



# Bar Talk

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## A Conversation with Judge Jimmie Reyna: Insights from the Bench and Beyond

*By Sheila Niaz*

On Tuesday, August 13, 2024, the Twin Cities legal community was treated to an exclusive “fireside chat” with the Honorable Jimmie V. Reyna of the United States Court of Appeals for the Federal Circuit. The event was hosted by the Hon. Jimmie V. Reyna Intellectual Property American Inn of Court at Robins Kaplan LLP’s offices. Notably, the gathering was made possible through the sponsorship of several esteemed organizations: the Chapter’s Intellectual Property Committee, the Minnesota Hispanic Bar Association, and the Minnesota Intellectual Property Law Association.

The evening began with introductions by retired Magistrate Judge Hildy Bowbeer, president of the Reyna Inn of Court, and Kelvin Collado, president of the Minnesota Hispanic Bar Association. Judge Reyna then took center stage, sharing a wealth of personal experiences and professional insights. He spoke about his journey to becoming a lawyer, crediting his avid reading habit as a key



influence. Judge Reyna recounted his early career in New Mexico as a trial lawyer and solo practitioner, and then his move to the Washington, D.C. area, where he became one of the nation’s most respected international-trade lawyers. He highlighted the diverse range of cases he handled throughout his career and the importance of that broad background in preparing him for the work he now does on the Federal Circuit bench.

Judge Reyna’s conversation spanned a wide array of topics, offering attendees a candid view of life on and off the bench. He discussed the concept of “multifaceted law” and provided perspective regarding his judicial role. Judge Reyna shared insights into his career’s progression that ultimately led to his appointment as a circuit court judge. His candid discussion ranged from his preparation for the Senate confirmation hearings, to his appreciation for the collegiality among his Federal Circuit colleagues, and the anticipated growth areas for patent lawyers, particularly in relation to artificial intelligence.

Emphasizing the importance of community service, Judge Reyna encouraged attorneys to engage in pro bono work, suggesting opportunities with the United States Patent and Trademark Office, World Intellectual Property Organization, or local organizations. He stressed that while lawyers may have specialties, they are first and foremost generalists. Judge Reyna urged attorneys not to be discouraged from taking on pro bono opportunities outside their specific areas of expertise. He noted that this diversity of experience not only benefits society but also makes for better, more well-rounded lawyers.

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Judge Reyna also touched on the critical role of mentorship in the legal profession and highlighted lawyers' responsibility to educate society about the law, creating a ripple effect that extends far beyond the courtroom.

In a lighter moment, Judge Reyna shared some surprising personal facts, including his prowess as a middle school pole vaulter and his boyhood preference for portraying a Viking when his friends were dressing up in more customary childhood battle roles—a detail that particularly delighted the Minnesota audience, given their beloved Vikings football team.

This intimate gathering provided attendees with invaluable insights into Judge Reyna's judicial philosophy, personal journey, and vision for the legal profession's role in society. His words left a lasting impression on the importance of continuous learning, community engagement, and the far-reaching impact of legal professionals in shaping our democracy

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## Monthly Luncheons Kick Off with David Douglass of Effective Law Enforcement for All

*By Emily M. McAdam*

The Chapter's 2024 – 2025 monthly luncheon series kicked off with a lively and informative presentation from David Douglass, president of Effective Law Enforcement for All ("ELEFA") at the September luncheon. Earlier this year, Douglass was selected to serve as the independent monitor to oversee the consent decree between the City of Minneapolis and the Minnesota Department of Human Rights relating to the Department's findings that the Minneapolis Police Department engaged in a pattern and practice of racial discrimination.

Douglass, a former Department of Justice civil rights attorney, was born in the historically Black, economically diverse Brooklyn neighborhood of Bedford-Stuyvesant. It wasn't until his family moved to Hastings on Hudson, Douglass explained, that he "learned to be Black." It was as one of the few Black people in his community that Douglass—referencing W.E.B. Du Bois—developed his "second sight": an understanding of what it means to be Black both in the eyes of his white neighbors and America more broadly. By embracing this concept of second sight, Douglass became an interpreter between two worlds, he told Chapter members in attendance.



These interpretation skills from Douglass's youth no doubt serve him well today. Through his work with ELEFA, Douglass has uncovered a number of what he calls false narratives surrounding policing in America. Douglass provided an example: it is, he said, a false narrative that Black people hate the police. Douglass's second sight helped him understand that the Black community's understandable frustration at years of being disproportionately targeted by police was being interpreted as anger by those who don't live with the same daily fear that their children will become a use-of-force statistic. Far from anger, what Black people want is policing that understands and respects their identities and enforces the law.

