



Bar Talk

Inside This Issue:

Clerk's Corner	1
Diversity and Inclusion Profile – Liu	1
Diversity and Inclusion Profile – Chosy	3
10th Annual Disability Justice Seminar Puts Spotlight on Voting Rights of Individuals with Disabilities	6
Voter Suppression and the Impact of COVID-19 on Voting Rights	7
FBA National Diversity & Inclusion Committee hosts second panel discussions on law enforcement liability	8
Supreme Court Preview	9
Trivia Night	10
FBA Leadership Application	11

Clerk's Corner:

by Tricia Pepin

It goes without saying that the COVID-19 crisis has resulted in many changes in court practice. We are grateful to our bar and Court staff for quickly pivoting and learning how to effectively practice during the COVID-19 crisis. After working for several months in this new normal, we polled our dedicated courtroom deputies for some practical advice when appearing before the Court during this challenging time.

General Advice

- Review the local rules, ECF Guides, and judge's practice pointers before contacting the court with your questions. Attorneys often contact chambers with questions that are easily answered by reviewing these resources, which are all available on the court's website at www.mnd.uscourts.gov.
- Under General Order No. 18, courtesy copies are currently not required, but there may be instances where a judge will request the filing party to submit a courtesy copy, such as when there are voluminous exhibits.
- The preferred method for communicating with most chambers is by email, not phone. For those chambers, you will receive a faster and more accurate response when you communicate with chambers by email. (Please note that individual chambers may instruct you to contact them by phone.)

Advice for In-Person Proceedings

- Review the In-Person Hearings Protocol before you appear at court so that you are familiar with what has changed.

Clerk's Corner, continued on page 2.

FBA's Profiles in Diversity & Inclusion Leadership – Don Liu



Don Liu is the Executive Vice President and Chief Legal & Risk Officer for Target Corporation and has served in other corporate leadership roles prior to serving in his current position. Don rose through the ranks of the corporate world as one of the few Asian Americans in the field. His personal and professional experiences

make him an incredible leader, mentor, and distinguished resource for the legal community as our country treads through times of unrest due to racial inequality. Christine Jordan, of the Blackfeet Nation and a member of the FBA's Diversity & Inclusion Committee, sat down with Don via Zoom to talk about his career, racial equity in the legal profession, and Target's commitment to create positive social change.

Q: What motivated you to pursue a career in law?

Liu: I didn't go to college to go into law. I was originally a theology major. I was inspired by Dr. Martin Luther King and

FBA's Profiles in Diversity & Inclusion Leadership – Liu, continued on page 2.

Clerk's Corner, continued from page 1.

- After the proceeding, you **MUST** clean your area with the provided disinfecting supplies.
- Remember to notify the courtroom deputy if anyone who appeared in court, or a person with whom they have had close contact, has exhibited symptoms of possible COVID-19 infection or tested positive for COVID-19.
 - » If possible, wear a wired headset for the proceeding. We have found that wired headsets provide the most consistent and clear sound, which allows for a more accurate recording.
 - » If you are appearing for the hearing in a conference room, make sure that a microphone is close to you.
- Mute your device when you are not speaking.

Advice for Virtual Proceedings

- Courtroom decorum still applies when appearing on ZoomGov. Please act on ZoomGov how you would act in the courtroom.
 - » You should address the court in a respectful manner.
 - » Wear courtroom appropriate attire.
- Be mindful of your movements while on camera. Lots of movement can be distracting. Try not to move away from the microphone while speaking.
- Show up to a ZoomGov proceeding a few minutes before the proceeding starts. While waiting for the proceeding to start, test your audio and microphone to ensure that you are ready to participate in the proceeding.
- Microphone issues:

As of the writing of this article, the Court is pivoting again, scaling back some of it's reopening to respond to the high infection rates in Minnesota, including continuing all trials that had not yet commenced through December 31, 2020, and closing all intake desks for the same period. Updated guidance on court operations will be issued by December 31. Keep monitoring the Court's website for up-to-date information on any COVID-19 changes. The Court's Coronavirus (COVID-19) Guidance page contains all general orders issued during this emergency, our in-person hearings and jury trial protocols, applicable administrative orders, announcements and notices, and news releases.

On behalf of the Clerk's Office, we wish everyone in the FBA a safe and healthy holiday season and New Year! ■

Tricia Pepin is the Chief Deputy Clerk at the United States District Court for the District of Minnesota. If you have a question or topic you would like addressed in the Clerk's Corner, please contact Tricia at tricia_pepin@mnd.uscourts.gov.

