

Public Law News

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Public Law Section

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MSBA



www.mnbar.org

Public Law Section 2009 Awards of Excellence

On May 15, 2009, the Public Law Section presented its annual awards of excellence. The following articles are from comments made at the awards ceremony.

Rosalie E. Wahl Judicial Award of Excellence:



The Honorable David S. Doty
Award presentation and comments by Gregory Brooker

I am pleased to present the Rosalie E. Wahl Award of Judicial Excellence to one of the most respected judges in our state, U.S. District Court Judge David S. Doty. This award is not only for Judge Doty's work on the bench but for his dedicated work to public law and charitable organizations off the bench.

Judge Doty was born on June 30, 1929 in Coon Rapids, Minnesota. He grew up in Minneapolis, graduating from Marshall High School and attending the University of Minnesota. He was commissioned a Second Lieutenant in the U.S. Marine Corps in 1952 during the Korean Conflict and served until 1958 when he resigned as a Captain. He served on sea duty, as an infantry company commander, and as an artillery battery commander, ending his military career on Okinawa.

Judge Doty attended the University of Minnesota Law School graduating in 1961 with honors, having been an editor of the Minnesota Law Review. He then practiced law for 26 years, leaving the firm of Popham, Haik, Schnobrich, Kaufman & Doty to ascend to the bench. While at Popham, Haik, Judge Doty had an active practice concentrating on trial and administrative law. He represented many public law clients, including the Minneapolis Park and Recreation Board and the Metropolitan Transit Commission. Many may not know it, but he, along with colleague Ray Haik, helped save Minnehaha Falls by suing the highway officials who planned to route a major highway over the falls in the 1960s. While

practicing law, Judge Doty found time to be active in bar and civic matters, serving as the President of the Minnesota State Bar Association and as a member of the MSBA Board of Governors for more than 10 years. He was also President of the Hennepin County Bar Association and served on various committees of both associations. He was elected to the Minneapolis Public Library Board, and served as a member of the Minneapolis Foundation Board and as a Board Member and President of the University of Minnesota Law School Alumni Association.

This award recognizes Judge Doty for all of his years of dedicated service to the people of Minnesota.

Past recipients of the Rosalie E. Wahl Award:

2008 *Hon. Russell A. Anderson*
2007 *Hon. John P. Smith*
2006 *Hon. Ann Montgomery*
2005 *Hon. Allan W. Klein*
2004 *Hon. John R. Tunheim*
2003 *Hon. Joanne Smith*
2002 *Hon. Renee L. Worke*
2001 *Hon. George A. Beck*
2000 *Hon. J. Earl Cudd*
1999 *Hon. Leslie May Metzgen*
1998 *Hon. Kenneth f. Fitzpatrick*
1997 *Hon. George H. Hoey*

Douglas K. Amdahl Public Attorney Career Achievement Award:



David J. Kennedy
Award presentation and comments by James Thomson

Dave Kennedy, co-founder of Kennedy & Graven, died from cancer on May 10, 2009. He

graduated from the University of Notre Dame in 1953 and then served as a naval aviator and later retired from the Naval Reserve. Dave received his law degree from the University of Minnesota Law School in 1960. While in law school, Dave started his life-long love affair with municipal law as a research assistant with the League of Municipalities (now known as the League of Minnesota Cities).

From 1960-1967, Dave served as a staff attorney for the League of Minnesota Cities, Director of the Minnesota Office of Local and Urban Affairs, and Assistant Senate Counsel for the Minnesota State Senate. In 1972, Dave joined the law firm of LeFevere, Lefler, Kennedy, O'Brien, and Drawz. Dave became the preeminent public finance lawyer in the state, and in 1989 merged the municipal law and public finance practices of that firm with Kennedy & Graven.

In addition to Dave's public finance work, he was the City Attorney for the Cities of Crystal and Sandstone. In his later years, Dave was considered to be the Dean of Public Finance Law in the State of Minnesota. Aside from his distinguished legal career, Dave was widely known and admired for his Irish charm and wit, his gentle manner, and his generosity and kindness.

The bad news is that Dave is not with us today to accept his award; the good news is that I was able to present the award to him three days before he died. He was very touched by receiving the award. The day Dave died, I received the following email from Dave's son, Mike, asking me to read the acceptance comments that Dave had dictated to Mike.

Kim [Basting], Jim [Alexander] & John [Choi]:

I am Dave Kennedy's eldest son, and am writing on behalf of Dave. As I assume you are aware in speaking with Jim Thomson, Dad was not going to be able to attend the luncheon. In fact, Dad passed away today.

I am responding to you on behalf of Dad, his wife Mitzi and his family. We want you to know that Dad was quite touched by being nominated by his peers and receiving this award. It really did mean something to him. Jim Thomson brought the award by the hospice the other day so Dad was able to see the plaque. Dad was able to dictate a short, heartfelt response to your award letter and I have reproduced it here.

*Minnesota State Bar Association,
Thank you so much for the kind letter and the prestigious award that accompanied it. It is especially meaningful when it comes from one's peers. It has been my distinct pleasure to have worked with you over the years.
Dave*

Thank you from our family as well. This was a bright spot in Dad's final days. Dad was aware and quite happy to have Jim Thomson accept the award on his behalf at the luncheon on May 15. Unfortunately, other family members will not be able to attend since the services are being planned for that day.

*Sincerely,
Mike Kennedy and the Kennedy family*



Jim Thomas for
David Kennedy

Past recipients of the Douglas K. Amdahl Award:

- 2008 *Lane Ayers, Hon. Allen Oleisky, Jeanne Schleh*
- 2007 *Quy T. Dam, Karel Lee Moersfelder, Michael R. Dean*
- 2006 *James Lammers, Alan Mitchell*
- 2005 *Philip J. Olfelt*
- 2004 *Carl Conney, Wayne G. Johnson, Eldon G. Kaul, Clayton LeFevere*
- 2003 *William E. Falvey, William E. McGee, John D. Tierney*
- 2002 *Hon. Gary L. Crippen, LeRoy Jackson, Hon. Kenneth J. Maas*
- 2001 *Hon. Douglas K. Amdahl*
- 2000 *Hon. Doris Ohlsen Huspeni, Phillip B. Byrne*
- 1999 *Hon. A.M. Sandy Keith*
- 1998 *Hon. Esther Tomljanovich, James N. Bradford, Floyd B. Olson*
- 1997 *Hon. Rosalie E. Wahl, Stanley G. Peskar, William R. Kennedy, Julius E. Gernes*
- 1996 *Earle T. Anderson, Jr., Robert R.W. Johnson, Hon. Jon L. Lunde, Lloyd J. Moosbrugger*

Julius E. Gernes Prosecutor Award of Excellence:**Gail Baez**

Award presentation and comments by Patty Moses

Assistant Hennepin County Attorney **Gail Baez** is the recipient this year of the **Julius E. Gernes Prosecutor Award for Excellence**. Gail's professional achievements include many successful prosecutions over the years, including difficult homicides and other serious felonies, leadership in narcotics prosecutions as head of the Hennepin County Attorney's Drug Team and outstanding work in bringing the community's voice to the courtroom as managing attorney of the Community Prosecution Division. Gail's accomplishments encompass the breadth and depth of public service that this award is designed to recognize.