Douglass has also learned through his work that police want the same thing—to be understood and respected for doing a good job enforcing the law. Indeed, as Douglass reminded any skeptics, no one grows up playing bad cops and robbers. Police officers want fair and effective policies and procedures, and they want good training. It is bad policies, procedures, and training that create bad police officers, Douglass said, thus failing both the officers and the public.

This is where ELEFA comes in. ELEFA was formed to help police, civic, and community leaders partner to reinvent law enforcement in their communities to achieve policing that is effective, respectful, restrained and, above all, safe for the public and the police. ELEFA emphasizes community engagement, collaborative reform, and restorative justice in its work. Their mission and work make Douglass and his ELEFA team well-suited to the task of serving as independent monitors over the City of Minneapolis's consent decree.

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As Douglass reminded attendees, the consent decree is a court-enforced contract. It requires the Minneapolis Police Department to make reforms in key areas, including by providing increased support for police officers. Part of this increased support will involve developing an early warning system that will help identify red flags and threats to officer health (which in turn can be a contributor to bad policing). The consent decree should also operate to promote increased transparency within the department, especially when passing new policies

In his role as independent monitor, Douglass will assess the progress the Minneapolis Police Department makes towards complying with the consent decree, and he will provide technical assistance to reach compliance. Douglass is not alone in this endeavor. His team includes Michael Harrison, Douglass's co-independent evaluator and a former police commissioner. Harrison brings of a depth of experience to his role. As former police commissioner for the cities of Baltimore and New Orleans, Harrison led those troubled police departments through compliance with their own federal consent decrees. Another member of Douglass's team is Arlinda Westbrook, an attorney who served as the deputy superintendent of the New Orleans Police Department and as the first civilian deputy chief of the Public Integrity Bureau. She also played an integral role in the implementation of the New Orleans consent decree. In her current role with ELEFA, she oversees community engagement and accountability with respect to the Minneapolis consent decree. Both Commissioner Harrison and Ms. Westbrook joined Douglass for the luncheon and stayed after to speak with and answer questions from attendees.

Through their work, Douglass and ELEFA hope to help the City of Minneapolis and its citizens recognize and implement good policing—policing that is safe and effective for police and the community. If you'd like to get involved in this work, check out ELEFA's website at <https://ele4a.org> and keep an eye out for upcoming events and community meetings.

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*Emily M. McAdam is an attorney at Greene Espel PLLP. She represents clients in complex civil litigation as well as government and internal investigations, with a particular emphasis on healthcare-related matters.*

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## **October Luncheon Provides a Lively Discussion on the Post-Chevron Litigation Landscape**

*By Patrick Courteau*

While enjoying a lunch of crusted salmon, Chapter members were hooked by a lively discussion on how Loper Bright, a case brought by a herring fisherman, has changed the regulatory landscape by overturning the 40-year-old Chevron Doctrine. Kelly Fermoye of Faegre Drinker Biddle & Reath LLP moderated the panel consisting of Minnesota First Judicial District Judge Charles Webber, Mitchell Hamline School of Law Professor Mehmet Konar-Steenberg, and Faegre Drinker partner Aaron Van Oort.

Professor Konar-Steenberg cast the first line, describing the history of Chevron and how it was originally viewed as the Supreme Court reeling in judicial policy making. Leading up to the 1984 decision, the Environmental Protection Agency ("EPA") determined ambiguous language in the Clean Air Act ("CAA") required factories to apply for permits only when factory modifications would result in an increase in pollution as opposed to any factory modification. The National Resources Defense Counsel, a public interest group, filed suit, arguing that where ambiguity existed the policy should be interpreted in favor of limiting pollution to the fullest extent because the CAA's purpose was to ensure clean air.

The D.C. Circuit agreed, citing the purpose of the CAA and directed the EPA to change its interpretation. The Supreme Court, in an opinion by Justice Stevens, trolled into different waters, holding that, when ambiguity exists within a statute, the interpretation of the applicable agency will control so long as that interpretation is reasonable. This position was buttressed by the idea that agencies have expertise that judges do not. It has also been argued that Congress's decision to create an ambiguity is a grant of authority to the Executive though its agencies.

Mr. Van Oort noted that when the decision was first issued, Justice Breyer was initially hostile to what he described as an "abdication" of a judge's obligation to interpret the law. Meanwhile, Justice Scalia initially supported the decision. Judge Webber added that over the years Justice Scalia's position shifted as he observed its application. Cases like *Brand X* extended Chevron—determining that agency interpretation maintains its elevated status even when the judiciary has already weighed in on the ambiguity, which likely drove Justice Scalia's shift in position.

