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**Federal Bar  
Association**  
Minnesota Chapter

# Bar Talk

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## Chief United States District Judge John R. Tunheim Gives 2020 State of the District Address

*By Kelly Fermoyle*



Chief Judge Tunheim delivers State of the District address

At the January 8, 2020 monthly FBA luncheon, Chief United States District Judge John R. Tunheim gave his State of the District address to luncheon attendees. Chief Judge Tunheim began by noting the vacant seat on the district bench, opened when Senior United States District Judge Joan N. Ericksen took senior status on October 15, 2019. A judicial selection committee is working to make recommendations to President Trump to fill the vacancy.

Throughout 2019, the District expanded its outreach efforts, including through the Open Doors program, an Intellectual Property workshop with Girl Scouts, an Economic Espionage workshop, a workshop in Duluth on implicit bias, Court Camp for high school students, an expanded take-your-child-to-work day for court staff, and an annual Diversity Celebration, among others.

One of the highlights of 2019 was the renaming of the federal courthouse in Minneapolis in honor of Diana E. Murphy, which was celebrated on October 16, 2019. Chief Judge Tun-

*State of the District, continued on page 3.*

## Tributes to United States Magistrate Judge Steven E. Rau from Members of his Federal Court Family

*By Christopher Proczko, Brian Pousson, and Gordon Knoblach*

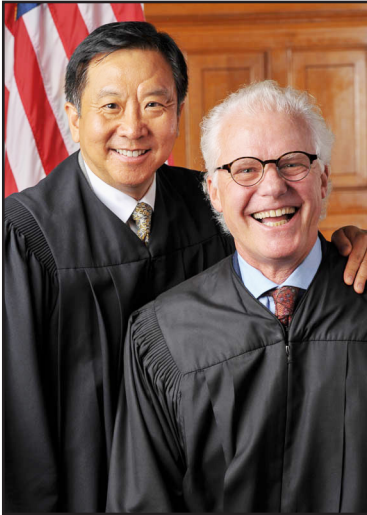
### Proczko and Pousson Tribute

In November 2019, United States Magistrate Judge Steven E. Rau died. He was taken too soon from his family, friends, and the entire federal family. Magistrate Judge Rau is survived by his wife Christine, his children Victoria, Alex, and Edward, his faithful hound Teddy, and countless friends and loved ones. From the powerful eulogies delivered at his funeral services to the quiet words shared among those who knew him, much has been said about his extraordinary life and the lessons he taught us. Here we hope to add to these recollections a fond celebration of our friend and mentor.

We asked United States Magistrate Judge Tony N. Leung to share some thoughts about his good friend, and Magistrate Judge Leung's comments need no embellishment: "Magistrate Judge Rau and I attended 'Baby Magistrate Judge School' together in Washington, DC, and San Antonio, Texas. We didn't really know each other before both being appointed to the federal bench at about the same time. His welcoming, gregarious, and mischievous personality made it impossible for us not to develop immediately a friendship so close that the other new judges have since called us the 'Minnesota Twins.' He and I worked hard parsing through dense and challenging mate-

*Magistrate Judge Rau Tributes, continued on page 2.*

*Magistrate Judge Rau Tributes, continued from page 1.*



Magistrate Judges Rau (R) and Leung (L) were close friends and fondly referred to as the “Minnesota Twins” since their “Baby Judge School” days in Washington, D.C., and San Antonio, Texas, in 2011.

rials in the full-day, week-long classes, but always shared great conversation, food, and libations after class. He performed his judicial responsibilities with utmost seriousness, but his eyes never lost the glint of joy from understanding how lucky we were to be entrusted with doing our part to make real justice and equality for all.”

Magistrate Judge Rau gave generously to his community and cared deeply about the promise of equal access to justice. Since his passing, we have been reminded how he volunteered his time playing chess with inner city youth, helped establish the Federal Bar Association’s *Pro Se* Project, and assisted in connecting incarcerated mothers with their children. Lawyers who appeared before Magistrate Judge Rau have remarked how he was able to make meaningful connections with their clients, especially those from less fortunate backgrounds. One practitioner shared how Magistrate Judge Rau left a lasting impression on his client at a settlement by encouraging him to pursue his dream of becoming a lawyer; he explained that someone with the client’s disadvantaged background could do much to make the practice of law benefit the community in ways it often fails.

On a more personal note, we met Magistrate Judge Rau shortly after his appointment to the bench in 2011, while we were both working as law clerks at the Warren E. Burger United States Courthouse. Magistrate Judge Rau frequently visited the chambers where we worked, stopping by not just to see his colleagues on the bench, but to share a joke with their staff members and clerks. He would talk shop about legal issues, share pictures from a recent vacation, ask after families, and always, always find a reason to laugh. These casual meetings soon turned into semi-regular bicycle commutes to the office along the Mississippi River, which we gladly extended over breakfast at the Buttered Tin. Over the finest huevos rancheros and coffee, we were allowed to build a friendship while exploring the intricacies of the Federal Rules of Civil Procedure, the importance of the right bitters in a Sazerac, and everything in between.

His legendary sense of humor pervaded our friendship. Around the same time his judgeship was renewed for a second eight-year term, Steve (as he insisted we call him when not doing the business of the Court) received news from his physicians that his condition had not improved. In point of fact, it had worsened, and the prognosis was grim. He told us this privately, knowing what it meant and what it would mean to us. Then behind his leprechaun grin, he added that he was proud to make history as “the first United States Magistrate Judge appointed for life.”

Magistrate Judge Rau embodied and balanced apparent contradictions. He paired that irreverent sense of humor with an intense love for and devotion to his family. He would speak with masculine gusto about finishing a great steak with the finest scotch and cigars, but he loved a good buttery chardonnay. Nowhere was he more comfortable than on a golf course, except when he was getting his mani-pedis. He was at once warm, kind, and supportive, yet known to swing a hammer when he felt one needed swinging. And it was these contradictions, these apparent conflicts, that made him whole and real and human. Perfectly imperfect.

