
2012 Annual Conference of Judges

“Framing the Future”

"I look to the future, because that is where I'm going to spend the rest of my life." - George Burns



**Minneapolis Airport Marriott, Bloomington
December 5-7, 2012**

**State Court Administrator's Office
Education and Organization Development Division**

Table of Contents

Agenda.....	3
Session Descriptions	7
Conference Registration and Hotel Reservation Information.....	11

Annual Conference of Judges

Minneapolis Airport Marriott - Bloomington
December 5-7, 2012

"When it comes to the future there are three kinds of people: those who let it happen, those who make it happen, and those who wonder what happened." - John M. Richardson, Jr.

Agenda

Wednesday, December 5

- 7:30 - 8:30 Breakfast Buffet
- 7:30 - 8:30 Registration
- 8:30 - 8:45 **Welcome and Announcement**
Hon. Lorie Skjerven Gildea, *Chief Justice, Minnesota Supreme Court*
- 8:45 - 9:45 **Demographic Forces Affecting Minnesota's Judicial System**
Tom Gillaspay, *State Demographer (retired)*

"Change always comes bearing gifts" - Price Pritchett
- 9:45 - 10:45 **The Global in the Local: China, Change, Economy and Law**
Professor David Davies, *Hamline University*

"It doesn't matter whether it's a white cat or a black, I think; a cat that catches mice is a good cat." - Deng Xiaoping
- 10:45 - 11:00 Break
- 11:00 - 12:00 **Taking Care of America's Veterans**
General Barry McCaffrey, *BR McCaffrey Associates LLC*

"...let us remember the service of our veterans, and let us renew our national promise to fulfill our sacred obligations to our veterans and their families who have sacrificed so much so that we can live free" - D. Lipinski
- 12:00 - 1:00 Lunch
- 1:00 - 1:10 Lawyers Concerned for Lawyers
Joan Bibelhausen, *Executive Director*
- 1:10 - 2:35 **Managing High Conflict Individuals**
Bill Eddy, *President, High Conflict Institute*

"Everyone thinks of changing the world, but no one thinks of changing himself." - Leo Tolstoy
- 2:35 - 2:50 Break
- 2:50 - 4:15 **Emerging Technologies and the Future of Law**
Dr. Gary Marchant, *Arizona State University, Regents' Professor & Lincoln Professor of Emerging Technologies, Law & Ethics*

"When you are through changing, you are through." - Bruce Barton
- 4:15 - 4:45 Legislative Panel
- 4:45 - 7:00 **2012 Technology Fair**

Thursday, December 6

7:15 - 8:30 Registration and Continental Breakfast

8:30 - 10:00 Educational Tracks

“Just because we cannot see clearly the end of the road that is no reason for not setting out on the essential journey. On the contrary great change dominates the world, and unless we move with the change we will become its victims.” - Robert F. Kennedy

1. Say Hello to the Elephant in the Living Room – Recognizing the E-Discovery Realities in Your Case

Hon. Jerome B. Abrams, *First Judicial District, Dakota County*

Hon. Mary R. Vasaly, *Fourth Judicial District, Hennepin County*

John Degnan, *Briggs & Morgan*

Emily Duke, *Fredrikson & Bryon, P.A.*

Heidi J.K. Fessler, *Senior Director of Managed Services, Applied Discovery*

2. The Fourth Amendment: Issues of Applicability and Satisfaction in the Digital Age

Hon. Mark Wernick, *Fourth Judicial District, Hennepin County*

Priscilla Grantham, *National Center for Justice and the Rule of Law, University of Mississippi School of Law*

3. How Being Trauma-Informed Improves the Juvenile Justice and Family Court System Response

Dr. Abi Gewirtz, *Ph.D., L.P., Director of Ambit Network, University of Minnesota*

4. Current Trends in Drug Abuse: Minnesota and Nationally

Carol Falkowski, *Director (ret.), Alcohol and Drug Abuse Division, Dept. of Human Services*

5. New Surveillance Technologies and the Changing Face of Privacy

Dr. Gary Marchant, *Arizona State University, Regents' Professor & Lincoln Professor of Emerging Technologies, Law & Ethics*

6. Journey to Safety: The Battered Immigrant Woman's Experience

Hon. Diane Alshouse, *Second Judicial District, Ramsey County*

Minnesota Advocates for Human Rights

Pangea World Theater

7. Social Media in Our Courts: Discovery, Trial, and Appellate Considerations

Hon. Stephen Halsey, *Tenth Judicial District, Wright County*

Hon. John Rodenberg, *Court of Appeals*

Diane Bratvold, *Briggs and Morgan*

Joseph Dixon, *UnitedHealth*

Joel Schroeder, *Faegre Baker Daniels*

10:00 - 10:30 *Break*

10:30 - 12:00 **Repeat Educational Programs 1-7**

12:00 - 1:00 *Lunch*

Thursday, December 6 cont.