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Judge Webber and Professor Konar-Steenberg highlighted additional perceived issues with the doctrine. For example, changes in the presidential administration every four to eight years often leads to changes in agency interpretation based wholly on policy positions, causing confusion and a lack of predictability. Prior to joining the Supreme Court, Justice Gorsuch wrote about the Chevron Doctrine as an abuse of power. Needless to say, Chevron was not without its critics.

After 40 years, in *swam Loper Bright Enterprises v. Raimondo*. The National Marine Fisheries Service interpreted the Magnuson-Stevens Fishery Conservation and Management Act to require private fishing boats to pay the cost of having a required federal monitor. The plaintiff's challenged the interpretation asking for Chevron to be overturned or clarified. In a 6-2 decision, authored by Chief Justice Roberts, the Court overturned Chevron and agency interpretation supremacy. Surprising to many, the decision was based primarily on the Administrative Procedure Act's ("APA") requirement that courts, not agencies, decide "all relevant questions of law."

Mr. Van Oort pointed out Chevron made no reference to the APA and was a 6-0 decision (Justices Marshall, Rehnquist and O'Connor did not participate) focused on the perceived purpose of keeping courts out of policy. Professor Konar-Steenberg cited *Vermont Yankee* as a subsequent case that showed the Court's desire to keep the judiciary out of the policy-making arena. Judge Webber argued that grounding the decision in the APA was appropriate not only because it is legally sound, but because it gives Congress a clear directive to change the APA and reimplement the Chevron Doctrine if it so desires.

Like many fish stories, the panel believes the perceived size of the decision's implication has been greatly exaggerated. Mr. Van Oort relied on a previous opinion in which Justice Kagan appeared to redefine and limit Chevron's reach by significantly narrowing what qualifies as "ambiguous." Judge Webber cited Justice Kagan from oral arguments seeming to agree with positions offered by Justice Gorsuch, noting when they agree on an issue it is probably correct.

Professor Konar-Steenberg proclaimed "Chevron is not entirely dead" arguing the decision creates two categories of cases: 1) those that deal with ambiguous statutes in which delegation has been given to the courts; and 2) those with direct delegations to agencies in which the agency interpretation will still be granted deference so long as it is reasonable.

Mr. Van Oort responded, "Chevron is dead." He went on to describe the new Major Questions Doctrine and argued ambiguity in statutes is not a delegation but instead a reservation of power by Congress who can later clarify the ambiguity in subsequent legislation.

The panel agreed that the post-Chevron world is a bit unclear. They pitched a decision tree for attorneys and corporations attempting to navigate these murky waters. Ask yourself, is there a regulation giving you pain? Is it based on an interpretation of a statute? Are you in the six-year period to challenge the interpretation? If your answer to those questions is yes, file a lawsuit. If the answer to the last question is no, find someone who is within their period, or create a new entity that is, and file a lawsuit. Ultimately, the post-Chevron boat will be steered by lawyers and judges inside courtrooms—absent Congress passing legislation to overturn the decision, a proposition that seems unlikely.

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*Patrick Courteau is a litigation associate at Greenberg Traurig, LLP, who recently returned to Minnesota after four years in the Air Force JAG Corps.*

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## **November 2024 Luncheon Celebrates Judge Wright and Introduces Magistrate Judge Elkins**

*By Farah Famouri*

On November 6, 2024, members of the Chapter gathered at the Minneapolis Club to chat with colleagues, celebrate the career of the Honorable Wilhelmina Wright, and hear from the District's newest Magistrate Judge, the Honorable Shannon Elkins.

Magistrate Judge Micko started off the luncheon by honoring retired U.S. District Judge Wilhelmina M. Wright, celebrating her time with the Court and continuing the time-honored tradition of gifting judges who take senior status or retire with an inscribed chair as a token of the Chapter's thanks.

Next, I had the pleasure of interviewing Judge Elkins for this event. In recounting her path to the bench, we discussed her childhood and upbringing in lower Michigan, where she grew up in a small town. She also played for eight years on the boys' soccer team, which she attributes to giving her a chip on her shoulder. Moving to her time at the University

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of Minnesota Law School, Judge Elkins described her love of the law. Her love of working with clients helped solidify her decision to become a public defender, first with Hennepin County, and then with the Office of the Federal Defender. She particularly remembers fondly her work as a member of the Federal Reentry Court Team, where she assisted folks coming out of prison with a high risk of reoffending. In this program, Judge Elkins loved hearing the stories of the participants, helping people, and seeing participants support each other.