Gail started in the Hennepin County Attorney's Office as a law clerk in 1977. As an Assistant County Attorney she first prosecuted in the Juvenile Division and soon moved to Adult Prosecution where she handled felonies for years. Gail distinguished herself as a tenacious and successful trial attorney who earned the trust of victims and police alike. She supervised the Grand Jury responsibility for the office through the "Murderapolis" years in the 90's and later headed the drug prosecution team.

For the past nine years or so, Gail has dedicated herself to building relationships with police and community, and to bringing the community's voice to the courtroom, insisting that judges consider harm to the community as they sentence drug and other offenders. She astutely observed that the court is more likely to be attuned to the community's safety when it hears directly from community members, not merely through the State. Gail attends numerous community and neighborhood meetings, and is the face of the Hennepin County Attorney's Office for many groups. She has earned the trust of police, neighborhood groups, community activists and

regular citizens who are concerned about the safety of their neighborhoods. Working closely with police, our counterparts in the Minneapolis City Attorney's office, and community members, Gail has been instrumental in establishing Court Watches at the Franklin Avenue Safety Center, Little Earth of the United Tribes and in the 1st precinct. More are on the way. Regular Court Watch meetings are a forum for exchange of information between the justice system and citizens. The result is that the community now has a voice in such "victimless" crimes as drug use and sales and other crimes that plague neighborhoods. At Little Earth, crime has decreased 50% since the inception of Court Watch and other collaborative initiatives.

In her humble way, Gail would demur from taking credit for her wonderful community work and other accomplishments and would insist that credit be given to her collaborating partners. However, anyone who has been involved in system change knows that without a committed, passionate and trusted leader, like Gail, change simply does not happen. The Jules E. Gernes Prosecutor Award for Excellence honors Gail Baez for her career public service, commitment to justice and consistent leadership in the community.

**Gail Baez & Patty Moses***Past recipients of the Julius E. Gernes Award:*

2008 *Jeffrey R. Edblad*
 2007 *Susan E. Gaertner*
 2006 *Cary William Schmies*
 2005 *Steve Redding*
 2004 *Kathryn A. Santelmann*
 2003 *Larry M. Collins*
 2002 *Al Zdrzil*
 2001 *Alan J. Harris*
 1999 *James C. Backstrom*
 1998 *Dianne A. Ward*
 1997 *John R. Speakman*
 1996 *Conrad I. Freeberg*

**William E. McGee Public Defender
Award of Excellence:**



Lisa Kristine McNaughton
*Award presentation and
comments by Nancy McLean*

Lisa McNaughton was nominated for the William McGee Public Defender Award by Jim Kamin and Bob Sorenson from the Hennepin County Public Defender's office. The nomination was supported by Patty Moses and Julie Harris of the Hennepin County Attorney's Office. Lisa is this year's recipient because of her dedication to her clients, the administration of justice, and improvement of the court system.

Lisa has worked for the Hennepin County Public Defender since 1987, spending most of her career in the juvenile court. Since 2001, she has been the Managing Attorney for the juvenile lawyers. In that capacity, she supervises all the lawyers who handle delinquency proceedings (criminal charges for adults) and all the child protection cases including Children in Need of Protection and Services (CHIPS) and termination of parental rights.

During the years she has been in juvenile court, Lisa has participated in many "court improvement" processes. These have usually been collaborative efforts between the county attorneys, probation officers, child protection workers, and the judges. These "justice partners" have often developed and implemented policies and programs to improve the delivery of services to respondents, children, parents, victims, and others who come before the courts – basically to improve and reform the juvenile justice and child protection systems in Hennepin County. Lisa has been a critical person at the table to represent the needs of her clients.

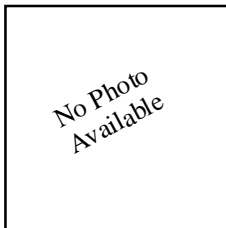
In addition to her committee work, Lisa has also represented many juvenile court clients over the last 20 years. In doing so, she has been a strong and tireless advocate – and a worthy opponent!!

It is my great pleasure to introduce Lisa McNaughton – this year's recipient of the William McGee Public Defender Award of Excellence.

Past recipients of William E. McGee Award:

2008 *F. Richard Gallo, Jr.*
2007 *Noreen C. Phillips*
2006 *Daniel M. Scott*
2005 *Brad Colbert*
2004 *Paul G. Thompson*
2003 *Richard G. Carlson*
2002 *Ronald Greenley*
2001 *Cynthia T. Daley*
2000 *Larry Hammerling*
1999 *Manley Zimmerman*
1998 *Harry Newby, Jr.*
1997 *Candace Rasmussen*
1996 *Fred Friedman*

**Public Attorney Award of Excellence: Civil
Attorney Working in a Public Law Office:
Christie B. Eller and John T. Kelly**



Christie B. Eller
*Award presentation and
comments below by Barry
Greller*

It is my distinct honor and privilege to present this year's Public Attorney Award of Excellence for an attorney practicing civil law in a Public Law Office to my friend, colleague, and former co-counsel for over 30 years at the Minnesota Attorney General's Office, Christie B. Eller. As Mary Miller mentioned, this is one of two different Public Attorney Awards of Excellence given annually to recognize the work of outstanding public attorneys who have shown dedication and commitment to public service and the public practice of law.

In addition, for the only the second time, the Executive Council voted to present two awards to attorneys practicing civil law this year. This reminded me of the year that Katharine Hepburn and Barbara Streisand tied for the Best Actress

Oscar and both won the award. I will leave it for you to decide which of our recipients is Katharine, and which is Barbara.

I've have know Christie Eller for over 25 years, since we first worked together with another colleague in representing a new state agency that was set up to fund loans to small businesses in the early 1980's. Christie is the embodiment of a career public attorney. She has been described by colleagues and clients alike as quietly competent, hard working, highly dedicated, and as a strong and articulate advocate for the State. She is respected and well-known by both the public and private bars alike. Christie consistently provides, in the words of her colleagues, "in a firm but exceptionally respectful manner, well-reasoned and informed legal advice" as well as "practical and insightful suggestions on how best to address" the "vexing public policy issues" encountered by her public clients.

