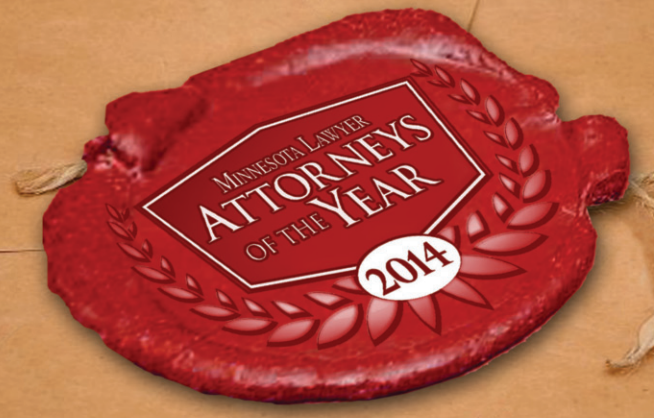




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Attorneys of the Year 2014

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Minnesota Lawyer is pleased to announce the 2014 Attorneys of the Year.

As I write this the day after the Super Bowl, it occurs to me that we have two types of Attorneys of the Year. We have your Tom Bradys — superstars from whom we’ve come to expect stunning results. Donald Chance Mark, Bob Bennett, Fred Pritzker, David B. Olson, Craig Krummen, Carl Crosby Lehmann, Kimberly Lowe and Craig Wildfang: They belong to our Circle of Excellence, as this is their second (or more) Attorney of the Year award.

But we have even more Malcolm Butlers — not rookie attorneys but rookies to the Attorney of the Year award. We have seven groups, five of which are trial teams. Those lawyers prevailed in cases involving the Sherman Act, defamation, wrongful death, property destruction by stray voltage, and food-borne illness. There was also a merger and the creation of a pro bono intellectual property project that received national attention.

We have twosomes who prevailed in contract, insurance bad faith and asylum cases, and one pair who created a training program in sexual assault and harassment matters for schools and colleges.

And we have 23 individuals, with achievements and interests ranging from



The Sedona Conference to bed-bug-killing chemicals.

Our attorneys in criminal law convicted a murderer and got an innocent man off of death row; got the federal courts to step in where a juvenile was sentenced to life without parole and cracked down on the Native Mob gang. Our civil litigators made an insurance company pay death benefits, made the University of Minnesota pay for discriminating against the golf coach, made a trucking company pay for discriminating against Tibetans, and made the Minneapolis school district

pay for hiring some unaccredited teachers. We’ve got attorneys who speak for the vulnerable — children, immigrants and the mentally ill. We’ve got the lawyer who created the public interest corporation bill and the lawyer who helped make end-of-life decisions less difficult. We’ve got the Health Partner merger lawyers and the lawyer who defeated vehement opposition to secure liquor licenses for her clients. We’ve got the attorney who defended a child’s First Amendment right to post on Facebook. We’ve got bar association leaders. And, sports fans, we’ve got the in-house counsel for the Minnesota Twins and the lawyer who made professional football better for LGBT players.

We’ve also got five lawyers who have performed outstanding service to the profession: Fred Finch through the ABA; Fred Friedman through the public defender’s office in Duluth; John Kingrey through the Minnesota County Attorneys Association; Richard Pemberton, exemplary trial lawyer; and Justice Alan Page, who has served 22 years on the Supreme Court.

We hope you enjoy the stories of these fine lawyers. Thanks to the writers, staff photographer Bill Klotz, and the design and production departments for their work on this project.

—Barbara L. Jones

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Michael Rifanburg Publisher
612-584-1537
michael.rifanburg@finance-commerce.com

Advertising

Tim Chaulk Advertising Supervisor
612-584-1521
tim.chaulk@finance-commerce.com
 Sheila Bennett Advertising Account Executive
612-584-1544
sheila.bennett@finance-commerce.com
 David Seawell Advertising Account Executive
612-584-1545
david.seawell@finance-commerce.com
 Amanda Dorn Event Coordinator
612-584-1534
amanda.dorn@finance-commerce.com

Editorial

Barbara L. Jones Editor
612-584-1543
barbara.jones@minnlawyer.com
 Jeff Sjerven Copy/Presentation Editor
612-584-1575
jeff.sjerven@finance-commerce.com

Creative

Bill Klotz Staff Photographer
612-584-1562
bill.klotz@finance-commerce.com
 Jake Schreiber Creative Services Manager
612-584-1524
jake.schreiber@finance-commerce.com

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* Circle of Excellence Honoree



Tiffany A. Blofield & Craig S. Krummen

Motorcycle case was a long trip

Winthrop & Weinstine partners Craig Krummen and Tiffany Blofield learned a lot about motorcycles this year. The duo represented motorcycle-accessory company Kuryakyn Holdings Inc. in three different venues — ultimately bringing home a win on all fronts for their client.

The underlying dispute concerned Kuryakyn's purchase of light emitting diode ("LED") brake lights and turn signals from one of its lighting design vendors. When the vendor's lights were not working as intended, the vendor raised a series of preemptive claims against Kuryakyn, accusing the company of failing to make royalty payments, as well as fraud, racketeering and breach of contract.

The vendor filed suit in federal district court in California. Krummen and Blofield

developed a two-phase strategy, aiming to obtain dismissal of the California action in order to try the case in Wisconsin. After they achieved dismissal, however, their opponent threw a new wrinkle into the plans. The vendor filed for bankruptcy in California. The vendor's strategy backfired when the bankruptcy court determined the vendor had misrepresented the bankruptcy claim and defrauded the court.

The bankruptcy court threw the case out, and Krummen and Blofield returned to Wisconsin, where the federal district court set the matter for trial in two phases. Each party presented its cross-claims to the jury, and the trial was hard-fought and acrimonious. Krummen and Blofield not only obtained a no-liability verdict for their client (beating the vendor's \$3 million damage claim), but also won a verdict against the

vendor for materially breaching the parties' licensing agreement.

The judge was prepared to go forward with a phase-two trial on damages, but the parties settled instead.

Thinking back over this whirlwind year, Krummen and Blofield are thrilled they were able to execute their strategy on behalf of their client. Krummen, however, took a moment to tip his hat to their adversary, "We were up against a very capable and worthy attorney on the other side," he emphasized. Krummen and Blofield's colleagues, however, are less deprecating. "These are two of the finest lawyers and people I know," beamed their partner Thomas Boyd, "their dedication to serving their clients, the community, and the law shows through in everything they do."

—Sybil Dunlop

Richard G. Braman

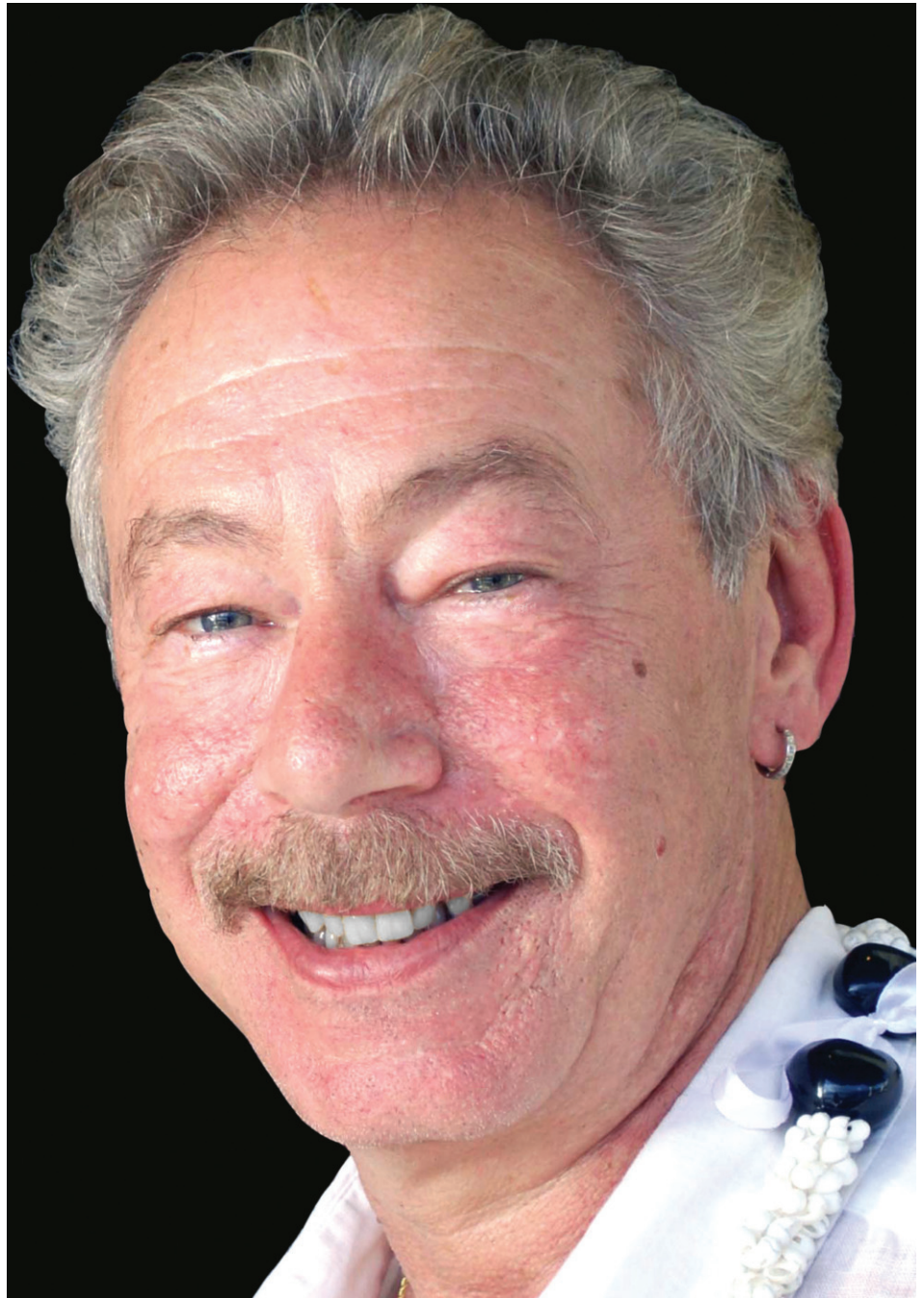
Founded
The Sedona Conference

Former Minnesota antitrust and business attorney Richard G. Braman passed away last year at the age of 60. But even with his untimely death, Braman left behind a rich legacy. Colleagues say he provided a forum for civil dialogue among lawyers.

After decades as a renowned trial lawyer, Braman founded The Sedona Conference, a nonprofit research and educational institute dedicated to the advanced study of law and policy in the areas of antitrust law, complex litigation, and intellectual property rights. The Sedona Conference's mission is to encourage reasoned advancement of law and policy by stimulating ongoing dialogue between leaders of the bench and bar.

The work of The Sedona Conference has been, and continues to be, relied upon by both lawyers and judges throughout the United States and Canada, and much of that is due to Braman's work, according to Sedona Conference Executive Director Craig Weinlein.

"He was a visionary, a pathfinder and an agent of change," Weinlein said of Braman. "When he saw a need, he would try to craft a solution. He was a natural leader."



Braman was also a passionate advocate of electronic discovery, drafting the Sedona Cooperation Proclamation in an effort to reverse the legal culture of adversarial discovery that too often added needless costs and delayed justice, as well as to create a network of trained electronic discovery mediators available to parties in state and federal courts nationwide.

Among other things, Braman saw The Sedona Conference as a way to take the idea of continuing legal education to an-

other level by replicating the experience of a college seminar or think tank in a CLE setting, with a learned instructor addressing a given subject on an advanced level. Attendance at Sedona seminars was strictly limited, and they were led not by faculty, but by dialogue leaders.

"There wouldn't have been a Sedona Conference without him," said Weinlein. "We've evolved but it started because he was dissatisfied with traditional CLE programs."

—Dan Heilman

Kerry Bundy

Signature successes in 2014 and commitment to pro bono

2014 Attorney of the Year honoree Kerry Bundy, a partner at Faegre Baker Daniels, experienced a number of signature wins last year.

Along with Faegre partner Randy Kahnke, Bundy represented Bluestem Brands in hard-fought federal court trade-secret litigation in Atlanta. After battling for more than two years, Bluestem was awarded summary judgment on all counts in May 2014. Bundy said that the key to victory in that case was to force the plaintiff to identify its alleged trade secrets early in the case, and then to establish that each of those alleged “trade secrets” was either in the public domain or not covered by a nondisclosure agreement the parties had previously signed.

Another signature win for Bundy in 2014 was for Lee Equity, which owns Papa Murphy’s, along with the Papa Murphy’s Board of Directors, in a case filed in the Washington state courts by non-Washington Papa Murphy’s franchisees. Bundy and her team were able to obtain dismissal of the core of the plaintiffs’ claims early in the case, prevailing on a matter of first impression under Washington law.

Other clients with whom Bundy successfully worked in 2014 include Honeywell, Dairy Queen, Buffalo Wild Wings, and Jani-King International, for whom Bundy serves as national coordinating and litigation counsel.

Emily Decker, senior vice president, secretary and general counsel for Buffalo Wild Wings, raved about Bundy, describing her as “intelligent, practical, and easy to work with,” and noting that she “takes the time to get to know her clients.” Decker noted Bundy’s particular expertise on the emerging issue of attempts to hold franchisors liable as joint employers along with their franchisees.

Bundy is an active member of the International Franchise Association and has held many leadership positions within the American Bar Association’s Forum on Franchising.

Bundy leads the firm-wide Children on the Border project, which assists unaccompanied minor Central American refugees facing deportation proceedings.

With her multiple successes in 2014, as well as her devotion to pro bono, it is easy to see why Bundy was named as a 2014 Attorney of the Year.

—Josh Jacobson





Bradford Colbert

Won new sentencing for juvenile sentenced to life without parole

William Mitchell resident adjunct professor Brad Colbert has worked at the law school for almost three decades. But it's in his part-time capacity as director of the school's Legal Assistance to Minnesota Prisoners (LAMP) clinic and public defender for the Minnesota Appellate Public Defender's Office that Colbert might end up teaching his greatest lesson.