That is not to say that Judge Elkins is all work and no play. Judge Elkins described a love of reading, particularly books by Leif Enger and William Kent Krueger, as well as playing volleyball. When I asked what her music choice would be if judges had walk out music like baseball players, Judge Elkins responded with “Seven Nation Army” by The White Stripes and “Turntables” by Janelle Monáe—but acknowledged that perhaps those songs were better suited to pump her up at a party than now as a judge.

Judge Elkins left the audience with some tips for practice for any litigants that may appear in front of her. She emphasized, “Be prepared!” She added that one should listen to what their adversary says before responding and, ultimately, be reasonable as a litigator.

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*Farah Famouri is an attorney at Greene Espel PLLP, representing clients in the public and private sectors in complex litigation. Farah had the pleasure of meeting Judge Elkins through their service on the planning committee for the 2023 MSBA Conference on the Future of the Federal Criminal Justice System.*

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## **Panel Presentation Delves into Rule 36 Requests for Admissions**

*By Hildy Bowbeer*

Requests for admissions (“RFAs”) pursuant to Federal Rule of Civil Procedure 36 can be a powerful tool to help streamline litigation and focus on the merits—but only when parties first determine what they wish to accomplish and then craft them specifically to achieve that result. That was the key message during the Chapter’s latest breakfast-time CLE, Why Should I Care About Rule 36 Requests for Admissions? More than 30 attendees gathered in downtown Minneapolis on September 26 to hear insights from presenters Magistrate Judge Dulce Foster, Kate Baxter-Kauf (Lockridge Grindal Nauen), and Kristin Zinsmaster (Jones Day), on how and when this particular tool can be used more effectively. Courtney Burks of Jones Day moderated the discussion. The CLE was co-produced by the Civil Discovery Practice Group and the Mass Action/Class Action Practice Group. The space and a continental breakfast were generously provided by Lockridge Grindal Nauen.

The panel began by noting that when it comes to RFAs it is important for counsel to think carefully about the purpose for which they are being served. In some cases, counsel might seek to narrow the scope of discovery or potential discovery disputes by ascertaining whether the parties agree on certain facts or key definitions, or whether the responding party stands behind the accuracy of testimony it gave previously. In other cases, RFAs might be targeted less toward discovery and instead might seek to narrow issues in dispute for trial. The purpose or purposes to which the RFAs are directed will in turn help drive the appropriate timing, i.e., whether at the beginning of the case or closer to the end of discovery.

The panel included counsel from both the plaintiffs’ and defendants’ perspectives, but all agreed that when it comes to propounding effective RFAs, the same principles will generally apply: the more direct they are, the fewer “commas and semicolons, descriptors, qualifiers, adverbs and adjectives,” the more likely an RFA is to serve its intended purpose. They also agreed that while Rule 36 permits serving requests for admissions dealing with the application of law to facts, those are less likely to elicit a useful response.

The panelists also concurred that RFAs should not be used to harass or burden the opposing party or to try to lay a “gotcha” trap for the unwary. Judge Foster noted that not only are such efforts likely to be ineffective, they also risk violation of procedural and ethical rules that require counsel to secure just, speedy, and inexpensive determinations and to be fair, to be efficient, and to act in good faith and not advance frivolous positions. Judges, she observed, are attuned to these considerations and are unlikely to be receptive to attempts to use RFAs for the purpose of increasing costs or subverting the merits or both. But, she noted, these are obligations that govern responding parties as well. Even though it may be tempting for counsel to look for any excuse to evade a direct answer to an RFA, she cautioned against being “too cute” or evasive rather than parsing the RFA and responding to the extent reasonably possible.

The panelists also discussed the importance for attorneys responding to RFAs to conduct a diligent inquiry into the client’s knowledge, which requires “real conversations with real people.” This will necessarily be more burdensome for corporations

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than for individuals, but Zinsmaster observed that in her experience, corporations take the obligation to conduct a diligent inquiry very seriously. She also emphasized the value of meeting and conferring early in the case on the scope of discovery, which (aside from being a laudable and judge-approved practice more generally) could avert later disputes on the scope of the inquiry that should have been conducted. Judge Foster also acknowledged the burden of responding to RFAs and said that she frequently includes a limit on their number in the pretrial scheduling order. That said, the panelists agreed that RFAs seeking admissions regarding the authenticity of documents can often be used very effectively to streamline litigation and keep costs down. Judge Foster stated that she has been receptive to a party's request to expand the number of permissible RFAs to accommodate this purpose.

The process for and implications of amending responses to RFAs was also a topic of discussion. The panelists commented on the seeming tension between Rule 36(b) and Rule 26(e). Rule 36(b) seems to indicate that if a responding party wishes to amend or withdraw an admission it must first move for permission to do so. Rule 26(e), however, imposes on a party an affirmative duty to supplement responses to RFAs if it determines the response is incomplete or incorrect.

