

OCTOBER 17, 2008

MINNESOTA CHAPTER OF THE FEDERAL BAR ASSOCIATION

# Bar Talk



## WELCOME STATEMENT FROM THE PRESIDENT

This issue is the first in the second year of *Bar Talk* which won a National FBA award for excellence last year in its first year of publication. This year we will be publishing *Bar Talk* on a quarterly basis. If you have any suggestions about *Bar Talk* or article suggestions, make sure to contact **Patrick Arenz** or other members of the Communications Committee.

The FBA year kicked off with a well-attended and fun golf tournament on August 25th and the foursome **Joe Dixon, Court Anderson, Bill Forsyth, and Bruce Recher** won the event with a scramble score of 60. On September 17th our new **Chief Judge, Michael Davis**, gave a State of the Judiciary speech at our kick-off luncheon. And finally, on September 28th, the Minnesota Chapter of the Federal Bar Association hosted a reception that honored the opening of the remodeled St. Paul Courthouse. The event was well-attended for a Sunday evening. If you have not had a chance to visit the remodeled courthouse, please take some time and visit it. The remodeled courtrooms and technology are marvelous. [CONT. PG. 5]

## CHIEF JUDGE MICHAEL J. DAVIS

When he was young, he thought he would grow up to be a doctor. It is a good thing for the United States District Court for the District of Minnesota that he changed career paths. Otherwise, our District would not be led by **Chief Judge Michael J. Davis** today.

Chief Judge Davis was born in Cincinnati, Ohio, and spent his childhood in Aurora, Illinois. It was when he came to Macalaster College in St. Paul that he realized he would dedicate his career to helping people through the law instead of medicine. After graduating from Macalaster, Chief Judge Davis attended the University of Minnesota Law School, where he earned his J.D. in 1972.



From left: Judge Rosenbaum ceremoniously turned over the revered bowtie to Chief Judge Davis. Chief Judge Davis then addressed the Minnesota Chapter of the FBA sporting his new neckwear.



Chief Judge Davis' legal career is rooted in serving the community around him. While a law student, he clerked at the Legal Rights Center in Minneapolis. After graduating from law school, he worked as a criminal defense attorney at the Legal Rights Center and the Neighborhood Justice Center in St. Paul. In 1978 he became an Assistant Public Defender in Hennepin County.

At the age of 35, Chief Judge Davis was appointed municipal judge, and two years later, he began a decade of service as Hennepin County district court judge. In 1993, **President Clinton** appointed Chief Judge Davis to the federal bench in the District of Minnesota, where he has presided over hundreds of matters ranging from single-claim actions to the multi-district Baycol product liability litigation. But Chief Judge Davis' judicial duties have not been [CONT. PG. 3]

## A RECAP OF THE EIGHTH CIRCUIT JUDICIAL CONFERENCE

The Eighth Circuit Judicial Conference held from August 13-15, 2008, in Chicago, Illinois, consisted of a diverse range of topics and presentations from members of the bar, professors, and judges.

One theme of the conference was the unique history of the Eighth Circuit and its impact on the court's jurisprudence. **Thomas Boyd** of Winthrop & Weinstine, President of the Eighth Circuit Bar Association, praised the Eighth Circuit Historical Society's recent publication *Establishing Justice In Middle America: A History of the United States Court of Appeals for the Eighth Circuit*, written by **Jeffery B. Morris**. **Judges Arnold, Bright, and Melloy** later joined Morris for a panel discussion to discuss the book and the Eighth Circuit's [CONT. PG. 3]

## THE WARREN E. BURGER FEDERAL BUILDING AND UNITED STATES COURTHOUSE

After three years of working out of interim facilities in a nearby downtown St. Paul office building, judges and court staff moved back into the newly-renovated Warren E. Burger Federal Building and United States Courthouse in early September. The move was necessitated by a sixty-five million dollar makeover of the courthouse that included much-needed upgrades for security, expansion, and renovation of court facilities, and total replacement of the mechanical and electrical systems. The renovation was the first major upgrade in the forty-year history of the building, according to **Senior U.S. District Court Judge Richard H. Kyle**, the federal court's liaison for the project.

**Richard Gilyard**, consultant architect for the district court, said the renovation was successful because of the collaborative spirit of all involved with the project. "I've worked on eleven new courthouses, and this is the most satisfying and rewarding team project," he said.

From the beginning, a key aspect of the renovation was improving the building's security. Prior to the renovation, criminal defendants arriving for court appearances were unloaded into the same parking garage used by judges, staff, and other employees in the building. In the renovated building, however, there is a separate garage for dropping off criminal defendants that is separate from the main parking facility. In addition, the renovated building includes a secure elevator system and new holding cells with stainless steel equipment and reinforced block walls.

The public entrance points to the building have also been changed to provide greater security. In addition to the Robert Street Plaza entrance, the public can still access the building from the skyway, but visitors must now travel down to the lobby level via a staircase or an elevator, and must pass through a security checkpoint before entering the building. Although there had never been an escape or other security incident in the courthouse, Judge Kyle said the upgrades make the building safer for everyone.