Colbert was lead counsel in *Flowers v. Roy*, defending Brian Lee Flowers, who was convicted by jury of the 2008 murders of Katricia Daniels and her 10-year old son. Flowers was 16 at the time of the killings, and was sentenced to life in prison without the possibility of parole by the Hennepin County District Court.

That sentence was issued prior to a key 2012 U.S. Supreme Court decision stating that life in prison without the possibility of parole for a juvenile is cruel and unusual punishment. While the high court ruled that juveniles cannot be sentenced to life without parole, the Minnesota Supreme Court has held that the ruling cannot be applied retroactively.

That led Colbert and his team to file a petition for a writ of habeas corpus in the U.S. District Court for the District of Minnesota, challenging the Minnesota Supreme Court's decision on retroactivity.

The federal district court granted the petition on April 30, 2014. Flowers will now be allowed to seek a lesser sentence in state court.

"It will be interesting to see what happens, because the Supreme Court could make all this kind of moot," said Colbert. "*Flowers* is interesting because we have a procedural argument on our side. Several years ago, the U.S. Supreme Court said, in *Miller v. Alabama*, that you can't sentence juveniles to life without the possibility of parole."

Flowers will be argued Feb. 10, said Colbert. "The U.S. Supreme Court granted cert recently in a case about the same issue, and whether their decision makes it retroactive for everyone will be argued in March."

—Dan Heilman

Congratulations to our
2014 Attorneys of the Year:
Robert Bennett,
Andrew Noel,
Kathryn Bennett

“First, they ignore you,
then they laugh at you,
then they fight you,
then you win.”

- Mahatma Gandhi



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Congratulations

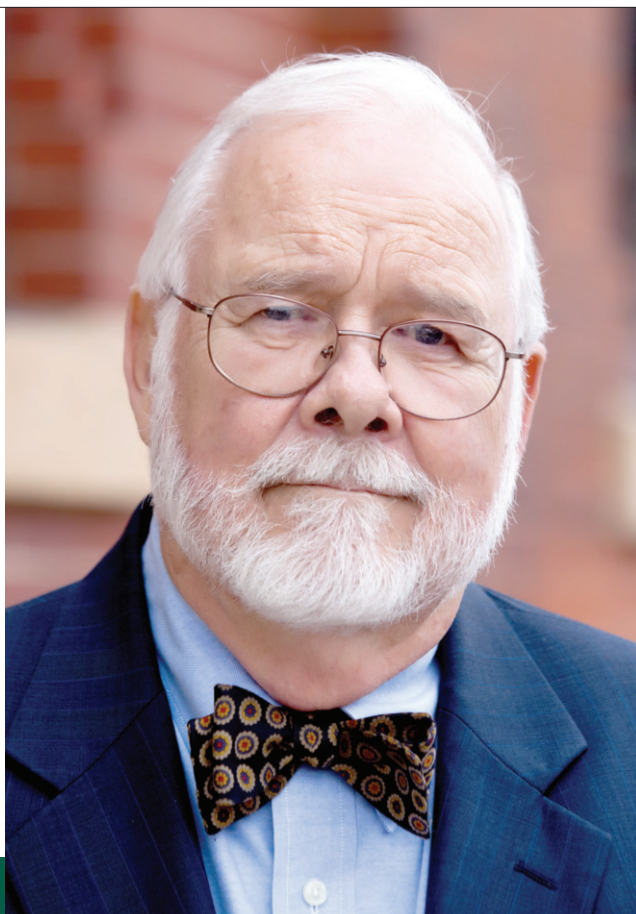
Congratulations to Dick Pemberton from your friends, colleagues, and all the people you have influenced over the years with your professionalism and grace.

From the partners at Pemberton Law Firm.



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Congratulations Richard Kyle Jr. & Kimberly Lowe

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Fredrikson & Byron congratulates our own colleagues and all of the 2014 honorees.

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Eric Day

Battling to reunite families

How much of a family affair is Eric Day's law practice? His wife, Patty, is his office manager, and their toddler-aged son, Henry, refers to the conference room in their Minneapolis office as "the living room."

That teamwork and dedication has allowed Day to turn a relatively new practice into a growing force in the area of immigration law, especially as it relates to the plight of war-torn parts of the world.

That pursuit took root when Day lived in Honduras in the late 1990s. Day saw heartbreaking poverty and witnessed how common it was for residents to work 12-plus hours a day in the melon fields for about \$10 a week.

"There was no electricity, and the houses were made of mud and sticks," he recalled. "I had people asking if I could take their kids back to the United States with me. The conditions are terrible, and it's only gotten worse since then."

Day also practices in family law, business law and general civil litigation but he devotes a good portion of his work to taking on immigration battles on behalf of U.S. residents from such regions who are striving to bring family members here.

"The law needs reform," Day said. "There's not as much that can be done as I would like. People come to me via other attorneys, mostly, and by way of former clients."

He also leverages his position as president of the board of the Longfellow Community Council in Minneapolis to find prospective clients, or at least to steer them toward an agency that might help.

"Being aware of other resources is helpful," he said. "We're fortunate to have places like The Advocates for Human Rights and the Immigrant Law Center of Minnesota. I know how stretched thin those organizations are, so it's helpful to be able to say, I think you would be better off with the Volunteer Lawyers Network."

Even with those resources available, Day realizes that the reality of what he does means sometimes taking on clients who he knows can't pay.

"You just do the best you can and you try to be straightforward with people," he said. "It's hard to withdraw from representing someone once you've invested some time and energy, so I do sometimes end up working for free."

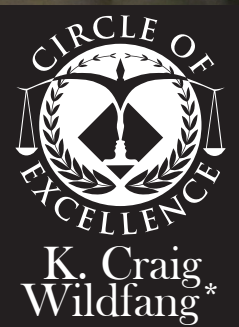
—Dan Heilman





Thomas J. Undlin

Stacey P. Slaughter



Dahl Trial Team

Sherman Act case settled for \$590.5 million

A \$590.5 million settlement would be a career topper for most attorneys, and a settlement of that size is certainly worthy of an Attorney of the Year award. That 2014 recovery by Robins Kaplan Attorneys of the Year K. Craig Wildfang, Thomas Undlin and Stacey Slaughter is quite impressive, even if it pales in comparison to that team's headline-grabbing recovery of \$7.25 billion in the credit card interchange fee case a year earlier.

Both of these cases go a long way toward explaining why Robins Kaplan was recently named of one the country's most feared plaintiffs firms.

In 2014, a Robins Kaplan team led by Wildfang, Undlin and Slaughter concluded seven years of class action litigation in the United States District Court for the District of Massachusetts by reaching settlements totaling \$590.5 million in *Dahl v. Bain Capital Partners*. The Robins Kaplan attorneys and their co-counsel sued a number of well-known private equity firms engaged in "mega cap" leveraged buyouts, alleging that the defendants had violated the Sherman

Act by colluding to not bid against each other on deals to acquire publicly traded companies. Wildfang, Undlin and Slaughter faced off against some of the best and most powerful law firms in the country, handled three phases of discovery involving 13 million documents, and opposed thirty motions for summary judgment, one of which required a two-day hearing in December 2012.

Serious settlement discussions began in early 2014 only after a trial date was set. The first group of defendants settled in June 2014 for \$121 million. Two months later, a second group of defendants settled for \$325 million. Less than a month later, the last defendant, which was potentially looking at billions of dollars in damages, and with damages subject to trebling under antitrust law, settled, bringing the total Dahl settlement to \$590.5 million.

Wildfang, Undlin and Slaughter were assisted by a handful of Robins Kaplan associates during the seven years the case was pending, and singled out associate George Carroll for praise. They also insist that they could not have prevailed without the assis-

tance they received from Robins Kaplan's in-house Forensic Financial and Economic Consultants group led by Richard Zabel. Slaughter also credited co-counsel Scott + Scott and Robbins Geller Rudman & Dowd LLP for the "tremendous joint effort" they put into the case.

Wildfang, Undlin and Slaughter emphasized that their plaintiffs cases are necessarily staffed efficiently, and stressed that Robins Kaplan's efficient staffing of cases is just as attractive to its defense clients. They also indicated that Robins Kaplan never borrows money to fund its plaintiff cases, and instead finances those cases internally.

Robins Kaplan's *Dahl* settlement goes a long way to explaining its appearance of the list of most feared plaintiff firms, and that settlement easily explains why the attorneys leading Robins Kaplan's Dahl team have been named 2014 Attorneys of the Year.

—By Josh Jacobson

Deborah Ellis

Helped death row inmate win release after 26-year legal battle

Deborah Ellis found it a “surreal experience” when she first saw a TV news report on her client Glenn Ford standing as a free man outside the gates of the maximum security prison at Angola, Louisiana.

Last March a state court judge approved motions from prosecutors and defense attorneys to vacate the 1984 murder conviction of Ford, who had been on death row since 1988. An informant came forward to report that another man — and not 64-year-old Ford — had murdered Isadore Rozeman.

Ellis’s fight for Ford’s release began in the late 1980s when she worked as an associate lawyer for prominent St. Paul criminal defense attorney Douglas Thomson.

Work in Minnesota on Ford’s case began in earnest after a death warrant was signed on Dec. 10, 1990 — following his direct appeal. Ellis said the death warrant chillingly described how Ford was to be put to death by “electricity of sufficient intensity to cause death.”

The years went by, characterized by weeks and months of intense work followed by long periods of waiting for court rulings.

In state post-conviction proceedings, Ellis and her legal team presented evidence that the state had withheld evidence that backed up Ford’s story, that the state relied on junk science and that Ford had ineffective assistance of counsel at trial.

The trial court denied Ford relief from his conviction and death sentence and the Louisiana Supreme Court affirmed.

In 2012, Ford’s case went from state court post-conviction proceedings to federal court.

As fate would have it, Ellis and her team gained just enough extra time for Ford. In 2013, prosecutors told Ellis and her appellate defense team about the informant’s statement. Ellis said that without that new evidence, Ford was fewer than two years away from being executed.

“It was extremely emotional,” Ellis said of Ford’s eventual release. “I saw a video of him [Ford] standing with his stocking cap on in front of the [Angola] prison. It was surreal because over the years I envisioned him being released and there being a great celebration.”

Looking back on the case, Ellis said, “I never imagined it would go this long.” In her 30 years of practicing criminal law (including 22 years as solo practitioner since 1993), Ellis said she has never had another case that comes close to equaling the intensity of Ford’s death row battle.

“I can’t imagine doing this day in and day out. It is incredible work.”

—Scott Carlson





Julie Firestone and Daniel J. Supalla

Secured asylum for persecuted lesbian

Julie Firestone and Dan Supalla were so disgusted by the threatened harassments of gays and lesbians at the 2014 Olympics in Sochi, Russia, they set out to do something to help. Avid pro bono attorneys, the Briggs and Morgan partners sought to help Russians in need of asylum in the United States. That didn't pan out, but they did land cases for two African women whose lives were endangered for being lesbians.

One case is still pending, but Supalla and Firestone secured asylum this fall for one of the women from Cameroon, in central Africa. They built a rock-solid case for Emelda, who was severely beaten, repeatedly raped, twice arrested, and jailed. Minutes before they were to argue their case before a U.S. immigration judge, the government lawyer told Firestone and Supalla that the United States wouldn't contest Emelda's application for asylum thanks to the "very strong case" they built for her.

Emelda's story was especially compelling. She once was jailed for being in a relationship with a woman. She escaped from jail after three weeks of constant beatings and walked for two days to the Nigerian border. Emelda lived there for many years. But

when her sister died, she returned to Cameroon to attend the funeral, believing that all would be forgotten.

It wasn't. She was jailed immediately, and she endured severe beatings and being permanently disfigured from an unknown liquid. When Emelda overheard guards talking about their plans to kill her, she knew she had to flee again. She used a wooden spoon to dig a hole big enough for her to escape, and again she made it to Nigeria. After the murder of a gay rights activist in Cameroon, Emelda knew she would never be safe in Africa, and she traveled to Mexico before seeking asylum in the United States.

"The biggest points we argued were about the corrective rapes she suffered, being beaten and imprisoned for the time she was, and that conditions in Cameroon have been so bad for gays and lesbians," says Supalla. "The Cameroonian government enforces its anti-homosexuality laws way beyond the letter of the law."

Both attorneys are committed and long-time pro bono lawyers, believing that it's their duty as lawyers to help people who lack the means to help themselves. Supalla and Firestone have taken a variety of cases

over the years and each earned their firm's pro bono attorney of the year award. But these asylum cases have special meaning for the lawyers, both of whom are gay.

"I have a personal affinity for people who are suffering, and I'm a lesbian who is married in Minnesota," says Firestone. "It's so different from people's lives who are in danger for being gay, and it's a moral imperative to help people where I can. That's why this case was so important to me."

Supalla, who also works with federal public defenders seeking to overturn cases on appeal, gets enormous satisfaction from ensuring that the justice system treats everyone fairly. And as more gay and lesbian people in the United States secured the right to marry, Supalla was motivated to help others around the world.

"Before places can even get to that point, there is so much work that needs to be done," he says. "This is a small way to be a part of that and help someone get to a place where they are safe and can walk around without worrying if the police are coming after them for being who they are."

—Suzy Frisch



Mary Giesler

Covering the bases
for the Minnesota Twins

Mary Giesler and her co-workers have been thinking spring for several months already, gearing up for the biggest event of the year in their world: Opening Day.

Giesler became vice president and general counsel to the Minnesota Twins, a new position for the team, shortly before Opening Day 2014.

At the time, Giesler was preparing for the unveiling of Target Field Station, a transportation hub with a public plaza for year-round special events, green space, a 1,000-seat amphitheater, office and retail space.

The May 17 grand opening was the culmination of over two years of work for Giesler, although it's still a work in progress. More development is underway with the public transportation, office and retail space.

"It's a public space, and our shared goal was to activate that space, not only during the ballpark season but throughout the year," she said. "There's nothing I enjoy more than seeing people actually using it — whether it's a crowd watching soccer games broadcast on the video boards, or even just seeing a parent and child throwing a ball around before a game."