She joined the Minnesota Attorney General's Office in 1978, following her clerkship for Judge Gerald Heaney of the 8th Circuit Court of Appeals. She began her clerkship for Judge Heaney after graduation from the University of Minnesota Law School, *magna cum laude*, in 1976.

Early in her career, Christie served in the Consumer Division of the Attorney General's Office. She has, over the years, represented a vast number of state clients in several different areas of the Attorney General's Office, including the Departments of Finance, Administration, Employment and Economic Development, Transportation, Natural Resources, as well as the Minnesota Housing Finance Agency and the former IRRRB.

In 1987, Christie was made the Manager of the Administrative Services Division. In 2007, she was promoted by the Attorney General to Deputy Attorney General, a position in which she supervises and/or acts as manager of four of the AGO's major Divisions. She has also served for many years as lead counsel to the State Board of Investment and the State Executive Counsel, as well as acting as in-house bond counsel to the Department of Finance and many other state bond

issuing agencies.

Christie also has some interesting connections to the current candidates for the U.S. Senate seat in Minnesota. She spent her first 10 years growing up in the Bronx, just across town from Norm Coleman's boyhood home in Brooklyn. (I assume this made Christie a Yankees fan and Norm a Dodgers fan.) She then moved to Hopkins, Minnesota, where she lived on the same block as the other Senate candidate, Al Franken. More recently, Christie has been very active in the post-election litigation, acting as the principal legal advisor to the State Canvassing Board.

Additionally, Christie has recently been involved in many of the complex construction contract and data practices issues that arose following the collapse of the I-35W bridge.

Despite her heavy workload, Christie has found the time to be an active parent in the lives of her two children, Alicia and Neko. In the case of her son, she served for many years as a leader in his boy scout troop, which included I'm told, a week of camping out each year. This experience culminated in Neko being named an Eagle Scout. I've also heard stories from her colleagues about how she'd have to climb her way to the top of the tallest hill in camp so she could make cell phone calls to them from the campsite.

In addition, Christie has become, literally, what public lawyers refer to as a "double-dipper". This is not because she's earned state and federal pensions, however, as she didn't clerk for Judge Heaney long enough to earn a federal pension. Rather, Christie spends some of her very limited free time working with her children in the family's Ben & Jerry Ice Cream business, making those double scoop cones at two different locations. She's also been known to bring in some of the "leftovers" to share with her co-workers.

So, without further ado, for her many years of dedicated service to the people of Minnesota, I'm honored to present the Public Law Section's 2009 Public Attorney Award for Excellence for an attorney practicing civil law in a public law office to my colleague and friend, Christie B. Eller.



John T. Kelly

Award presentation and comments below by John Choi. Comments were also made by St. Paul Mayor Chris Coleman

Simply stated, John Kelly is an exceptional public attorney. I could go on and on about his accomplishments as a Senior Attorney for the City of Saint Paul since 1991 and his municipal law work in private practice, but it is the past two years of John's professional career that make him so deserving of this award.

For the past two years, John Kelly has performed at the highest level and has exceeded what any person could ever expect of a public attorney. In the fall of 2006, it was announced by Mayors Chris Coleman, R.T. Rybak and Gene Winstead that the Twin Cities metropolitan area would host the 2008 Republican National Convention (RNC). By the end of the year John Kelly was assigned to be the lead civil attorney for the City of St. Paul on RNC matters.

This project was certainly the single most important and complex legal matter that has happened in Saint Paul. Saint Paul is the smallest city to host a convention in recent years, and the challenges were great. Several attorneys in our office provided excellent service on this matter, but John Kelly pulled the laboring oar. His advice to Mayor Chris Coleman and Assistant Police Chief Matt Bostrom, who was in charge of security, was insightful and indispensable.

In late 2006 and early 2007, John, with the City Attorney and the Mayor's Office, conducted the negotiations for The City Services Agreement entered into by the City of Saint Paul and the 2008 MSP Host Committee. With his advice and help, for the first time a host city for a national political convention was able to negotiate: (1) significant liability protections for the City and all of its law enforcement partners in the form of a \$10 million law enforcement liability insurance policy paid for by the Host Committee and not taxpayers; and (2)

an "out clause" in the event that the \$50 million security subsidy was not appropriated by Congress.

Throughout 2007 and 2008, the City prepared for the convention, with the able advice of John Kelly. In four separate legal challenges made to the City's pre-convention security planning and decision-making, the City's actions were upheld. Of particular note, is the reported decision of *The Coalition to March on the RNC and Stop the War v. City of St. Paul*, 557 F. Supp. 2d 1014 (D. Minn. 2008). John successfully briefed and argued this case, as well as played a lead or otherwise significant role in the other three cases.

The 2008 RNC, due to the national security concerns, involved a large number of federal, state, and local agencies. John assisted in organizing a collaborative working group consisting of public attorney representatives from the Minneapolis and Bloomington City Attorney's Offices, the Ramsey and Hennepin County Attorney's Offices, the United States Attorney's Office and the State of Minnesota's Department of Public Safety. Because RNC-related events were held throughout the Twin Cities area (as opposed to only Saint Paul), the RNC implicated legal issues that often crossed federal, state and local jurisdictional lines. Accordingly, the formation of this legal working group proved to be a very useful vehicle by which information and knowledge could be shared.

The public safety needs of the RNC required the utilization of approximately 3,500 state and local law enforcement professionals from within and outside the State of Minnesota. The RNC represented the largest deployment of law enforcement and other public safety professionals in the history of Minnesota, and one of the largest in the nation's recent history. To achieve this, the City negotiated and ultimately executed 115 separate Joint Powers Agreements ("JPAs") with state and local entities. John successfully handled these often contentious negotiations.

As the foregoing demonstrates, John Kelly possesses and applied unsurpassed skill and dedication in counseling, negotiating and litigating on behalf of the public. His service to the public

on the RNC required extraordinary leadership, initiative and innovation. He spent many nights and weekends over a two-year period making sure the public, and in particular the citizens of Saint Paul, got the very best legal service by any standard. He, like his clients, put in 16 and 18 hour days during the convention.

As a direct result of Mr. Kelly's service:

- The people and property of Saint Paul, as well as numerous national and international dignitaries and other visitors, were well protected.
- The taxpayers of Saint Paul, and of all the participating cities and counties, were protected from liability for police actions by a \$10 million insurance policy paid for by the Host Committee.

As found by the Federal District Court, the First Amendment rights of protestors, both local and from all over the country, were respected throughout the planning stage and during the convention.