Finally, the panel addressed the considerations around the timing for bringing disputes about RFAs to the court. They agreed that key considerations included whether the relief sought was trial-related, in which case the dispute would more likely be brought to the trial judge (perhaps via motion in limine), or whether the relief sought was more likely to affect the scope or timing of discovery, in which case it would be addressed to the magistrate judge, ideally before discovery concluded. All agreed that trying to bring any dispute to the judge before it was ripe would typically not be productive, and that best practice is to meet and confer with opposing counsel in an effort to resolve the dispute without motion practice.

This CLE was co-presented by the Chapter's Civil Discovery Practice Group and Mass Tort, Multi-District Litigation, and Class Action Practice Group. The Civil Discovery group aims to develop educational programming and promote collegiality among FBA members from all practice areas and sides of the "v" who are interested in civil discovery. If you are interested in joining the practice group or have ideas for topics for future programs, please contact 2024–2025 co-chairs Brittany Resch ([brittanyr@turkestraus.com](mailto:brittanyr@turkestraus.com)), Andy Tweeten ([andrew.tweeten@usdoj.gov](mailto:andrew.tweeten@usdoj.gov)), and Judge Jane Maschka. The Mass Tort, Multi-District Litigation, and Class Action Practice Group gathers practitioners representing plaintiffs and defendants in those complex, multi-party litigation settings. Those interested in joining that practice group can contact 2024–2025 co-chairs Kate Baxter-Kauf ([kmbaxter-kauf@locklaw.com](mailto:kmbaxter-kauf@locklaw.com)), Stacey Slaughter ([sslaughter@robinskaplan.com](mailto:sslaughter@robinskaplan.com)), and Gene Hummel ([Gene.hummel@nortonrosefulbright.com](mailto:Gene.hummel@nortonrosefulbright.com)).

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*Retired Magistrate Judge Hildy Bowbeer is one of the founders and former co-chair of the Chapter's Civil Discovery Practice Group.*

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## Chapter's New Antitrust Practice Group Hosts Kickoff Social Event

*By Shashi K. Gowda and Frances Mahoney-Mosedale*



On October 2, 2024, the Chapter inaugurated one of its newest practice groups—the Antitrust Practice Group—with a kickoff social event hosted at the Living Room at the W Minneapolis – The Foshay. Antitrust Practice Group co-chairs Michelle Looby of Gustafson Gluek PLLC, Holley Horrell of Greene Espel PLLP, and Stacey Slaughter of Robins Kaplan LLP, addressed and welcomed the attendees, including Judge Tunheim and Magistrate Judge Docherty. In addition to many attorneys well established in their antitrust practice, there was a large showing of newer lawyers in attendance. Social events like this one offer a unique opportunity for newer lawyers to build relationships with the attorneys they may otherwise only interact with in meetings or on calls. Attendees were treated to refreshments provided by Veritext and socialized with each other over the course of the evening. The Antitrust Practice Group is off to a rousing success and is sure to continue fostering relationships in the local antitrust community.

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*Shashi K. Gowda and Frances Mahoney-Mosedale are associates at Gustafson Gluek PLLC. They represent both individual plaintiffs and classes in the in the areas of consumer protection and antitrust.*

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## Can You Keep a Secret? Civil Discovery Practice Group Assembles Roundtable on Privacy Laws in Civil Litigation

By Andy Tweeten

Civil practitioners gathered on December 3, 2024, for the first in a series of roundtable discussions on privacy and confidentiality considerations in civil litigation, organized by the Chapter's Civil Discovery Practice Group. Over 40 attorneys attended the event in person and via Zoom.

A panel of Civil Discovery Practice Group members discussed the intricacies of six privacy laws. Panelists encouraged thoughtful consideration of these laws starting with the early stages of every case, in conversations with clients, at the Rule 26(f) conference with opposing counsel, in discussions about a protective order, and in the Rule 16 scheduling conference.

Marc Betinsky of Robins Kaplan LLP opened the discussion with a presentation on the Minnesota Government Data Practices Act ("MGDPA"). State agencies are often required to balance their requirement to protect government data under the act with discovery obligations in civil litigation in federal court. Betinsky explained that courts have generally held that the MGDPA is not a privilege against discovery, but the interests implicated by the statute should be considered in crafting a protective order.

The discussion next turned to the new Minnesota Consumer Data Privacy Act ("MCDPA"). Retired U.S. Magistrate Judge Hildy Bowbeer shared many details about the MCDPA, which was signed into law in May 2024 and will become effective for most consumer-data controllers and processors on July 31, 2025. Parties to federal civil cases may need to consider proposing language in the protective order that invokes the MCDPA in future cases, as well as to consider whether the act has implications for law firms and their vendors who gather and disclose consumer data in the course of discovery.