FBA's Profiles in Diversity & Inclusion Leadership – Liu, continued from page 1.

wanted to bring that same level of leadership to the Asian American community and be in the pulpit. Law was an alternative I chose to that path. I went to law school at Columbia to practice civil rights. As a law student, I even studied under the former director of the NAACP, Jack Greenberg. When I graduated, I couldn't afford to be a civil rights attorney with my student loans. To be practical, I went into corporate law with a plan to pay off my student loans and then practice civil rights. My first job as a new attorney was at Simpson Thatcher where I worked in mergers and acquisitions.

Q: In the past, you've mentioned that there were very few Asian American leaders in the corporate world when you were beginning to take on leadership roles. Where did you find inspiration and mentorship as you worked your way to higher positions?

Liu: When I began my career, there were so few Asian American lawyers in the field that even my parents' friends questioned my career path, as Asians weren't seen as lawyers by the larger society. They asked, "Why would anyone want to hire you?" Being Asian American was perceived as a huge disadvantage. English was my second language and juries would view me as a foreigner. I faced a lot of second-guessing, but I continued to pursue my legal career.

I did meet kind people along the way who wanted me to succeed. At Simpson Thacher, I worked under John Carr, the first Black corporate partner at the law firm. He was an incredible mentor who didn't actively set out to mentor me, but I learned so much from him. I worked with him on leveraged buyouts.

Mentoring was not a focus in the legal field when I was first coming up in the eighties. It later became prominent in the legal career and practice. The mentors I encountered were purely by accident. I think that the best mentors are not necessarily assigned or arranged formally, and they understand that prudent thing to do is to help the next generation of practitioners when possible.

Q: Have you ever faced discrimination, micro-aggressions and/or other racist behavior in the legal field? If so, how have those experiences shaped your approach to leadership?

FBA's Profiles in Diversity & Inclusion Leadership – James L. Chosy



Jim Chosy is Senior Executive Vice President and General Counsel of U.S. Bancorp, the parent company of U.S. Bank, the fifth largest commercial bank in the United States. Chosy is responsible for all aspects of the company's legal affairs.

Chosy was interviewed by Peter S. Hyun of Wiley, by video.

Peter: A lot of lawyers across the country look to you as a leader on issues of diversity, equity, and inclusion. Could you describe how this issue first became a priority for you?

Jim: I'd be happy to. I'm not sure whether there was a seminal moment in time – I've always been interested in issues relating to justice, and equality and opportunity, and I have great regard for the profession as a whole and want it to be representative of all of those who seek to or should participate in it. It's a higher calling, and a trust for those who pursue it and those it serves.

To know that the legal profession still frequently measures as the least diverse of comparable white-collar professions like medicine, architecture, accounting, and engineering, is unacceptable. To me, the law should be first – not last.

I've also come to appreciate just how essential diversity is to the actual work of lawyering. Our clients depend on us for the best service and advice. We really need a diverse set of perspectives to bring the best intelligence to what we do. A homogeneous set of lawyers just can't do the same job as a diverse set of minds in solving complex problems. What has also accelerated my thinking on this is that for my industry in particular – financial services and banking – everything has been moving towards technology and digitization. To me, diversity is really a key to creativity and unlocking innovation in these critical areas as is being demanded by the marketplace.

Peter: You've also previously talked about how in the legal profession, things are "slow to change" and that there are a lot of "legacy barriers and impediments" that are not yet fully addressed or eradicated, which makes progress on DE&I challenging. What are some of those barriers that you have observed while trying to build a more inclusive workplace?

Jim: Historically, the legal profession has been slow to change in many respects. Lawyers and legal organizations tend to resist change; we don't necessarily embrace it. We can be risk averse and like to rely on precedent, in our case law analysis but also in the way we lead, manage, and operate. Some of the legacy barriers include access. The law has been and largely remains more exclusive than inclusive. Hierarchical systems tend to be run by majority lawyers; we still don't have enough diversity in leadership ranks due to both explicit and implicit discrimination and biases over time. In an apprenticeship

profession, confirmation bias can reinforce the status quo rather than opening things up to historically underrepresented groups whether in recruiting, work assignments, promotional opportunities, compensation, or billing credit in law firms. Even the billable hour system is a barrier, devaluing unbillable time spent on things like diversity work.

Peter: You lived through the last recession in 2008, and many in the legal bar and the community have been sounding the alarm about how the economic difficulties due to the current pandemic may similarly disproportionately affect women and people of color within law firms, law departments of companies, nonprofit organizations and public entities. What are your thoughts on this?

