

Hearsay

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In This Issue

Greetings from the Chair <i>Joan M. Schulkers</i>	1
Reminder	
Santa Brings a Lawsuit	
The Attractive Nuisance Tour: Lawyers Rock for Charity <i>Jemifer Lammers</i>	2
Fall Conference Scoop <i>Antonio Tejada</i>	
Tip of the Day: Winning Criminal Defense Tips <i>Jason Kohlmeyer</i>	3
Rochester Affiliate News <i>Jamie Girgenti</i>	4
Mankato Affiliate News <i>Jason Kohlmeyer</i>	
News From St. Cloud <i>Sarah Smith & Russ Cherne</i>	5
News From Brainerd <i>Tricia Wherley</i>	
News From Willmar <i>Tim Simonson & Antonia Tejada</i>	
2002-2003 NLS Liaisons	6
2002-2003 NLS Open Liaison Positions	
2003-2004 NLS Contacts	7



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Greetings from the Chair

By: Joan M. Schulkers

Welcome everyone to the new bar year! We have an exciting year planned and I'm very pleased to announce two events that are new to the MSBA New Lawyers Section.



The first event is the new program in collaboration with Hubbard Broadcasting, Inc. and KSTP television. The program is entitled "Lawline" and provides viewers the ability to call and speak with an attorney, without obligation. The first evening was a resounding success and the telephone lines were ringing continuously from the first moment the anchors mentioned the program. The event is scheduled for the fourth Tuesday of every month and will air during the 5:00 p.m. and 6:00 p.m. Channel 5 newscasts. The lawyers, however, will accept calls until 7:00 p.m. The first night found lawyers answering many types of general questions, in topics that ranged from real estate to family law to consumer related questions. The lawyers also made many referrals to legal service agencies.

The second new event is CLE programming. This year, for the first time, we are offering four free CLE's to new lawyers. The CLE's will take place every other month beginning in November. Mark your calendars and sign up early, as space will be limited. The CLE's will be either ethics or bias related and will be on very interesting and relevant topics. After the CLE we will be conducting our business meeting for those that wish to attend. I hope many new lawyers will take advantage of these free CLE's and then stay for our meeting.

This year the MSBA New Lawyers section website has more information than ever before. You will find links to all of the officers, affiliate chairs, and liaisons to other committees and sections. You will also find practice links, past meeting minutes, a list of future meeting dates, by-laws, and other relevant information for new lawyers. The link to the new lawyers page is:
<http://www2.mnbar.org/sections/new-lawyers/index.htm>.

I am also pleased to announce that we have new lawyers organizing affiliates in the Brainerd and Willmar areas. Any new lawyer wanting to participate in these new groups should contact the chairs via the link on our website. The Rochester and Mankato affiliates are also actively recruiting new lawyers. Recently both affiliates held social events

in their respective cities. I had the pleasure of attending the social in Mankato and had a wonderful time meeting the new lawyers in that area.

I hope that all of you will participate in some activity within our section this year - either by attending a social event, a meeting, a CLE, or a community service activity. I look forward to meeting each of you at some point during the upcoming year. Should any of you have suggestions on how the New Lawyers Section can better serve you, please do not hesitate to contact me.

REMINDER

This is a reminder of the upcoming New Lawyers Section CLE entitled "Your Ethical Pro Bono Obligation: Choose It And Use It For Maximum Benefit" with speaker Joan Bibelhausen, *President of Career Management Consultants & Chair of the MSBA Life & Law Committee*.

The CLE will be held Thursday, November 13, 2003 from 4:15-5:15 at the MSBA Offices.

For more information go to:
<http://www2.mnbar.org/sections/new-lawyers/11-13-03..pdf>

Santa Brings A Lawsuit

This annual event is scheduled for December 18, 2003. I encourage all of the new lawyers in both the affiliated and unaffiliated areas to participate in this event. We do have flyers available for this event, which can be generically used for your city. Please contact me for further information.