Giesler's work for the Twins long predates becoming an employee. She began representing the club as a partner with Kaplan, Strangis and Kaplan in Minneapolis in 2006, when Target Field was just a set of drawings. She played a central role in that project as well, which became a reality four years later.

When Giesler was growing up in Aitkin, her family "watched" the Twins most often by radio.

"When the Twins were on, we were listening," she said. "My dad was an avid baseball fan. We didn't go anywhere on Sundays until the game was over. He would be over the moon to know that I've come to work for the Minnesota Twins."

At a recent Fan Appreciation Weekend, Giesler and other front-office workers walked through the stands giving away merchandise. Giesler gave an autographed ball to a little girl with a baseball glove.

"Her eyes lit up. It was the coolest moment. And as a lawyer, you have very few cool moments."

She continued, "I love being a part of this club. Every day, I start my day by driving into the ballpark. How bad could that be?"

—Jane Pribek

Karla M. Gluek

Representing those without a voice

During her 20-year practice, Karla Gluek has built a solid reputation as an effective practitioner in antitrust litigation. But perhaps just as important, she has demonstrated the right way to run a law firm.

A cum laude graduate of the William Mitchell College of Law, Gluek started out at Heins Mills & Olson in Minneapolis, making partner in 2003. Later that year, she joined Dan Gustafson to form Gustafson Gluek, whose 16 attorneys now concentrate on antitrust law, securities, product liability and consumer protection.

But Gluek has done more than rack up successful outcomes for her clients. She has encouraged pro bono work, worked within the firm to champion diversity in many forms, and created a work environment that accommodates family and personal matters.

“I knew that I wanted to do something where I felt like I was representing people without a voice,” Gluek said. “When we started the firm, we knew we wanted to be family-friendly — someplace where people enjoyed working, and where they felt like they were cared about. We believe that giving people that time is important.”

To encourage work-life balance in a busy profession, Gustafson Gluek has expanded its family leave programs, and is closed on Fridays during the summer and during the winter holidays.

Also, Gluek has worked hard on the Minnesota Sex Offender Program pro bono class action case undertaken by Gustafson Gluek at the behest of the Federal Bar Association Pro Se Project.

“We wanted to do everything we could to promote [the pro se project]. Our staff helped with administrative chores when [the project wasn’t] quite ready to hire people.”

Fortunately, it’s not too much of a burden to strike the right balance between pro bono work and making a living, according to Gluek.

“We have a very busy national practice, and we have a lot of attorneys who are very good at what they do,” she said. “They will also step up and take pro bono cases. They’re happy to put that time in.”

—Dan Heilman



Anne Tyler Gueinzius

Listening to children
and letting them speak

Children should be seen, heard, and believed. It's a popular slogan among social service organizations, and Anne Tyler Gueinzius lives by it.

The managing attorney of Children's Law Center in St. Paul, Gueinzius represents children who have been abused, neglected and removed from their homes. She has a stable of about 600 volunteer attorneys who represent children as well.

Gueinzius and her volunteers ask their child and teen clients what they want and need, treat them with respect, and give them a voice in court.

When an attorney requests these things of a judge, children feel empowered and other adults have different perspective on them, according to Gueinzius.

A graduate of Hamline University School of Law, Gueinzius volunteered at CLC for eight years while practicing family and juvenile law as a solo attorney in Minneapolis. She joined the nonprofit's staff in 2005, rising to managing attorney in three years.

Under her leadership, the number of volunteer attorneys has doubled. The agency's service area has expanded to include all Ramsey County children over age 10 in child protection; all Hennepin County children over age 10 who are state wards; and children in St. Louis, Stearns, Anoka, Dakota and Washington counties.

In 2014, CLC worked with the Minnesota Supreme Court Advisory Committee on the Rules of Juvenile Protection Procedure to ensure that the rights and concerns of older youth are being addressed. New rules were adopted in July.

The CLC staff numbers only seven, including Gueinzius, who describes the agency as "small but mighty."

Dedicated volunteers are crucial to its mission.

"I can't tell you how many just amazing pro bono attorneys we have," Gueinzius said. "I'm always honored to work with them because they are able to represent one child, they take that time and energy and really make that child feel important, listened to."

—Nancy Crotti





Clayton Halunen

On the offense against the NFL

Neither attorney Clayton Halunen nor his client, former Minnesota Vikings punter Chris Kluwe, will take credit for their groundbreaking work for LGBT rights in the NFL.

An employment and consumer class-action lawyer based in Minneapolis, Halunen represented Kluwe in a claim that the Vikings released him from the team based on his stance in favor of gay marriage. The Vikings argued that Kluwe was dismissed for football reasons.

Halunen and his team, attorney Susan Coler and law clerk Nathaniel Smith, found that Kluwe's performance had only changed from the previous year because his coach, Mike Priefer, had changed strategy. Priefer had also made homophobic statements and used religious intimidation against Kluwe, Halunen said.

"The claims that we were bringing were never brought, to our knowledge, against a professional football team before," he added. "It was really traversing new grounds, so we really had to figure out a new strategy on how to bring a claim like this against an NFL organization."

The threat of a lawsuit (served but never filed) led to a year of negotiations. In the settlement, Priefer was barred from three games (later reduced to two), sensitivity training for the Vikings staff and team, a zero-tolerance policy for discrimination based on sexual orientation, monetary contributions to non-profit LGBT-rights groups, and a commitment to build awareness and understanding of LGBT issues in professional football and in sports generally.

Donations "in the six figures" have begun, and the Vikings will sponsor a national symposium on LGBT issues in professional sports in the spring, Halunen said. Kluwe will be involved, he added.

Kluwe said that working with Halunen was fun.

"Clayton was very determined to make sure that we got a good outcome and that the right things happened," he said. "[Halunen was] very accessible and made sure I knew what was going on."

—Nancy Crotti

Congratulations,
Professor Nekima Levy-Pounds,
Attorney of the Year.
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Congratulations Jeffrey Montpetit, a 2014 Attorney of the Year, for his work on the Kucera v. Jespersion trial team.

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We proudly congratulate Richard G. Braman, Carl Crosby Lehmann, and Kathryn Nash for being recognized as 2014 Attorneys of the Year, and for their outstanding contributions to the community and the profession.



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Rebecca K. Hasse

Helped make end-of-life decisions easier

Guardians have much to consider when making end-of-life medical decisions for their wards. Thanks to Rebecca Hasse, associate general counsel at Allina Health, guardians now have one less thing to worry about.

In *In re the Guardianship of: Jeffers J. Tschumy, Ward*, Hasse led the charge to seek clarification regarding a guardian's ability to consent to treatment or removal of treatment. Specifically, the question was whether a guardian who is empowered by statute to consent to necessary medical treatment for a ward is authorized to consent to the removal of life support systems when all interested parties agree that removal is in the ward's best interests. This question made its way to the Minnesota Supreme Court, which had not addressed end-of-life decision for nearly 30 years. The court said the guardian given statutory medical-consent power did not need further court approval.

The court's 3-3-1 decision eliminated any remaining ambiguity in this area of law. To Hasse, the decision was a clear success: "Having clarification of the authority is reassuring to those who are involved in making these decisions. It provides clarification on the front end, rather than having to ask permission for each individual case. Such permission takes time—time during which patients and caregivers are greatly affected. I'm really happy we can eliminate this worry during such difficult times."

The court specifically recognized Hasse's insistence on seeking this clarification. In his dissent, Justice G. Barry Anderson expressed his compliments: "It is to the everlasting credit of Allina here that management recognized the uncertainty in the law and the need to seek court approval for the withdrawal of medical care."

To Hasse, taking this route was the only option. "Part of making decisions in a case like this is deciding on the right thing to do," she says. "Here, the right thing to do was to clarify the authority before we took action."

Hasse said this was an easy decision to make, due in large part to the support coming from Allina and its legal department. "I like to help people and solve problems," concluded Hasse. "I'm lucky that, at Allina, I get to do each of these things every day."

—Cari K. Twitchell





Front four: (L to R): Nancy Berry, Linda Theis, Sandra Andreini, Barbara Tretheway
 Second row (L to R): Nancy Evert, Pat Carter, Rob Sauer, Kay Tuveson, Shawn Nygaard
 Third row (L to R): Paul Landkroener, Jennifer Will, Vicki Wagner, Jeff Vigil, Claire Zajac
 Back row (L to R): Kevin Roberge, Carl Ammons, Ben Garbe, Peter Hofrenning, Casey Nolan
 Not pictured: Kari Anderson

HealthPartners Legal Team

Barbara Tretheway, senior vice president and general counsel
 Nancy Evert, deputy general counsel
 Jennifer Haskin Will, senior counsel

Merged relationships and cultures for a new HealthPartners

After more than two years of hard work, Park Nicollet merged with HealthPartners on Jan. 1, 2013. The merger created the second-largest health care system in the state after Mayo Clinic, with more than 20,000 employees serving 1 million patients a year.

After the close of the transaction, a trio of HealthPartners attorneys led the integration of legal support for the combined organization: Barbara Tretheway, senior vice president and general counsel; Nancy Evert, deputy general counsel; and Jennifer Haskin Will, senior counsel. All three had worked in private practice prior to joining HealthPartners.

The entire process occurred “after an awful lot of work” on behalf of the organization’s staff of 20 attorneys, said Tretheway. Park Nicollet had just one staff attorney, she said, though it had a general counsel and outside firms to help. Gray Plant Mooty assisted HealthPartners in the merger, while Dorsey

& Whitney did the same for Park Nicollet.

While mergers produce paperwork, for sure, it’s more about relationships. “What I think is interesting is less about the merger and more about how to you work as a legal team to bring the two organizations together after the transaction to help support and build one culture,” said Tretheway.

The good news for both organizations is that they had a long record of prior collaboration. They were, for example, founding members in 1993 of the Institute for Clinical Systems Improvement, a nonprofit dedicated to promoting better patient care and engagement, she said.

The HealthPartners legal team learned to be deliberate and build relationships with Park Nicollet’s leadership team and different medical departments. The organization’s attorneys worked closely with Park Nicollet to insure a smooth transition for employees, doctors, managers and, most importantly, patients.

“In trying to support the development of a combined culture, we embraced three principles: Be curious, learn about each other and learn from each other,” she said. “By adhering to these principles, we were able to

value the each other’s existing culture and to understand each other’s approach to the role of law in achieving the overall organization’s mission.”

The initial work started at the senior leader level before moving to the human resource departments of the respective institutions. The legal team met many times with different departments to get a sense of their workflows and their needs.

Today the legal department has three teams focusing on different areas of coverage, ranging from contracts and compliance to financing and dispute resolution. The challenges the legal team has faced include helping create new insurance products and overseeing HealthPartners’ participation in the federal government’s Affordable Care Act and the state’s health insurance exchange.

Tretheway emphasized the sense of team leadership. “Practicing law is one of the best team sports in America,” she said. “I just feel so lucky we developed a culture in the organization that is tied to the mission and focuses on that notion of partnership and the notion of team. We have a really great culture.”

—Frank Jossi

Wallace G. Hilke

Vindicated a student's
First Amendment rights

Wallace Hilke was raised as a civil libertarian and embraced that upbringing by serving on the state board of the American Civil Liberties Union. While there, he admits he enviously watched litigation efforts, wishing he could join in the cases — with very few exceptions, board members don't undertake litigation. Once his term ended, however, he got his wish in a major way.

The first case took was a pro bono suit filed with the ACLU on behalf of Riley Stratton, a 15-year-old who had clashed with her school, Minnewaska Area School. A few years earlier, Stratton had posted on Facebook that she hated a school hall monitor who she considered mean. School officials not only suspended her, but also forced her to hand over her Facebook password.

"What was really intriguing about the case was that it became obvious that most educators don't understand that there's no difference between posting something on social media and passing out handbills in a public square," says Hilke. "Use of social media doesn't change our right to free speech."

In March 2014, Stratton won her case, and Minnewaska agreed to pay \$70,000 in damages and rewrite its policies about searching student emails and social media accounts. Not only did Stratton get justice, Hilke says, but the case is also likely to have a larger impact that will be felt nationwide. Parents and attorneys are still calling him, he notes, and asking for advice on similar situations happening from Alaska to Texas. "This case has pretty broad reach, and for good reason," says Hilke. "First Amendment rights need to be understood in the context of social media."

After that case ended, Hilke considered how invigorating it had been, and he founded Civic Consulting Minnesota (CCM), an organization that assembles and manages pro bono teams of professionals and business people to fix problems in government. With grants from the Bush Foundation, the St. Paul Foundation, and others, CCM embarked on its first major project — addressing issues in St. Paul's Public Works Department, a request given to the organization by St. Paul Mayor Chris Coleman.

"I love the work that I do in my practice, but pro bono work spices things up," he says. "I'm looking forward to bringing more pro bono insight into the civic space."

—Elizabeth Millard





**Benjamin J.
Hamborg**

**Court J.
Anderson**



**David
Bradley
Olsen***

**John N.
Bisanz Jr.**

Ventura Trial Team

If there's one thing Jesse Ventura knows, it's that he can rely on the Minneapolis law firm of Henson & Efron.

The firm helped him win a verdict of more than \$800,000 against the World Wrestling Federation in the 1990s for defrauding the former pro wrestler and Minnesota governor and exploiting his name, voice and likeness.

When Ventura decided to sue fellow former Navy SEAL Chris Kyle for defamation in Kyle's 2012 book "American Sniper" and book-promotion interviews, he turned again to Henson & Efron.

Last July, the team of David B. Olsen, Court J. Anderson, John N. Bisanz Jr. and Benjamin J. Hamborg helped Ventura win \$500,000 for defamation and more than \$1.34 million for "unjust enrichment" in a federal jury award.

It wasn't easy, according to lead attor-

Jury agreed that 'American Sniper' defamed former governor

ney Olsen. Kyle was considered a national hero for his military service. After Kyle was killed at a firing range in 2013, the media and the public questioned why Ventura continued the suit against Kyle's estate, whose executor was Kyle's widow.

Then there's Ventura himself — larger than life, a celebrity, author and former politician known for making controversial statements.