Three panelists—Sharon Markowitz of Stinson LLP, Brittany Resch of Strauss Borrelli PLLC, and Andy Tweeten of the U.S. Attorney's Office for the District of Minnesota—shared further insights on the Family Educational Rights and Privacy Act ("FERPA"), Health Insurance Portability and Accountability Act ("HIPAA"), Gramm-Leach-Bliley Act ("GLBA"), and Federal Privacy Act, respectively. The roundtable concluded with an open discussion of issues presented by the statutes highlighted by the panelists.



The roundtable was produced by the Chapter's Civil Discovery Practice Group, which aims to develop educational programming and promote collegiality among interested FBA members interested in civil discovery. Future privacy and confidentiality roundtables are in the works, with expected topics to include Rule 45 subpoenas and third-party discovery, sealing court documents under Local Rule 5.6, and use of confidential documents at trial. Chapter members interested in joining the Practice Group or seeking more information about these events can contact 2024-25 co-chairs Brittany Resch, Andy Tweeten, or Judge Jane Maschka.

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*Andy Tweeten is a co-chair of the Chapter's Civil Discovery Practice Group and an assistant U.S. attorney in the Civil Division of the U.S. Attorney's Office for the District of Minnesota. His practice focuses on affirmative civil fraud matters and defensive tort, employment, and administrative-law cases.*

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## Judge Tunheim Kicks Off Newer Lawyers Committee Luncheon Series

*By Lydia Lockwood*

A cold and snowy December afternoon was filled with warm and friendly smiles as Judge Tunheim joked with newer lawyers that this monthly luncheon would be the only time they will be permitted to eat in his courtroom.

Judge Tunheim began the luncheon discussing the opening of the St. Paul location of the Justice & Democracy Center located within the Warren E. Burger Federal Building and U.S. Courthouse. Judge Tunheim emphasized the opening of the center as essential to educate Minnesotans on both civics and the democracy we live in, especially in today's climate. In explaining the ideas behind creating the Justice & Democracy Center, Judge Tunheim discussed the inability of Americans to name all three branches of government or pass the test to become a U.S. citizen. The Center aims to provide education on governmental issues, pivotal legal cases, the role of the judiciary, and the roles of participants in the courtroom. As of the December 9, 2024, luncheon, there had been over 5,000 visitors to the Center. Judge Tunheim encouraged those in attendance to visit and to spread the word to family and friends.

Judge Tunheim next discussed his career path to the bench, acknowledging his great fortune to clerk for the very man pictured behind him in his courtroom, Judge Earl R. Larson. Judge Tunheim recounted his experience working in private practice as a newer lawyer, his eventual appointment as Minnesota's solicitor general, and then appointment as chief deputy attorney general.

Judge Tunheim recalled the many opportunities he took advantage of as a young lawyer. He encouraged the newer lawyers to find these opportunities for themselves, whether it is taking on a case through the Pro Se Project, volunteering for Legal Aid, or claiming responsibility of being the lead lawyer on a case. In an effort to give newer lawyers more courtroom experience, Judge Tunheim issued a standing order requesting newer lawyers argue motions.

When asked about a formative case in his career, Judge Tunheim recalled a case from his early days of practice where the judge ruled against him from the bench. As Judge Tunheim and his client were leaving the courtroom, his client opined that the judge didn't even listen to their argument. Judge Tunheim said this memory has made it important for him to show the parties he contemplated both sides of the case during his time on the bench.

Lastly, when discussing one of the more favorable cases he has presided over from the bench, Judge Tunheim recalled a case where the jury wrote a letter to the parties after reaching their decision. Judge Tunheim was very impressed with how thoughtful the jury was in formulating their statement. Judge Tunheim emphasized the impact litigation can have on both clients and the jury. He articulated that through our role as lawyers and judges, the image of what we are doing and how we are doing it is important.

Reflecting back on the opportunities he was given as a young lawyer, Judge Tunheim ended lunch with the advice of finding ways to get involved in both your community and in cases where you will be in front of a judge, saying he hoped to see these new lawyers again in the courtroom.

Thank you to Judge Tunheim for taking the time to engage with and offer advice to the Chapter's newer lawyers as they begin their legal careers. Additionally, thank you to the New Lawyers Committee, especially co-chairs Joseph Balthazor and Greta Wiessner, for organizing this event.