The renovation was also necessary to accommodate growth in the District of Minnesota and to improve the flow of people through the building. Additional courtrooms were added, and high-volume areas such as the Clerk of Court's Office were moved to more convenient locations.

"We knew we were growing," Judge Kyle said. "We also thought we should make it more of a courthouse than a federal office building." To that end, the Social Security Office that took up much of the first floor was moved to another downtown building. In its place are a new special proceedings courtroom, the Clerk of Court's Office and the jury assembly room. Moving the latter two areas from the seventh floor to the first floor keeps traffic in other parts of the building to a minimum and also decreases elevator usage, Judge Kyle said. "The renovation really improved traffic patterns through the building," Judge Kyle explained.

Three of the new courtrooms were added to the space vacated by the Internal Revenue Service on the third



FBA Minnesota Chapter President, Steven Rau, honors Judge Kyle for his hard work and dedication as the federal court's liaison for the St. Paul Courthouse renovation.

**CHIEF JUDGE DAVIS (CONT.)**

limited to our District. In May of 1999, he was appointed by **Chief Justice William H. Rehnquist** to the Foreign Intelligence Surveillance Court, known as FISA, for a seven-year term.

Chief Judge Davis' commitment to public service extends far beyond the bench. He is past-president of the Minnesota Chapter of the FBA and currently serves on the Board of Directors for the Legal Rights Center and the Volunteer Lawyers Network. He also is an Advisory Board Member of the Jack Mason Law and Democracy Initiative, a project of Books For Africa, and a member of the Sigma Pi Phi Omicron Boulé Fraternity. In addition, Chief Judge Davis has taught students near and far. He is an Adjunct Professor at the University of Minnesota Law School and has lectured at Oxford University and the FBI Academy. Chief Judge Davis has received numerous awards and recognition for the work he has done on behalf of the Twin Cities.

On July 1, 2008, Judge Davis became the ninth Chief Judge of our District and the first African American to hold that position. The event was celebrated with the "passing of the bowtie" ceremony at the Annual Federal Practice Seminar's Mason Memorial Luncheon on June 26, 2008. It was there that former **Chief Judge James M. Rosenbaum** passed the ceremonial—and distinctive—bowtie worn by former **Chief Judge Gunnar H. Nordbye** over fifty years ago. Given its unique and historical nature, Chief Judge Davis has opted to maintain the bowtie in a special glass encasement protected in the clerk's office, rather than wear it as judicial accoutrement.

Although he has held the title of Chief for just over three months now, Judge Davis has not had much time to ponder its significance. He has simply taken on the role with the quiet and strong command for which he is so well known and respected. Among other things, Chief Judge Davis has quickly moved on initiatives he has identified for his term, such as working with the Red Lake Band of Ojibwe to foster the relationship between our District and that sovereignty, coordinating with our Chapter to ensure every pro se litigant in our district in need of representation has access to an attorney, and helping to open the newly renovated Warren E. Burger Federal Building and United States Courthouse. And while Judge Davis may have taken on many new projects when he assumed the role of Chief, his agenda for the District also reflects his deep commitment to lifelong goals. For example, he is dedicated to fostering meaningful diversity in the legal community and has made an unqualified offer to speak to any group who invites him to share his thoughts on this issue.

Chief Judge Davis is married to **Sara Wahl**, Senior Assistant County Attorney for Hennepin County. They are the proud parents of two sons, one who is in college and another who is a community organizer.

He would have made a great doctor. But the District of Minnesota is glad he opted for law school. We are honored to welcome Judge Michael J. Davis as our Chief.

*Tara Norgard is the Secretary for the Minnesota Chapter of the FBA and an attorney at Carlson, Caspers, Vandenburg & Lindquist.*

**EIGHTH CIRCUIT RECAP (CONT.)**

history, including the unique geography of the Eighth Circuit and the economic differences that contributed to this Circuit's rich history.

One example of the unique history of the Eighth Circuit is illustrated by *Cooper v. Aaron*, a desegregation case that involved Central High School in Little Rock, Arkansas. A multi-media presentation, narrated by **Drake Mann** and **Colette Honorable**, traced the court's decision and the implementation of the desegregation mandates in Arkansas including **President Eisenhower** calling in the National Guard. Although a majority of the civil-rights cases in this era were decided by the Fourth and Fifth Circuits, the inclusion of Missouri and Arkansas—both former segregationist states—in this Circuit resulted in some of these important issues being considered by the Eighth Circuit. These cases are just one example of the Eighth Circuit's long-standing defense of individual civil rights.