The trial team had to convince the jury that this case wasn't about what Ventura had done or said. It was about the damage Kyle's book and interviews had done to Ventura's reputation, Olsen said.

"Chris Kyle had a hero complex," Olsen added. "He always had to be the big man in the room."

One particular room — a barroom full of former Navy SEALs, including several friends of Kyle — set the scene for the law-

suit. Olsen made a map of the room and a time frame to show the jury how widely those friends' testimony varied about Kyle's story of punching Ventura.

"It looked like a dartboard up there," Olsen said. "Not one of them actually saw Jesse Ventura get punched. Not one of them heard the alleged statements."

The gathering was in honor of a deceased SEAL. Olsen showed that Kyle fabricated an encounter with Ventura where Ventura supposedly said, "The SEALs deserve to lose a few."

The story doesn't end with this jury verdict. In December, Ventura had Olsen file suit against HarperCollins, alleging that the "American Sniper" publisher made millions of dollars based on the "false and defamatory" segment of Kyle's book that led to the first trial. Stay tuned.

—Nancy Crotti

Richard H. Kyle Jr.

Focused, “going the distance” as MSBA president

As a competitive amateur cyclist and cross-country skier, Richard Kyle Jr. knows the importance of training and focus to “go the distance.”

Friends say Kyle’s approach toward participating in sports is an apt metaphor for his work ethic as a white-collar criminal defense attorney at Minneapolis-based Fredrikson & Byron and as the current president of the Minnesota State Bar Association.

Active in Twin Cities and state bar circles for more than 20 years, Kyle is bringing high-energy and a “long-term commitment” mindset to his year-long stint as head of the Minnesota State Bar Association, said Michael Unger, who nominated him as one of Minnesota Lawyer’s 2014 Attorneys of Year.

Building on the efforts of past state bar association presidents, Kyle’s goal “is to streamline and reshape the 16,000 plus-member MSBA to meet the challenges of a changing legal profession while responding to the needs of an ever-more diverse membership,” Unger added.

Kyle told Minnesota Lawyer that he is working to focus the organization’s resources and increase the value that it provides to solo and small-firm lawyers, while also continuing to address issues that confront new attorneys and other lawyers. “We’ve launched a new directory with the goal of helping lawyers get clients and communicate with each other,” Kyle said.

The MSBA has also started discussion groups called “Cohorts” to focus on areas such as marketing or virtual law practices.

“Our focus is to help all of our members because these are difficult and trying economic times for all lawyers,” Kyle said. “The MSBA is in it for the long haul.”

Kyle is a past president of the Ramsey County Bar Association and a former member of the Minnesota Lawyers Professional Responsibility Board and the Call for Justice Board. He received the MSBA President’s Award for his service on the Task Force on the ABA Model Rules of Professional Conduct.

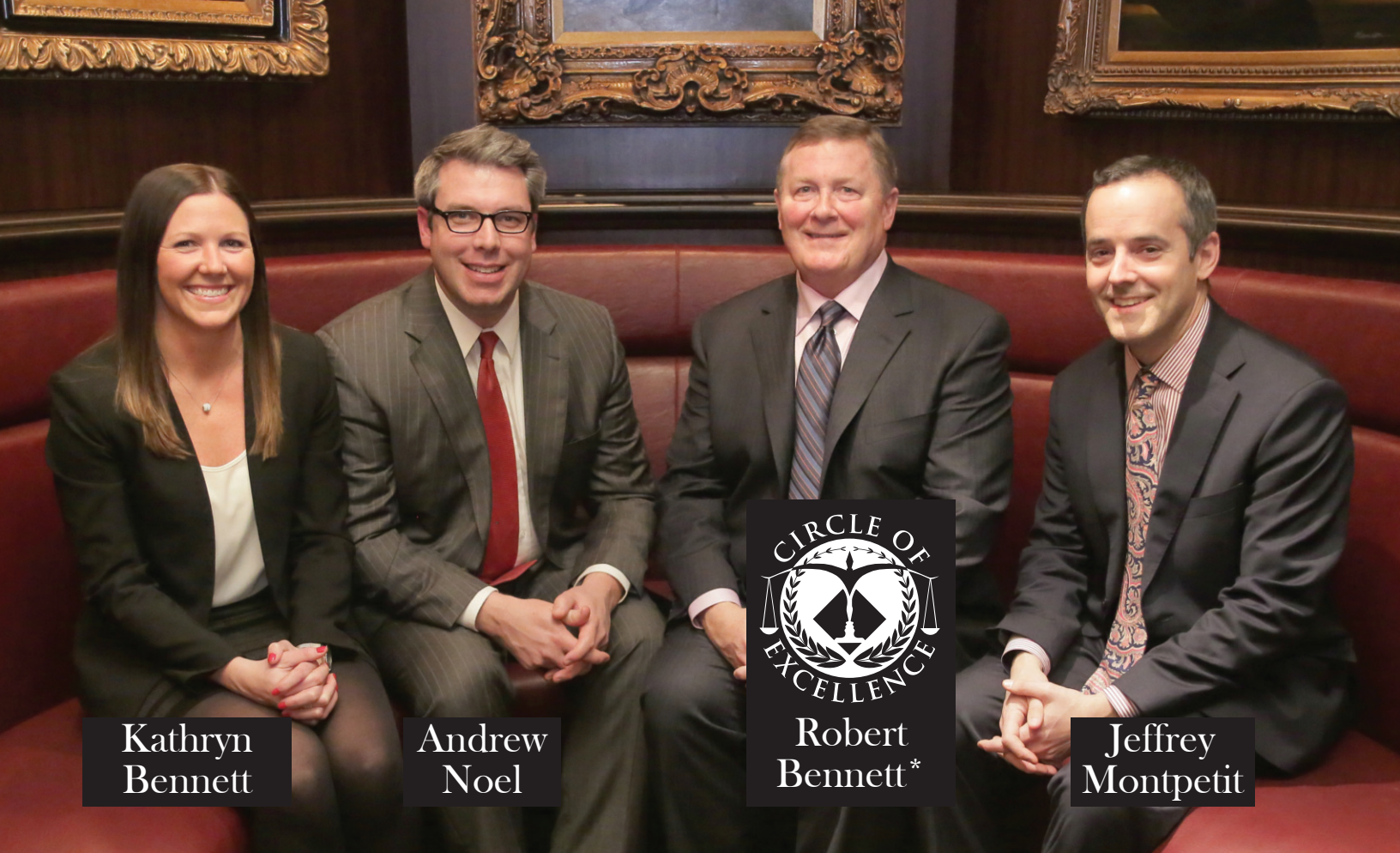
Kyle is a fourth-generation attorney in his family. His father has served as a U.S. District Court judge in St. Paul since 1992 and now is on senior status.

Initially, Kyle considered a career in either journalism or the ministry but he likes working with individuals and helping them solve difficult problems and overcome personal challenges.

“But in the end, the law struck me as the way to go,” he recalled. “With the law, I could do writing like a journalist and learn people’s stories. There seemed like there were parallels.”

—Scott Carlson





Kathryn
Bennett

Andrew
Noel

Robert
Bennett*

Jeffrey
Montpetit

‘Kucera v. Jespersen’ Trial Team

Holding the right people accountable

Bob Bennett is no stranger to high-profile civil rights cases; he’s been litigating them for 38 years. But in 2014, he took on a case that he considers unique.

On March 25, Kathryn Schneider, a 28-year-old mother who struggled with depression, anxiety and addiction, turned herself in to the Koochiching County Jail on an arrest warrant for a second-degree DUI charge. She’d been booked into the jail before, reporting mental health problems and a history of suicide attempts.

Instead of assessing Schneider’s condition, officers brought her directly to a housing unit consisting of two unsecured cells, a common area, and a shower. They locked her in, left her alone, and did not check on her regularly.

Over the next two hours, Schneider moved furniture, tied open a security door, gathered supplies from the cells and the common area, made phone calls, wrote notes, rang the buzzer to communicate with jail staff — and eventually committed suicide. Everything was recorded by the jail’s security cameras. The jail was later found to be out of compliance with its own procedures as well as those of the Minnesota Department of Corrections.

Schneider’s suicide was doubly devastat-

ing to her family, who had believed that the jail would be the safest place for her. They were mindful of the needs of Schneider’s 2-year-old son and troubled by the position of Koochiching County Sheriff Brian Jespersen that nothing had gone wrong.

When Schneider’s family approached Jeffrey Montpetit, he thought immediately of Bob Bennett and his associates Andrew Noel and Katie Bennett. “They’re fantastic lawyers, and I trust them,” says Montpetit. “It helps to have multiple people looking at the same set of facts with a common objective. These guys do things the right way.”

Montpetit maintained contact with Schneider’s family, helping them understand and assess their options as the trial team investigated. “Jeff had a good handle on the humanity of the situation,” Bennett observed, “so we could turn our attention to the intricacies of Section 1983 work.” The trial team learned that the jail had been advised on three prior occasions of the need to check on its detainees more often. They also obtained the jail’s security video.

Katie Bennett recalls viewing the video as she prepared a first draft of the complaint. She saw that Schneider “had free rein” of the

housing area and had been able to make elaborate preparations over a long period of time, despite occasional contact with jail staff. Andrew Noel and Bob Bennett refined the detailed factual allegations describing Schneider’s last hours. The complaint was filed on Oct. 13, 2014.

Soon after, Bob Bennett observed an event he had never before seen in his civil rights practice: the principal defendant, Jespersen, was voted out of office. “In his place, the people of Koochiching County elected the officer who had found Schneider and who had attempted to resuscitate her. The attorneys called the election “a watershed.”

With the principal defendant out of office, and faced with powerful video evidence and adverse findings from the Minnesota Department of Corrections, the county found itself in a difficult situation — but also saw a chance to let the new sheriff to start with a clean slate. The county and Schneider’s family agreed to resolve the case for \$2 million, the insurance coverage limit.

“The people who were accountable were held accountable,” Bennett observed. “I think they did the right thing.”

—Karin Ciano



Neil Meyer

Mark Privratsky

Amy Salmela

Jim Patterson



Jay Erstling

LegalCORPS Inventor Assistance Program

Founded the first pro bono patent initiative in the U.S.

When Minneapolis-based LegalCORPS launched a pro bono legal services program to help low-income inventors navigate the U.S. patent system, the initiative was a first of its kind in the nation.

Where others had tried starting similar programs and failed, LegalCORPS' Inventor Assistance Program caught fire. Since its debut in 2011, the program has become a national model on how to support and match up inventors with volunteer attorneys. To date, the IAP's statistics: 15 patents issued to inventors, 33 currently active cases and a total of more than three dozen inventors/volunteer attorneys match-ups through its first 3½ years.

Further, collaborating with the United States Patent and Trademark Office, the IAP's pioneers have taken the initiative on the road, with the goal of covering all 50 states. They expect to hit that target this year.

IAP's founding team includes Neil Meyer of Meyer & Njus; Mark Privratsky of Lindquist & Vennum; and Jim Patterson, Amy Salmela and Jay Erstling of Patterson Thuentel IP. (Erstling is also a professor at William Mitchell College of Law.)

During the past year, the IAP logged several accomplishments, including formalizing and leading the American Invents Act Pro Bono Advisory Council, a group formed at the

request of President Barack Obama. Patterson and Erstling serve on the advisory council's steering committee while Salmela, Privratsky and Meyer are all on the council.

"We would like to think that at least partly motivated by our LegalCORPS efforts, Congress enacted Section 32 of the America Invents Act, which calls on the director of the Patent Trade Office to work with bar and IP (Intellectual Property) associations to establish and strengthen pro bono programs across the country," Erstling said.

It also has formed a joint project agreement between the USPTO and William Mitchell College of Law whereby the school serves as a regional hub for patent pro bono programs, allowing inventors in Wisconsin, Iowa and the Dakotas to connect with volunteer lawyers.

Erstling said the IAP benefited from the wisdom and insights of Candee Goodman, former pro bono coordinator at Lindquist & Vennum, and LegalCORPS's willingness to take on IAP make it work, he said.

The genesis for the IAP goes back to 2010, when then-USPTO Director David Kappos was visiting William Mitchell to deliver the annual Patterson Thuentel Lecture. Kappos told Patterson and Erstling that he had suggested the idea in a few other places, but that he had gotten no takers, Erstling recalled.

Kappos wanted to establish the program to get more quality inventions to market and overcome the generally poor quality of pro se patent submissions, Erstling said. When Kappos threw out the idea, Patterson immediately pledged to make it happen in Minnesota, Erstling recalled. "I was both eager and thrilled to be a part of it".

With the help of Kevin Rhodes, 3M Co. chief intellectual property counsel, Patterson's group and LegalCORPS began fundraising for the Inventor Assistance Program. The group raised pledges of more than \$50,000, enough funding to cover four years of operations, he added.

And with IAP's startup and operation have come great opportunities.

"The most rewarding part of working on this project for me has been how it has proven to have the ability to benefit everyone that is involved," Privratsky said. Many strong relationships have arisen across the country as everyone works toward the same goal, he said.

And then there is the thrill of helping a client obtain the first patent for an invention, "My client's enthusiasm and interest in the process were contagious, and it was so rewarding to see his patent issue," Salmela said.

—Scott Carlson

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Carl Crosby Lehmann and Kathryn Nash

Developed interactive tool for training and compliance

After having represented colleges and universities for years, Carl Crosby Lehmann and Kathryn Nash identified sexual misconduct as an emerging concern for their higher education clients. About four years ago, long before campus sexual assault became a major issue, the Gray Plant Mooty attorneys started to develop a way for schools to train their students and employees in sexual violence and harassment matters.

Nash and Lehmann aimed to create a variety of online training modules for clients, and they started the firm's trainED program to help schools comply with Title 9 and other regulations. The partners came up with sessions for students and others for university faculty and staff that they could do on their own time, from any device. The online format and interactive lessons keeps participants engaged while also giving institutions the ability to track whether people complete the training.

"Sexual assault was clearly an issue that was of importance to universities when we did strategic planning in 2011," says Lehmann. "Our clients were very concerned that there were so many assaults occurring on campus, with so much of it tied to drug and alcohol abuse. It's a problem that required training at all levels."