1:00 - 2:30 Educational Programs

“Because things are the way they are, things will not stay the way they are” – Bertolt Brecht

8. Complex Case Management: Or How to Untie a Gordian Knot

Hon. Jerome Abrams, *First Judicial District, Dakota County*

9. Update on Recurring in Limine Issues: Crawford, Spreigl, Frye-Mack, and Jones

Professor Ted Sampsell-Jones, *William Mitchell College of Law*

10. Early Case Management/Early Neutral Evaluation: The Future of Family Case Resolution

Hon. Sharon Hall, *Tenth Judicial District, Anoka County*

Hon. Tanja Manrique, *Tanja K. Manrique LLC, Senior Judge*

Hon. Sally Tarnowski, *Sixth Judicial District, St. Louis County*

Jim Goetz, *Goetz Family Dispute Resolution Services*

Kevin McGrath, *Former Fourth Judicial District Referee, McGrath Dispute Resolution*

Larry Nord, *Partner, Orman Nord & Hurd*

Susan Rhode, *Moss & Barnett*

11. Five Personality Disorders

Bill Eddy, *High Conflict Institute, President*

12. Guardianships and Conservatorships: The Basics

Hon. Jay Quam, *Fourth Judicial District, Hennepin County*

Hon. John McBride, *Tenth Judicial District, Chisago County*

Cate Boyko, *Conservator Account Auditing Program (CAAP) Manager*

13. Creative Techniques for Managing Pro Se Contested Cases

Hon. Shaun Floerke, *Sixth Judicial District, St. Louis County*

Hon. Jeannice Reding, *Fourth Judicial District, Hennepin County*

Susan Ledray, *Fourth Judicial District, Pro Se Manager*

14. You're the Boss: Tips and Strategies on Your Role as a Supervisor of Staff (offered only 1:00-2:30pm)

Hon. Lisa Borgen, *Seventh Judicial District, Clay County*

Hon. Bethany Fountain Lindberg, *Tenth Judicial District, Anoka County*

Hon. David Knutson, *First Judicial District, Dakota County*

Nancy Dietl, *Acting HR Director, State Court Administration*

Deb Morse, *HR Manager, Hennepin County*

2:30 - 3:00 *Break*

3:00 - 4:30 **Repeat Educational Tracks 8-13**

15. Working Together to Stop Abuse Later in Life (offered only 3:00-4:30pm)

Hon. Lisa Borgen, *Seventh Judicial District, Clay County*

Hon. Michael Kirk, *Court of Appeals*

Myla Korbel, *Counselor, Rape and Abuse Crisis Center, Fargo*

4:30 - 5:15 MDJA Business Meeting
MDJA Reception to follow

Friday, December 7

- 7:30 - 8:30 Registration and Continental Breakfast
- 8:30 - 8:35 **Welcome and Announcements**
- 8:35 - 9:00 **Chief Justice and Judicial Council Report**
Hon. Lorie Skjerven Gildea, *Chief Justice, Minnesota Supreme Court*

"As our case is new, we must think and act anew." - Abraham Lincoln
- 9:00 - 10:15 **US Supreme Court Case Review**
Professor Erwin Chemerinsky, *University of California*

"...it is probable that something improbable will happen." - Logan E. Bleckley
- 10:15 - 10:30 *Break*
- 10:30 - 11:45 **Minnesota Appellate Case Review**
Professor Dale Carpenter, *University of Minnesota Law School*

"In theory there is no difference between theory and practice. In practice there is." - Yogi Berra
- 11:45 - 12:00 **Closing Comments**
Hon. Lorie Skjerven Gildea, *Chief Justice, Minnesota Supreme Court*
- 12:00 *Conference Adjourns (lunch on your own)*

Session Descriptions

Wednesday, December 5 - Day 1

Demographic Forces Affecting Minnesota's Judicial System – Tom Gillaspay

Tom Gillaspay will discuss the dramatic and unprecedented changes to Minnesota's population and that of the nation and the world and the direct and indirect impact that will have on the judicial system, both types of cases as well as the resources available to address those cases.