Jim: It's a great question and there's been a lot of talk and frankly anxiety in the broader profession about that. We must be vigilant in guarding against any regression on the progress we've made with diversity in the profession. It would be quite short-sighted to knowingly lose ground, and I'm hopeful that most legal employers are self-aware enough to not let that happen. COVID-19 can't be an excuse; our resolve must remain strong. Diversity, equity and inclusion are more important than ever, now, in this crisis moment. The current environment demands innovation and creativity in solving tough problems. Diversity of background and perspective is critical to each of these. This should be an opportunity for greater gains, not regression. I'd also say that inclusion is paramount in this new world of remote work environments which can feel isolating, so we must be even more focused on that piece of DE&I.

FBA's Profiles in Diversity & Inclusion Leadership – Liu, continued from page 2.

Liu: One time, John and I went to Toronto to handle a hostile takeover of a Canadian company. When we met with our clients, they asked if we were in fact with Simpson Thacher. It was as though they had to make sure we were their attorneys because a Black man and an Asian American man were standing before them instead of white men. They asked us if we were in the right conference room! Instances like that continued to happen during my career, but they have lessened over time.

Another time at Simpson & Thacher, the partner who was assigning cases told another attorney to “Put Liu on that case because he won’t miss a typo.” That man had never met me, and if he had, he would have known that I’m bad at typos. He had the implicit bias that because I was Asian American, I would be good at menial work.

Today, there are more Asian Americans in leadership roles in the corporate world. Even though there is more of an Asian American presence in the profession, implicit bias remains unchanged. My advice is to address the issue when it arises in a particular situation. I refused to be boxed into any stereotype as an Asian American lawyer and this required pushing

the envelope from time-to-time. I faced the “bamboo ceiling”, a barrier to progress for Asian Americans, and my strategy was to break through that barrier to build my legal career.

Q: The recent protests originating in Minnesota in response to the homicide of George Floyd, along with years of racial injustice, directly affected Target as a company. Yet your executive team was masterful in its response by calling for social justice reform in this country. What advice would you give other members of the Federal Bar Association to address social reform and bring about true inclusion in the legal community?

Liu: I am not an African American and I’m not going to jump to any conclusions about being an African American. I think it’s important to first listen and learn. At Target, we have established the REACH Committee (Racial Equity Action and Change) and begun listening sessions in order to educate our team leaders as to what issues they face and to determine how to take effective action. The need for social justice is undeniable and we’re committed to using Target’s size, scale, and resources to create positive change. ■

This interview was excerpted from the FBA's Profiles in Diversity and Inclusion Leadership with permission from the FBA's Diversity and Inclusion Committee.

FBA October Luncheon

by Lanna Magnolia



Veena Iyer

On October 7, 2020, the Minnesota chapter of the FBA held its second virtual monthly luncheon and chapter business meeting.

To emulate the networking, connections, and conversations that have historically occurred at the in-person monthly luncheons, the virtual meetings begin with informal socializing and networking time in virtual breakout rooms. The organizers hope that this format will provide opportunities for attendees to enjoy each other’s company in the virtual setting, and

attendees have provided positive feedback on this approach.

In the business portion of the October meeting, it was announced that at the national FBA convention, held virtually in September, the Minnesota chapter of the FBA was presented with two awards, including Outstanding Newsletter and Chapter of the Year.

The keynote speaker for the October luncheon was Veena Iyer, Executive Director of the Immigrant Law Center of Minnesota, who presented “Building the Invisible Wall: Immigration Law & Policy in the Lead-Up to the 2020 Election.” This engaging and informative discussion focused

on cutting edge issues and recent developments in immigration law and policy; the role of the federal courts; and the ways this year’s election could affect immigrants, refugees, and the communities that rely on them. In her presentation, Ms. Iyer spotlighted several legal challenges that have been brought to executive policies, and she discussed how those challenges are currently working their way through federal courts. Ms. Iyer also addressed a pending executive proposal to nearly double the cost of naturalization for hopeful citizens; several groups have opposed this proposal as creating a barrier to lawful immigration.

FBA luncheons are currently held virtually on a monthly basis. ■

Lanna Magnolia is a graduate of the University of Denver Sturm College of Law. She is honored to clerk for Chief United States Bankruptcy Judge Michael E. Ridgway.

FBA's Profiles in Diversity & Inclusion Leadership – Chosy, continued from page 3.

Peter: You are based in Minneapolis, the city in which George Floyd died. His death, as well as incidents all over the country, have spurred conversations not just about policing, but racial justice more broadly, in workplaces and communities in America. The Federal Bar Association issued a statement denouncing racial injustice, and U.S. Bank has also taken steps to fight against racial injustice. How have you been thinking about your organization's role in the broader fight against racial injustice?