Eulogizing a friend and mentor is a uniquely difficult endeavor, particularly where he was a friend and mentor to so many others. How to give a memory as rich as his the appropriate helpings of levity and gravitas? Rather than reinvent the wheel, we will close by following the great tradition of legal writing and borrow liberally from those who came before us. In HBO’s *The Wire*, the loquacious Jay Landsman concludes his heartfelt, expletive-laden eulogy for detective Ray Cole with a salute to camaraderie. Our friend loved a good turn of phrase and never shied away from the judicious use of a four-letter word. So it seems fitting to conclude this small tribute with Landsman’s nod to the bonds of shared work and friendship we forged with Judge Rau: “He was called. He served. He is counted.”

### **Knoblach Tribute**

Following his cancer diagnosis, Magistrate Judge Rau encouraged his clerks, including his long-serving career clerk, to consider the next steps in their careers. Because of that, Magistrate Judge Rau had an immediate need for an experienced law clerk, and I had the distinct pleasure of joining his chambers in October 2018. Magistrate Judge Rau was candid and forthright when hiring me: he could make no promises as to how long he would be around, only that he would do his utmost to remain a productive judicial officer as long as possible. I jumped headfirst into the opportunity, not knowing what to expect.

*Magistrate Judge Rau Tributes, continued on page 3.*

*Magistrate Judge Rau Tributes, continued from page 2.*

The thirteen months I clerked for Magistrate Judge Rau were inspiring. As many have already said, Magistrate Judge Rau continued working and living to the fullest. I can attest that these are not mere platitudes offered to a departed colleague and friend. Magistrate Judge Rau redoubled his devotion to the judiciary and legal profession. He remained delighted by untangling complex legal questions, aiding parties in settling their disputes, and doing whatever he could to move parties further along the litigation track efficiently and effectively. He was emboldened (even more than his usual self) to reject subpar advocacy and legal arguments. Magistrate Judge Rau cared deeply for the legal profession and seemed determined to impart upon others that same sense of pride and devotion to excellence.

As all former clerks know, the bond between judge and clerk is unique and oddly inexplicable. Magistrate Judge Rau taught me much in his final year about perseverance, dignity, pride, humility, courage, and steadfastness. I give him my thanks for his mentorship and my promise to strive to be the attorney he believed we all could be. ■

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*Christopher Proczko practices media and entertainment law at Ballard Spahr LLP. He focuses on First Amendment litigation, representing media and non-media clients in matters including defamation, libel, right of privacy, press access, Freedom of Information Act issues, and reporters' privilege. Before entering private practice, he served as a clerk for Judge Richard H. Kyle, Magistrate Judge Tony N. Leung, and Magistrate Judge Katherine Menendez in the District of Minnesota. Christopher was born and raised in Aurora, IL, and earned degrees from St. Olaf College and William Mitchell College of Law.*

*Brian J. Pousson is a career law clerk for United States Magistrate Judge Katherine Menendez. Previously, he has worked in private practice and served as a law clerk for United States Magistrate Judge Jeffrey J. Keyes (Ret.) and for Justices Sam Hanson and Christopher Dietzen on the Minnesota Supreme Court. Brian grew up in Texas, has a degree in Art History from Carleton College, and earned his J.D. from William Mitchell College of Law.*

*Gordon F. Knoblach clerked for Magistrate Judge Rau from October 2018 through November 2019.*

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*State of the District, continued from page 1.*

heim noted that work is ongoing to improve the size and colors of the letters displaying the courthouse's new name. The Diana E. Murphy U.S. Courthouse also welcomed a new Public Art Installation.

Two new portraits were unveiled in celebration in 2019, including a portrait of Senior United States District Judge Ann D. Montgomery and a posthumous portrait of United States District Judge Philip Neville, who served as district judge from 1967-1974. In 2020, we look forward to an upcoming unveiling in Duluth for United States District Judge Dennis F. Donovan, the last federal district judge to work full time from the Duluth courthouse, serving from 1945-1974.

Chief Judge Tunheim highlighted that more naturalizations ceremonies are being held out in the community, including one held at Target Field and one at Allianz Field. Both naturalizations were attended by Minnesota Governor Tim Walz.

Several federal judges were award recipients in 2019. United States District Judge Wilhelmina M. Wright was a Di

versity & Inclusion honoree; United States District Judge Nancy E. Brasel received a Distinguished Alumni Award from the *Minnesota Law Review*; United States Magistrate Judge Elizabeth Cowan Wright received a Wallace-Lerner Award from the *Mitchell Hamline Law Review*; and United States Magistrate Judge Leo I. Brisbois was named the "hardest working hockey goalie."

Chief Judge Tunheim reported on several statistics in the District. The District has the most civil filings per judgeship in the Eighth Circuit (second in overall filings) and ranks 24th overall among districts in the nation. Civil filings were up 16%, criminal filings were up 14%, but there was a significant decrease in multi-district litigation filings. In 2019, the District saw 37 total trials (13 civil trials and 24 criminal trials), and for the first time more occurred in the St. Paul courthouse than in the Minneapolis courthouse.

Finally, Chief Judge Tunheim noted that the District is mourning the loss of United States Magistrate Judge Steven E. Rau, who passed away on November 8, 2019. Magistrate Judge Rau was appointed on January 14, 2011 and was reappointed for a second term in 2019. ■

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*Kelly Fermoye is an associate at Faegre Drinker LLP, practicing in intellectual property litigation. Kelly was a law clerk for Magistrate Judge Wright and an extern for Chief Judge Tunheim.*

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## Magistrate Judges Thorson and Bowbeer Share Tales from International Experiences At November Luncheon

*By Megan Hingtgen*

The District of Minnesota and its judges generously give their time and effort to help develop independent judiciaries across the globe. During their presentation at the November Federal Bar Association luncheon, United States Magistrate Judges Becky R. Thorson and Hildy Bowbeer made clear that while they travel internationally to teach, they end up learning a lot along the way.