The Global in the Local: China, Change, Economy and Law – Prof. David Davies

The transformation of China—its dramatic economic growth and growing political influence—reflects the transformation of the global economy and its relationship to local communities over the past two decades. Today it is not an overstatement to say that every day our lives in Minnesota are affected by forces and ideas that link us directly to China. This presentation will summarize the macro-level changes in the global economy that link us together, examine how these changes continue to transform our lives at an unprecedented speed, and comment on how that speed presents challenges for the slow, methodical process of democracy and law.

Taking Care of America's Veterans – Gen. Barry McCaffrey

Managing High Conflict Individuals – Bill Eddy

Research indicates that personality disorders are increasing in society and in our courts. This plenary session will explain general information about the conflict dynamics of personality disorders, recent brain research pointing toward better management in conflict settings, and ten strategies for judges to use in managing them in their courtrooms and cases.

Emerging Technologies and the Future of Law – Dr. Gary Marchant

We live in a unique period in human history – a number of emerging technologies are rapidly developing and converging to change our society, lives and the law at a faster rate and in a more fundamental way than has ever been experienced before. These technologies – which include genetics, nanotechnology, neuroscience, information/surveillance technologies, and virtual reality – have quickly moved from science fiction to real companies, real products and real lawsuits. The impact of these technologies on our lives and the law will expand exponentially over the next decade. This presentation will provide a general introduction to these technological revolutions, explain how they will affect society and the law, and describe some fascinating initial court cases for each technology. Given that legislatures and regulatory agencies are unable to keep pace with these rapidly developing technologies, courts will often be left by default on the front lines of resolving some of the disputes and controversies these technologies are creating. This increased role for the courts in deciding technological disputes and scientific issues will require that courts and judges will present challenges to courts and judges.

2012 Technology Fair – You've heard about the technology, now see it in action! At this year's Court Technology Fair, you'll see demonstrations, get information about the current software and tools in use in eCourtMN pilot counties, and learn how the technology enhances court processes, enforcement efforts, and service to the public. Our exhibits this year focus on the judge's experience both on the bench and off – MNCIS, SessionWorks, iPads and tablets, and more. You won't want to miss it!

(End of scheduled topics for Wed.)

Thursday, December 6 - Day 2

AM – All breakouts, 8:30-10:00 & each session repeated 10:30-12:00 , unless indicated

Say Hello to the Elephant in the Living Room – Recognizing the E-Discovery Realities in Your Case – Judge Jerome Abrams, Judge Mary Vasaly, John Degnan, Emily Duke, Heidi Fessler

An introduction to the nearly infinite universe of discoverable electronically stored information (ESI). How social media and the explosion of electronically created information is changing the conduct of civil litigation. Establish awareness of e-discovery and related issues in the broad range of cases where ESI exists that is subject to disclosure and increase your understanding of methods and limitations in handling e-discovery disputes.

The Fourth Amendment: Issues of Applicability and Satisfaction in the Digital Age - Judge Mark Wernick, Priscilla Grantham

Understanding sources and types of digital evidence; examination of the principal approaches courts take to the search and seizure of digital evidence; examination of the application of Fourth Amendment principles to various locations of digital evidence, including: computers, cell phones, remote storage, and the Internet; examination of Fourth Amendment applicability doctrines, including standing, voluntary exposure, and the private search doctrine; examination of Fourth Amendment satisfaction doctrines, including warrant issuance and review, search incident to arrest, and probable cause.

How Being Trauma-Informed Improves the Juvenile Justice and Family Court System Response – Dr. Abi Gewirtz

This breakout session aims (i) to provide judges with pertinent information about the impact of traumatic stress on children's development, (ii) to increase knowledge of how extensive trauma exposure affects parenting, and parents' interactions with court systems, and (iii) to provide an overview of evidence-supported practices available in Minnesota for traumatized children and families.

Current Trends in Drug Abuse: Minnesota and Nationally – Carol Falkowski

This presentation will cover the two most significant drug abuse trends in MN and nationally: prescription opiate/heroin abuse and synthetic drugs. The presentation is fast paced and based on the most recent data from multiple sources, including medical examiners, treatment facilities, and crime labs. The presentation concludes with a discussion about what can be done to effectively address these issues and describes challenges for the future.

New Surveillance Technologies and the Changing Face of Privacy – Dr. Gary Marchant

A variety of new and emerging surveillance technologies – including GPS, RFIDs, thermal imaging systems, closed-circuit television cameras, online monitoring tools, biometrics, neuroimaging, and smart dusts – are providing police and intelligence agencies with ever-more powerful tools to profile, track, and investigate suspected criminals and terrorists. At the same time, these technologies are challenging traditional 4th Amendment privacy frameworks and determinations of “reasonable expectations” of privacy. Moreover private actors including both businesses and individuals are also utilizing these technologies to conduct surveillance on other citizens, further challenging statutory and common law privacy protections. This session will describe these new surveillance technologies, review how they are being applied by both government and private actors, and explore the novel legal issues they are presenting for privacy protection.