*More information on the Justice & Democracy Center can be found at: <https://justicedemocracymn.org/>*

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*Lydia Lockwood is an associate at Gustafson Gluek PLLC, representing both classes and individual plaintiffs in the areas of consumer protection and antitrust.*

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## Clerk's Corner

By Andrew Pieper

### Announcements:

As of January 1, 2025, updated attorney admission fees will go into effect for the District of Minnesota. Details can be found [here](#). The new fees, the first significant increase since 2008, will assist the Court in maintaining its level of support for the legal community and are aligned with other districts of similar size.

Congress has taken no action on the proposed amendments to the Federal Rules of Appellate, Bankruptcy, and Civil Procedure, and the Federal Rules of Evidence adopted by the Supreme Court and transmitted to Congress on April 2, 2024. Under the Rules Enabling Act, 28 U.S.C. §§ 2071-75, the rules found [here](#) took effect on December 1, 2024. The new evidence rules were shepherded through the process by Chief Judge Schiltz during his tenure as chair of the Advisory Committee on the Federal Rules of Evidence.

As of October 1, 2024, the rate for all federal transcript pages have increased. Details can be found [here](#).

<https://www.mnd.uscourts.gov/transcript-pricing>

### District Events:

On September 12, 2024, Chief Judge Schiltz administered the oath of office to the newest member of the District's bench, Judge Laura M. Provinzino. Judge Provinzino is chambered in the St. Paul Courthouse and an official investiture will take place in 2025.



The Judicial Conference of the United States is the policy-making body for the federal courts and the work of the Conference is mostly done through its committees. Chief Judge Schiltz completed his term as the chair of the Advisory Committee on the Federal Rules of Evidence, and Judge Tunheim completed his term as the district-judge representative from the Eighth Circuit on the Judicial Conference. However, the District of Minnesota is well represented again in the new term: Judge Brasel is the new chair of the Committee on the Administration of the Magistrate Judges System, Judge Blackwell has been appointed to the Committee on Judicial Security, and Judge Ericksen has been appointed to the Committee on the Rules of Practice and Procedure.

On October 9, 2024, the I AM public reception was held at the Duluth Courthouse. Chief Judge Schiltz, Judge Frank, Magistrate Judge Brisbois, and retired Magistrate Judge Thorson hosted a wonderful evening highlighting the importance of the exhibit: *An Unfinished Journey: Civil Rights for People with Developmental Disabilities and the Role of the Federal Courts*. The evening included original poetry and artwork curated by the Fresh Eye Studio. Attendees also enjoyed original music from BOLD-choice Theatre's original musical "Sundown on the Jasper County Jewel". BOLD-choice Theatre is a community theatre company that creates original, fully staged productions that seek to align artistic expression with civic engagement. This program is a place for artists to explore their craft and realize the power of artistic expression. The company seeks to entertain and engage the community, leading to dialogue around the issues of inclusivity, individuality, and social responsibility.



Attendees included representatives from the Executive Director of the Minnesota Governor's Council on Developmental Disabilities, MSS, BOLD-choice Theatre, Fresh Eye Studio, CHOICE Unlimited, the Federal Bar Association, and attendees from the St. Louis County Health and Human Services Conference.

On October 21, 2024, the Court held the official grand opening of The Justice and Democracy Center of Minnesota with honored guest Justice Sonia Sotomayor, Associate Justice of the United States Supreme Court.

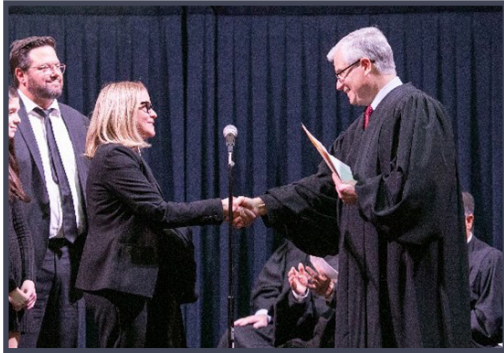
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The event began with a student interactive session with Justice Sotomayor from 4:00 to 5:00 pm. Over two dozen middle- and high-school students from across Minnesota participated in a Q&A session with Justice Sotomayor, followed by a tour of the Center. Questions ranged from what career the Justice would have chosen if not the law, to what she wished she could tell her 14-year-old self. The evening then moved to a reception attended by many judges of the Eighth Circuit and District of Minnesota and many supporters of the Center from the legal, corporate, and philanthropic communities. Chief Judge Schiltz, Judge Tunheim, Justice Sotomayor, and Chapter representatives Vildan Teske and Dan Hedlund all addressed the crowd of over 250 attendees.



A special thank you to the Founding Committee members, including Judge Tunheim, Magistrate Judge Leung, Minnesota Court of Appeals Judge Elisabeth Bentley, Vildan Teske, Dan Hedlund, Tom Boyd, Joe Cassioppi, Keiko Sugisaka, Jeff Justman, Kate Fogarty, Andrew Pieper, and Rebecca Parks.