Jim: We've been thinking and talking a lot about racial justice in the wake of the horrific killing of George Floyd right here in Minneapolis, now the epicenter of our national reckoning on racism. I live in South Minneapolis, not too far away from where it happened. It's been an incredibly painful time for our city and community. Particularly, and obviously, for our African American citizens. While I'm sickened and devastated by what happened, I am hopeful for positive change and encouraged that the outrage and the demands for equality and justice have not abated. American society has much to atone for, from 1619 to today, and we must. We at U.S. Bank and in my Law Division certainly have a role to play in what needs to happen from here. At the bank level, we've announced multiple investments (over \$100mm) and initiatives to bridge gaps and address inequities. Within my legal group, we've announced a new commitment to racial justice in the form of a stand-alone program focused on education and community action and service, and that will leverage our existing pro bono and DE&I programs. Educational efforts will address racism, anti-racism and racial justice, while community action will extend beyond traditional pro bono legal services and could involve things like education, housing, voting rights, criminal justice reform, or policing reform. I feel a special responsibility in this, as a corporate leader with a platform, as a lawyer and representative of the legal system, and as a citizen of Minneapolis. We are committed to the journey of standing against racism and working with purpose to learn, grow, build community and foster change. There is much work to do, and it's overdue. We all must be better and do better. ■

This interview was excerpted from the FBA's Profiles in Diversity and Inclusion Leadership with permission from the FBA's Diversity and Inclusion Committee.

FBA November Luncheon

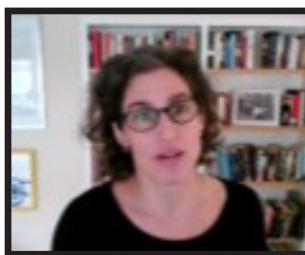
By Chad Pennington

On November 11, 2020, the monthly luncheon series featured Alexandra Natapoff, Harvard law professor and author of *Punishment Without Crime: How Our Massive Misdemeanor System Traps the Innocent and Makes America More Unequal*.

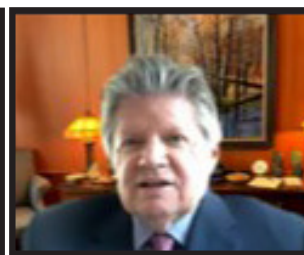
Professor Natapoff discussed the inner workings of a massive petty offense, misdemeanor criminal system that produces over 13 million cases each year in the United States. Professor Natapoff discussed how offenders arrested for minor crimes are often swept through courts where defendants frequently lack lawyers, judges process cases in mere minutes, and nearly everyone pleads guilty. This system, Professor Natapoff argued, punishes people long before they are convicted; punishes the innocent; and punishes conduct that never should have been a crime. As a result, Professor Natapoff concluded that vast numbers of Americans, most of them poor and people of color, are stigmatized as crimi-

nals, impoverished through fines and fees, and stripped of drivers' licenses, jobs, and housing. In conclusion, Professor Natapoff offered her thoughts on how to best reform misdemeanor justice.

The November luncheon also included brief remarks by Chief Judge, John R. Tunheim regarding recent COVID-19 related practice changes and how long those changes would likely remain in place. ■



Professor Natapoff



Judge Tunheim

Chad Pennington is an Assistant Federal Public Defender in the District of North Dakota. He is a member of the FBA White Collar Compliance and Criminal Law Committee and a Co-Editor of Bar Talk.

10th Annual Disability Justice Seminar Puts Spotlight on Voting Rights of Individuals with Disabilities

by Megan Christner

On September 23, 2020 the Diversity and Inclusion Committee partnered with Robins Kaplan LLP and the Minnesota Governor's Council on Developmental Disabilities for the 10th Annual Disability Justice Seminar. The seminar focused on voting rights of individuals with disabilities, with a particular emphasis on the legal frameworks and societal forces that impact the exercise of those rights. The event featured a distinguished panel of experts: Kellianne Blood, Self-Advocate; Greg Brooker, Assistant United States Attorney for the District of Minnesota; The Honorable Donovan W. Frank, U.S. District Judge for the District of Minnesota; Elizabeth Schiltz, Herrick Professor of Law at the University of St. Thomas School of Law; Steve Simon, Minnesota Secretary of State; and Irina Vaynerman, Deputy Commissioner for the Minnesota Department of Human Rights. The panel was moderated by Tara Norgard of Carlson Caspers, with Emily Tremblay of Robins Kaplan providing opening remarks.