The magistrate judges shared many pictures of the judges' international travels—from Senior United States District Judge Michael J. Davis's trips to Egypt and Senegal to Chief United States District Judge John R. Tunheim's adventures in Kosovo and Russia (where Chief Judge Tunheim gamely agreed to participate in a traditional Siberian dance involving a blindfold). They also shared fond memories of hosting delegations from other countries, where they exchanged stories about the collegiality between our bench and bar.

One of Magistrate Judge Thorson's and Magistrate Judge Bowbeer's primary focuses has been collaborating with various federal government agencies, including the Department of Commerce and the Patent and Trademark Office, to teach foreign judiciaries about the U.S. patent system. Focusing on creating a reliable, predictable, and fair intellectual property system helps post-conflict countries spur important business development. Although the focus of their efforts has been on uniform intellectual property enforcement, the magistrate judges are committed to meeting the bench and bar of each country wherever they are in the process of developing their intellectual property system.

For example, in 2016 and 2017, Magistrate Judge Bowbeer made two trips to Pakistan—the result of connections made when Pakistani delegations visited Minnesota. Pakistan has well developed intellectual property laws on the books but sought help with how to involve the judiciary in intellectual property enforcement efforts. Although Magistrate Judge Bowbeer intended to work primarily with the judiciary, during her first trip she ended up presenting an intellectual property master class to the local bar in Karachi and in-house counsel for both local and multinational companies. When she returned in 2017, Magistrate Judge Bowbeer shifted her focus to judicial engagement and had the opportunity to work with the Chief Justice of the Pakistani Supreme Court on issues related to cyber security and e-discovery.

Magistrate Judge Thorson has also eagerly embraced the opportunity to exchange knowledge with her counterparts in other countries. Her work has placed her in partnership with a variety of countries in the former U.S.S.R., including

Georgia, Kazakhstan, and Uzbekistan. When she initially started conducting judicial workshops, she noticed that the formality of the programs kept judges from fully participating. To break down this barrier, she focused on one thing: making the programs fun. Magistrate Judge Thorson put together an engaging set of U.S. intellectual property case studies and divided judges into groups to decide the cases. Once the judges had time to deliberate, the groups shared and compared their decision to the outcome in the U.S. cases. Magistrate Judge Thorson discovered that these case studies really got the judges engaged, and they had a lot of fun along the way.

One of the key focuses of Magistrate Judge Bowbeer and Magistrate Judge Thorson's efforts has been to ensure that their programs are targeted to the issues that the bench and bar of that country face each day. For example, Magistrate Judge Bowbeer's experience in Myanmar was very different from her experience in Pakistan. Whereas Pakistan had a robust set of patent laws on the books, Myanmar was on the verge of passing its very first intellectual property legislation. It did not have a history of enforcing intellectual property rights, and its main concern was being able to use intellectual property enforcement to target counterfeiting. For this trip, Magistrate Judge Bowbeer broke her program into two parts. First, she held a roundtable with judges on the Myanmar Supreme Court to discuss how to handle intellectual property cases. This gave the judges a safe space to ask questions and led to important discussions about the role of alternative dispute resolution in the Myanmar judicial system, which was a big issue because of Myanmar's important focus on the independence of its judiciary. Second, Magistrate Judge Bowbeer held a broader discussion with lower court judges, law enforcement, and the bar. Though providing new material through an interpreter was at times an arduous task, Magistrate Judge Bowbeer admired the commitment of the bench and bar to learning the new material.

No matter what country they visited, Magistrate Judge Bowbeer and Magistrate Judge Thorson's experiences and the focuses of their programs were always different. In Ukraine, Magistrate Judge Thorson worked with the judiciary to develop an intellectual property benchbook. The relationships she built there were longstanding—the Ukrainian judiciary later visited Minneapolis, and Magistrate Judge Thorson returned the Ukraine with United States Magistrate Judge Steven E. Rau to present on how to use the benchbook. One of Magistrate Judge Thorson's fondest memories of that trip was when Magistrate Judge

*November Luncheon, continued on page 5.*



*November Luncheon, continued from page 4.*

Rau walked into their first meeting in a traditional Ukrainian tunic—needless to say, this gesture successfully broke the international ice. Magistrate Judge Bowbeer had the pleasure of traveling to China to present during the launch of Chengdu's intellectual property specialty courts. There, she shared the most important attributes of an intellectual property tribunal: fairness, predictability, timeliness, and the availability of meaningful relief.

The judges' travels were not all business. From admiring truck art in Pakistan, to sampling horse meat and horse milk, to taking in the juxtaposition of centuries-old Buddhist traditions alongside twenty-first century technology, Magistrate Judge Thorson and Magistrate Judge Bowbeer agreed that each trip provided a beautiful and unique opportunity to learn about new people and cultures. More critically, no matter where they went, what stood out was how similar we all are. As a Supreme Court judge in Kazakhstan aptly observed, we have "so much in common, and very few differences." Across the world, judicial systems are united in their commitment to integrity and quality—goals that are more easily achieved through cross-cultural cooperation and friendship. ■

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*Megan Hingtgen is an associate at Carlson Caspers, where she practices intellectual property law with an emphasis on patent and trade secret litigation.*

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## December Luncheon Focuses on Domestic Terrorism

*By Ann Mottl*

On December 11, 2019, Thomas E. Brzozowski spoke at the Minnesota Federal Bar Association Chapter's Monthly Luncheon on the topic of Domestic Terrorism: Federal Investigations and Prosecutions. Mr. Brzozowski currently serves as the Counsel for Domestic Terrorism in the Counterterrorism Section of the United States Department of Justice (DOJ). In this role, he serves as the main point of contact within the DOJ for United States Attorneys' offices on domes-

tic terrorism matters. Mr. Brzozowski highlighted the difficulties in defining domestic terrorism, ways the DOJ disrupts domestic terror plots, and how charges are levied against domestic terrorists.

