



# Hon. Kesha L. Tanabe

## U.S. Bankruptcy Judge, District of Minnesota

by Hon. Charles L. Nail, Jr.



Prior to his retirement in January 2023, Hon. Charles L. Nail, Jr. was the Chief Bankruptcy Judge for the District of South Dakota and the Chief Judge of the Eighth Circuit Bankruptcy Appellate Panel. (He is also the colleague referred to in the first paragraph of this profile and an unabashed fan of Judge Tanabe.)

**A**ppointed in January 2022 to fill the vacancy left by bankruptcy judge Kathleen H. Sanberg's retirement, Kesha L. Tanabe is best described as a force of nature. Within months of Judge Tanabe's taking the bench, a colleague told a gathering of Eighth Circuit bankruptcy judges, "Good luck keeping up with her." They thought he was kidding. He was not.

Judge Tanabe was raised in Minnesota and North Dakota. Her grandparents were originally from California, but they resettled in the Midwest after being released from the internment camp to which they were sent pursuant to President Franklin Roosevelt's infamous Executive Order 9066. Judge Tanabe has traveled extensively and has lived in several different countries, but she says something about the North Shore of Lake Superior always calls her back to Minnesota. That something may be the spectacular view from her lakefront getaway or the area's seemingly endless bike and hiking trails.

Judge Tanabe graduated *magna cum laude* from the University of St. Thomas in St. Paul, Minnesota, with a Bachelor of Arts in political science. While attending St. Thomas, she availed herself of a number of other educational opportunities, including the Higher Education Consortium for Urban Affairs' social justice and urban studies program. She also attended language immersion programs in France and Mexico and studied abroad in New Zealand and the United Kingdom.

Following her graduation from St. Thomas, Judge Tanabe attended the London School of Economics, where she received a master's degree with honors. She jokes she is technically a dropout, because she left the school's Ph.D. program to enroll at the Benjamin N. Cardozo School of Law in New York City, where she earned her Juris Doctor degree. In her third year of law school, she moved to Budapest to study at the Central European University and Open Society Institute and work at the law firm Reczicza White & Case LLP.

While in law school, Judge Tanabe interned with the solicitor general in the New York state attorney general's office, and upon graduating, she entered the



attorney general's honors program. Judge Tanabe credits the experience she gained in the honors program for her ability to employ social science to devise novel approaches to civil litigation, such as the time she used econometric modeling in a case related to school funding. Judge Tanabe remembers her days in the honors program fondly, saying she was blessed to work alongside incredibly talented and dedicated attorneys on several landmark cases, including the state of New York's efforts to enforce the 1998 master settlement agreement between it (and other states) and various tobacco companies, and *Roper v. Simmons*, in which the United States Supreme Court held it was unconstitutional to impose capital punishment on an individual for crimes committed while the individual was a minor.

Judge Tanabe returned to Minnesota to join the Minneapolis law firm Maslon LLP, where bankruptcy became the primary focus of her legal career. After making partner at Maslon, Judge Tanabe was recruited as a lateral partner, first by the Minneapolis office of the Indianapolis-based law firm Faegre Baker Daniels LLP (since combined with Drinker Biddle & Reath to become Faegre Drinker Biddle & Reath LLP), and then by ASK LLP, a New York City-based



Top photo: Judge Tanabe with law students at her alma mater, Cardozo Law; Bottom photo: Judge Tanabe and other members of the FJC faculty and advisory committee in Washington, D.C.

bankruptcy boutique. At each of these law firms, her practice primarily consisted of representing institutional investors, financial institutions, and trustees in national chapter 11 cases.

To the surprise of no one who knows her, Judge Tanabe soon developed a loyal client base. This enabled her to take the plunge and establish her own law practice. This in turn allowed her greater autonomy to work on a broader range of bankruptcy matters. While she

continued to represent institutional investors, financial institutions, and trustees, she expanded her practice to include landlords, equipment lessors, distressed investors, and creditor committees.

Establishing her own practice also allowed her to give back to the community by representing local businesses *pro bono*. Among the many beneficiaries of her *pro bono* (or “low *bono*”) services were minority business owners affected by the COVID pandemic and others whose businesses were damaged in the protests following the death of George Floyd.

In her “spare time,” Judge Tanabe taught bankruptcy law as an adjunct professor at the University of St. Thomas School of Law. She also served as a moot court judge for the Duberstein bankruptcy moot court competition in New York City.