It is for these reasons that we are joined today by Mayor Chris Coleman in presenting this award. We are grateful for his public service.

Past recipients of the Public Attorney Award of Excellence for civil attorneys in a Public Law Office:

2008 *Jay M. Heffern*
 2007 *Kenneth E. Raschke, Jr.*
 2006 *Douglas J. Gregor*
 2005 *Joan D. Humes*
 2004 *Toni Beitz*
 2003 *Mark J. Ponsolle*
 2002 *David R. Ornstein*
 2001 *Robert A. Stanich*
 2000 *John L. Kirwin*
 Desyl Peterson
 1999 *William P. Donohue*
 1998 *Alan C. Williams*
 1997 *Richard S. Slowes*
 1996 *Beverly Jones Heydinger*

Public Attorney Award of Excellence: Attorney Working in a Government Agency:



Steve Shakman

Award presentation and comments below by Mary Miller.

This has to be one of the most fun things that I get to do. I am regularly humbled and honored by the opportunity to present one of these awards.

There are two Public Attorney Awards of Excellence. The one I will be presenting is the Government Agency Award. It is given to public attorneys practicing in Minnesota in a variety of public settings including hearing officials, staff attorneys, commissioners, and others. Persons nominated for this Award must have engaged in activities that show dedication and commitment to public service and the public practice of law. Nominees also distinguish themselves by making significant contributions that aid in the operation of government or the practice of law and/or by demonstrating extraordinary leadership, initiative, or innovation in the performance of their duties.

For this year's award recipient the four nominators submitted a list of some of the published cases in which the recipient was involved. Of course the Public Law Section Council carefully read each case in the process of making its determination about the award. In one of the recipient's cases, *Chamber v. Minnesota Public Service Commission*, we found principles affirmed by the Minnesota Supreme Court governing an agency's rulemaking practices. As an agency attorney myself, I am familiar with those principles and will use them to guide this award presentation to Steve.

1. The Public Law Section Council made a "searching and careful inquiry of the record".

We found that Stephen Shakman has more than 30 years of service to the citizens of Minnesota. He served for 25 years in the Attorney General's Office. For the last 9 years he has served in the

Minnesota Department of Health, where his colleagues in the Legal Unit nominated him for the Award. Steve graduated from Harvard University, both with a B.A. and then with a J.D. Between those degrees he served a two-year stint in Korea with the Peace Corps. He also clerked for a Seventh Circuit Federal District Court judge in Wisconsin. With the Minnesota Attorney General's Office for many years he represented the Pollution Control Agency (PCA). Two of his many published cases are *People for Environmental Enlightenment & Responsibility, Inc. v. Minnesota Environmental Quality Council*, which strengthened environmental enforcement and clarified the scope of review of agency decision-making; and *U.S. v. Reilly Tar & Chemical Corp.*, which upheld the PCA's enforcement measures for cleaning up hazardous waste sites.

2. The Council's selection of Steve was not "arbitrary and capricious".

Steve has made substantial contributions that aid government by putting systems in place that will allow the state to function in a public health emergency, whether it be infectious disease outbreak or bioterrorism. In his recent work at the Dept. of Health, Steve has worked exclusively to develop the field of emergency preparedness law. Most recently he has devoted many hours to dealing with the novel influenza virus, including:

- drafting emergency executive orders to be signed and issued, if needed
- advising public health officials on getting virus medication out to the population consistent with FDA requirements and,
- devising systems for distributing potential future vaccines.

In this he has demonstrated extraordinary leadership, initiative, and innovation by strengthening the legal authorities that exist, and inventing the pieces needed to cover the legal gaps for the Department's emergency preparedness campaign.

3. Indeed, the Council found that Steve even met the more rigorous "substantial evidence" test of support.

His nominators indicate that he has forged a path for public health emergency preparedness so that no matter the issue, in the event of a health emergency, the legal groundwork is in place. Some of the legal problems that he has solved include:

- revising century-old quarantine statutes,
- planning an immediate response to SARS,
- dealing with overlapping jurisdictions through interstate compacts and working for international cross-border agreements,
- dealing with licensing and other authority issues to plan for mass dispensing of antibiotics and antivirals, and
- dealing with ownership and sharing of the state's mobile medical unit.

4. The Council's action in Steve's selection for this award "has a rational basis".

As one of the nominator's stated, "[p]referring to remain behind the scenes, Steve pursues all with quiet competence. He combines a self-effacing style with wit and humor so that anyone who has worked with him retains fond memories of the experience. Always willing to assist his colleagues, he frequently collaborates by brainstorming and conferring on myriad legal problems."

Another nomination supporter shared, "[t]here is cachet and glamour to Steve's preparedness work - international travel! His work has taken him four times in five years to Grand Portage for planning. He has also been to International Falls, Grand Forks, and the crowning glory, Niagara Falls. He aspires to go to Toronto, Ontario because, not only are they our neighbors, but they also have a baseball team!"

Steve regularly has taken pro bono cases involving immigrants seeking asylum, cases

which take years to resolve. I could go on, but we have a time limit - and I'm told Barry has a cane.

For the reasons listed and more, I am very pleased to present the 2009 Public Attorney Award of Excellence for an attorney working in a government agency, to Stephen Shakman.

Mary Miller,

Thanks so much for the kind words, as well as the caselaw research, at the Public Law Section awards lunch on Friday. I really appreciated the honor. The timing couldn't have been better since I have a long-planned vacation trip starting this afternoon.

Steve Shakman



Mary Miller &
Steve Shakman

Past recipients of the Public Attorney Award of Excellence for an Attorney Working in a Government Agency:

2008 *Virginia Rae Bly*
2007 *Allen E. Giles*
2006 *Dennis Wade Erickson*
2005 *Gail M. Olson*
2004 *Kenneth A. Nickolai*
2003 *Richard A. Wexler*
2001 *Thomas W. Anderson*
2000 *Laura D. Kadwell*
1999 *Ann Russell*
1998 *Michael B. Johnson*
1997 *Julie M. Brunner*

There were no nominations in 2009 for the Pro Bono Award of Excellence.

Recipients of the award in the past were:

2008 *Kathie L. Battle-Sayles*
2007 *Patrick Burns*
2006 *Kenneth P. Kohnstamm*



Lisa McNaughton
& Nancy McLean



John Choi



Mary Miller



Todd Schoffelman facilitates the May 15 annual meeting CLE "Lessons from Election 2008." The CLE presenters were State Auditor Mark Ritchie, Big Lake Township Clerk Laura Hayes, Assistant Minneapolis City Attorney Lisa Needham and Humphrey Institute Elections Administration Program Director Rachel Smith.