Joan Schulkers, Chair

The Attractive Nuisance Tour: Lawyers Rock for Charity

By: Jennifer Lammers

An Attractive Nuisance. Remember this? If you dream-weave back to law school you will recall that an Attractive Nuisance is a legal doctrine and not just the code name for the hot, but annoying, hand-raiser in your Property class. But now, thanks to Greg Wiley and Craig Sandok and a few other young lawyers, an Attractive Nuisance was also the namesake for a benefit concert: **The Attractive Nuisance Tour**.

The Attractive Nuisance Tour was a benefit concert for the Minnesota Justice Foundation and the Loan Repayment Assistance Program. These two local legal service organizations provide programs that help low income persons obtain legal services.

Greg Wiley, an attorney with Moss & Barnett in Minneapolis, and the drummer in the band the *Road Racers* was the impetus for the benefit concert. Being an attorney during the day and a performer at night, Wiley had a vision to merge his worlds. As Wiley himself confessed, "I kept running into lawyers-performers like myself and thought it would be cool to put on a concert with other lawyers. I then started talking with Craig Sandok and between the two of us we came with the idea of doing a benefit concert that incorporated lawyer performers."

Craig Sandok, a former practicing attorney and now a search consultant for The Esquire Group, in Minneapolis, helped

Wiley spearhead the benefit concert. "We didn't want to do the usual 'buy a plate dinner' or 'silent auction' kind of thing to raise money for MJF and LRAP. We wanted to do something that really rocked. So we decided to put on a rock concert. But not just your typical rock concert. There is a twist," Sandok said.

So, what was the twist? Each band had at least one lawyer performer. Sandok promised it would be the best \$10 you'd spend to see a lawyer.

The Attractive Nuisance Tour took place on Wednesday, November 5, 2003, from 6 p.m. to 1 a.m. at Famous Dave's BBQ located in the Calhoun Square in Uptown, Minneapolis.

Over 550 tickets were sold to see such acts as, Paul Metsa with Bob Wilson, Umbrella Bed, The Road Racers, Casanatra, The Abdomen, Comedian Toni Halleen, Magician Chris Harristhal, and Incognito. All the acts donated their time and talent and Famous Dave's donated the space.

According to Wiley, "the acts were all incredibly good despite their handicap of having a lawyer in them." We'll take Wiley's word for it that the acts were good, but whether they were also attractive in their nuisance is for you to decide.

Fall Conference Scoop

By: Antonio Tejada, Willmar, Minnesota

I recently became involved in the Minnesota State Bar New Lawyers' Section and had the opportunity to attend the ABA Young Lawyer's Division Fall Conference in Pittsburgh, Pennsylvania.

I had an incredible time and met many other new lawyers from all over the nation. I attended informative CLE's as well as programs on a wide variety of topics. While the lawyers were kept busy during the day, there was ample

time for partying and sightseeing in the evenings. For instance, on Friday evening, we cruised the rivers surrounding the beautiful downtown area and then were dropped off at the Pittsburgh Pirates baseball stadium where there was dancing and plenty of food and beverages. The camaraderie and friendships among the many attendees was evident Friday night and made a lasting impression on me. I highly encourage all new lawyers to attend these events.

Tip Of The Day: Winning Criminal Defense Tips

By: Jason Kohlmeyer, MSBA-NLS Vice-Chair

1. Know the prosecutor:

In my opinion this is one the first things that must be done in order to get a good result for your client. You will find that many prosecutors have hot button crimes which they take more seriously than other cases and you might be surprised at what they are. For example, in my area one of the prosecutors was severely injured by a drunk driver years ago and because of this I know he will not deal at all on drunk driving, while another prosecutor's parents run a family business so she takes check forgery and bouncing checks much more seriously than other prosecutors.

You also need to know if the prosecutor has a reputation for settling cases or for trying them. You will find some prosecutors don't try cases, while others will try every case. Thus, you need to know who your opponent is before you meet them in the courtroom.