When Congress amended title 11 of the bankruptcy code to add a new subchapter V for qualifying businesses, Judge Tanabe was selected to serve as one of Minnesota’s subchapter V trustees. In that capacity, she worked with debtors, creditors, and their attorneys to resolve their differences and develop consensual plans of reorganization, a job not entirely dissimilar to herding cats. More often than not, she succeeded.

However, Judge Tanabe was not the trustee in the first subchapter V case in the nation in which a plan of reorganization was confirmed. She could not be . . . because she represented the debtor in that case.

One of the best measures of an attorney’s character, demeanor, and skill is what other attorneys say about her. Alain Baudry, one of Judge Tanabe’s colleagues at Maslon LLP, worked with her on several complex bankruptcy matters and says he “came to realize that [Judge] Tanabe possessed off-the-charts intelligence and outstanding communication skills.” Karl Johnson,



Left photo: Gov. Walz and Judge Tanabe at the last Minority Judges Reception in Minnesota; Right photo: Judge Tanabe at her first naturalization ceremony—one of her favorite parts of being a judge.

who knew her “as opposing counsel, as co-counsel, and as counsel representing similarly situated creditors,” describes her as “always a pleasure to work with . . . [and] both an industrious and a congenial collaborator. She is also very knowledgeable about bankruptcy law and able to analyze complex situations quickly.” Johnson goes on to say, “her most impressive quality, though, may be her ability to read people and communicate unpleasant truths in a way that the person can accept. . . . [Judge] Tanabe’s ability to read people also makes her very skilled at evaluating credibility.”

Another measure of an attorney’s character, demeanor, and skill is the extent to which she is formally recognized for her work. Prior to her appointment as a bankruptcy judge, Judge Tanabe was named a Minnesota Rising Star, a Minnesota Super Lawyer, and one of Minnesota’s top women attorneys by Super Lawyers, a rating service of outstanding lawyers who have attained a high degree of peer recognition and professional achievement.

Finally, no profile of Judge Tanabe would be complete without at least some recognition of her efforts to promote diversity and inclusion in the legal profession. Sukanya Momsen, a past president of the Minnesota Asian Pacific American Bar Association, says Judge Tanabe is “an informal mentor to our members” and “an active member of our community who gives her time and talents to better our community at large.” Lisa Beane and Jessica DuBois, former co-chairs of the Minnesota Lavender Bar Association, which represents the interests of legal professionals who are members of the LGBTQ+ community, say Judge Tanabe “has long demonstrated a deep commitment to advancing diversity in the legal profession and promoting equal access to justice.”

Judge Tanabe served as the attorney co-chair for the Judicial Conference of the United States’ Committee on the Administration of the Bankruptcy System’s 2019 “Roadways to the Federal Bench: Who Me? A Bankruptcy Judge?” diversity event in Minneapolis. (She was also a national panelist for the event in 2022.) “Roadways” was a tremendous success, due in large part to

Judge Tanabe’s efforts. She devoted countless hours to identifying and personally contacting diverse attorneys to encourage them to attend. Her efforts paid off: By a show of hands, virtually every attorney in attendance at the Minneapolis event indicated they were there because of Judge Tanabe. One of those attorneys even went on to become a bankruptcy judge. That attorney was . . . Judge Tanabe.

(Ever the modest Minnesotan, Judge Tanabe hastens to point out other attorneys who attended the same event at other locations around the country have also gone on to become bankruptcy judges. However, this is her profile, not theirs.)

In only her second year on the bench, Judge Tanabe continues to be recognized and rewarded for her accomplishments. Earlier this year, Chief Justice John Roberts appointed her to the Judicial Conference of the United States’ bankruptcy judge education advisory committee. She is on the faculty of the Federal Judicial Center (which provides continuing education resources for the federal judiciary). Judge Tanabe is a nationally recognized expert on bankruptcy law and continues to be a prolific public speaker. She is frequently invited to speak by organizations representing a broad range of constituencies in bankruptcy, including the American Bankruptcy Institute, the American Bar Association, the International Women’s Insolvency & Restructuring Confederation, the National Conference of Bankruptcy Judges, and the National Association of Bankruptcy Trustees.

When asked why she has devoted so much time and energy to the subject of bankruptcy, Judge Tanabe says, “Bankruptcy is not a game of perfect. You’re only called upon because something is broken. Restructuring is like *kintsugi*, an ancient Japanese technique for repairing broken pottery. We don’t throw things away because they are imperfect. We don’t just leave them broken, either. If you patiently cultivate your skills and add creativity and hard work, you can repair things. I guess that’s just a fancy way of saying that in bankruptcy we try to leave things better than we found them.” ☺