Public Law Section Annual Meeting
Friday, May 15, 2009
Midland Hills Country Club, St. Paul

Election of Officers and Council Members for 2009-10

The candidates proposed by the Nominations Committee and elected at the annual meeting are:

Co-chairs (one-year term):

Mary Miller,
Compensation Attorney Principal, Minnesota
Department of Labor & Industry

James Alexander,
Assistant U.S. Attorney, U. S. Attorney's
Office

Secretary (one-year term):

Todd Schoffelman,
Assistant County Attorney, Sherburne
County Attorney's Office

Treasurer (one-year term):

Kim Buechel Mesun,
Assistant District General Counsel,
Minneapolis School District General
Counsel's Office

Council Members (two-year term):

Honorable Diane Alshouse,
Second Judicial District

Barry Greller,
Assistant Attorney General, Minnesota
Attorney General's Office

Greg Brooker
Chief Deputy, Civil Division, U.S.
Attorney's Office

Honorable Thomas Kalitowski
Minnesota Court of Appeals

Nancy McLean
Assistant County Attorney, Hennepin County
Attorney's Office

The remaining Council Members will serve
the second year of their two-year terms:

Dana Banwer,
Deputy City Attorney, Minneapolis City
Attorney's Office

John Choi,
St. Paul City Attorney

Inta Sellars,
Assistant Chief Human Services Judge,
Minnesota Department of Human Services

Nominations from the floor were allowed. All Section members attending the annual meeting were eligible to vote.

MSBA Public Law Section Annual Report for 2008-09

By: Barry R. Greller, Co-Chair of the Public Law Section
Mary Miller, Co-Chair of the Public Law Section

The Public Law Section of the MSBA had another active year:

Continuing Legal Education: During the past twelve months the Public Law Section sponsored the following continuing legal education courses for a total of more than 11 CLE credits:

<i>Meeting/Course Title</i>	<i>Date</i>	<i>Credits</i>
Minnesota Data Practices: The Good, the Bad, and the IPAD	6/16/08	1.5
To Know It is to Love it – Data Practices 2008, with Minnesota County Attorneys Association	10/3/08	3
A Retrospective on the Republican National Convention	1/27/09	1
Real World Ethics: Issues and Answers, with 18 th District Bar Association	5/14/09	1 Ethics (pending)
Lessons from Election 2008	5/15/09	2.5
Update on Minnesota Open Meeting Law, MSBA Convention in Duluth	6/24/09	1
Data Practices Law, with Information Policy Analysis Division	6/25/09	1.5 (pending)
Total		11.5

Public Law Section News: The Section continues to publish and send its members the Public Law News, the section's newsletter, three times a year. The newsletter has been cited locally and nationally for its quality and content and has been noted as an example of a successful bar association newsletter. Regular features include profiles of public law offices and public lawyers, discussion of current legal issues and recent court decisions, data practices opinion indices, and notices of upcoming CLE's of interest to public lawyers. The Public Law Section distributes the newsletter to most of its members by e-mail. A recent added feature is the ability to hyperlink from the front page table of contents to the article of interest.

Community and Public Service: The Section continued its active involvement in the community through public service this past year. The Section coordinated a day of work on a Brush with Kindness, Habitat for Humanity project. Section

members and friends cooked and served meals every other month throughout the year for over fifteen hundred people through the Loaves and Fishes program. This year a legal advice clinic, civil and criminal, for attendees was begun and staffed by public lawyers and one of our student liaisons. For the last two years the Section has worked with SMRLS on an annual Senior Fair and, both there and on location, made presentations to senior citizens on Identity Theft. The Section conducted a clothing and diaper drive at the 2008 MSBA Convention in Duluth, and "adopted" twenty+ families for holiday gift giving last year.

The Section contributed to the LRAP Program, which provides assistance with the repayment of law student loans for lawyers in public service, both monetarily and by participating in the 7th Annual Race for Justice. Funding support was also provided to the Minnesota Justice Foundation.

The Public Law Section, along with the rest of the MSBA, weighed in at the Legislature on needed funding for the Justice System.

Section Committees: A number of committees and others of the Section continued to perform the essential planning and implementation work that enables the Section to operate. The Committees include the Newsletter Committee, the Awards Committee, the Community/Public Service Committee, Data Practices Committee, Nominating Committee and the Local Government Committee. The Council has designated a CLE Coordinator, a Membership Coordinator, and a Pro Bono Task Force. The Committees and others offer an opportunity for Section members to become actively involved in the work of the Section. Please contact one of the Public Law Section Co-Chairs if you would like to become involved in the work of any of these groups.

Membership including Law Students: The Public Law Section continued to work on its membership goals. Particularly explored was the concept of government office group membership which was approved in concept by the MSBA. Details continue to be developed. Over the past year we added three law students to the executive council and have benefited from their ideas and contributions. Additionally, members of the Public Law Section attended receptions held at the MSBA offices and local law schools to provide law students the opportunity to learn about the exciting work being done in public law.

Diversity Efforts: The Public Law Section has also been actively working towards the goal of eliminating bias and promoting diversity in the bar by participating in minority recruitment conference and attending law student recruitment events, including the Public Interest Career Exposition.

Recognition for Public Service: Among activities which recognize and highlight the activities of public lawyers are the Public Law Section Annual Awards.

The Public Law Section donated \$250.00 to the Minnesota Justice Foundation's Summer Clerkship Program this Spring. Below is a letter thanking the Section for its generosity.



MINNESOTA JUSTICE
FOUNDATION

July 1, 2009

Barry Greller
MSBA Public Law Section
Minnesota State Bar Association
600 Nicollet Mall, Suite 380
Minneapolis, MN 55402

Dear Mr. Greller:

Thank you very much for the MSBA Public Law Section's donation of \$250 to the Minnesota Justice Foundation's Summer Clerkship Program. This gift of partial financial support to one Summer Clerk allows a student to work in the legal community, gaining valuable practical experience while serving a large population of people that may otherwise lack necessary legal aid.

Your generosity supports the Minnesota Justice Foundation's efforts to ensure that:

- Practical experience will enhance the excellent legal training of students at Minnesota's four law schools,
- Our latest generation of lawyers remain committed to an ethic of public service, and that
- Low-income and disadvantaged Minnesotans continue to receive the legal services and advice they need.

We appreciate your help in working toward a vision of equal justice for all. With your assistance we will commit next year's efforts to building ever stronger alliances and networks with our community partners.

Sincerely,

Janine Laird

Janine Laird
Executive Director

Thank you!