Sixteen million people with disabilities reported voting in the November 2016 election. Voter turnout for people with disabilities was six percentage points lower than that of people without disabilities, and the voter registration rates for those same individuals was two percentage points lower than average. If people with disabilities voted at the same rate as people without disabilities within the same demographic, approximately 2.35 million more voters would cast a ballot on election day. Although there has been improvement in the legal protections for voting rights of individuals with disabilities, with a general progression toward ensuring the ability to vote autonomously, many state constitutions and laws retain language that is stigmatizing or that could be interpreted to prohibit the right to vote, even if not enforced.

In addition to legal barriers, individuals with disabilities report facing numerous informal barriers that also practically limit their ability to exercise their voting rights. Among these are insufficient poll working training and resources for election officials, a lack of access to polls and election materials, a lack of access to voter registration materials, stigma, fear of what will happen at polling places, lack of knowledge about rights and accommodations available, uncertainty about whether the voting area will be accessible or whether the necessary equipment will be provided, and negative past experiences with voting. Panelist Kellianne Blood shared that in her own personal experience voting was incredibly difficult, in part because of long wait required to

use the electronic voting methods that are a necessity for individuals who are unable to fill in the small bubbles on paper ballots. She remarked that often individuals have to stand the entire time they wait, which is difficult for many individuals with disabilities, and also shared that for certain individuals it is also very taxing to be around bright lights, loud noises, and lots of people for extended periods while they wait for access to the computers. She also shared that the long wait times make it difficult to get transportation to and from polling places, as most group homes don't have the resources to wait for clients for an extended period of time and public transportation has to be scheduled weeks in advance for set timeframes. All of these barriers make exercising the right to vote impossible for many.

While there are many obstacles that individuals with disabilities face in exercising their right to vote, Secretary of State Simon shared that making voting accessible to all is a priority for his office. There have been a number of recent developments that Simon hopes will increase accessibility for voters with disabilities, including adding American Sign Language as the twelfth non-English language in which voting materials are printed, suspending a law that limited the number of individuals that a poll worker can assist at the polling place, and eliminating the witness signature requirement on absentee ballots. Simon also shared that his office is working to provide voters with disabilities the same accommodations that are already provided to many overseas military members, who are able to receive a ballot by email. He hopes that the office can engage a vendor that would then provide a confidential ballot marking tool for use on an electronic device.

While many individuals, including the expert panelists that participated in the seminar, are working hard to ensure equal voting rights and access to individuals with disabilities, there is still a large amount of work to be done. Panelists encouraged attorneys to volunteer as poll workers, to familiarize themselves with the ADA's checklist for polling places and solutions for five common ADA access problems at polling locations, and to make use of the resources on the Disability Law Center website. The expert panelists recommend the following resources for those who are looking to learn more and take action:

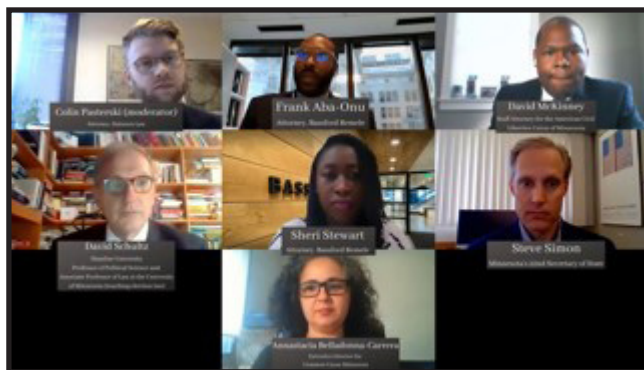
- MN Disability Law Center's Election Day Hotline: 1-800-292-4150
- Minnesota Department of Human Rights' Discrimination Helpline: 1-833-454-0148 or <https://mn.gov/mdhr/>

Spotlight on Voting Rights of Individuals with Disabilities, continued on page 7.

Voter Suppression and the Impact of COVID-19 on Voting Rights

by Chad Pennington

2020 was a contentious election cycle. Allegations of voter suppression were particularly widespread. On October 1, 2020, the FBA Diversity and Inclusion Committee sponsored a virtual panel discussion addressing voter suppression and the impact of COVID-19 on voter turnout and ballot access. The panel members were:



Colin Pasterski (*moderator*), Attorney, Halunen Law;

Annastacia Belladonna-Carrera, Executive Director for Common Cause Minnesota;

David McKinney, Staff Attorney for the American Civil Liberties Union of Minnesota;

David Schultz, Hamline University Professor of Political Science and Associate Professor of Law at the University of Minnesota (teaching election law); and

Steve Simon, Minnesota's 22nd Secretary of State;

Frank Aba-Onu and **Sheri Stewart** of Bassford Remele hosted the event.