Journey to Safety: The Battered Immigrant Woman's Experience– Judge Diane Alshouse, Minnesota Advocates for Human Rights and Pangea World Theater

Journey to Safety offers judges a unique portrayal of the challenges facing battered refugee and immigrant women when negotiating legal, medical, and government systems. Based on a report issued by Minnesota Advocates for Human Rights, the performance provides a “big picture,” holistic perspective on the challenges victims face in reporting violence against them as well as the challenges prosecutors face in holding abusers accountable. Identifies the unique demands on judges in handling such cases. Offers resources for communicating effectively in light of cultural issues, assessing interpreter qualifications, and analyzing the effectiveness of no contact orders and sentencing conditions.

Social Media in Our Courts: Discovery, Trial, and Appellate Considerations – Judge Halsey, Judge Rodenberg, Diane Bratvold, Joseph Dixon, Joel Schroeder

Social media has changed how people communicate and interact. Wall posts, tweets, and online videos have become a treasure trove of evidence in criminal and civil litigation. In this panel presentation, Judge John Rodenberg, Judge Stephen Halsey, appellate lawyer Diane Bratvold, former federal prosecutor and UnitedHealth Group lawyer Joseph Dixon, and employment litigator Joel Schroeder will discuss the impact social media is having in our courtrooms. The panelists will poll the audience for thoughts and comments about the use of social media in litigation and how judges across the state are confronting these issues.

PM – All breakouts, 1:00-2:30 & each session repeated 3:00-4:30, unless indicated

Complex Case Management: Or How to Untie a Gordian Knot – Judge Jerome Abrams

This session will increase your knowledge of complex case management techniques and strategies. Included in this session are issues to be considered in connection with proposed changes in civil procedural rules arising from civil justice reform. The focus will be on practical means to address the challenges Minnesota judges face when handling exceptional litigation. Topics include judicial authority, principles, techniques, limitations, and frustrations with the assignment of complex cases. Resources to deal with several of the many challenges will be presented and included in the course materials. An explanation will be provided of aggregation techniques and methods used for management of the 4,000 plus Source Code Cases, many of which have not been previously employed in Minnesota or elsewhere.

Update on Recurring In Limine Issues: Crawford, Spreigl, Frye-Mack, and Jones – Prof. Ted Sampsell-Jones

Professor Sampsell-Jones will provide a case law update on four difficult and frequently litigated evidence law issues. (1) Crawford doctrine continues to develop in both state and federal courts and underwent a potentially major revision with the United States Supreme Court's decision in Michigan v. Bryant. (2) Spreigl doctrine remains one of the most frequently litigated issues in criminal trials in Minnesota, and Minnesota appellate courts have continued to struggle to define the line between permissible and impermissible uses of Spreigl evidence. (3) Fundamental questions about the meaning and applicability of the two prongs in the Frye-Mack test remain unresolved in light of the Minnesota Supreme Court's decision in Tanksley. (4) The Minnesota Supreme Court recently clarified the law regarding the use of "sanitized" convictions under Rule 609, but Minnesota's Jones test continues to drift farther away from the original Gordon test.

Early Case Management/Early Neutral Evaluation: The Future of Family Case Resolution – Judge Sharon Hall, Judge Tanja Manrique, Judge Sally Tarnowski, Jim Goetz, Kevin McGrath, Larry Nord, Susan Rhodes

This session is designed for judges currently using or contemplating use of Early Case Management (ECM) in family court cases. ECM is a multipronged case-management model designed to promote early resolution of family court cases, a strategic goal of the Judicial Branch. Minnesota's experience supports the conclusion that significant financial and emotional resources can be saved by early case management. One component of ECM is to encourage participation in Early Neutral Evaluation (ENE), a voluntary alternative dispute resolution process. During this session, judges will learn:

- The purpose of ECM
- The ENE process
- The importance of conducting a high quality Initial Case Management Conference (ICMC)
- Best practices for developing and implementing an ENE program.

Five Personality Disorders – Bill Eddy

This 90-minute breakout session will focus on the five personality disorders which appear to be most common in today's high-conflict cases in all courts. Specific dynamics will be presented for each of these five personality disorders, as well as further management issues and current status of treatment issues for each of them.