MJF is a 501(c) 3 nonprofit organization. Please accept this letter as verification that your contribution of \$250.00 was made for charitable purposes and that MJF did not provide any goods or services to you in exchange for this contribution. You may wish to retain this letter for your tax records.

229 19th Avenue South, Minneapolis, MN 55455
612-625-1584 • (Fax) 612-626-0056
www.mjjustice.org

2009 Minnesota Laws of Interest to Public Lawyers

by Michele L. Timmons, Revisor of Statutes

Appropriations

2009 was a budget or “long session” year. The original deficit in the February forecast was \$6.4 billion for the biennium, reduced by approximately \$1.8 billion in federal funding for medical assistance to \$4.57 billion. The Minnesota Legislature passed a series of budget bills which together reduced spending by approximately \$1.3 billion, along with two versions of bills which would have raised approximately \$1 billion in permanent revenue, *Ch. 77, H.F. 885* and *Ch. 179, H.F. 2323*. Both bills would have added a fourth tier to Minnesota’s income tax, of 9% over \$250,000 for married individuals, over \$141,250 for unmarried individuals, and over \$212,500 for unmarried heads of households. In addition, both bills would have imposed a 30% surtax on credit card interest income attributable to interest rates in excess of 15%. Both bills would also have raised excise taxes on alcoholic beverages. *Ch. 179* additionally would have made approximately \$1.8 billion in shifts in payments for K-12 education. The Governor decided to veto both revenue-raising bills, but sign the appropriation bills with certain line-item vetoes, and then cover the remainder of the funding gap by unallotting unspecified appropriations. The following is a list of the appropriation bills, which are generally effective July 1, 2009, with line-item vetoes noted:

Transportation Finance. *Ch. 36, H.F. 1309.*

Environment and Energy Finance. *Ch. 37, H.F. 2123.* One line-item veto was made to this bill, an appropriation of \$15,080,000 for surface water assessment and monitoring.

Economic Development. *Ch. 78, H.F. 2088.* Six line-item vetoes were for \$100,000 for the Indigenous Earthkeepers program, \$100,000 for the Southeast Asian Collaborative, \$2,450,000 for the Minnesota Film and TV Board, \$50,000 for a workers memorial, \$280,000 for Minnesota Public Radio, and \$70,000 for the Legislative Coordinating Commission.

Health and Human Services. *Ch. 79, H.F. 1362.* The Governor vetoed \$381,081,000 for fiscal year 2011 for General Assistance Medical Care (GAMC).

Public Safety Finance. *Ch. 83, S.F. 802.*

Agriculture and Veterans. *Ch. 94, H.F. 1122.* Two line-item vetoes were made for \$200,000 for sustainable agriculture grants, and \$30,000 for a star farms program.

Higher Education. *Ch. 95, S.F. 2083.* There were three line-item vetoes, \$500,000 for tuition scholarships for early childhood education, \$2,000,000 for The Power of You Program, and \$80,000 for the Cook County Higher Education Board.

E-12 Education. *Ch. 96, H.F. 2.*

State Government Finance. *Ch. 101, S.F. 2082.*

In addition to these general fund appropriation bills, there are two bills appropriating dedicated funding from special funding sources. The first of these is *Ch. 143, S.F. 1012*, appropriating lottery proceeds for environmental and natural resources purposes, as recommended by the Legislative-Citizen Commission on Minnesota Resources. There were two line-item vetoes, of \$275,000 for endocrine disruptor research and \$143,000 for studying the decarbonization of electrical power. The second bill is *Ch. 172, H.F. 1231*, which appropriates the new 3/8 of 1% sales tax for outdoor and cultural heritage purposes. There was only one line-item veto, of a \$200,000 grant for the Star Lake Board.

Bonding. *Ch. 93, H.F. 855.* The legislature passed a bonding and disaster relief bill which became effective May 17, 2009. The Governor vetoed \$85.155 million of the \$343.5 million dollar bill, which authorizes spending for capital improvements at the University of Minnesota, Minnesota State Colleges and Universities, and a host of other state agencies. Although a large share of the intact appropriations are designated for asset preservation projects, the bill also includes money for other purposes, including \$53.8 million for flood hazard mitigation, \$35 million for the Rural Finance Authority and investments in transportation through appropriations to the Metropolitan Council (\$21 million for the Central Corridor and other transit projects) and the Department of Transportation (\$54 million for improvements to bridges, rail, airports and ports). The bill also provides disaster relief for

flood-damaged areas in the Red River valley, a tornado in the City of Hugo, and a fire in the City of St. Charles. Finally, the bill repealed the closed landfill revenue bonding law enacted in 2008 and revises the statute that provides for capital funding requests from political subdivisions, Minn. Stat. Sec. 16A.86, by adding requirements that specific information be included with the request.

Taxes

“Green Acres” or Minnesota Agricultural Property Tax Law. The 2009 legislature amended the most controversial changes made to this program during the 2008 session, significantly restoring the program to its pre-2008 status, with several variations. These changes include the following: (1) allowing most land enrolled in government sponsored conservation programs to be eligible for the program; (2) eliminating the payback period for land enrolled in the program prior to the 2008 changes that no longer qualifies due to the 2008 changes; and (3) modifying the definition of class 2a agricultural land to include non-productive land that is impractical to value separately from the rest of the property. In addition, the legislature provided that land enrolled in the program prior to the 2009 changes has until the 2013 assessment to be in compliance with the 2009 changes in order to receive the benefits of the program. Furthermore, the legislature established a new Rural Preserve Property Tax Program, which provides tax preferences for rural land meeting specific criteria. *Ch. 12, Art. 2, H.F. 392*, effective April 4, 2009, or various later dates as stated in particular sections.

Institutions of Purely Public Charity. Eligibility for the property tax exemption for institutions of purely public charity was clarified, by providing specific criteria to determine whether a property is exempt. *Ch. 88, Art. 2, Secs. 4 and 53, H.F. 1298*, effective for taxes payable in 2010 and thereafter.

Truth in Taxation. For taxes payable in 2010 and thereafter, the new law repeals requirements for a specific truth in taxation hearing, and replaces it with requirements that the notice of proposed property taxes include notice of the regularly scheduled meetings on the budget and levy, at which the public must be allowed to speak, and which shall not be held before 6:00 p.m. *Ch. 88, Art. 3, H.F. 1298*.

Public Safety. A number of public safety measures passed this session:

Administrative Citations for Certain Traffic Offenses. A new law permits peace officers employed by local governments to issue citations for an enumerated list of offenses, including speeding less than ten miles per hour in excess of the speed limit, failure to obey a stop line, and a large group of vehicle equipment violations. The fine is \$60, two-thirds of which is retained by the local unit of government, and one-third of which goes to the state’s general fund. The local unit of government must provide a civil process to challenge a citation. *Ch. 158, Secs. 6 to 9, S.F. 492*, effective August 1, 2009.