The discussion focused on the history of voter suppression in the United States and the evolutionary development and extension of voter rights at the state and federal level. The panel discussion also discussed the impact of COVID-19 on voter turnout and suppression and the future of the electoral college, constitutional and statutory voter protections, and recommendations for obtaining reliable vote result information. ■

Chad Pennington is an Assistant Federal Public Defender in the District of North Dakota. He is a member of the FBA White Collar Compliance and Criminal Law Committee and a Co-Editor of Bar Talk.

Spotlight on Voting Rights of Individuals with Disabilities, continued from page 6.

- Elizabeth R. Schiltz, *The Ties that Bind Idiots and Infamous Criminals: Disenfranchisement of Persons with Cognitive Impairments*, 13 U. of St. Thomas L. J. 100 (2016)
- Resources available at <http://www.ada.gov>
 - » ADA Checklist for Polling Places
 - » Solutions for Five Common ADA Access Problems at Polling Places
 - » Title II complaint forms showing recent litigation and settlements on voting access
- Secretary of State Website – Become an Election Judge ■

Megan Christner is an associate at Carlson Caspers, where she practices intellectual property litigation.



FBA National Diversity & Inclusion Committee hosts second panel discussions on law enforcement liability

by Kiera Murphy

This past September, the FBA National Diversity & Inclusion Committee hosted a webinar discussing law enforcement liability arising from encounters with people who have a physical or cognitive disability. The program was the last installment of a D&I Committee webinar series to focus on law enforcement liability.

The webinar panelists were William Goren, the first president of the National Association of Attorneys With Disabilities and a national expert on Americans With Disabilities Act compliance, Julie Chovanes, a former partner at DLA Piper and a transgender woman who owns her own firm focusing on civil rights impact litigation, Sergeant Cheryl Dorsey, who became a social justice advocacy consultant after serving in the Los Angeles Police Department for more than 20 years, and Jeffrey Rothman, a New York City attorney specializing in representing plaintiffs in police and law enforcement misconduct cases, including cases arising from arrests during Occupy Wall Street and Black Lives Matter protests. These experts shared knowledge on the basics of police and municipal liability arising from encounters with people who have a disability, as well as Section 1983 liability and compliance with and best practices under the Americans With Disabilities Act.

The motivation for these programs was to dedicate much deserved time to spreading awareness on the important issues of racial and disability justice. On top of this, another important issue also became apparent: the need to engage in cross-profession conversations, as too often we become siloed within different viewpoints, cultures, and sometimes for attorneys, within the legal community itself.

Having Sgt. Dorsey as a speaker is an example of why cross-profession conversations are so valuable. During the webinar, she talked about needed improvements in law enforcement officer recruiting and retention. If more departments focused on identifying traits such as empathy and compassion in potential hires through a pre-employment screening, those departments would probably see an improvement in the quality of interactions with civilians. Likewise, if there were more mental health services available for and regular mental health evaluations of officers, there could be less instances of errant behavior. These solutions seem quite common-sense, but for those of us without a legal practice that brings us into contact with law enforcement agents, we wouldn't have come to those conclusions on our own. Additionally, cross-profession conversations may be even more important for attorneys in particular. As a profession dedicated to interpreting, enforcing, and advocating for laws that effect every part of society, we should seek to truly understand what it is like to be a police officer, a construction worker, or a stock trader. Sgt. Dorsey also highlighted the need for such solutions given the stressful and potentially gruesome situations officers can find themselves in.

The year of 2020 will go down in history as a flashpoint in refashioning police departments, police culture, and police legal liability. Let us not be intimidated from acknowledging that we should fully engage with and learn from others while working towards the reforms and practices we want to see. ■

Kiera Murphy is an associate in the business litigation practice group at the law firm of Faegre, Drinker, Biddle & Reath LLP. She is a member of the MN FBA Chapter Membership Committee and the Membership and Diversity & Inclusion Committees of the national Federal Bar Association. Kiera organized and co-moderated the program that is the subject of this article.

Supreme Court Preview

by Chad Pennington

On November 10, 2020, the Eighth Circuit Bar Association hosted a virtual Supreme Court Preview panel discussion. The discussion was moderated by Eighth Circuit Judge David Stras. Panelists included Tim Droske, Dorsey & Whitney LLP, Caitlinrose Fisher, Green Espel PLLP, Jeff Justman, Faegre Drinker Biddle & Reath LLP, and Sanjiv Laud, Jones Day.