On Friday, the conference shifted focus to the U.S. Supreme Court. **Professor Suzanna Sherry** reviewed the Court's decisions in the 2007-08 session, noting that of the four Eighth Circuit cases

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and fourth floors. Two of the third floor courtrooms will be occupied by **Magistrate Judge Arthur J. Boylan** and **Magistrate Judge Jeanne J. Graham**. The third courtroom will be used as needed and may eventually be occupied permanently if Congress approves an additional judgeship for the District of Minnesota, Judge Kyle said. The large special proceedings courtroom on the first floor is named for the **Honorable Edward J. Devitt**, the longtime chief judge for the District who died in 1992. The Devitt Courtroom will be used for large trials and other proceedings requiring more space than a typical courtroom.

Gilyard said another goal of the renovation was updating and coordinating courtroom technology. Technological devices, including a computer, document camera, and DVD player, have been integrated into a single podium and evidence presentation cart. Counsel tables in each courtroom include new microphones and inputs for laptops. Wiring for all of the devices is now beneath the floor.

A number of improvements were also planned with the jury in mind. When lawyers need to show documents to the jury, the documents will now be projected onto a large screen located behind the witness, so that jurors need not divide their attention between the testifying witness and smaller screens on which the documents had been shown in the past. The jury boxes also now include more comfortable chairs and writing surfaces. And the spacious new jury rooms are a significant upgrade over the dimly-lit, cramped rooms of the past, Judge Kyle said.

The renovation also included removal of asbestos and significant improvements to the building's energy efficiency, Gilyard noted. "It's really state-of-the-art in mechanical and energy terms," he added.

Other improvements augment the interior beauty of the building. Improved lighting in original courtrooms on the seventh floor not only makes it easier to see, but also showcases the re-finished walnut paneling on the walls. New lighting in the seventh floor hallway outside the courtrooms highlights the distinctive marble pattern on the walls. The terrazzo floor outside the seventh floor courtrooms was carpeted to complement the marble and cut down on noise, Judge Kyle said.

"It is a very attractive hallway now, whereas before you wouldn't have noticed it," Kyle said. "It has a warm feeling that it didn't have before."

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— *Michael Goodwin and Anita Terry. Michael is a juris doctor candidate, Class of 2009, at Hamline Law School. Anita is a law clerk to United States District Court Judge Paul A. Magnuson.*

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From left to right: Judge Kyle's state-of-the-art courtroom; the new secure holding cell; and an eloquent and comfortable jury room.

**WELCOME STATEMENT FROM THE CHAPTER PRESIDENT (CONT.)**

This year, with President-Elect **Lora Friedemann's** help, we hope to start a Pro Se initiative that will expand upon the almost ten-year-old Pro Se Employment Law Panel our Minnesota Chapter started with Volunteer Lawyers Network. It is our hope and goal to, at a minimum, give all pro se civil litigants the opportunity to consult with and perhaps obtain counsel. More details on how we plan to implement this initiative this year and next will be forthcoming in future issues of *Bar Talk*. To that end though, former Chapter President, **Dan Gustafson**, recently secured a Fifty Thousand Dollar Cy Pres award for our Chapter to help in this initiative. I want to publicly acknowledge and thank Dan for his efforts in this regard.

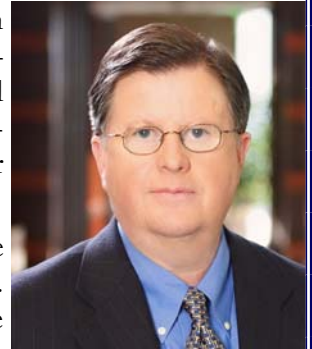
Lastly, Vice President of Membership, **B. Todd Jones**, has stated that it is his goal to increase the membership of our Chapter and to surpass New Orleans as the nation's largest FBA chapter. Please give Todd a hand and recruit new members to join our exciting and vibrant bar association. We are already off to a great start with a number of new members.

*Steven E. Rau is the President of the Minnesota Chapter of the FBA and an attorney at Flynn, Gaskins & Bennett, LLP.*

**MEET MAGISTRATE JUDGE JEFFREY J. KEYES**

Although newly minted as a federal magistrate judge, a candid conversation with **Magistrate Judge Jeffrey J. Keyes** reveals a man with deep-seated convictions on a magistrate judge's proper role and the skills necessary to fulfill that role to the highest ethical and professional standards. These convictions, about which Judge Keyes speaks earnestly, did not form by happenstance but rather crystallized during his thirty-five-year tenure as a complex commercial litigator.

Judge Keyes, 61, was born in New York City. He earned his bachelor's degree from the University of Notre Dame and his law degree from the University of Michigan. Judge Keyes started his career as a litigator with the law firm Gray Plant Mooty where he became a shareholder. In 1986, Judge Keyes joined the law firm of Briggs & Morgan.