Brandon’s Law or Minnesota Missing Persons Act. The law requires law enforcement agencies to accept reports on all missing persons without delay, and broadens the category of cases to be immediately investigated from those involving children to include those involving adults who are endangered. *Ch. 38, H.F. 1242*, effective July 1, 2009.

Child Passenger Restraint Systems. These are required for children under 8 years old and shorter than four feet nine inches. *Ch. 82, S.F. 99*, effective July 1, 2009.

Crime Alert Format. *Ch. 22, S.F. 265*, requires that a crime alert provided to citizens by a law enforcement agency be provided in a form that a disabled person can access with commercially available text-based screen reader software. Effective August 1, 2009.

DWI Ignition Interlock. *Ch. 29, S.F. 462*, expands the current DWI ignition interlock device pilot program by two years and applies it statewide, effective August 1, 2009.

Event Tickets. An “initial seller” of event tickets must make all tickets available for sale under terms directed by the provider of the event or venue, and may not divert tickets to be sold in another manner. *Ch. 61, H.F. 819*, effective August 1, 2009.

Safe at Home Program. Registered sex offenders are excluded from this program. *Ch. 105*, effective May 20, 2009.

Seat Belts. Failure to use a seat belt is now a primary offense, effective June 9, 2009. *Ch. 165, H.F. 108*.

Transportation Policy

Design Build. A design build contracting pilot program is created, and a design-build selection council is established in *Ch. 36, Art. 3, Secs. 28 and 29*.

Omnibus Bill Vetoed. The omnibus transportation policy bill, *Ch. 151, H.F. 928*, was vetoed by the Governor.

Energy Policy and Federal Stimulus Funding

Energy Policy. The 2009 legislature continued its trend of providing and increasing the scope of incentives for producing energy from renewable energy sources, with particular emphasis on wind, hydroelectric, and solar energy sources. It also provided a process for utilities to relocate and install new utility facilities in the central corridor between St. Paul and Minneapolis. *Ch. 110, S.F. 550*, effective May 20, 2009.

Federal Stimulus Funding. Almost \$200,000,000 in federal funds is provided for weatherization programs, energy efficiency grants to local governments and school districts, energy efficiency in buildings, training and workforce development related to energy-related trades and industries, renewable energy and geothermal energy rebates, emerging renewable energy industries, and energy technologies. *Ch. 138, S.F. 657*, effective May 22, 2009.

Environment Policy

Yard Waste Prohibition. After January 1, 2010, yard waste or source-separated compostable materials must be placed into a compostable plastic bag, with an exception for a first class city that implements a source-separated compostable materials collection program using durable carts by January 1, 2013. *Ch. 37, Art. 1, Sec. 44, H.F. 2123*.

Chemicals of High Concern. By July 1, 2010, the Pollution Control Agency must generate a list of chemicals with a high degree of probability to cause specific biological harm. *Ch. 37, Art. 1, Secs. 47-52, H.F. 2123*.

Greenhouse Gas Emissions Reporting is established by *Ch. 37, Art. 1, Sec. 54, H.F. 2123*.

Standards for Labeling Plastic Bags are established by *Ch. 37, Art. 1, Sec. 57, H.F. 2123*.

Public Health

Quarantine and Vaccinations. Law enforcement may now forcibly isolate a person with a communicable disease even if the person is not fleeing or forcibly resisting the officer. In addition, there are new provisions for the mass dispensing of vaccinations or drugs for public health emergencies *Ch. 41, S.F. 1462*, effective May 8, 2009.

Medical Marijuana Vetoed. Although this bill passed the legislature as *Ch. 166, S.F. 97*, it was vetoed by the Governor.

Education Policy

Charter Schools. The charter school law received its most significant reforms since 1991, when Minnesota became the first state to allow their development. The highlights of the new law include increases to the responsibilities of a charter school authorizer (formerly known as a sponsor) and the fees that the authorizer may charge to administer these responsibilities. The law also establishes a more rigorous application process to open a new charter school. Mandatory board financial training and the ability for the commissioner of education to reduce state aid to a charter school when violations occur are some of the increased financial safeguards implemented in the new law. *Ch. 96, Art. 2, Sec. 41, H.F. 2*, effective May 17, 2009.

Mandates

Local Government Mandates. Unless a specific exception applies, if an administrative rule requires implementation by a local government, it may not be effective until the next July 1 or January 1 after notice of final adoption, or a later date provided by law or rule. *Ch. 152, Sec. 1, H.F. 1849*, effective August 1, 2009. This law also makes minor amendments to mandates including the official newspaper, advertisements for bids, and procedures for reducing county board members' and certain council members' salaries and per diems. *See, Secs. 5-20*.

Health and Human Services Mandates for Counties. *Ch. 174, H.F. 1276*, amends a number of statutes, including provisions regarding county payment for health care for children, *Sec. 2*, and county payments for cremation, burial, and funeral expenses, *Secs. 4 and 10*, generally effective August 1, 2009.

Moratorium on Maintenance of Effort. An 18 month moratorium was placed on new or increased maintenance of effort and matching fund requirements. In addition, the legislature required the Commissioner of Human Services, in consultation with representatives of several county organizations, to propose a transition to a consolidated local county property tax contribution for funding the county portion of health and human services. *Ch. 88, Art. 2, Secs. 21 and 48, H.F. 1298*, effective May 17, 2009.

Department of Human Services Background Studies

by Laura Zrust, Licensing Division, Minnesota Department of Human Services

The Minnesota Department of Human Services (DHS), Licensing Division's Background Study Unit, conducts background studies pursuant to Minnesota Statutes, chapter 245C – the Human Services Background Study Act. Among other provisions, this statute addresses the following areas: 1) who must receive a background study; 2) when a background study must occur; 3) information that must be provided to the commissioner; 4) information DHS reviews when conducting a background study; 5) the background study process; 6) bases for disqualification; 7) subject's right to request reconsideration; 8) standards governing DHS review of and response to requests for reconsideration; and 9) applicable fair hearing and contested case hearing rights.

For which individuals does DHS conduct background studies?