Mr. Brzozowski began his talk by noting that there is currently no comprehensive statutory scheme for domestic terrorism. Compared to international terrorism, there is no statute that easily defines or titles domestic terrorism. Because of the

lack of a clear federal statutory definition of domestic terrorism, Mr. Brzozowski employs creative and collaborative methods of fighting domestic terrorist plots. In discussing how charges are levied against domestic terrorists, Mr. Brzozowski noted there are two common methods. First, to stop domestic terrorism plots, a U.S. Attorney can use seemingly unrelated federal charges such as felon in possession of a weapon. Additionally, United States Attorneys work closely with

state and local enforcement agencies to prevent domestic terrorism and bring charges when domestic terrorism has occurred. Mr. Brzozowski gave several examples of state charges such as homicide being brought against well-known domestic terrorists in recent years.

Overall, Mr. Brzozowski gave a well-explained presentation on how the DOJ and state authorities combat domestic terrorism despite statutory limitations. ■

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*Ann Mottl is an intellectual property litigation associate at Maslon and currently serves as co-chair of the Digital Communications committee for the Minnesota Chapter of the Federal Bar Association.*

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## Senior United States District Judge Michael J. Davis Shares Lessons From His 36 Years on the Bench

*By Liz Scheibel*

Senior United States District Judge Michael J. Davis recently welcomed lawyers in the early stages of their careers into his courtroom and chambers to talk about important lessons for legal careers and for life.

During the November 18, 2019 luncheon, organized by the Newer Lawyers Committee, Senior Judge Davis shared his family roots, stretching back to his great-grandfather, an escaped slave who served in the Union army. Judge Davis also shared how he hated law school, and even tried to quit, but ended up finishing and falling in love with criminal law while doing defense work with the Legal Rights Center of Minnesota.

Senior Judge Davis described the various steps in his career, but he had a few key lessons for the newer lawyers. First, “Be prepared.” Early in Senior Judge Davis’s time as a state court judge he had a big reinsurance trial—perhaps bad luck for a newer judge who did not have civil law experience. But he dug in and prepared, and things went fine.

Second, “Be true to yourself.” Senior Judge Davis noted that he initially had just fifteen minutes—on New Year’s Eve,

no less—to meet with Senator Paul Wellstone in the beginning of his being appointed to the federal bench. But Senior Judge Davis just told Senator Wellstone who he was. (“Be prepared” probably helped, too.) Senior Judge Davis also left the Twin Cities for a time to pursue his interest in international relations. Though he returned to the Minnesota legal community, he has continued to pursue that interest through his many travels to discuss law and the judiciary with foreign officials and jurists.

Senior Judge Davis’s third lesson was, “Minnesota lawyers give back.” Senior Judge Davis assured listeners that they are “the best and brightest.” He said, “Yes, we’re special. But we’re lucky.” He emphasized how fortunate all of us are to have the education and role of lawyers, and therefore how critical it is for us to help others. Senior Judge Davis said he “passes the torch” to the newer lawyers and insists that we “are going to make it better.”

At the beginning of the luncheon, Senior Judge Davis noted, “I’m not sure you need to hear from an old guy.” It was perhaps the only incorrect thing he said. ■

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*Liz Scheibel is an associate at Faegre Drinker LLP, where she handles all types of patent litigation, pursues Tucker Act claims against the federal government, and generally gets to indulge her love of research and writing.*

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## White Collar Committee Hosts Winter Social

*By Chad Pennington*

On the evening of January 22, 2020, the White Collar, Compliance, and Criminal Law Committee hosted its annual winter social event at the Diana E. Murphy United States Courthouse in Minneapolis. The event was attended by members of the private federal defense bar, the United States Attorney’s Office, and the Federal Defender’s Office. This event was co-sponsored by the law firms Jackson Lewis and Dorsey & Whitney.

This year’s social, as in years past, provided a valuable opportunity for federal white-collar practitioners on both sides to enjoy each other’s company and discuss recent developments in federal white-collar practice. Chief United States District Judge John R. Tunheim provided remarks praising the District of Minnesota’s robust and collegial white collar practice. In addition, Chief Judge Tunheim thanked lawyers on both sides for their hard work and dedication to their respective clients. The White Collar, Compliance, and Criminal Law Committee will host a second event this spring or summer, with details to follow. ■

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

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## Public Art Installation Opens at Diana E. Murphy United States Courthouse

*By Anthony Ufkin*

On November 20, 2019, the District of Minnesota celebrated the opening of its Public Art Installation at the Diana E. Murphy United States Courthouse in Minneapolis. The ceremony was followed by a reception co-hosted by the Minnesota Chapter of the Federal Bar Association.

The Public Art Installation features a selection of curated pieces carefully chosen from a larger selection of pieces put forward by Woman's Art Resources of Minnesota. The opening of the Public Art Installation was roughly three years in the making. The pieces are on display in the main-floor lobby immediately past the security station and will remain on display until the spring, when they will be replaced with another exhibit of carefully chosen pieces.

Chief United States District Judge John R. Tunheim noted during his State of the District Address that the Court intends to have similar exhibits at the St. Paul, Duluth, and Fergus Falls courthouses, with the Duluth Public Art Installation likely to open this spring. ■

*Anthony Ufkin is a law clerk for Chief Judge Tunheim.*



Public Art Installation at Diana E. Murphy Federal Courthouse

L to R: United States Magistrate Judges Becky R. Thorson and Hildy Bowbeer, Tara Norgard, and Senior United States District Judge Ann D. Montgomery at the reception





## Diversity Testimonial: Thoughts from Uzodima Franklin Aba-Onu

Interview by Taylor Stemler

*Editors' Note: In this inaugural Diversity Testimonial, Taylor Stemler sat down with Bassford Remele shareholder Uzodima Franklin Aba-Onu to learn about his thoughts on diversity in the legal profession.*



Uzodima Franklin Aba-Onu

**Please describe your background and what drove you to become an attorney in your current practice area.**

Having spent time growing up in both the United States and Nigeria, I recognized early on the importance of a democracy and a legal system that strives to protect individual rights and freedoms.