Both at Gray Plant and Briggs, Judge Keyes maintained a vibrant and varied litigation practice, focused mainly on complex commercial disputes and high-stakes pro bono cases. Due to the challenging and fulfilling nature of this work, Judge Keyes grappled with his decision to leave private practice. "Making the decision to move away from my pro bono work and my business clients, many of whom I formed relationships with from the start of their businesses, was very difficult," Keyes says. Ultimately, however, Judge Keyes opted for the federal bench because he believed it offered a venue that would allow him to make the "most productive and best use of [his] time and talents" during the last phase of his career. Keyes has long admired judges like **Justice John Paul Stevens**, who remain prolific writers and productive jurists even at an advanced age. And he points to many other colleagues in the judiciary "as glowing role models for what baby boomers are capable of accomplishing later in life."

During his thirty-five-year tenure litigating cases in federal court, Judge Keyes developed a "deep respect for the Minnesota federal bench and its judges." This experience, he believes, also shaped his belief that a magistrate judge's foremost role is "to serve the Article III bench." To this end, Keyes' view is that magistrate judges "make their greatest contributions [to the Article III bench] when they are able to efficiently manage and move cases to a conclusion."

This can be a daunting task, but Judge Keyes believes that certain foundational skills he cultivated as a litigator have helped prepare him for the challenge. One such skill, which Keyes is convinced that law schools sorely neglect and law firms do not stress nearly enough, is attentive listening. Keyes bristles at the notion that a lawyer's ability to speak is his most effective tool of trade. Rather, Keyes' experience has persuaded him that what separates the ordinary advocate from the exceptional one lies in the advocate's ability to

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## CHIEF JUDGE DAVIS ANNOUNCES BOOKS FOR AFRICA

At the Federal Bar Association Mason Memorial Luncheon on June 26, 2008, **Chief Judge Michael Davis** announced that St. Paul-based Books For Africa (BFA) has joined hands with Minnesota law firms, law schools, and West Publishing to create the Jack Mason Law and Democracy Initiative to further the rule of law in Africa. The cooperative program will send law-teaching books, legal treatises, and human rights books to African law schools and bar associations.



Chaired by former **UN Secretary General Kofi Annan** and former **U.S. Vice President Walter Mondale**, the Law and Democracy Initiative's advisory board consists of prominent local, national, and international attorneys, judges, and leaders, including Chief Judge Davis. Books For Africa's new law initiative is named after **Federal Magistrate Judge Jack Mason**, a BFA board member at the time of his death in 2002. The innovative program will work with the American Bar Association, law firms and law schools, United States and United Nations agencies, and other national and multi-national organizations to accomplish its goals.

"West Publishing has committed to donating a significant number of new books each of the next several years," said attorney **Lane Ayres**, director of the Law and Democracy Initiative and former Assistant Hennepin County Attorney. "Book drives have already begun in law schools and law firms, and books have been sent to Zimbabwe Lawyers for Human Rights. Books will be sent to Liberia, Sierra Leone, and Ghana in cooperation with the Section of International Law of the ABA. The goal is to eventually send books to all 140 African universities that have a law faculty."

Attorney and **U.S. Representative Keith Ellison** also heralded this new initiative at Books For Africa's 20<sup>th</sup> Anniversary Gala on September 12, 2008. The program's first shipment left St. Paul on September 18<sup>th</sup> bound for the Grimes School of Law in Monrovia, Liberia. The shipment consisted of 1,500 new books donated by West (a Thomson Reuters business) including classroom teaching books, law and human rights treatises, a set each of American Jurisprudence and American Law Reports for library use. The shipment also included books collected through a book drive at Faegre & Benson.

Based on information from the BFA Web site ([www.booksforafrica.org](http://www.booksforafrica.org)), BFA is the world's largest shipper of donated English language textbooks to the African continent. Its mission is to end the book famine in Africa. Over the last twenty years, BFA has shipped nearly 20 million books to 38 African countries. For more information on how you or your firm can be involved in this new Jack Mason Law and Democracy Initiative, contact Lane Ayres at [lanebfa@gmail.com](mailto:lanebfa@gmail.com).

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*Lane Ayres is the Director of the Mason Law and Democracy Initiative. For more information about the Books For Africa initiative, please visit the Web site at [www.booksforafrica.org](http://www.booksforafrica.org).*

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### SAVE THE DATE! — IP Practice Group Reception Welcoming the Honorable Jeffrey J. Keyes

The IP Practice Group would like to invite you to a reception welcoming Magistrate Judge Jeffrey J. Keyes. The reception will be held at the Atlas Grill (U.S. Bank Plaza, 200 S. Sixth Street, Minneapolis) from 5:30—7:30 p.m. on November 19, 2008.

To attend, please RSVP to [KGMiller@rkmc.com](mailto:KGMiller@rkmc.com) or [AHuang@rkmc.com](mailto:AHuang@rkmc.com) by November 14, 2008.





**MEET JUDGE KEYES [CONT.]**

listen. "The mark of a good litigator is one who can listen carefully, absorb what is going on around them, and discern what is going on beneath the argument," Judge Keyes says. He continues, "there is always a human drama that fuels every legal dispute and a good lawyer must be able to listen to what is being said and determine what that drama is." Judge Keyes believes the skill of listening is even more important for a jurist. But he is quick to confess that he himself did not possess this skill inherently, humbly acknowledging that it took him "years" to cultivate it. Even now, as a magistrate judge, Judge Keyes admits that he constantly battles to restrain his "natural instincts to jump in and make lawyers' arguments for them."