As a new lawyer you may not know much about the prosecutor and I've found that a good way to get the inside scoop is to talk to the public defenders, they will have certainly dealt with the prosecutor many times and are usually happy to help.

2. Know the Judge

Probably as important as knowing the prosecutor is that you need to know the judge. Will the judge be able to follow a legal argument on a complex constitutional question or will he not understand the issue? Does the judge give the benefit of the doubt to police officers or will she listen to lay witnesses? In my jurisdiction I have the ability to remove a judge relatively easily and when I look at the case one of the first decisions I make is whether or not to remove the judge.

3. Know the elements of the crime.

When I get a case that involves a crime I'm not extremely familiar with, I review the elements of the crime (jury instructions are great for this) and see if all the elements are present. Often times you'll discover an element that is needed for a conviction that you didn't know about.

Also, don't be too quick to concede any of the elements to the prosecution. For example, if intent is a required ele-

ment, does your jurisdiction allow you to claim voluntary intoxication as an affirmative defense? You might be surprised how often you can successfully challenge the intent element of a crime because your client was intoxicated by alcohol, illegal drugs or even prescription drugs.

4. Prepare for trial in every case.

I know that in my part of the country (and probably yours) nine out ten cases settle short of trial; however, every case I take I prepare as if I'm going to trial whether it's a simple theft, or a complex cocaine distribution case. I've seen too many defense lawyers get the reputation for never going to trial and if the prosecutor believes you are one of those, you're sunk. I've found the opposite is also true, if the prosecutor knows you have no problem trying a case that is extremely difficult, he may be more willing to give your client a good deal in order to avoid a lengthy jury trial.

5. Sentencing can be trials in themselves.

If you've done everything you can and you are still faced with a sentencing, don't give up! Treat the sentencing as a trial, call witnesses and present evidence. I've found some ways to do this are through the testimony or letters of family members, employers, and sometimes even the victims. I often like to let my evidence "trickle in" over several weeks, rather than inundate the judge with a stack of letters immediately before the hearing. I've found this helps to keep the case in the judge's mind and helps with what your goal is; to persuade the judge that your client is *different* from all the other defendants she has sentenced that week.

Also, be sure to prepare your client for the sentencing. Spend an hour or two running through exactly what will happen and what they will tell the Judge to ensure the sentencing goes smoothly.

Jason Kohlmeyer is a 2000 graduate of Hamline University School of Law. While at Hamline, Mr. Kohlmeyer prosecuted at the Dakota County Attorney's Office under the student practice rules. He is now a shareholder with the firm of Manahan, Bluth & Kohlmeyer in Mankato, MN, focusing on Criminal Defense, Family Law, and Civil Litigation and can be reached at JCK@manahanbluth.com

Rochester Affiliate News

By: Jaime Girgenti, Rochester Affiliate NLS Chair

The Rochester New Lawyers had their first lunch meeting on August 20, 2003. The group discussed goals for the upcoming year, which include more community service projects and encouraging greater participation amongst the new lawyers in town. At the meeting, Tammy Shefelbine was chosen to serve as Secretary and Sarah Murphy and Amy Gavel were chosen to serve as our Community Service Project Coordinators.

In September, we met for a pizza social at a pub in town, courtesy of the MSBA New Lawyers' Section. On October 23, during our lunch meeting, two financial planners from Merrill Lynch spoke about investment strategies and how to handle those annoying student loans. On November 20, a panel of lawyers will discuss, "How to start your own law firm." A holiday party is planned for December 18.

The new lawyers also began a book drive this month. We are collecting new and gently used children's books for the Rochester Public Library. The books are being dropped

off at various locations throughout the city. The new lawyers will also be participating in the statewide Santa Brings a Lawsuit community service project in December.

For the first time in many years, the Olmsted County Bar will be providing funding to its new lawyers to assist us in bringing in speakers, community service projects, as well as group socials.

I would like to personally thank the MSBA NLS Officers for all of their support and assistance in resurrecting the Rochester New Lawyers. With almost 50 new lawyers in Rochester, many eager to become involved, this upcoming year is sure to be not only informative but also entertaining and rewarding!