Although early on in my career I wanted to work in the film industry, I later made the decision to attend law school at the University of St. Thomas. Due to my interest in public sector work, I began working at the Minnesota Attorney General's office, and after spending some time there, decided to transition to private practice. There, I felt that I could better challenge myself professionally while still spending time working on pro bono projects and serving on committees within the Minneapolis legal community. I now practice at Bassford Remele in employment law, general liability, and professional liability.

**How have you focused your legal practice towards your personal strengths as an attorney?**

Employment law and general liability are practice areas that I genuinely find myself personally interested in, which keeps me engaged and passionate about my everyday work. Additionally, this practice area allows me to collaborate with exceptional teams of attorneys with a wide range of expertise. By working with these people I can exercise my strengths in marketing, as I am not only able to market my own skills but can also highlight the capabilities and qualifications of my team.

**What organizations and commitments are you involved with that allow you to give back to the community?**

I enjoy spending time on firm sponsored pro bono work with organizations like the Tubman Project and Advocates for Human Rights. Working with these organizations allows

me to make a difference in the lives of people by providing free legal services to those in need.

Additionally, I serve on the Board of Directors and the Diversity Committee of the Minnesota Chapter of the Federal Bar Association. I am also on the board of the Minnesota Association of Black Lawyers.

**How have you been able to promote diversity through your leadership positions within the Federal Bar Association?**

Myself and my predecessors have been involved in teaming up with other local organizations to create programming related to high priority issues impacting diversity. This programming is not only directed towards the legal community, but also includes town-hall discussions intended to educate and address the needs of the community at large.

Some topics we've discussed so far include how the First Amendment is being portrayed in today's political climate and how Asian-American professionals involved in STEM fields have been affected by unintentionally misappropriating trade secrets in China. This year we are hosting a two-part series on immigration asylum, the first part of which was geared towards legal professionals. In the second part we will be focused on educating the general public on the work that has been done by local attorneys and what we can do to continue solving problems in this area. This event will be held at the Minneapolis Institute of Art sometime in March.

**In what ways have you been successful in your work with the Minnesota Association of Black Lawyers and the Federal Bar Association in reaching out to attorneys and law students to increase diversity in the Minnesota legal community?**

Within the Minnesota Association of Black Lawyers, we have been working to increase the number of diverse attorneys by directly reaching out to, and creating programming for, diverse undergraduate students. This has helped funnel the pipeline of diverse students entering and graduating from law schools.

Additionally, the Federal Bar Association's Diversity Committee has a subcommittee focusing on addressing pipeline issues for diverse attorneys. Within this subcommittee we have been successful at opening a dialogue with the deans and staff of the three Minnesota law schools to identify

*Uzodima Franklin Aba-Onu, continued on page 9.*



*Uzodima Franklin Aba-Onu, continued from page 8.*

ways that the FBA can help increase the number of diverse students attending law school.

Myself and Liz Odette, while working with this subcommittee, have orchestrated a workshop at St. Thomas to help law students build their legal writing skills. After observing the success of the program we have continued exploring ways to increase diverse student turnout and bring this workshop to other local law schools.

The Federal Bar Association's outreach committee has also been holding a one-week Court Camp every year. This camp is directed toward high school students and invites them to the federal courthouse where they can ask judges questions and participate in a mock trial. In this way, the Federal Bar Association has been able to address pipeline issues early on and generate interest in high schoolers toward entering the legal profession.

**What challenges do you feel most impact diverse attorneys today?**

One challenge that can impact diverse attorneys today is the problem of feeling siloed within their firm or company. This can be attributed to a lack of support from other attorneys or not having a mentor to help navigate issues one might face in their professional lives. This will often go on to be reflected in the organization's retention of diverse attorneys.

**What are key steps law firms can take to embrace diversity?**

Firms should be intentional about looking for and retaining diverse candidates.

At Bassford Remele, we have done this by expanding the scope of our job search to not only hold on campus interviews at the three Minnesota law schools, but also by interviewing at the Minnesota Minority Job fair and the Cook

County Minority Job fair in Illinois. In this way we can talk to a wider array of qualified students who are interested in working in the Midwest legal field and have a better chance at making contact with diverse applicants.

Additionally, developing a good mentorship and training program within a firm can be extremely helpful in improving diverse attorney retention.

**How do you feel you have best used your Federal Bar Association membership?**

One aspect of the Federal Bar Association that I value is the networking opportunities I have had. Not only have I been able to connect with other attorneys practicing in federal court, but I also get to speak with federal judges involved in the committees and engaged in the organization.

The programming put on by the Federal Bar Association is also always interesting and is a great way to build knowledge and gain CLE credit.

**What does diversity in practice mean to you?**

Diversity in practice merely means that the legal community reflects the community that we live in. I think that we need to be cognizant that the public expects this and hopes that we are all just as in tune with issues facing members of today's diverse community as they are.