Judge Keyes also possesses deep convictions regarding legal ethics and professionalism. He steadfastly believes that lawyers must "show the utmost respect for their clients, their adversaries, for the court system, and for themselves," even under the most trying circumstances, to achieve the high standard of ethics and professionalism that the legal profession demands. Judge Keyes has first-hand experience of the unrelenting pressure on lawyers to "push the ethical envelope." For this reason, he always especially admired and tried to "emulate lawyers who showed that they could be respectful and care for those around them, including their adversaries, while still advocating in the most rigorous way for their clients."

This high sense of professionalism has also spurred Judge Keyes' commitment to pro bono work, where he boasts an impressive resume. Adamant that the license to practice law is a "privilege, not a right," Judge Keyes says that throughout his litigation career he always felt professionally bound to take "skills that I had cultivated in litigating complex commercial cases and use them on behalf of clients who were not being well-served by the system." Judge Keyes' pro bono work ran the gamut from death penalty cases to immigration disputes. One of his most notable pro bono cases involved a Somali immigrant who challenged an immigration judge's deportation ruling. In *Jama v. Immigration & Customs Enforcement*, 543 U.S. 335, 125 S. Ct. 694 (U.S. 2005), Judge Keyes helped **Mr. Jama** secure a victory at the trial court level, where the court held that Mr. Jama could not be deported to Somalia because Somalia had not accepted his deportation. The Eighth Circuit, however, reversed the trial court ruling and the case went up to the U.S. Supreme Court. There, in a 5-4 decision, the Court affirmed the Eighth Circuit's decision and held that Somalia's inability to consent in advance to Mr. Jama's deportation did not bar the INS from deporting him there. Although Judge Keyes lost narrowly at the Supreme Court, he was ultimately successful in helping Mr. Jama avoid deportation. Judge Keyes beams when discussing the general rewards of pro bono work: "It was always gratifying to me to discover that I could really make a difference by using the same dedication and passion as a commercial litigator and applying these traits to assist a pro bono client."

Other than brushing up on criminal law and practice, Judge Keyes says there was little he could do to ease his transition from advocate to judge. "There is no fool-proof way to prepare yourself, you just have to jump right into it," says Judge Keyes. What he says has made a huge difference, however, are the warm and helpful colleagues that have patiently answered every question with which he has peppered them.

The roles of judge and advocate are vastly different and carry separate benefits. Judge Keyes, however, values the distinct benefits he is now realizing as a federal magistrate judge. "From a professional standpoint, I'm grateful for the opportunity to have such an important impact on real life events. As a magistrate judge, I am making decisions that deeply affect people's lives."

We congratulate Judge Keyes on his appointment to the bench. It is an honor to have another individual of such high character and with such impeccable professional credentials join the Minnesota federal bench.

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*Oliver E. Nelson is a member of the Communications Committee for the Minnesota Chapter of the FBA and is an attorney at Flynn, Gaskins & Bennett, LLP.*

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## FEDERAL PRACTICE COMMITTEE REVIEWING LOCAL RULES

The Federal Practice Committee of the United States District Court District of Minnesota, is the court's official liaison to the bar and advises the court on local rules and procedures pursuant to 28 U.S.C. § 2077. The committee, currently chaired by **Jeannine Lee** of Flynn, Gaskins & Bennett, LLP, has twenty-five members, including practicing attorneys and court representatives. The committee welcomes suggestions from the bar on any matters of concern with local practice.

A number of years have passed since the last comprehensive evaluation of the court's local rules. The court recently asked the committee to consider how the rules might be improved. In particular, the court expressed concern that some attorneys, especially those who appear infrequently in this district, may not be familiar with the rules. The committee has begun to review the rules to clarify them and consider ways to increase compliance.

If you have any comments or suggestions for the Federal Practice Committee, especially concerning its current review of the local rules, please contact Jeannine Lee, **Joe Dixon** of Henson & Efron, PA. (chair of the subcommittee reviewing the rules), **Chief Deputy Clerk of Court Wendy Osterberg**, or any other member of the Federal Practice Committee. The committee roster and contact information can be found on the court's Web site.

*Douglas L. Elsass is a member of the Federal Practice Committee and an attorney at Fruth, Jamison & Elsass, P.A.*

## A RECEPTION FOR THE NEW CHIEF JUDGE

On August 26, 2008, Twin Cities Diversity in Practice and the Minnesota Chapter of the Federal Bar Association sponsored a reception celebrating **Chief Judge Davis'** appointment as the first African-American Chief Judge in the District of Minnesota. The reception was well-attended from judges to practitioners to professors, with over 200 people in attendance to congratulate Chief Judge Davis. In addition to great food and music, the reception included addresses by **Magistrate Judge Graham, B. Todd Jones**, and **Assistant Federal Public Defender Lyonel Norris** (who clerked for Chief Judge Davis on the state and federal bench). **Judge Frank** also spoke at the reception and presented Chief Judge Davis with an inscribed plaque of **Justice Thurgood Marshall**.