Jaime Girgenti is a Judicial Clerk for the Honorable Joseph F. Wieners in Rochester and can be reached at Jaime.Girgenti@courts.state.mn.us

Mankato Affiliate News

By: Jason Kohlmeyer, Vice-Chair

With the appointment of the new Social Chair, Krista Van Gundy, the Mankato New Lawyers have sprung to life. In September the New Lawyers met at a local bar and met with MSBA New Lawyer Chair, Joan Schulkers. The event was very well attended. On October 31, 2003, the new lawyers had a Halloween party at fellow New Lawyer Ryan Magnus' home in Lake Crystal, it was a great success, so much in fact that the Mankato Free Press ran a story on the event and yes, costumes were mandatory.

Upcoming events include a social hour November 13th and a Christmas party on December 18th at the Midwest Wireless Civic Center. As is always the case, all fellow Southern Minnesota New Lawyers are invited. Please contact Chairman Phillip Elbert at (507) 345-1020 for more information.

News From St. Cloud

By: Sarah Smith & Russ Cherne, Co-Chairs, St. Cloud Affiliate

The St. Cloud New Lawyers continues to meet monthly at a local establishment in St. Cloud. Anywhere between ten and twenty five drop by for a couple minutes or stay for the long haul. We have a unique philosophy to our meetings, we try to create a friendly, no pressure, relaxed atmosphere so all new attorneys feel comfortable sharing their legal experiences and asking for advice. The regular attendees practice in a range of areas from business law to personal injury litigation.

Our affiliate participated in the Santa Brings a Lawsuite clothing drive this year and donated approximately 15 suits to Catholic Charities. We will continue to participate in this worthwhile statewide community service project.

We are always looking for new members and welcome all out of town guests. Our meetings are held on the last Thursday of every month, so if you are in town, do not hesitate to contact Sarah Smith at Rajkowski Hansmeier Law Firm or Russ Cherne at Pennington & Lies for information.

News From Brainerd

By: Tricia Wherley

The first meeting of the Brainerd Young Lawyer's Division was held on Tuesday, October 28, 2003 at 5:30 at Poncho and Lefty's. Tricia Wherley, formerly of Charpentier & Lange, and Stephanie Shook of the Public Defender's Office, hosted the event.

Tricia has since moved to Grand Rapids, Minnesota. Her successor, Stephanie Shook, is very enthusiastic about taking on her new role as Chair of the Brainerd New Lawyer's Section.

News From Willmar

By: Tim Simonson and Antonio Tejada

On December 3, 2003 we will have our very first meeting and social event for all the new lawyers in our area. The event will take place at Green Mill, where we will provide some appetizers or pizza.

Thank you to the MSBA NLS for providing us with some money to organize this first meeting and social for the new lawyers in this area. We were also able to obtain some financial support from our local county bar.

2003-2004 NLS Liaisons

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Community Outreach Committee

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Court Rules and Administration Committee

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Human Rights Committee

Erika Donner
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Legal Assistance to the Disadvantaged Committee

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Legal Education and Bar Admissions Committee

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Women in the Legal Profession Committee

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2003-2004 NLS Open Liaison Positions

ABA Model Rules of Professional Conduct Task Force

Attorney Referral Committee

Bar Media

Diversity Committee

Fair Response Committee

Human Rights Committee

Insurance for Members Committee

Internet Law Committee

Law and Literature Committee

Membership Committee

Minnesota Law Related Education

Paralegal Committee

Pro Se Implementation Committee

Professionalism Committee

Publications Committee

Rules of Professional Conduct Committee

Senior Lawyers Committee

Technology Committee

Administrative Law Section

ADR Section

Arts & Entertainment Section

Communications Law Section

Computer Law Section

Environmental Law Section

Food and Drug Law Section

General Practice, Solo, and Small Firm Section

Health Law Section

Outstate Practice Section

Practice Management and Marketing Section

Public Law Section

Public Utilities Section

Tax Section

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