Then Congress passed the Campus SaVE Act in 2013, with the law going into effect last

year. It requires colleges and universities to train students, faculty, and staff about domestic and dating violence, sexual assault, stalking, consent, risk reduction, intervention, and more. Gray Plant Mooty's trainED programs were up and running as of last spring, giving institutions an effective option for quickly rolling out their training programs.

Since Nash and Lehmann started trainED, it has provided training to institutions in more than 30 states, including tens of thousands of individual participants. It's rewarding for the partners to know they are supplying hands-on tools to clients, making the many nights and weekends they spent developing the trainED courses worthwhile. At the same time, Lehmann and Nash still worked to represent their clients as general counsel of some colleges and universities and advise others on myriad employment and higher education issues.

"It's exciting for us because we felt that we were part of developing something that's satisfying the regulatory obligations of institutions," says Nash. "Clients agree that handing out brochures and having students gather in common areas is not the way to train people any more. We think the ability to deliver this information in a sophisticated way is really helpful."

In addition to the online training modules, which universities license from Gray Plant

Mooty, trainED creates custom training for schools on all manner of compliance issues. The platform also offers training in general employment matters that often are fodder for legal action, including disability leave, drug and alcohol testing, and hiring and managing employees with performance problems.

And if that weren't enough, Lehmann and Nash also created in-person or live Web-stream training for Title 9 compliance staff and schools' senior leaders. They provide information on topics like Campus SaVE regulations, conducting investigations, and Family Educational Rights and Privacy Act compliance, helping university officials stay on top of all the latest requirements in this highly regulated sector.

For Nash and Lehmann, their life's work is all about helping clients prevent legal issues through training and compliance reviews, and trainED has been an effective vehicle for that. As a side benefit, it also regularly brings them new clients. Thanks to trainED, higher education institutions and employers discovered the attorneys' other services — such as legal guidance, compliance audits, and investigations.

"TrainED is something we built from the ground up," says Lehmann. "It started out as a training idea, but it's really grown into a full-service entity for us."

—Suzy Frisch



Nekima Levy-Pounds

Promoting honest
conversations about
race and poverty

Professor Nekima Levy-Pounds is busy. She is a professor, activist, writer and mom. And, she is making a difference.

Levy-Pounds serves as the founding director of the Community Justice Project for the University of St. Thomas School of Law. The project began as a partnership between the law school and the NAACP's St. Paul branch in 2006. Today, the project fosters and inspires up-and-coming lawyers to serve underserved communities and youths in the Twin Cities. Students use their legal research, writing, and advocacy skills to negotiate with government stakeholders, conduct town-hall forums, and produce think-tank-like reports. The project is raising awareness around the "school-to-prison pipeline," and is partnering with Ramsey and Hennepin County on juvenile justice initiatives. The Community Justice Project also founded its own nonprofit — Brotherhood Inc., which helps young, at-risk, African American men avoid gangs and the criminal justice system.

In addition to her work with the Community Justice Project, Levy-Pounds chaired the state's advisory committee to the U.S. Commission on Civil rights. In January, the committee issued a report assessing the high unemployment rate among Minnesota's minority groups. The report identified issues, but also proposed solutions. In her letter introducing the report, Levy-Pounds wrote, "Although not everyone may agree that race is a factor, it is important that we acknowledge the role that racial bias may play in fueling these intolerable disparities and be willing to have honest conversations about issues at the intersection of race and poverty."

In the wake of this past-year's police shootings, Professor Levy-Pounds emerged as a powerful voice within the Twin Cities' community. She organized local vigils in honor of slain 18-year-old Michael Brown; moderated community meetings to address police accountability; and published an open letter to Mayor Betsy Hodges in the Star Tribune addressing "abusive police practices" of the Minneapolis Police Department.

She has already received a string of accolades, landing on Lawyers of Colors' "50 Under 50 List" and receiving the Hennepin County Bar Association's Diversity Award for her "outstanding commitment toward increasing diversity in the legal profession." We are proud to add one more honor to the list. Her law students call her PLP, but we'll call her Attorney of the Year.

—Sybil Dunlop

Kimberly A. Lowe

New law creates a public benefit corporation

As a shareholder at Fredrikson & Byron, Kimberly Lowe specializes in social entrepreneurship, startups and nonprofit issues, with a particular focus on governance. What she enjoys most is helping leaders enact change throughout their organizations, so it's no surprise that her extensive work outside the firm would also have that goal, albeit on a much larger scale.

Currently, Lowe sits on the Minnesota State Bar Association Business Law Section, where she was instrumental in leading an effort to pass legislation in Minnesota that allows social entrepreneurs and social business ventures to form public benefit corporations. This type of entity merges for-profit business with social business, allowing a corporation to require directors to pursue social purposes in addition to shareholder profit.

Called Minnesota Statute Section 304A, the legislation had been submitted several times before making its way to the MSBA. Lowe and fellow committee members launched into extensive research about similar legislation that had passed in other states, as well as what was happening nationally with public benefit corporations. The legislation was proposed again in late 2013, and Lowe put together a drafting committee, shepherding the project until it was passed in April 2014.

"It sort of took over my life," she says with a laugh, adding that she put about 700 hours of work into the legislation. "For 24 months, it was like herding cats. But it was, ultimately, an amazingly rewarding experience, and our legislation is unique in the country. We can be proud of it."

The legislation stands apart, she notes, because it was intentionally drafted with an open concept of what a "social business" might mean. Lowe says that will allow entrepreneurs to create organizations that they believe might be of social value. "This was meant to inspire creativity, to get people to think about the greater social good, and how they can develop leadership in that direction."

Now that the legislation is passed, Lowe looks forward to her next major role, as president-elect of the Hennepin County Bar Association this year. "Everything I do is about changing my practice and allowing me to do new things or to help clients in a sophisticated way," she says.

—Elizabeth Millard





Katherine L. MacKinnon

Shines in ERISA, pro bono work

With nearly 20 years of experience, Twin Cities' attorney Katherine MacKinnon has built a reputation as one of this region's leading practitioners of federal ERISA (Employee Retirement and Income Security Act) law.

However, MacKinnon hasn't carved out her niche plaintiffs' practice from the confines of a large law firm.

"Kate MacKinnon has been a solo or very small firm lawyer for many years, a group that deserves more recognition in the legal community generally," said Hennepin County District Court Judge Mary Vasaly, who nominated MacKinnon for Attorney of the Year. "In the many years she (MacKinnon) has practiced in this community she has demonstrated her excellence and professionalism. She focuses on ERISA and appeals, two very difficult areas, particularly for a solo practitioner."

MacKinnon also has been an ongoing volunteer contributor to the legal profession. "She has frequently served on various bar association committees but more importantly she has volunteered to take cases for those who are unable to pay for her services," Vasaly said, "She was one of the first participants in the pro se project at the Minnesota appellate courts."

One of MacKinnon's recent significant legal victories was a landmark reversal in an insurance coverage case. In *Jacky L. Larson v. The Northwestern Mutual Life Insurance Co.*, the Minnesota Supreme Court ruled that the insurer acted improperly when it refused to pay the death benefit for an insured. The court said the rescission of an insurance policy "requires proof of the insured's subjective intent to deceive."

"This is a very important case because the life insurance industry came out with an amicus brief" and there is industrywide interest in what proof is needed when an insurer seeks to cancel an life insurance policy due to incorrect information supplied by the insured, MacKinnon said.

MacKinnon said one of the guiding principles of her law practice is to represent individuals who are having difficulty obtaining benefits from their employer-sponsored benefit plans. "There is (usually) an elaborate process to fight for these benefits," MacKinnon said, adding there is a great demand for lawyers practicing ERISA law.

Meanwhile, MacKinnon said she loves being a lawyer because of the intellectual problems she gets to handle. "It is fascinating and interesting. It is never dull."

—Scott Carlson

Donald Chance Mark Jr.

Looking for chances
to right a wrong

Last year was the equivalent of a hole-in-one for Minneapolis lawyer Donald Chance Mark.

He scored a \$360,000 verdict in March for Kathryn Brenny against the University of Minnesota. Brenny, the former women's head golf coach, brought an employment-discrimination suit based upon her sexual orientation.

That came on the heels of a total victory in the U.S. Supreme Court in January in *Air Wisconsin Airlines v. Hooper*, where Mark's client was determined to be immune from a defamation suit.

Then in July, Mark, a light-aircraft pilot, launched a drone law practice group, combining a lifelong hobby with a profession he's equally passionate for. By December, he found himself testifying before the Minnesota Legislature on drone law.

Mark humbly summed it up: "Yeah, it's been an exciting year. I get to do what I want."

In Brenny's case, in August 2010, the university's director of golf, John Harris, recruited her, promising the job would entail travel, instructing and recruiting players.

She immediately discovered her job duties were drastically different than Harris represented, essentially prohibiting any meaningful contact with the players. Brenny ultimately resigned.

"She has a lovely quality and is an honest person," he said. "My assessment was there had to be some truth to things I was hearing, which were outrageous."

Mark said the next three years entailed much hard work. "They don't spare any expense. It was long and arduously contested."

The case drew media attention and resulting public support. The gay and lesbian community, locally and nationally, expressed interest.

The court awarded double back pay, pre- and post-judgment interest, damages for mental anguish, and fees — every form of relief Brenny sought.

"There were so many emotional moments during that trial that added up to an overall feeling that this just isn't right. It doesn't feel right; it doesn't sound right; and it wasn't," Mark said.

"It was very heartening to get the decision and know that a wrong had been righted."

"Lawyers have been given a rare opportunity. We're blessed with the chance to help other people. The practice of law has become so money-oriented lately, but it wasn't that way when I started. I look at my practice now and if I have an opportunity to right a wrong, I do it."

—Jane Pribek





Teresa Fariss McClain

Key player in startup of Minnesota Women Lawyers' Foundation

When Minnesota Women Lawyers last summer launched its own charitable foundation, that startup was largely due to the efforts of Minneapolis attorney Teresa Fariss McClain.

"I have no doubt, that had it not been for Teresa's perseverance and leadership, the Minnesota Women Lawyers Foundation would not exist today," said Debra Pexa, MWL executive director. "Teresa not only set her goal high, but she understood how valuable the MWL Foundation would be to the mission to advance the success of women attorneys and strive for a just society."

The foundation's startup culminated more than two-year campaign by McClain, first serving as MWL's president-elect in 2012-13 and then as its president in 2013-14. For this achievement, Minnesota Lawyer is honoring McClain as a 2014 Minnesota Attorney of the Year.

The road to the foundation began with McClain serving as co-chair of a MWL task force to see if forming a charitable arm made sense, and then gaining board support in 2013 to incorporate the charity as a 501c3 corporation.

"Upon that initial approval, Teresa further supported the effort during her year as president, by establishing yet another MWL task force to lead the painstaking process of actually forming the charitable corporation," Pexa said.

McClain said she felt creating the foundation was important for the MWL.

"Our mission is to work to promote equity for all women in the law and work for a just society," McClain said. She noted the foundation gives the MWL a vehicle to carry out its charitable work in such areas as fighting domestic violence, participating in the Girl Scout Law Day outreach and offering scholarships.

At the start of 2015, McClain joined the Robins Kaplan law firm in Minneapolis as of counsel, practicing in the areas of medical malpractice and personal injury. Before pursuing the legal profession, McClain was a registered nurse, working in obstetrics and adult critical care that included serving as a patients' advocate.

Nevertheless, "I have always been interested in the law," McClain said about switching careers. "I really see what I am doing as similar to nursing. I am advocate for the client but just in a different realm.

"I like the challenge of putting the medical field and the law together to achieve a just outcome for my clients," she said. McClain added serving injured patients gives her the opportunity to champion their causes. "They [the clients] need someone to bridge the gap between the medical and legal systems."

—Scott Carlson

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Congratulations to Craig Krummen and Tiffany Blofield who have been selected as 2014 Attorneys of the Year by *Minnesota Lawyer* for their outstanding accomplishments and contributions to the legal profession. We're proud to be associated with them, and other Attorneys of the Year, who constantly achieve the highest level of client service. In addition, *Minnesota Lawyer* presents the Circle of Excellence award to Craig Krummen, which honors those who previously have been honored as Attorneys of the Year.



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Norman Trial Team

Won verdict of \$6.4 million when stray voltage destroyed dairy farm

The 300 to 400 cows on the Norman family dairy farm were ailing, suffering from metabolic diseases, high mortality rates, and breeding problems. A team of veterinarians and other experts worked for years with the second- and third-generation Pine River farmers to determine the cause, but to no avail.

When a test for stray voltage showed electrical currents all over the farm, the Normans called on their utility, Crow Wing Power, to correct the issue. And though the company did partially upgrade some of its equipment, one of its buried lines had partially corroded and emitted widespread stray voltage on the land.

Farm owner Randy Norman started trying to get Crow Wing Power to fix the farm's stray voltage in the early 1990s. After company employees tested the farm for electrical issues, they told the Normans nothing was amiss, says Jeremy Stevens, one of the family's lawyers.

Independent testing proved Crow Wing wrong. The cows also showed the compounding effects of the stray voltage, which repeatedly shocked them at their water troughs. Typically, animals stop drinking enough water, which affects milk production, while the electricity tampers with their immune systems.

Eventually, the Norman family was forced

into liquidation in 2012, taking their livelihood in the process. They filed a negligence suit against Crow Wing Power that year. In October, a Cass County jury sided with the Normans, awarding them \$6.4 million — \$4.8 million in economic loss and \$1.5 million for nuisance damages.

Rochester-based attorneys Charles Bird and Stevens of Bird, Jacobsen & Stevens, and Will Mahler of Mahler Law Office successfully argued that the Normans are good farmers who did everything they could to maintain their herd's health.

"It was also the lack of consideration by the power company for their customer," says Bird. "Randy is a great guy, and he and his sons were full-fledged, 24/7/365 dairy farmers. It's a labor of love, and to have someone just ignore you and cause you to lose your business, that's not good policy. He was a part-owner of the co-op, and they treated him like dirt."