From the left: Judge Frank presents Chief Judge Davis with a plaque of Justice Thurgood Marshall. Chief Judge Davis thanked and addressed the crowd.  
[Pictures provided by reh Productions]

*Patrick M. Arenz is the Chair of the Communications Committee for the Minnesota Chapter of the FBA and an attorney at Robins, Kaplan, Miller & Ciresi L.L.P.*



## LOOKING BACK IN TIME

For history aficionados, the Minnesota Digital Library's "Minnesota Reflections" Project provides a glimpse into history, right from your desktop. The library's Web site, [www.mndigital.org](http://www.mndigital.org), includes digitized images of photographs and documents from the collections of historical societies, libraries and other archives. For example, viewers can peruse the handwritten, first "Rules of court Filed by the Clerk in in [sic] open court" for the "District Court of the County of St. Croix, also sitting as a Circuit & District Court of the United States."\* These rules, originally filed by **Harvey Wilson**, Clerk, on August 13, 1849, offer hints of how the courts shaped the lives of Minnesotans even before Minnesota achieved statehood. An applicant to the bar was required to "produce the certificate of the gentleman under whom he pursued his legal studies...setting forth these facts: That the applicant is a man of good moral character; that he has studied the law with assiduity, either under the gentleman who vouches for him, or some other gentleman of legal ability, for a period of not less than three years, if he commenced his studies before, and for the period of not less than two years, if he commenced after, his arriving at the age of twenty one years: that at least one year of such study has been spent in the office of some practicing attorney or in a regular law school and that the said affiant or certifier believes him to be qualified for admission." Applicants then had to "undergo a satisfactory examination under the direction of the Court" before being allowed to practice.

\*<http://reflections.mndigital.org/cdm4/document.php?CISOROOT=/sll&CISOPTR=1787&REC=11>



*Kerri Nelson is a member of the Communications Committee of the Minnesota Chapter of the FBA and an attorney at Holstein Kremer, PLLC.*

## WILLIAM MITCHELL FULL-TIME FACULTY POSITION

William Mitchell College of Law plans to hire tenured or tenure-track faculty to fill our subject area needs, enhance our existing strengths, and expand the size of the faculty. Our subject area needs are primarily in Native American law, legal writing and lawyering, and estates and trusts, but we encourage applications in all subject areas.

Our mission is to serve the law. We teach it, study it, practice it, and work to make it just. We study law and the legal profession as critical observers and active participants. Our legal education incorporates scholarship and practice, maintains a strong connection to the profession, is intellectually rigorous and instills an ethic of service to clients and community. Our students graduate with the practical wisdom to put the law to work.

We seek applicants who are committed to our mission and passionate about all three components of a full-time faculty position: teaching, scholarship, and service to the college and the community. Applicants should have a distinguished academic record and either published scholarship or a strong demonstrated potential for scholarship. The College has pioneered nationally recognized skills and clinical education, and we value practice experience. The College is committed to diversity and welcomes applications from persons from traditionally underrepresented groups.

To apply, send a resume and cover letter (either by e-mail or regular mail) to:

Human Resources  
William Mitchell College of Law  
875 Summit Avenue  
St. Paul, MN 55105-3076  
[hr@wmitchell.edu](mailto:hr@wmitchell.edu)

For further information, please contact: Professor Deborah Schmedemann, Chair, Appointments Committee, at [deborah.schmedemann@wmitchell.edu](mailto:deborah.schmedemann@wmitchell.edu) or 651-290-6388.

## EIGHTH CIRCUIT JUDICIAL CONFERENCE RECAP (CONT.)

reviewed, three were reversed. Two of those cases dealt with sentencing, a continuing hot topic at the Court.

At the close of the conference, **Justice Samuel Alito** remarked on the upcoming year at the Supreme Court, noting that the Court was expected to review approximately 100 cases in the 2008-09 session, which was a marked increase from the previous session. Justice Alito also noted some interesting statistics: amicus briefs are now filed in nearly every case reviewed by the Court, and forty-percent of the Court's opinions contain references to web addresses, compared to only thirty-percent of the Court's opinions that cite the dictionary.

Eighth Circuit judges participated in an "Ask the Judges" roundtable with practitioners, who were reminded that shorter briefs and well-prepared oral arguments are always welcome. Judges from Minnesota also actively participated in the Conference. On Wednesday, **Judge Ericksen** presented an hour-long seminar on voir dire. During breakfast on Friday, **Chief Judge Davis** and **Judge Montgomery** addressed the court's efforts to attract a diverse applicant pool for court-staff positions and discussed the competition that the court faces in attracting personnel from the private sector.