The panel discussed several important Supreme Court cases for the 2020-2021 term, including:

California v. Texas

Issues

- Whether the individual mandate in the Affordable Care Act is now unconstitutional because the tax penalty has been set to zero;
- *Sebelius* (2012): The individual mandate is constitutional under Congress's power to tax and spend;
- Whether the individual mandate can be severed from the rest of the Affordable Care Act if the mandate is unconstitutional;
- Whether individual and state plaintiffs have standing.

Torres v. Madrid

Issue

Whether an unsuccessful attempt to detain a suspect by use of physical force is a "seizure" within the meaning of the Fourth Amendment.

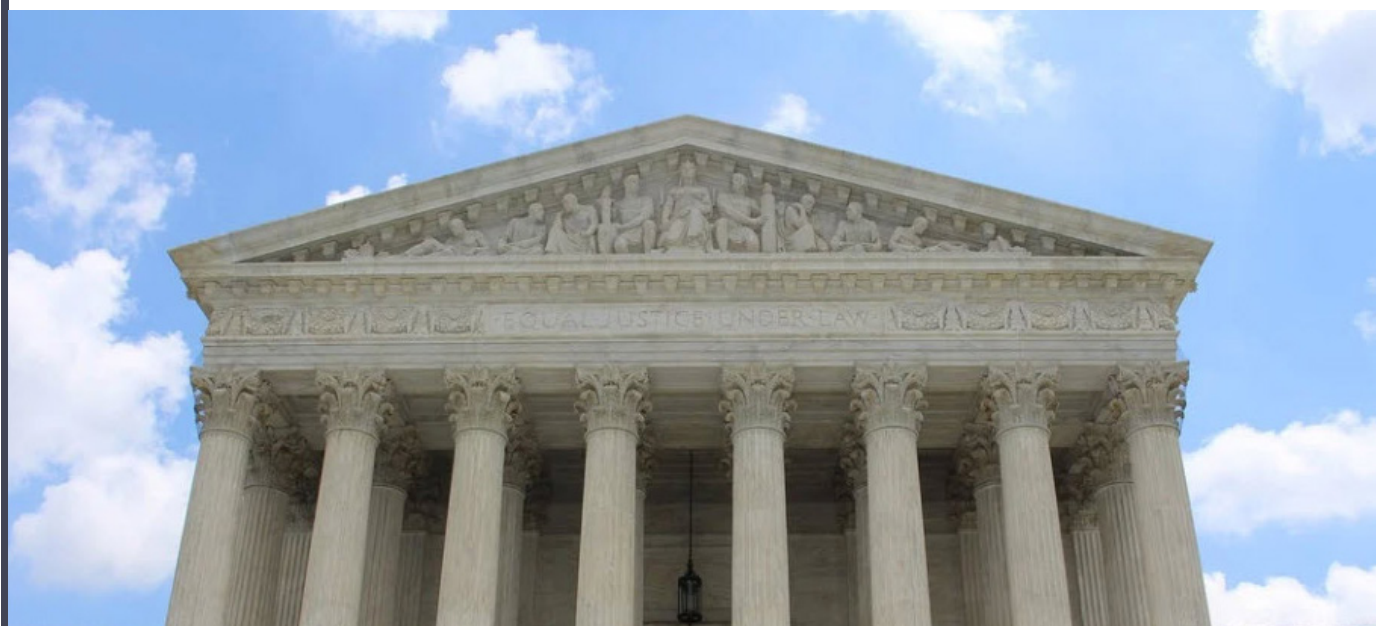
Brnovich v. DNC

Issues

Whether Arizona's:

- (1) out-of-precinct policy violates the Voting Rights Act;
- (2) ballot-collection law violates the Voting Rights Act or 15th Amendment. ■

Chad Pennington is an Assistant Federal Public Defender in the District of North Dakota. He is a member of the FBA White Collar Compliance and Criminal Law Committee and a Co-Editor of Bar Talk.



Trivia Night

by Chad Pennington

On November 18, 2020, the Law School Outreach Committee hosted an entertaining evening of legal-ish trivia put on by Trivia Mafia. The questions gauged not only standard legal acumen, but movies in courtrooms,

Supreme Court cases, and how many times to say “Oyez.” Participants were divided into teams, each of which had its own breakout room to facilitate socializing and discussion of answers. All in all, the event was a relaxing vir-

tual opportunity for networking and for the teams to test their collective legal knowledge and have fun with their lack thereof. ■

Chad Pennington is an Assistant Federal Public Defender in the District of North Dakota. He is a member of the FBA White Collar Compliance and Criminal Law Committee and a Co-Editor of Bar Talk.