Mahler concurs. "We had such a believable, sympathetic farmer, but the best thing about these cases is that the cows really prove the case," says Mahler. "They produce records every day, and all you have to do is analyze them and have input from the treating vets, who are on the farm every week."

Crow Wing's defense involved arguing that

the Normans were bad farmers who caused their herd to founder. The Norman team was surprised at trial that the power company didn't end up calling some of its listed electrical experts, Bird says. Before the trial, they "just ran us around," Stevens said. "I would call it scorched-earth litigation."

In post-trial motions, the Normans' team asks that Crow Wing fix the electrical problems so that the family can get their dairy farm going again. Winning on their behalf was especially satisfying for the attorneys, Mahler says, because the Normans were under enormous strain for years as they tried to help their cows and save their farm.

"Seeing the joy on the Normans' faces was very gratifying. The depth of the emotional impact during the last couple of years was clear," Mahler says. "It's also nice to win a big case with stray voltage because it's viewed with skepticism by some people. The electrical industry has done a good job portraying stray voltage as voodoo and that farmers are looking to cover up bad management. It made a difference to me to do some small part in turning that notion upside down, because it's real."

—Suzy Frisch



Pete Orput

Washington County
Attorney's Office

When the Morrison County Attorney's office found itself unable to take on the double-homicide case against Little Falls resident Byron Smith, the bind became a little tighter when the state Attorney General's office also declined to accept it. The county attorney then turned to the Minnesota County Attorney's Association, whose then-president, Don Ryan, reached out to Washington County Pete Orput, who took the case with Assistant Washington County Attorney Brent Wartner.

The two were able to convince a jury that Smith planned and carried out the executions of two unarmed teenage cousins who broke into his home on Thanksgiving Day 2012. Orput succeeded despite intense media coverage and criticism – and sometimes death threats – from gun rights advocates and supporters of the so-called castle doctrine.

"I wasn't sure I would be successful; I just felt it needed to be prosecuted," recalled Orput. "The county attorney, for a number of reasons, didn't really have anywhere else to go. When they asked me to prosecute the case, I thought, well, somebody's gotta."

It also so happened that Orput was up for re-election as the case went to trial. "I knew taking the case might not be a smart move, but I didn't let that guide me. The case absolutely deserved to be prosecuted."

Orput's biggest obstacle in prosecuting Smith, he said, wasn't gathering and presenting the evidence in the case. It was the ongoing portrayal of Smith by defense attorneys – and often by the media – as the victim.

"What was surprising was before and during the trial was how many media outlets continued to see it through the prism of an old man trying to defend his dwelling," Orput said. "I didn't think the facts were anything even close to that. I had to wonder if some of the reporters covering the case were even in the same room, hearing what I was hearing."

As it happened, a 12-member jury took less than three hours to convict Smith on two counts of first-degree premeditated murder and two counts of second-degree premeditated murder. While the drastic response by some was unnerving, Orput took it in stride.

"I was taken aback by the anger that was expressed over this case," he said. "People are very emotionally attached to the concept of defending one's dwelling. Plus, there are just a lot of nuts out there."

—Dan Heilman

Debra K. Page

Uncorked liquor licenses
against full-bodied opposition

Debra Page does not usually face opposition when she helps clients acquire liquor licenses. This year, however, she found herself leading a battle on multiple fronts when her out-of-state client, Total Wine & More, sought to establish a foothold in Minnesota.

The typical Total Wine store carries more than 8,000 wines, 3,000 distilled spirits and 2,500 beers. So it is perhaps understandable that local competitors opposed the retailer's entry into Minnesota. Competitors and their counsel opposed Total Wine's applications for licenses in Bloomington, Roseville, Burnsville and Woodbury, accusing the company of numerous violations in other states. Page went on the offensive — she advised her client to conduct its own internal investigation. The resulting report (highlighting Total Wine's remarkably low violation rate) allowed Total Wine to confront the allegations head on.

After Roseville granted the license, the opposition took the matter to the Court of Appeals. Page, however, forced the opposition to include Total Wine as a party to the appeal and then got the case dismissed for Plaintiffs' lack of standing.

By the end of the year, the Page's Lindquist team had achieved total success, obtaining licenses for their client in Bloomington, Roseville, Burnsville and Woodbury. Page's work is now providing the template for Total Wine's licensing efforts across the country. And her client is delighted — Total Wine's Roseville and Bloomington locations consistently rank among the top Total Wine store operations each week. The secret to Page's success? "We came out ahead of problems and disclosed everything. We were proactive at every step of the process." Page also confesses that "it's easy to work with a client who has such a great record."

This would have constituted a banner year for any attorney, but the same week that Page obtained Total Wine's Bloomington license, she helped sell a cookie company for longtime client Best Maid. And, in her spare time, she served on a committee of seven, helping her church find a new senior pastor. Page deserves a toast — and we bet her clients will be happy to pour the wine.

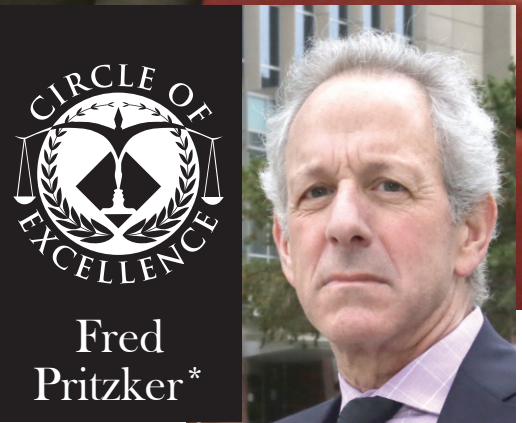
—Sybil Dunlop





Brendan Flaherty

Kelly McNabb



Pritzker Trial Team

Food caused intestinal injuries to children, but won't ever again

Attorney Fred Pritzker has trouble discussing in much detail the intriguing case he led against the manufacturers of a food product that caused significant intestinal injuries to seven young children.

"It's one of the more onerous confidentiality agreements I have ever signed," he said. The case, which wrapped up last year, involved children living with their parents in seven states from Virginia to Oregon and expert medical testimony from around the world.

His firm is one of the few in the country, if not the world, to specialize in food-borne illnesses, he said. This particular case, however, had a level of complexity Pritzker had rarely seen in his 40-year career.

"It was complicated because the disease these kids developed was never presented, never seen, in that kind of presentation before," he said. "And worse, the underlying condition is common to young children. Just by virtue of being a young child you can get this illness. So we had to tease out how the

illness was not the result of their youth but because of the product."

When the case began in 2011 Pritzker faced several other challenges. He had to conduct an international search to find competent experts in a particularly rarified research field. With no medical research available on the injury, his firm ended up funding animal model, peer-reviewed research to identify how the injury was caused in young children.

He and his colleagues, Brendan Flaherty and Kelly McNabb, built up frequent flyer miles interviewing experts, taking depositions as long as 10 to 15 hours each and collecting hundreds of thousands of documents. All the research had to meet the Daubert standard requirement developed by the U.S. Supreme Court to create rules of evidence regarding expert testimony, he said.

The case ended up being presented in a state where one of the defendants lived. The difficult part was that Pritzker had to make his arguments based on the laws of the seven

states where the plaintiffs lived. None of the cases could be tried together because no two states had the same laws.

Moreover, an insurance carrier of one of the primary defendants claimed the coverage did not extend to the injury. Pritzker's team won a declaratory judgment in a court in yet another state that confirmed that the insurer's policy covered its client's exposure in this case. "Our success attests to our ability to demonstrate the causation issue and to overcome the liability defenses," he said.

After the second two-day-long mediation, a settlement was reached in the eight figure range. "All the defendants were relieved; they all wanted to be done with this case," he said. "They changed the marketing and the product is still available but is no longer sold to children. One of the good things that came out of this was that as a result of this [case] steps were taken so that it will not happen again."

—Frank Jossi

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Richard Ruohonen *

Charles Slane

Richard Ruohonen & Charles Slane

Secured \$2.2 million verdict against insurance company

When Charles Slane considers what he likes most about his work as a litigator, the answer pops up instantly for him. “I love standing up to bullies,” he says. “To provide an opportunity to be heard for someone who’s fighting, who needs to have a voice, is why I come in every day. I want to be an advocate, in every sense of that word.”

His partner, Richard Ruohonen, agrees that bully quashing is one of the most satisfying aspects of their work at TSR Injury Law, but adds that there’s an all-in quality to the work as well. “As a lawyer, you might have several cases going, but to a client, they have one case, and it might be the only case in their life,” he says. “You’ve got to give it everything you have.”

That ferocious advocacy was made apparent in early 2014, when the pair secured a \$2.2 million verdict for a bad faith case against American Family Insurance. An elderly woman had lost her leg in a terrible car accident, and the other driver admitted to fault immediately. But despite that kind of seemingly clear-cut claim, the insurance

company delayed payment.

Slane and Ruohonen took on the case initially because they felt there’s been a pattern of abuse with American Family, which they believe lowballs their customers. As they worked on the case, and got to know their 91-year-old client, their passion for advocacy only deepened.

“She’s such a fighter, and she quickly became one of our favorite clients of all time,” says Ruohonen. “Sometimes people give up after an accident, especially at her age. But she worked so hard to get to the point where she could walk with a cane instead of being in a wheelchair. We felt that she deserved attorneys who would work equally hard to make sure she wasn’t unfairly treated.”

Slane jokes that the firm spent \$50,000 on a trial, and ended up making that amount back. But in seriousness, he notes that they would actually spend more if it meant trying a case as effectively as possible. They enjoy trying cases together, since their in-court personalities blend well, they believe. Ruohonen is the more dramatic, in-your-face attorney, he notes, while Slane is expert at

intelligently getting points across in a way that witnesses or jurors understand.

Each attorney also enjoys the opportunity to use their skills in separate cases. For example, Ruohonen tried a case in early 2014 that involved a traumatic brain injury and knee injury, again taking on an insurance company that offered a low settlement sum. Ruohonen received a sizeable verdict that far exceeded the company’s settlement limits.

That story is a familiar one at TSR, where Slane, Ruohonen, and partner Steve Terry regularly take on insurance companies that offer low settlements despite extensive medical bills from their customers after car accidents.

Those cases are the kind that drive Ruohonen and Slane every day. They both admit to a passion for winning, but not for its own sake. They say they want the most for each client, in every case.

“When people aren’t being treated fairly, that just becomes a driver for us,” says Ruohonen. “We want them to win.”

—Elizabeth Millard



Kenneth Ubong Udoibok

Helped Tibetans mistreated by Chinese employer

When two Tibetan immigrants approached Kenneth Ubong Udoibok about the discriminatory practices of their Chinese employer, a trucking company, he wanted to take the case even though he figured it would cost him money.

The litigator bristled when he heard their stories and signed on to be their counsel despite efforts from his own staff to dissuade him, knowing the case would not be profitable.

“This is part of my problem for 20 years,” he said. “I tell myself I’m never going to do these cases but then I will do them.”

Then again, it’s just the kind of case he’s drawn to. Udoibok, a former television photo-journalist, grew up in Nigeria and left due to his own struggles with the government. Since the 1990s he has many times represented people struggling with work conditions and discrimination.

The Tibetans drove trucks for New Metro Trucking throughout the Midwest. Though

they were immigrants happy to find a job, they quickly discovered that Chinese employees were much better treated.

Compared with Chinese employees, the Tibetans earned lower wages and received no food or housing allowances. They drove trucks in need of repair and worked extended hours without compensation, Udoibok said.

When the Tibetans complained about working conditions the owners accused each of them of stealing \$16,000, Udoibok said. They agreed to have the \$32,000 reimbursed from their salaries — even though they had not taken it — because “they would do anything to have a job,” he said.

Still, the trucking firm fired them in 2011 and launched a lawsuit to collect the money. RICO charges against the company did not succeed, but a discrimination case before a jury and federal Judge Donovan Frank did.

The final tally for the 2013 verdict was \$650,000, a sum the trucking company claims

it cannot pay.

Udoibok argued that the Chinese trucking company owners transferred discriminatory practices against Tibetans, common in their own native country, to the work environment of Minnesota. He sensed he had won when he saw the jury’s reaction to the revelation that the Chinese managers renamed the Tibetans with Chinese names.

“That brought emotion to bear, and that that was the reason the jury felt they had to punish the company,” he said. The Tibetan clients, who spoke broken English, never realized until the trial the depth of discrimination they faced, he added.

“I would say this is one of the most rewarding outcomes in my career, but not in terms of dollars,” he said. “It’s more because of how improbable it was for us to prevail.”

—Frank Jossi

Joshua Williams

Gained landmark settlement for alternative school students

It was a case that several other lawyers passed up before it was taken on by Joshua Williams, a Minneapolis attorney known for his civil rights and employment law practice.

Students at an alternative public high school in Minneapolis for pregnant and parenting teens routinely received instruction from teachers who were either unlicensed or under-licensed. News of that practice at Broadway High School surfaced after an audit by the Minneapolis Public School District.

It violated state law, and a group of then-current students reached out to several local lawyers to help them seek redress from the school district.

Williams was convinced he could win. In 2012 he sued the school district under Title IX, asserting the statute required classes for pregnant and parenting students to be equal to classes for non-pregnant and non-parenting students. Even though this rule seems intuitive, this case appears to be the first time a lawyer has advanced this theory of liability, Williams said.

After months of contentious negotiations, Williams won a \$409,934 class-action settlement from the school district, a vindication of the rights of hundreds of students who earned credit in courses taught by unlicensed and under-licensed teachers. In late December of 2013, Hennepin County District Court Judge Laurie Miller approved the settlement between the School District and certain students who attended Broadway High School between 2008 and 2011.

"I am honored and humbled," William said about the recognition, adding, "It was a privilege to represent the plaintiffs and their individual rights."

The school district also agreed to pay the Williams' firm's legal fees on top of the award to the plaintiffs.

Williams called the Broadway settlement "a landmark, a one of a kind" and a vindication for the plaintiffs, typical of the cases that are in the sweet spot of his law firm's practice.