Briggs and Morgan attorney, **Diane Bratvold**, remarked that the conference provided an excellent opportunity for practitioners to meet judges, and also gave attorneys a broader understanding about the process judges use to decide cases. That insight makes it easier to discuss the role of the court with clients, especially when relaying bad news. Despite being technically held in the Seventh Circuit, the 2008 Eighth Circuit Judicial Conference was considered a success by presenters, attendees, and judges.

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*Daniel J. Supalla is a member of the Communications Committee of the Minnesota Chapter of the FBA and an attorney at Briggs & Morgan, P.A.*

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## REFER A COLLEAGUE: HELP US INCREASE MEMBERSHIP!

The Minnesota Chapter of the FBA is already one of the most strong, vibrant, and active chapters in the country. This is clear from the crowds that fill the Minneapolis Club each month for lunch, the newer lawyers who gather in a federal judge's chambers to discuss the do's and don'ts of practice, and the national recognition that the national FBA awards our chapter for its continued collegiality and vitality.

Now we have set out to add one more badge for our chapter. We want to be the largest chapter in the FBA. With your help, we can do this. Particularly at this time when new associates are joining your firms, please explain the benefits and rewards of the FBA and recommend that your new associates join. But don't stop there. Take a look around your firm and see if one of your colleagues who is not a member may be interested in joining. Hopefully each member can recruit one new member to join.

Joining the FBA is easy to do. Non-members can join by signing up online at <http://www.fedbar.org/join.html> or by filling out the application attached at the end of the newsletter. If anyone has any questions about joining the FBA, please do not hesitate to contact me at [BTJones@rkmc.com](mailto:BTJones@rkmc.com) or **Patrick Arenz** at [PMA-arenz@rkmc.com](mailto:PMA-arenz@rkmc.com). We are both eager to answer any questions about the advantages that FBA membership has to offer. The Minnesota Chapter of the FBA is truly a unique opportunity for the bench and bar to get together outside the courtroom.

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*B. Todd Jones is Vice President of Membership for the Minnesota Chapter of the FBA and an attorney at Robins, Kaplan, Miller & Ciresi L.L.P.*

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## MEMBERS ON THE MOVE

*Are you a member of the FBA? Have you recently made a career change? Authored an interesting article? Received an appointment or award? Submit your news, publications, and updates to Bar Talk at [PMAREnz@rkmc.com](mailto:PMAREnz@rkmc.com).*

### CALENDAR OF UPCOMING EVENTS

- October 22, 2008

Please join us at the Minneapolis Club for our monthly luncheon. This month will feature Minnesota Chief Justice Eric J. Magnuson.

- November 13, 2008

Newer lawyers mark your calendar for lunch with Judge Schiltz who will speak about dispositive motions: preparation and oral argument.

- November 19, 2008

Please join us at the Atlas Grill as the IP Practice Group welcomes Magistrate Judge Jeffrey Keyes. Please RSVP to [KGMiller@rkmc.com](mailto:KGMiller@rkmc.com) or [AHuang@rkmc.com](mailto:AHuang@rkmc.com) by November 14, 2008.

- November 19, 2008

Please join us at the Minneapolis Club for our monthly luncheon, featuring Judge Frank.

- December 17, 2008

Please join us at the Minneapolis Club for our monthly luncheon, featuring St. Paul Mayor Chris Coleman

- December 18, 2008

Newer lawyers mark your calendar for lunch with Judge Tunheim. Topic to be determined.

## NEXT ISSUE . . . .

Will arrive to you in your inbox in mid-January and in hard copy at the January 21, 2009 FBA luncheon.

### THE COMMUNICATIONS COMMITTEE

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



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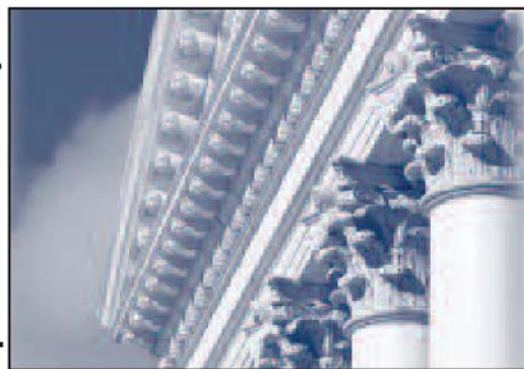
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# Federal Bar Association

## Raising the Bar to New Heights



## Membership Application



### 1. MEMBERSHIP INFORMATION (Please Print Clearly.)

First Name \_\_\_\_\_ M.I. \_\_\_\_\_ Last Name \_\_\_\_\_ Suffix (e.g. Jr.) \_\_\_\_\_

Title \_\_\_\_\_

Have you been an FBA member in the past? ☐ yes ☐ no

**Mailing Address** ☐ Home ☐ Business

Firm/Agency \_\_\_\_\_

Address \_\_\_\_\_

Suite/Floor \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

( ) ( )