This may be achieved by having more women or people of color in partnership positions and allowing people to be comfortable expressing their gender identities. Also, firms should strive to have a framework where people of different socioeconomic backgrounds and political perspectives can be comfortable working with and engaging with one another. Not only does this positively impact people's daily lives at their workplace, but it also generates better legal work, as attorneys are more likely to use their diverse perspectives when addressing how to solve legal problems. ■

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*Taylor Stemler is a 2L student at Mitchell Hamline School of Law and a member of the Bar Talk Committee.*

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(L to R) Stephen Owen, United States Magistrate Judge Becky R. Thorson, Stephanie Chen, Karl Johnson, Pa Nhia Vang



(L to R) Alia Abdi and United States Magistrate Judge Elizabeth Cowan Wright

## Diversity Committee Hosts Sixth Annual Affinity Bar Meet and Greet

By Shannon Bjorklund

On January 21, 2020, the Diversity Committee of the Minnesota Chapter of the Federal Bar Association hosted its Sixth Annual Affinity Bar Meet and Greet at Dorsey & Whitney in downtown Minneapolis. The purpose of the Affinity Bar Meet and Greet is to connect judges and leaders of the Minnesota Chapter of the Federal Bar Association with leaders and members of the local affinity bars. Around fifty people attended, including many judges. In an effort to consider diversity and inclusion in all aspects of

its programming, the Diversity Committee chose to source the majority of the appetizers from a local minority-owned business, Gatherings Café at the American Indian Center. Attendees enjoyed treats such as bison crostini and stuffed fungi while discussing ways in which the Minnesota Chapter can partner with affinity bars to further our shared mission. We look forward to pursuing the ideas and connections formed during this special event. ■

*Shannon Bjorklund is a litigation partner at Dorsey & Whitney LLP and is currently serving as the Minnesota Federal Bar Association Chapter's Strategic Initiatives/Affinity Bar Liaison Coordinator.*



(L to R) Gregory Booker, Chief United States District Judge John R. Tunheim, Pa Nhia Vang



(L to R) Chapter President United States Magistrate Judge Tony N. Leung, Elizabeth Odette

## Intellectual Property Committee Hosts Seminar on Claims Construction

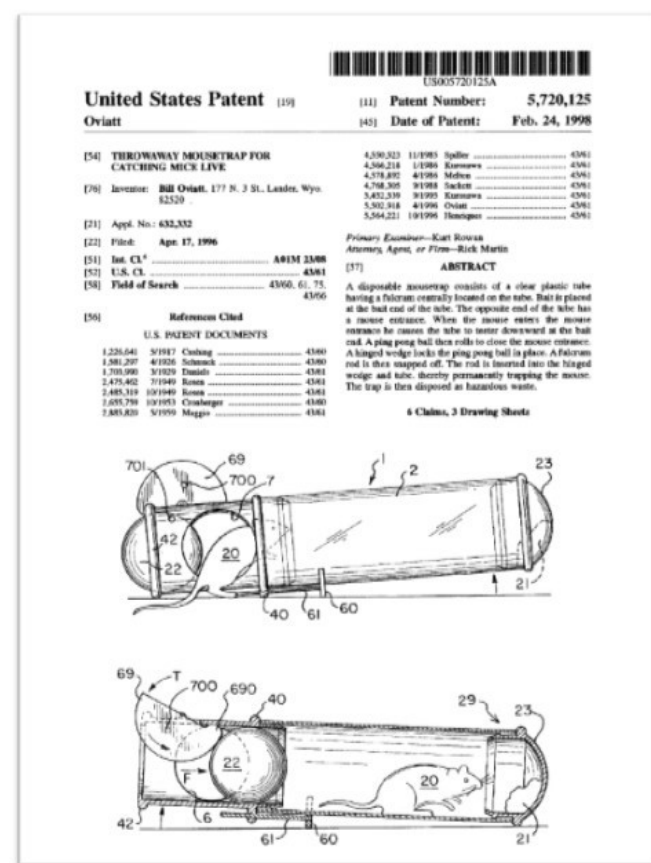
By Conrad Gosen (lead author) and Adam R. Steinert

On December 5, 2019, the Intellectual Property Committee hosted a “Claim Construction Overview” luncheon CLE panel in the jury assembly room of the Diana E. Murphy United States Courthouse. Two panelists presented: Adam Steinert of Fredrikson & Byron, P.A., and Conrad Gosen of Fish & Richardson P.C. The panelists shared patent law knowledge and expertise with the crowd, including a primer on the *Markman* claim construction process and some of the issues that frequently arise during briefing and oral argument. The presentation was open to all members of the legal community, with a particular focus on the needs of judicial clerks assisting in the preparation of claim construction opinions.

First, Gosen presented an overview of patent prosecution—the process of applying for a patent with the U.S. Patent and Trademark Office (“USPTO”). Gosen explained how the back and forth between the USPTO and the inventor culminates in an issued patent, and he also discussed how this process can lead to potential claim construction issues when a patent is litigated in federal court.

Steinert then showed examples of the various parts of a patent, including the drawings, specification, and claims, explaining how each plays into the overall process of construing claim terms in a patent. Steinert used as an example U.S. Patent No. 5,720,125, which is—quite literally—a patent on a better mousetrap.

Gosen and Steinert then gave an example of how a term from the mousetrap patent might be disputed and construed in district court litigation. In particular, they explained how the term “cylinder” in the mouse trap patent’s claims might be disputed, and the sources of evidence that a court might rely on to determine what kinds of shapes constitute a “cylinder” and which do not. They closed the pre-



sentation by discussing some of the particular issues that commonly arise in claim construction, such as lexicography and means-plus-function terms, as well as noting the key cases to review when facing a claim construction issue for the first time.

The panel ended with an engaging question and answer session. ■

*Conrad Gosen is a litigation associate in the Minneapolis office of Fish & Richardson P.C., with experience in district court litigation, IPRs, Section 337 investigations before the ITC, and appeals to the Federal Circuit. With an undergraduate degree in materials science and engineering, he serves clients in the fields of chemical processing, medical devices, automotive engineering, semiconductor processing, computer devices, and telecommunications, including LTE and VOIP.*

*Adam R. Steinert is a shareholder in the Minneapolis office of Fredrikson & Byron, P.A. He tries patent and trade secret cases on behalf of inventors and corporate clients, enforcing and defending his clients' intellectual property in a wide range of technologies, from software and semiconductors to medical devices.*