"I take pride in utilizing the legal system to hold businesses, industries, governmental entities, and individuals accountable for their unlawful conduct," Williams notes on his website. "My passion for advancing justice and vindicating the rights of the disenfranchised and those who were denied a fair shake is the driving force behind this firm."

Williams said he takes most cases on a contingency fee basis and handles only those he believe would win if they were to go to trial. "I am accustomed to betting on myself and my clients."

—Scott Carlson





Andrew Winter

Cracked down on the Native Mob crime gang

Last September, two members of the Native Mob crime gang, including its leader, were sentenced to lengthy prison terms, culminating a crackdown by federal authorities on the 200-member American Indian gang that prosecutors say had terrorized reservations and other communities in Minnesota and other states.

A major role in the prosecution was the work of the United States Attorney's Office in the District of Minneapolis. One of the leaders of that effort was AUSA Andrew Winter. A 12-year veteran of the U.S. Attorney's Office, Winter said his work on the case stemmed from his time in the Hennepin County Attorney's Office when he was a gang prosecutor at the state level.

"When I got to U.S. Attorney's Office in 2002, myself and another prosecutor put our heads together, along with the U.S. attorney at the time, Tom Hefelfinger," said Winter. "We decided that this was a gang that needed a federal case because they were statewide. Just prosecuting individual cases in separate counties was not effective."

Concurrent with his time at Hennepin County, Winter spent some years as an Army Reserve JAG officer, an experience that he said left him with an understanding of what it's like working in a larger governmental organization — helpful now that he's doing national security work.

"Also, dealing with international issues during my time in the reserves gave me some context that's helpful," he said. "The Native Mob case was a federal investigation where we could gather more resources and spend more time and energy with multiple agencies. That created a more effective case."

His takeaway from that signature prosecutorial effort was that cases like Native Mob take an extraordinary amount of time and patience. Also, the level of cooperation required between agencies at the local, state and federal levels is key.

"Having these agencies in place and communicating well about a common mission was important," said Winter. "The lesson is that if you keep communicating, good things will happen."

—Dan Heilman

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Rachel K. Zimmerman

IP work that is
'blow your mind cool'

Intimate knowledge of “bed bug killing chambers” may not be the first thing you associate with a top-flight intellectual property litigator, but trade secret litigation involving how best to kill *Cimex lectularius* was just one of many highlights in 2014 for Rachel Zimmerman of Merchant & Gould.

In 2014, Zimmerman led an all-woman trial team in an eight-day Hennepin County District Court jury trial that resulted in a seven-figure judgment and an award of attorney’s fees for Merchant & Gould client Ecolab, *Inc. v. Hetta Solutions, Inc., et al.* The jury found that the defendants willfully and maliciously misappropriated trade secrets.

Zimmerman describes her practice as 85 percent trial litigation and 15 percent appeals, noting that her colleagues often look to her for assistance with their appellate work in light of her background as an appellate clerk. Zimmerman describes her work as being “on the cutting edge of innovation” and “blow your mind cool.”

Barrister Alex Leonini, Group Intellectual Property Manager for Lush Limited, a U.K. entity with over 100 retail locations in the United States, raved about Zimmerman during a brief telephone conversation, describing her as (among many other things) “intelligent, friendly, focused, persuasive and a strong advocate.” Leonini emphasized that when things get “messy,” Zimmerman is the “big gun” that Lush relies on to represent it in trademark infringement and trade dress disputes.

Zimmerman also has served for many years as a volunteer attorney with the Children’s Law Center of Minnesota and currently serves as president of the Minnesota Chapter of the Federal Bar Association and vice chair of the Fund for Legal Aid.

In 2014, Zimmerman was appointed by Chief Judge Michael Davis to serve on the merit selection panel that selected Hildy Bowbeer to replace Magistrate Judge Arthur Boylan, and co-chaired the panel that selected Becky R. Thorson to replace Magistrate Judge Graham.

With Chief Judge Davis, Zimmerman co-chairs “A Celebration of Minnesota Women in the Law,” a project co-sponsored by the United States District Court for the District of Minnesota and the Federal Bar Association.

These activities would be enough to fill most calendars, but Zimmerman also somehow finds time to co-chair Merchant & Gould’s recruiting committee. She says that a science background is not an absolute requirement for success in intellectual property law, but that if candidates hated high school chemistry or math, IP may not be the right field for them.

—Josh Jacobson



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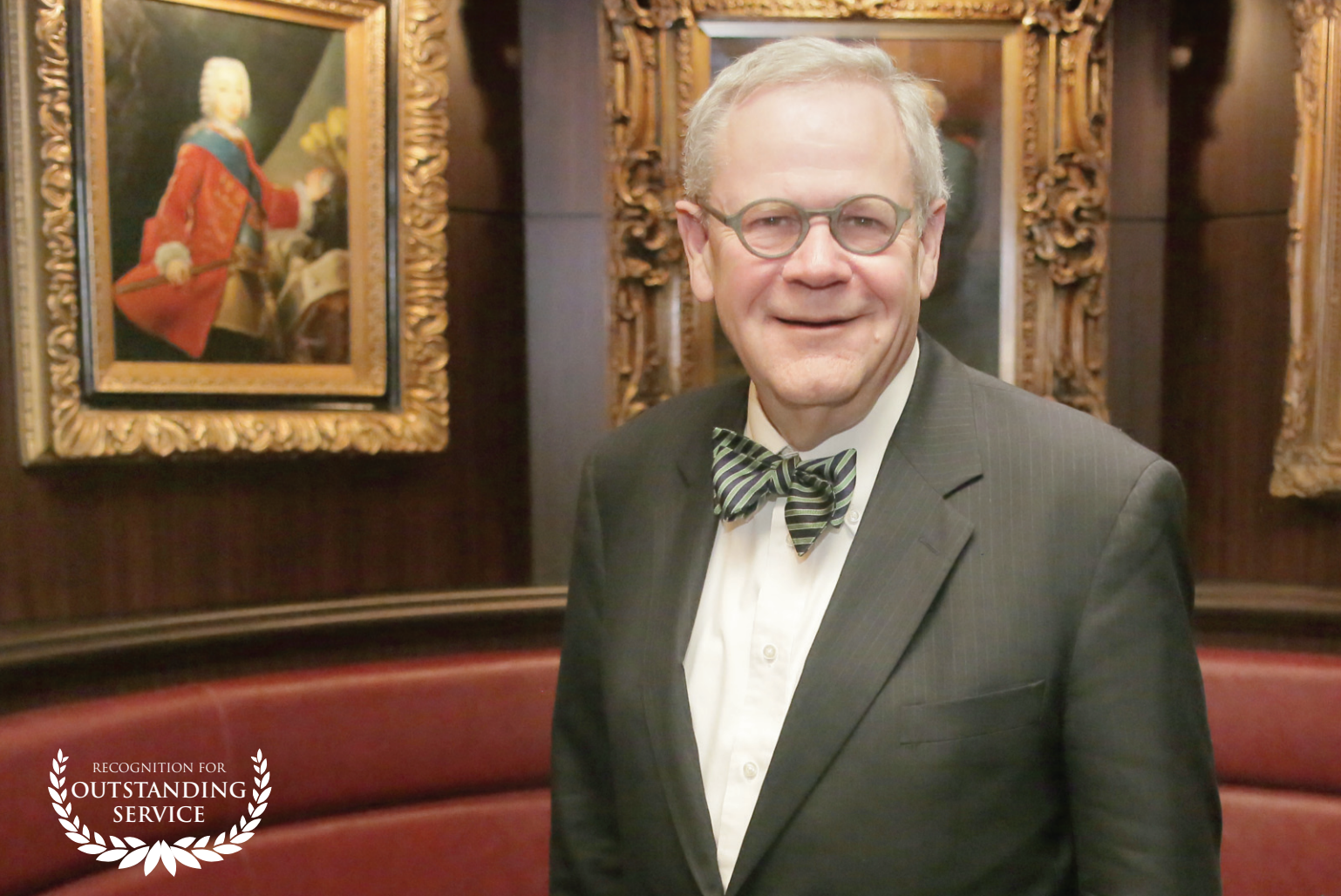
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Frederick Finch

Shaking things up from law school to the ABA

Back in the day, say around 1968, the student bar association at William Mitchell College of Law put on a damn fine mixer.

But then-student Frederick Finch thought it should do more. He became involved on a platform of “make it do more or abolish it.” As you know, it still exists.

“I just thought that to the extent the law is a self-governing profession, we ought to do it right,” Finch told *Minnesota Lawyer*.

And he continued, leading one to wonder if William Mitchell knew what hit it. By the time Finch was through, law school programs he was involved with had drawn accolades from the ABA Law Student Division. The William Mitchell Opinion had become a paper that published four or five times a year and was awarded “best student publication” in its group, a three-day intensive criminal law symposium Finch spearheaded was named best Student Bar Association project in its group, and the bar association itself was named Best Student Bar Association for its group.

And he convinced the college administration to start a law review and a clinical program. The school now has four journals, eight centers and 13 clinics.

What got started then is continuing today, although on a broader scale. When he started his practice at Fredrikson & Byron he was asked to join the board of Legal Advice Clinics, which at the time joined pro bono attorneys with clients. He served two terms as chair of LAC and then moved on to the Hennepin County Bar Association, eventually joining its governing council.

The following year he won a contested election. He became a delegate to the ABA from the HCBA and then from the MSBA, where he served two terms. He was next elected state delegate in a contested election, and served three terms, or nine years.

By this time it was Minnesota’s turn to have a seat on the ABA Board of Governors, which Finch filled from 2009 to 2012. He began to be concerned that the board was not supervising the finances the way it should be and he became involved with a special governance committee of the Board of Governors. In the words of Tim Groshens, executive director of the MSBA, Finch helped the organization start running like a business. The lines of authority and responsibility were not clear, Finch said. “No respectable business would have such loosey-goosey oversight,” he said.

Finch is now back in the House of Delegates

Shortly before joining the ABA board, Finch co-chaired the MSBA’s tremendous assistance effort to victims of Hurricane Katrina, along with Judge Cara Lee Neville and with the notable participation of then MSBA president Susan Holden. The bar did what it was uniquely qualified to do: help the legal aid lawyers with equipment and money. Lawyers from Mississippi, Louisiana and Alabama were still thanking Minnesota years later.

The next big challenge to the ABA was the recession that began with the 2008 crash. Membership declined and the board “had to fight to do new and interesting things,” he said. It’s improving, but the ABA still has a “membership problem,” which Finch attributes to many of the changes in the profession.

Going forward, Finch says that the ABA should be about “relevance, relevance, relevance.” The constant challenge is to make sure that what the organization is doing is meeting the needs of the members. “Too often it’s a year behind,” he said. The question is, “What do we need to do to help lawyers practice law better?” he said.

—Barbara L. Jones



Fred T. Friedman

Passionate about the rights of the indigent

Fred Friedman recently has spent time with public defenders from North Carolina to North Dakota, and it has taught him something valuable about Minnesota. “Everywhere including Minnesota [criminal justice] has problems but we are way ahead of the curve. We’re really lucky when you look around the country.” Yes, the demand for resources never ends, and race is still a huge issue in the country, but the Minnesota public defenders are independent of the bench and not elected by the populace, Friedman told Minnesota Lawyer.

Friedman retired in 2014 at the chief public defender in the 6th Judicial District, a job he had held for 30 years. Before that, he was an attorney in the office for 12 years. He’s traveling the country teaching and consulting, and he enjoys being separated from the parts of the job he didn’t like. “I don’t miss the politics and I don’t miss the constant technology changes.”

Friedman grew up in the civil rights era, the son of solid leftists and descended from ancestors from Belarus, Ukraine and Romania. His father traveled to work sites and farms to regulate child labor laws.

“I’m old enough to remember Emmett

Till,” Friedman said. Till, who was from Chicago, was murdered in 1955 at the age of 14 in Mississippi.

Friedman graduated from the University of Minnesota Law School and became a public defender in 1972, the year the U.S. Supreme Court decided *Argersinger v. Hamlin*, which extended *Gideon v. Wainwright* to any case where the defendant faced incarceration.

Now public defenders and legal aid lawyers have a seat at the table when policy is made, he notes. “I’ve worked hard to make it an honor to be a public defender. Now when there’s an opening we get over 100 applications.”

David Stowman, member and former chair of the Board of Public Defense, nominated Friedman for the Outstanding Service to the Profession award, saying:

“The job for Fred was a labor of love with a real passion for protecting the rights of indigent clients. He is recognized for his advocacy skills, but his service extends beyond representing his clients. He mentored many attorneys, teaching them the skills he had honed through the years. His influence in shaping public policy extends beyond the borders of Minnesota. He is recognized nationally as a

teacher, scholar and mentor. In my opinion, his selfless career merits recognition.”

In addition to teaching and consulting, Friedman has other plans for retirement. He intends to continue to call the metro area “the ring of knowledge,” and also continue his efforts to get that phrase into a Supreme Court opinion. He’s going to travel and play golf. And there are two things he is not going to do: He is not going to compete for a buck against lawyers he trained, mentored and coached; and he is not going to live in a state without a state income tax. “Minnesota educated my family and supported me. I’m going to support Minnesota.”

And he’ll probably watch an inning or two of baseball. Legends of Friedman’s prowess in court are rivaled only by the legends of him as a sports fan, particularly baseball, particularly the Twins. No matter how they play. In the National League, he wavers between the Pittsburgh Pirates and the St. Louis Cardinals. Last month, he named his predictions for the 2015 World Series. He’s going with the Los Angeles Dodgers and the Baltimore Orioles. You heard it here first.