Phone \_\_\_\_\_ Fax \_\_\_\_\_

E-mail \_\_\_\_\_

☐ Male ☐ Female Date of Birth \_\_\_\_/\_\_\_\_/\_\_\_\_

**Practice Type** (based on primary employment)

<b>Private Sector</b>	<b>Public Sector</b>
<input type="radio"/> Private Practice	<input type="radio"/> Government
<input type="radio"/> Corporate/In-House	<input type="radio"/> Military
	<input type="radio"/> Association Counsel
	<input type="radio"/> Non-profit
	<input type="radio"/> Judiciary
	<input type="radio"/> University/College

Number of attorneys in your firm/agency/office: \_\_\_\_\_

### 2. REQUIRED MEMBERSHIP ADMISSION INFORMATION

**Active membership** Open to any person admitted to the practice of law before a federal court or a court of record in any of the several states, commonwealths, territories, or possessions of the U.S. or in the District of Columbia, provided you are or have been an officer or employee of the U.S. or the District of Columbia, or you have a substantial interest or participate in the area of federal law.

Court of Record for Admission: \_\_\_\_\_

Original Admission Date: \_\_\_\_\_ (MM/DD/YYYY) State: \_\_\_\_\_

**If you practice before a tribal court, please complete.**

Tribal Court of Record: \_\_\_\_\_

State: \_\_\_\_\_ Admission Date: \_\_\_\_\_

### ☐ Associate membership

**Foreign Associate** Open to persons admitted to practice law before a court or administrative tribunal of a country other than the U.S. (Please provide proof of admission.)

Country: \_\_\_\_\_

Court/Administrative Tribunal: \_\_\_\_\_

**Law Student Associate** Open to any law student currently enrolled in law school who is not currently admitted to practice law.

Law School: \_\_\_\_\_ State: \_\_\_\_\_

Expected Date of Graduation: \_\_\_\_\_

**\*Note** Contributions and dues to the FBA may be deductible by members under provisions of the IRS Code, such as an ordinary and necessary business expense, except 3.1% which is used for congressional lobbying and is not deductible. Your FBA dues include \$14 for a yearly subscription to the FBA's professional magazine.

### 3. MEMBERSHIP DUES

#### 3A. ACTIVE MEMBERSHIP Please choose one.

	Private Sector	Public Sector
<input type="radio"/> <b>Member</b> Admitted to practice <b>0-5 years</b>	\$75	\$60
<input type="radio"/> <b>Member</b> Admitted to practice <b>6-10 years</b>	\$125	\$100
<input type="radio"/> <b>Member</b> Admitted to practice <b>11 years or more</b>	\$150	\$115
<input type="radio"/> <b>Retired</b> (fully retired from the practice of law)	\$75	\$75

#### 3B. SUSTAINING MEMBERSHIP

<input type="radio"/> <b>Become a sustaining member today!</b> This optional category is <b>in addition to regular dues</b> . It is used to support CLE programs & publications.	\$60	\$60
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#### 3C. ASSOCIATE MEMBERSHIP

<input type="radio"/> <b>Foreign Associate</b> Admitted to practice law outside the U.S.	\$150	\$150
<input type="radio"/> <b>Law Student Associate</b> Currently enrolled in law school	\$25	\$25

**Dues Total** .....\$ \_\_\_\_\_

Please enter amount in line 5A of the Dues Worksheet on reverse side.

**4. LOCAL CHAPTER AFFILIATION, SECTIONS AND DIVISIONS** You will be assigned to your local chapter. (Unless you belong to the following chapters—Atlanta \$10, Tallahassee \$25, Northern Dist. of Ohio \$10, Iowa \$10, Dallas \$10, Del Rio \$25, Southern Dist. of Texas \$25, Iowa \$10, Puerto Rico \$10, and Tucson \$10—your chapter does not have dues.) For a complete listing of chapters, sections and divisions, visit [www.fedbar.org](http://www.fedbar.org). Write in chapter, section(s) or division(s), and dues if applicable.

☐ **Indian Law Section** .....\$15

**Dues Total** .....\$ \_\_\_\_\_

Please enter amount in line 5B of the Dues Worksheet.

### 5. DUES WORKSHEET

FBA Dues .....5A \$ \_\_\_\_\_

Local Chapter, Section or Division Dues .....5B \$ \_\_\_\_\_

**Total Amount Enclosed** (Add 5A, 5B) .....\$ \_\_\_\_\_

### 6. PAYMENT INFORMATION

☐ Check payable to Federal Bar Association

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Signature \_\_\_\_\_ Date \_\_\_\_\_

The undersigned hereby applies for membership in the Federal Bar Association and agrees to conform to its Constitution and Bylaws and to the rules and regulations prescribed by its National Council.

X \_\_\_\_\_

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

#### Please complete and return to:

FBA Membership Department, 2011 Crystal Drive, Ste. 400, Arlington, VA 22202  
(703) 682-7000, (703) 682-7001 (fax), [membership@fedbar.org](mailto:membership@fedbar.org), [www.fedbar.org](http://www.fedbar.org)