Guardianships and Conservatorships: The Basics – Judge Jay Quam, Judge John McBride, Cate Boyko

The demand for judicial protection of the vulnerable will only increase as the upcoming "gray tsunami" washes ashore. This session will address common problems and creative solutions in the appointment and oversight of guardians and conservators, the use of Conservator Account Auditing Program (CAAPS) (formerly CAMPER) as a tool to effectively monitor financial and other decisions, and other developments in the laws and practices that affect the vulnerable.

Creative Techniques for Managing Pro Se Contested Cases – Judge Shaun Floerke, Judge Jeannice Reding, Susan Ledray

Have you ever asked yourself, "Why was that Pro Se trial so great (or so terrible)?" This session provides the opportunity to think about what lawyers add and how to adjust to the absence of a lawyer.

You're the Boss: Tips and Strategies on Your Role as a Supervisor of Staff - (offered only 1:00-2:30pm) (only offered 1:00-2:30pm) Judge Lisa Borgen, Judge Bethany Fountain Lindberg, Judge David Knutson, Nancy Dietl, Deb Morse

This session will include an overview of both practical and legal matters judges encounter in their roles as supervisor and appointing authority. Topics covered include: overview of employment law, which judges are most likely to encounter (ADA, FMLA, FLSA); overview of HR policies and collective bargaining agreements; the special role of employees of an elected official; judge supervisory responsibilities (time keeping and attendance, performance reviews, etc.) and public trust and confidence; managing staff performance; and review and discussion of hypothetical scenarios.

Working Together to Stop Abuse Later in Life- (only offered 3:00-4:30pm) Judge Lisa Borgen, Judge Michael Kirk, Myla Korbel

The demographic bubble of aging baby boomers will be a serious challenge to the Courts in the years to come. CJI was a Court sponsored initiative to address the challenges of child abuse and neglect by improving timeliness and collaboration with others involved in our justice system. If we are to provide timely and effective access to justice for the tidal wave of elders in our future, we must consider a similar initiative for dealing with issues of elder abuse and exploitation, as well as the increase in other elder law filings with our Courts. This section will focus on the challenges we face in providing access to Justice for those elders subjected to abuse and neglect. Our courts must forge a cooperative response with other agencies and programs in our communities that serve the needs of older citizens. Through education, awareness, team building and accommodation we can improve the response of the Courts and work cooperatively and effectively with others in our community to improve the outcomes for some of the most vulnerable in our communities.

(End of scheduled topics for Thursday)

Friday, December 7 - Day 3

U.S. Supreme Court Case Review – Prof. Erwin Chemerinsky

Prof. Chemerinsky provides analysis and commentary on significant criminal and civil cases of the past year.

Minnesota Appellate Case Review - Prof. Dale Carpenter

Prof. Carpenter provides analysis and commentary on significant criminal and civil cases of the past year.

Credit

All education sessions are approved for Continuing Judicial Education (CJE) credit. The total number of credit hours available at this conference is a maximum of 16 CJE. A form will be provided to report hours attended.

Annual Conference of Judges

Minneapolis Airport Marriott Bloomington

December 5-7, 2012

Conference Registration and Hotel Reservation Information

CONFERENCE

Register by Monday, November 19

Register through SurveyMonkey – [Click Here](#)

- All conference material will be posted at SharePoint prior to the conference for attendees to view or print. [Click here to access the site.](#)
- All attendees will be provided with a folder containing conference information and plenary session material.
- Material for breakout sessions will be available on SharePoint or in the breakout session.

HOTEL

Reservation cut-off date is Monday, November 21

- Please make your reservations directly with the Minneapolis Airport Marriott's reservation department by calling the hotel directly toll-free 800-228-9290 or 952-854-7441. You may also make reservations online – [Click here](#)
- Please state that you will be attending the "Annual Judges Conference" or "AJC". The group rate of \$122.00 a night (single or double).
- Room, internet access and tax will be direct billed to EOD. Lodging for judges from the seven-county metropolitan area staying at the Marriott will also be direct billed to EOD.
- You will be asked to give a credit card number to hold your room and for incidentals.

* According to MJB Reimbursement for Education Expenses, senior judges approved to serve may be eligible for reimbursement if they have less than 15 CJE credits in the current fiscal year and have taken assignments for a minimum of five days in the preceding fiscal year.

DIRECTIONS

From Interstate 494, exit at 24th Avenue.
Proceed south on 24th Avenue to E. American Blvd.
Turn right on E. American Blvd. and proceed two blocks

Minneapolis Airport Marriott
2020 East American Blvd.
Bloomington, Minnesota 55425