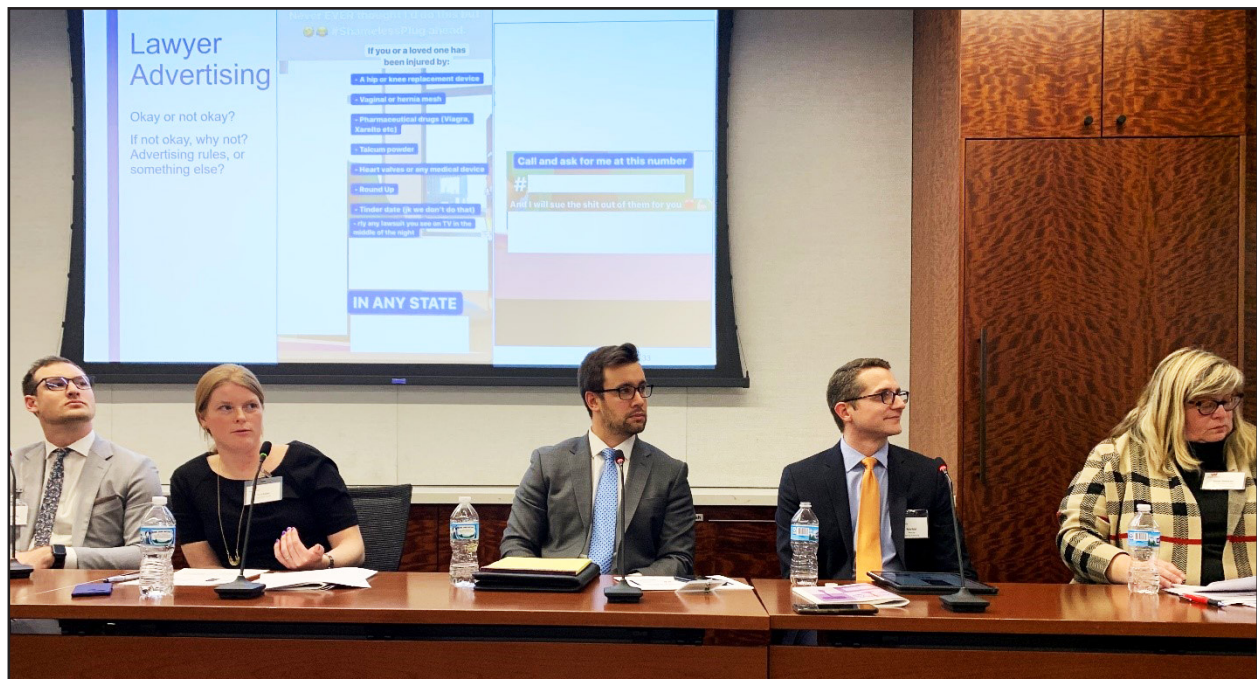
## Newer Lawyers Committee and Minnesota Office of Lawyers Professional Responsibility Present on Tips to Avoid Ethical Mistakes on Social Media

By Kyle R. Kroll

On December 3, 2019, the Newer Lawyers Committee and Minnesota Office of Lawyers Professional Responsibility (“OLPR”) presented a CLE titled “You can tweet all night, but you only license once: tips to avoid ethical mistakes on social media.” Five speakers presented: Susan Humiston (Director of OLPR), Chuck Toomajian (Zimmerman Reed), Joey Balthazor (Taft), Liz Scheibel (Faegre), and Kyle Kroll (Winthrop & Weinstine). The speakers provided examples and discussion on four topics: (1) tech competence and professionalism, (2) confidentiality, (3) communications regarding parties and courts, and (4) advertising. Winthrop & Weinstine generously provided space and refreshments.

Key tips and takeaways from the presentation include: lawyers have a duty to provide technologically-competent representation to a client; “anonymous” almost never stays anonymous; it could be an ethical violation to visit a juror’s LinkedIn page because the juror might be notified of the visit; deleting social media content can constitute spoliation; social media posts are often considered public and have led to ethical violations, and even mistrials; confidential information includes information related to representation and cannot be disclosed except in limited circumstances, such as when the information becomes generally known, which does not include mere discussion in open court or inclusion in public court records; venting about a case risks an ethical violation through disclosure of confidential information or reckless statements that question the qualifications or integrity of the judiciary; social media contacts can be communications and therefore should be carefully monitored; it is best to keep review of juror, parties, and court social media profiles to passive sites so as to reduce or eliminate risks of inadvertent contacts and communications; it could be an ethical violation to send friend requests to jurors, parties, and court officials; social media can be considered advertising, so it must not include false or misleading communications about the lawyer or the lawyer’s services; tweeting about a criminal trial

*Ethical Mistakes and Social Media, continued on page 13.*



(L to R) Joey Balthazor, Liz Scheibel, Chuck Toomajian, Kyle Kroll, Susan Humiston

## District of Minnesota Bankruptcy Court Judge William J. Fisher Discusses Core Bankruptcy Concepts

*By Mary Rivero*

On January 29, 2020, newer and experienced lawyers alike gathered for a luncheon hosted by District of Minnesota Bankruptcy Judge William J. Fisher and presented by the Newer Lawyers Committee. Bankruptcy Judge Fisher regaled the group with stories from practice and from his time on the bench in both Hennepin County and the Bankruptcy Court. He also discussed several core bankruptcy concepts.

Among other core bankruptcy concepts, Bankruptcy Judge Fisher explained the history behind debt forgiveness and its presence in foundational legal documents throughout humankind. He discussed the limited powers of bankruptcy judges and the constitutionality of the Bankruptcy Court. Bankruptcy Judge Fisher also differentiated among Chapters 7, 11, 12, and 13 of Title 11, providing an overview of the qualifications for and purposes of declaring

bankruptcy under each Chapter. He then discussed the automatic stay, describing its contours and warning attendees of common misconceptions about how far it extends. Finally, Bankruptcy Judge Fisher explained bankruptcy discharge, with a friendly reminder to newer lawyers that student loans are generally not among the categories of debts discharged through bankruptcy.