Application/Recommendation Form for Officer and Committee Leadership Positions

The Minnesota Chapter of the Federal Bar Association seeks outstanding, service-minded individuals who reflect the breadth and diversity of the Chapter's membership to fill Executive Committee (officer and committee co-chair) positions for the 2021-22 year (Sept. 1, 2021 - Aug. 31, 2022). The current leadership roster is available online at http://www.fedbar.org/Chapters/Minnesota-Chapter/Officers_1.aspx. Details on initiatives for which each leader is responsible are at <http://www.fedbar.org/Chapters/Minnesota-Chapter/Chapter-Initiatives.aspx>.

All applications and recommendations will be considered by the Chapter's Nominations Committee. Committee chair positions will be appointed by the Chapter President, and officer positions will be nominated by the Nominations Committee for election by the membership. Prior experience serving on a Chapter committee or otherwise providing leadership within the Chapter is preferred for those seeking appointment or nomination to the Executive Committee. Completed forms should be emailed to President-Elect Dan Hedlund at dhedlund@gustafsongluek.com and President Vildan Teske at teske@teskekatze.com. The deadline for the submission is **February 19, 2021**.

Name of applicant or recommended candidate: _____

Applicant/candidate's contact information (organization, email, phone number, and mailing address):

Requested/recommended Committee Chair/Officer position(s) (in order of preference):

Name and contact information of person submitting a recommendation:

For those submitting a recommendation, have you discussed your recommendation with the candidate and has the candidate indicated an interest and willingness to serve in the recommended position(s)? ____ Yes ____ No

1. For applicants: Why are you interested in serving in the role(s) designated above and what experience and qualities would you bring to your work as a Chapter leader?

For recommendations: Why are you recommending this person for the role(s) designated above and what experience and qualities would the person bring to her/his work as a Chapter leader?

2. Describe your/the candidate's current and past involvement and leadership experience in Chapter activities and committees.

3. Describe your/the candidate's current and past involvement and leadership experience in other bar associations or non-profit organizations.

4. To be a candidate for the Executive Committee, a person must be a member in good standing of the Minnesota Chapter of the Federal Bar Association. Are you/the candidate a member in good standing of the Chapter?

____ Yes ____ No, but I will join the Federal Bar Association by April 1, 2021. ■

Upcoming Events:

**Tuesday,
December 15, 2020**
*Newer Lawyer's Luncheon
with District Judge Eric
Tostrud: "A Litigator-Pro-
fessor-Judge's Perspective
on Judicial Decision-Mak-
ing and Lawyering."*
Noon to 1:00 p.m.

This is a virtual event, contact
Liz Scheibel - Newer Lawyers'
Committee Co-Chairs Minnesota
Chapter, Federal Bar Association
emcavert@gmail.com

**Wednesday,
January 13, 2021**
Monthly Virtual Luncheon
Noon to 1:00 p.m.

**Wednesday,
February 10, 2021**
Monthly Virtual Luncheon
Noon to 1:00 p.m.

**Wednesday,
March 10, 2021**
Monthly Virtual Luncheon
Noon to 1:00 p.m.

12

Editors-in-Chief
Chad Pennington
Kelly J. Fermoye

Editors
Lanna Magnolia
Gerri Rishel

Layout
Taya Swenson Schmid

Bar Talk is the official newsletter of the Minnesota Chapter of the Federal Bar Association, published quarterly by the *Bar Talk* Committee. For any inquiries or article suggestions, please contact **Chad Pennington** (Chad_Pennington@fd.org) or **Kelly Fermoye** (kelly.fermoye@faegredrinker.com).

A special thank you to **Gerri Rishel**, Courtroom Deputy to Senior United States District Judge Michael J. Davis, for her proofreading expertise, and **Taya Swenson Schmid**, Dorsey & Whitney LLP, for formatting this issue.

*Want to get involved in the Minnesota Chapter
of the Federal Bar Association? Visit <http://www.fedbar.org/Chapters/Minnesota-Chapter/Chapter-Initiatives.aspx> for a full list of committees
and information about how to get involved.*

Online Registration:

The Minnesota Chapter of the FBA utilizes an online registration system for the monthly Minneapolis Club luncheons. A registration link will be sent to you via e-mail for each luncheon. One feature of the system is the automatic calendar entry; just click "Add to Calendar" from the registration system or your confirmation e-mail. Registration coordinators have the option to register multiple attendees in a single registration.



**Federal Bar
Association**
Minnesota Chapter