"*
12:00 pm
Minneapolis Club

April 13, 2019

*IP Practice Group Hosts
Girl Scouts to Learn About
IP Law*
St. Paul Federal Court-
house

May 4, 2019

*Annual Federal Judges'
Dinner Dance*
Minikahda Club

May 8, 2019

Monthly Luncheon
U.S. District Judge Nancy
E. Brasel
12:00 pm
Minneapolis Club

June 20, 2019

Federal Practice Seminar
Windows on Minnesota

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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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