On December 2, 2024, the formal investiture of Magistrate Judge Shannon Ganje Elkins took place at the Landmark Center. Chief Judge Schiltz presided over this joyous and energetic event with lovely music and wonderful remarks. Magistrate Judge Elkins is temporarily chambered in St. Paul until relocating to Minneapolis later this summer.

The Court held a Girl Scouts workshop on Bill of Rights Day, December 15, 2024, at the Justice & Democracy Center of Minnesota for nearly 80 girls and troop leaders. The "sold out" 3.5-hour workshop for girls in grades 8 through 12 included meet-and-greets with Judge Tostrud and Judge Provinzino, a Bill of Rights discussion with Judge Tunheim, a bomb-dog demonstration, a courthouse tour, a scavenger hunt, and a fundamental human rights activity.




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*Andrew Pieper is chief deputy clerk for the U.S. District Court for the District of Minnesota.*

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## Bankruptcy Clerk's Corner

By Tricia Pepin

Effective December 1, 2024, several amendments to the Federal Rules of Bankruptcy Procedure took effect. These amendments include:

- Restyled Federal Rules of Bankruptcy Procedure for all Rules, Parts I-IX
- Amendments to Federal Rules of Bankruptcy Procedure 1007, 4004, 5009, 7001, and 9006
- Adoption of new Federal Rule of Bankruptcy Procedure 8023.1
- Amendments to Official Form 410, Proof of Claim
- Abrogation of Official Form 423, Certification About a Financial Management Course

On December 9, 2024, the Bankruptcy Court posted many proposed local rule amendments for public comment, including the entire 2000, 3000, 4000, and 8000 series. The proposed amendments also include 14 local forms, with the Court seeking to abrogate six local forms. In addition, the proposed amendments include the issuance of new guidance to be maintained by the Clerk: (1) Federal Rule of Bankruptcy Procedure 2002: Who Gives Notice?; and (2) Guidance: Applications for Compensation by Debtors' Attorneys in Chapter 13 Cases. For more information about these proposed changes, please visit the Bankruptcy Court's website at [www.mnb.uscourts.gov](http://www.mnb.uscourts.gov).

*Tricia Pepin is the Clerk of the District of Minnesota U.S. Bankruptcy Court.*

# RENEW NOW



**Federal Bar  
Association**  
Minnesota Chapter

# RENEW NOW

- FBA memberships expire on September 30 each year
- Renew to stay on the MN Chapter email list
- (Really, do it now. Renewal processing can be slow.)
- <https://www.fedbar.org/>

The screenshot shows the Federal Bar Association website. The navigation bar includes links for Membership, Events, Government Relations, About, The Federal Lawyer, Foundation, and Member Tools. The Member Tools dropdown menu is open, and the 'Renew My Membership' option is circled in red. Other options in the menu include Update My Profile, Member Directory, Event Registration, and Leadership Portal. The page title is 'Benefits of Membership'.

## Upcoming Events:

Wednesday, February 12, 2025  
February Luncheon

Wednesday, February 12, 2025  
Law School Outreach Committee  
Happy Hour

Tuesday, March 4, 2025  
FBA Affinity Bar Meet & Greet

Wednesday, March 12, 2025  
March Luncheon

Wednesday, April 9, 2025  
April Luncheon

Wednesday, May 14, 2025  
May Luncheon

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*Editors-in-Chief*

**Devin Driscoll**

**Mary Nikolai**

**Alyssa Schaefer**

**Gina Tonn**

*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 **Devin Driscoll** ([DDriscoll@fredlaw.com](mailto:DDriscoll@fredlaw.com)), **Mary Nikolai** ([mnikolai@gustafsongluek.com](mailto:mnikolai@gustafsongluek.com)), **Alyssa Schaefer** ([schaefer.alyssa@dorsey.com](mailto:schaefer.alyssa@dorsey.com)), and **Gina Tonn** ([GTonn@greeneespe.com](mailto:GTonn@greeneespe.com)). A special thank you to **Allegra Print & Imaging** for formatting this issue.

*Want to get involved in the Minnesota Chapter of the Federal Bar Association? Visit [www.mnfedbar.org/initiatives](http://www.mnfedbar.org/initiatives) 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.

### CLE Credit for Monthly Luncheons:

Attending the Monthly Luncheons also earns you CLE credits! If you attended these luncheons, here are the CLE codes and the credits approved:

September Monthly Luncheon - .6 Credits (514074)

October Monthly Luncheon - .75 Credits (515979)

November Monthly Luncheon - .75 Credits (516849)



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