—Barbara L. Jones



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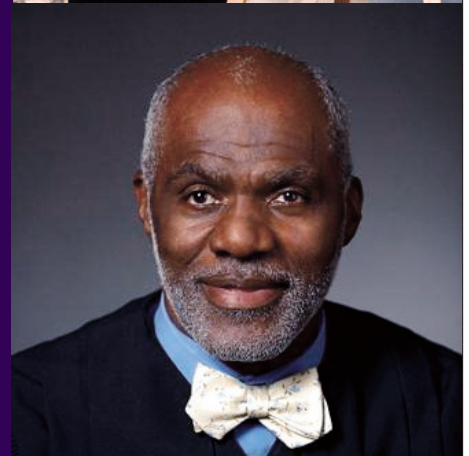
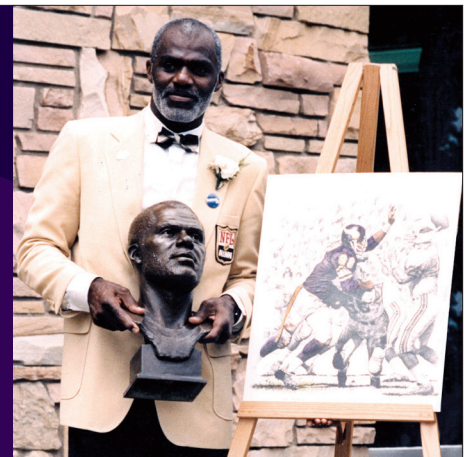
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John Kingrey

Fostering cooperation among county attorneys

County attorneys want justice for crime victims. It is a heavy mantle on their shoulders. That's the reason that the education, camaraderie and policy work provided by the Minnesota County Attorneys Association is so important. "There are a million unsung heroes out there," says John Kingrey, and most would agree he is one of them.

Kingrey recently retired after 14 years as executive director of the Minnesota County Attorneys Association. Its mission is to improve the quality of justice — civil and criminal — in Minnesota through education and policy initiatives, and also to provide a way for county attorneys to help each other.

"We want to nominate John because we are fond of him, and proud of his service to the community," the MCAA executive committee said in its submission.

Kingrey says he has been energized by seeing the various county attorneys' willingness to help each other, be it by guarding a ballot box or prosecuting a murder.

And he gives a tip of the hat to the civil attorneys who do the day-to-day work that allows the county to function.

The policy initiatives that have been im-

portant recently include sex offender commitments and expungements, Kingrey said. The civil commitment of sex offenders has come under fire with two task forces and a federal judge looking at the issue. But politics seem to prevent meaningful legislative activity to reform the sex offender commitment program.

Expungement of criminal records is another hot-potato issue, with no legislators eager to look soft on crime. But the collateral consequences of a conviction on education, employment and housing are too severe to have no relief available in appropriate circumstances, so the Second Chance Law, Minn. Stat. §609A.02, subd. 3, provides an avenue of relief. "It was a good bill and I was very offended to see how it was used last year," Kingrey said, referring to the use of the bill to make political attacks on opponents.

But it is only a partial solution because the information about a criminal conviction doesn't disappear. The MCAA thinks a better solution is a certificate of good conduct.

The MCAA also wants the Legislature to enact a drug kingpin statute, Kingrey said. The threshold for incarceration should be possession of a larger amount of drugs, and

the resources saved by putting fewer people in prison should go to stiffer sentences for the kingpins, he said. The higher threshold presumes there is no gun involved. "If there is a weapon, they are going to prison," he said.

Kingrey is proud of the statute that established an expedited investigation of campaign complaints and hearings that enables campaign misconduct charges to be resolved quickly and put the candidate's campaigns back on track.

He is also proud of his military service — 30 years as a JAG officer in the Army Reserve.

He is particularly proud of the time he spent in Kuwait counseling soldiers about their civil problems at home. It was "very, very gratifying to lift a burden off a soldier's back. I could see that I had made an immediate impact."

As a soldier, Kingrey can be expected to hand over a ship-shape organization, boots polished and square corners on the beds. He says it is good shape and he is pleased to hand it over to his successor.

"It's been a great ride," Kingrey said.

—Barbara L. Jones



Justice Alan C. Page

You may be familiar with fantasy football. Supreme Court Justice Alan Page says he has a fantasy world where he is an elementary school teacher. It's a possibility for life after retirement from the Supreme Court in August, when he turns 70, but not yet a plan. He's not sure he has the energy to do what teachers do all day.

But he wants to make a contribution to the community and believes that education, particularly reading and writing at an early age, is the way forward for children. He'd like to teach a reading and writing seminar for children in first through fourth grades or be an adjunct to the classroom.

Alan Page has served on the Supreme Court for 22 years, and some might say that attending to that many cases is sufficient contribution. "I take the approach that each case deserves 100 percent," Page says. "What we do here is absolutely fascinating. It's like unraveling a puzzle when you can't see the pieces, you can't touch the pieces, you don't even have a sense of all of them. You have to put this puzzle together so when you're done you can pick it up and read it.

"There are cases where you don't like where it takes you. Sometimes you don't like

where it takes others. The disappointment in yourself or your colleagues can be disturbing. It can be really good or bad but it's never boring."

Former Chief Justice Eric Magnuson said that Page has been steadfast in his resolve to hear all cases and all parties with an open mind and an open heart.

"He has epitomized the qualities of being a judge — one who listens and weighs before he decides. That is not an easy thing to do. It requires restraint and humility. Alan shares those qualities with some of the great justices to sit on the court, including Robert Sheran and Douglas Amdahl, justices who realized that the case was about the parties and the law, not about them. Alan has consistently been one of the most thoughtful and measured justices that I have had the pleasure to know and work with. It is not flashy, it is not easy, and it requires great character," Magnuson said.

William Mitchell Professor Peter Knapp, a scholar of the Minnesota court, said that it is not easy to predict or label Page's opinions, with one exception. "His is the strongest voice calling for the court to do justice based on its constitutional mandate,"

Finding new ways to contribute

Knapp said.

Page has served on the Supreme Court's racial bias task force and has not been afraid to discuss the difficult subject of racial bias in the judicial system. He says that Minnesota's race problems haven't been as visible or dramatic as some, "but we've had our share and we continue to have our share."

"Minnesota's racial disparity in incarceration is obscene," he said. "I don't know that with all of our efforts we changed anything dramatically. These are societal problems and until we change society's attitudes we're going to be fighting this battle."

According to a report of the Council on Crime and Justice, Minnesota has the greatest black-to-white disparity in imprisonment rates. In 1997 the ratio of African-Americans to whites in state prison was 25.09 to 1. The council also said that 37 percent of the vehicle stops in 2000 were of blacks, yet blacks were only 18 percent of the population.

While the court doesn't control who comes into the system, and defendants come in with the disparities that they do, "we don't necessarily have clean hands ourselves. We [the judicial branch] can do more."

—Barbara L. Jones

Richard Pemberton

Smothers opponents
with kindness

The name Pemberton has a flavor of being part of the British aristocracy, almost as if it could have the word Abbey after it. Yet attorney Richard Pemberton was able to thrive in northeast Otter Tail County in the town of Fergus Falls, which he describes as hopelessly and totally Norwegian. The firm that bears his name is one of the oldest in Minnesota and one of the largest outside of the metro area. Pemberton has traveled throughout the state and the U.S. preparing and trying cases. He now has an alternative dispute resolution practice and will retire this year, becoming of counsel to Pemberton Law.

It's been a journey from the Green Giant canning factory in Elmore, Minnesota, where Pemberton started working at the age of 15. He worked with former Vice President Walter Mondale and also with T. Eugene Thompson, an attorney who was convicted in 1963 of hiring a hit man to kill his wife, Carol.

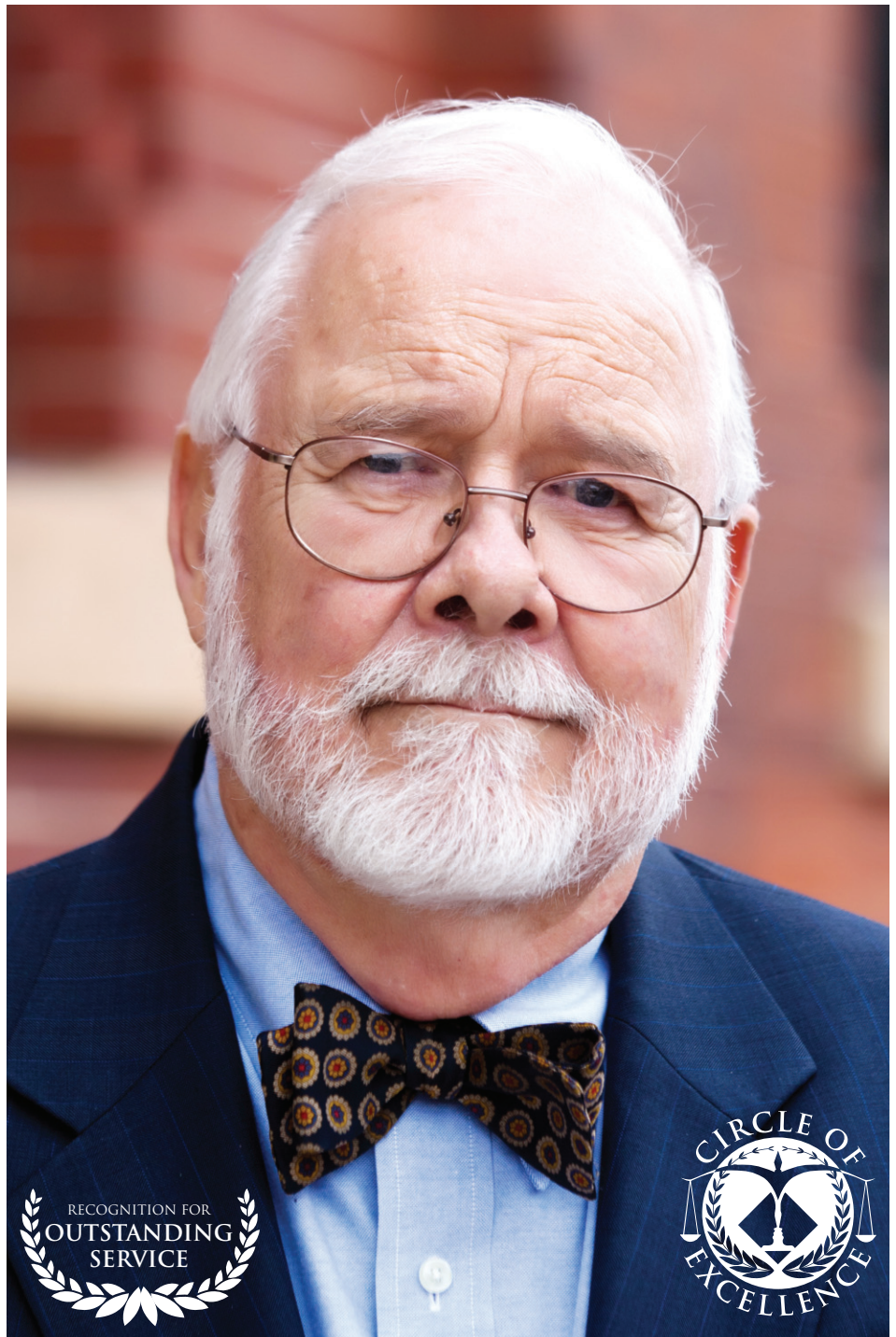
After earning his law degree he started with the Felhaber law firm and then joined the Army and taught international law to officers at the University of Virginia Law School. When he left the army he decided he didn't want to go back to an urban area. After a certain amount of persistence on his part he was hired at Rosengren Rufer and Blatti.

Gerald Rufer and Richard Quinlivan, attorneys whose names are still part of the Minnesota legal landscape, became Pemberton's mentors.

"Rufer taught me how to try cases. I took depositions from coast to coast, from New York to Los Angeles. Then he took me with him to watch him try cases. He was a genius as a trial lawyer. He did everything right to relate to the juries," Pemberton recalled.

And Richard Quinlivan helped Pemberton gain admittance to the American College of Trial Lawyers, one of his proudest achievements along with the American Board of Trial Advocates. Duluth attorney John Killen "helped me in my ascent up the apostolic ladder to the presidency" of the Minnesota State Bar Association. "My wife was very helpful to me and attended everything. She gave wonderful support." Pemberton served as MSBA president in 1986.

Pemberton likely will be best remembered for the case of *Lake v. Wal-Mart*, where the Minnesota Supreme Court recognized a cause of action for invasion of privacy. In that case Lake took film to be developed at Wal-Mart, which refused to print one picture because it was of two women in a shower. But



the picture got out from Wal-Mart, as did comments by employees about whether the plaintiff was a lesbian.

The Supreme Court created the cause of action for invasion of privacy but Wal-Mart eventually won with the argument that the store clerks were not acting within the scope of their employment when they invaded the plaintiff's privacy.

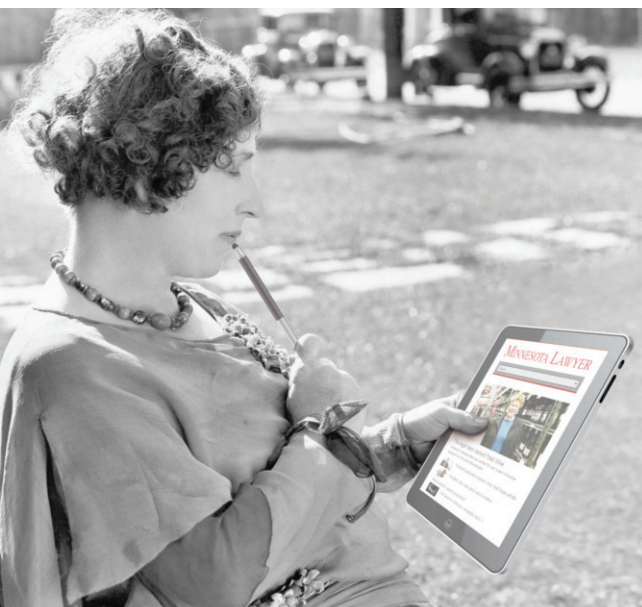
Wal-Mart reputedly gives no quarter when it comes to litigation disputes, and the case was a tough fight for the plaintiff's lawyer, Keith Miller, who nevertheless at the time called Pemberton a scholar and a gentle-

man. Pemberton's response? Miller had decided to be a tough guy so Pemberton "smothered him with kindness."

In addition to persons named in this article, Pemberton thanks all the partners who have supported him over the years. He sounds like an authentic Norwegian when he sums up his career: "I've been able to get in and out with no ethics complaints, no malpractice claims and no fights with my law partners."

—Barbara L. Jones

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