Bankruptcy Judge Fisher encouraged all attendees to become familiar with core bankruptcy topics, which often arise tangentially in different substantive areas of the law. Bankruptcy Judge Fisher concluded the luncheon with a word of encouragement for newer lawyers to seek out pro bono opportunities, particularly assisting those in bankruptcy. The Newer Lawyers Committee thanks Bankruptcy Judge Fisher for sharing his stories and knowledge. ■

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*Mary Rivero graduated from the University of Minnesota Law School in 2018, served as a judicial law clerk for United States District Judge Eric C. Tostrud from 2018-2019, and currently practices at Winthrop & Weinstine, P.A. in the commercial litigation and creditors' remedies groups.*

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*Ethical Mistakes and Social Media, continued from page 12.*

may violate rules regarding trial publicity; and lawyers should treat their social media like advertising, subject to all the rules that apply to it.

Following the presentation and questions and answers from the audience, attendees and the presenters joined for refreshments. The Newer Lawyers Committee thanks Susan Humiston, OLPR, all attendees, and Winthrop & Weinstine for making this event a success. ■

Social Media CLE Code: 281435 - one standard credit.

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

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## The Chapter welcomes the following new members:

Alia Abdi  
Eric Boettcher  
Chelsea Bunge-Bollman  
Amanda Cefalu  
Tim Christensen  
Emily Donaher  
Erin Edgerton  
Andrew Escher  
Brendan Flaherty  
W. Anders Folk  
James Forman  
Timothy Garvey  
Michelle Gilboe

David Hackworthy  
Jacob Harris  
Jennifer Hartjes  
Christopher Haugen  
Katherine Herman  
Andrew James  
Mary Knoblauch  
Elle Lannon  
Bruce Little  
Sarita Matheson  
Bartley Messick  
Katherine Moerke  
Molly Nephew

Christopher Nguyen  
Oluwatoni Ojoyeyi  
Daniel Ongaro  
Christopher Pham  
James Robbins  
Robert Schug  
Sheri Stewart  
Carly Thelen  
Veena Tripathi  
Ryan Vetleson  
Kathryn Wendt  
Todd Werner  
Kyle Wislocky



# Open Communication, Closed Case

## Communication makes projects happen

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## What's Happening in the Minnesota Chapter?

### March 18: Mass Tort & Complex Litigation Seminar

The Minnesota Chapter of the FBA and its Mass Tort and Class Action Practice Group are offering a seminar on MDL and Complex Litigation on March 18, 2020, at the Diana E. Murphy U.S. Courthouse in Minneapolis, Minnesota. This is a free event.

**Time:** 7:45 a.m.-8:30 a.m. – Newer Lawyers Continental Breakfast; 8:30 a.m.-4:30 p.m. – Speakers and Seminars, with reception to follow

**Location:** Diana E. Murphy U.S. Courthouse, 300 S. Fourth St., Minneapolis, MN

**Registration:** <https://stinsonnews.com/25/1766/landing-pages/fba-cle-rsvp-blank.asp?sid=a69fc6ee-dd33-4abb-b96f-86cf55e2b565>

**Questions and Requests for Accommodations:** [erodette@locklaw.com](mailto:erodette@locklaw.com)

### May 16: 2020 Annual Federal Judges' Dinner Dance

Please watch your inbox for registration information, both for firm sponsorships and individual registrations, coming this month. We hope you can join us for this great event!

**Time:** 6:00 p.m.

**Location:** Minikhada Club, 3205 Excelsior Blvd. Minneapolis, MN 55416

**Questions and Requests for Accommodations:** [aboylan@anthonyostlund.com](mailto:aboylan@anthonyostlund.com) or [laura.johnson@faegredrinker.com](mailto:laura.johnson@faegredrinker.com)

## Summer 2020 Remembrances of 1920 Duluth Lynchings

The United States District Court for the District of Minnesota, the Minnesota Supreme Court, the Sixth Judicial District of the Minnesota State Court, the Minnesota Attorney General's Office, the Minnesota Chapter of the Federal Bar Association, the Minnesota State Bar Association, the Minnesota Association of Black Lawyers, the firm of Blackwell Burke P.A., and the Jewish Community Relations Council of Minnesota and the Dakotas, together with leadership of the Minnesota Historical Society and various other community members, are working together to mark and acknowledge the 100-year anniversary of the murders by lynching of Elias Clayton, Elmer Jackson, and Isaac McGhie in Duluth in June of 1920.

Remembrances will be held on June 15, 2020 in Duluth and June 16, 2020 at the Federal Practice Seminar at the Minneapolis Hilton. Guest speaker Bryan Stevenson of the Equal Justice Institute, author of *Just Mercy*, as well as other notable speakers, will highlight the many events planned. Please save the dates for June 15, 2020 in Duluth and June 16, 2020 in Minneapolis.

## Upcoming Events:

### March 18, 2020

*Mass Tort & Complex Litigation Seminar & Newer Lawyers Continental Breakfast*

Diana E. Murphy United States Courthouse  
7:45 a.m.-4:30 p.m. with reception to follow

### April 8, 2020

Monthly Luncheon  
*Eileen Hunter, Amanda Rome, and Erin Oglesbay (in-house attorneys at 3M, Xcel Energy, and Target)*  
12:00 p.m.  
Minneapolis Club

### May 13, 2020

Monthly Luncheon  
*A Conversation with Justice Alan Page*  
12:00 p.m.  
Minneapolis Club

### May 16, 2020

*Federal Judges' Dinner Dance*  
6:00 p.m.  
Minikhada Club

### June 15, 2020

*Duluth Remembrances*  
Duluth, Minnesota

### June 16, 2020

*Federal Practice Seminar*  
Minneapolis Hilton

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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](mailto:Chad_Pennington@fd.org)) or **Kari Dahlin** ([kmdahlin@arthurchapman.com](mailto:kmdahlin@arthurchapman.com)).

A special thank you to **Taya Swenson Schmid & Nhia Thao**, Dorsey & Whitney LLP, for formatting this issue.

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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.



**Federal Bar  
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Minnesota Chapter