Studies related to programs licensed by DHS:

DHS conducts background studies on individuals specified under Minn. Stat. sec. 245C.03. The following individuals are studied relating to programs licensed by DHS:

- the person or persons applying for a license
- an individual age 13 and over living in the household where the licensed program will be provided
- current or prospective employees or contractors of the applicant who will have direct contact with persons served by the facility, agency or program
- volunteers or student volunteers who will have direct contact with persons served by the program to provide program services if the contact is not under continuous, direct, supervision by an individual listed above
- an individual age ten to 12 living in the household where the licensed services will be provided when the commissioner has reasonable cause
- an individual who, without providing direct contact services at a licensed program may have unsupervised access to children or

vulnerable adults receiving services from a program, when the commissioner has reasonable cause

- all managerial officials as defined under Minn. Stat. sec. 245A.02, subd. 5a.

Studies related to other agencies:

In addition to the above-specified background studies, DHS also conducts background studies on a number of other individuals as specified in Minn. Stat. sec. 245C.03. Other studies completed by DHS, include individuals required to have a background study relating to the following:

- personal care provider organization studies on individuals required under sections 256B.0651 and 256B.0653 to 256B.0656
- supplemental nursing services agencies registered under section 144A.71, subd. 1
- temporary employment agencies
- educational programs that train individuals by arranging for them to provide direct contact services in licensed programs
- professional services agencies that are not licensed and which contract with licensed programs to provide direct contact services or individuals who provide direct contact services in licensed programs
- conservators and guardians ad litem appointed by district courts
- residential programs serving juveniles that are licensed by the Minnesota Department of Corrections
- programs regulated by the Minnesota Department of Health (MDH)

Studies related to programs under the jurisdiction of MDH:

Pursuant to section 245C.03 and contract, DHS conducts background studies on individuals in connection with MDH programs, including:

- hospitals
- nursing homes
- board and lodging with special supervision services

- boarding care
- home care
- out-patient surgery
- supplemental nursing service agencies
- temporary employment agencies
- educational programs that train individuals by arranging for them to provide direct contact services in programs

Background studies conducted by county licensing agencies: County licensing agencies have historically conducted background studies relating to what are referred to as the delegated licensing services areas pursuant to the Human Services Licensing Act, which include family child care, child foster care, adult foster care, and family adult day services. In 2007, the responsibility for completing background studies relating to child foster care licensed programs was transferred to DHS. The 2009 Legislature transferred the responsibility for conducting background studies relating to adult foster care and family adult day services to DHS. Accordingly, pertaining to background studies under Chapter 245C, counties will continue to be responsible for background studies relating to family child care services only.

What information is reviewed?

The information reviewed when conducting a background study is specified under Minn. Stat. sec. 245C.08, and includes the following information:

- Criminal record review: Bureau of Criminal Apprehension (BCA) records and in some cases, district court records, juvenile court records, FBI records, records from other states, and other arrest and investigative records from specified agencies.
- Maltreatment records of substantiated maltreatment determinations by the DHS, MDH (OHFC), and all 87 county adult protection and county child protection agencies.
- For background studies related to a child foster care license application or adoptions, DHS also reviews information from the child

abuse and neglect registry for any state in which the subject has resided for the past five years and information from national crime information data bases when the subject is 18 years of age or older.

How many background studies does DHS complete each year?

In fiscal year 2008, DHS conducted approximately 260,000 background studies.

What is a disqualification?

Pursuant to Minn. Stat. sec. 245C.14, a background study subject will be disqualified from any position allowing direct contact with, or access to, persons receiving services from a license holder or entity identified in section 245C.03, when a completed background study shows any of the following: 1) a conviction of, admission to, or Alford Plea to one or more of the crimes listed in section 245C.15, regardless of whether the conviction or admission is a felony, gross misdemeanor, or misdemeanor level crime; 2) a preponderance of evidence indicates the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, regardless of whether the preponderance of evidence is for a felony, gross misdemeanor, or misdemeanor level crime; or 3) an administrative determination that the individual was responsible for the serious and/or recurring maltreatment of a minor or vulnerable adult.

What appeal rights does a disqualified individual have?

When a background study subject is notified of their disqualification, the individual is also notified of the right to request reconsideration of the disqualification under Minn. Stat. section 245C.21. The disqualification notice encloses a form that instructs the disqualified individual that if they wish to challenge the disqualification, the individual must submit a written request for reconsideration to the DHS, Licensing Division's Legal Unit, including information showing that: 1) the information relied upon to disqualify the

individual is incorrect; 2) for a disqualification based on maltreatment, that the maltreatment was not serious or recurring; or 3) the individual does not pose a risk of harm to any person served by the applicant, license holder, or other entities specified in chapter 245C. DHS may require additional information from the disqualified individual as part of the reconsideration process.

After receiving the request for reconsideration and all relevant information, DHS reviews the request for reconsideration in accordance with the standards specified in section 245C.22. Specifically, the request is reviewed to determine whether the information relied upon to disqualify the individual was correct and if so, whether information submitted by the disqualified individual demonstrated that the individual does not pose a risk of harm to persons receiving services. With regard to risk of harm, section 245.22, specifies nine factors that DHS must consider in making this determination. In addition, this provision requires that in all cases, the commissioner must give preeminent weight to the safety of persons receiving services over the interests of the disqualified individual.

Upon completion of this review, DHS issues a reconsideration decision in accordance with section 245C.23. If it is determined that the information relied upon to disqualify the individual was incorrect, the disqualification is rescinded - if correct, it is affirmed. If DHS determines that the disqualified individual has demonstrated that they do not pose a risk of harm to any person receiving services from the program for which the study was completed, the disqualification is set aside solely for that program. A set aside means that the individual remains disqualified, but may work in a direct contact position or have access to persons receiving services in that program. If it is determined that the individual failed to demonstrate that they do not pose a risk of harm, the disqualification is not set aside and the person is prohibited from having direct contact with, or access to, persons receiving services. In some cases, a variance may be granted under section 245C.30 to allow a disqualified individual whose

disqualification has not been set aside, to continue to work or have access to persons receiving services under specified conditions that DHS determines minimize the risk of harm. The Minnesota Department of Health reviews requests for reconsideration and issues reconsideration decision for disqualifications relating to MDH programs. In fiscal year 2008, approximately 3,200 reviews of requests for reconsideration were conducted by DHS and MDH.

When a disqualification is not set aside following reconsideration and the disqualification is not conclusive or is not otherwise a final agency decision, a disqualified individual may have a right to a fair hearing under Minn. Stat. sec. 256.045 or a contested case hearing under Chapter 14. Individuals who have a fair hearing right for a disqualification that was not set aside are specified in Minn. Stat. sec. 245C.27. In some cases as specified under section 245C.28, an individual whose disqualification was not set aside may have a right to a contested case hearing. Typically contested case hearings are held when a licensing sanction is based on a disqualification or when the disqualified individual is a public employee.

Were there amendments passed during the 2009 legislative session that impact DHS background studies?

There were a number of amendments to the Human Services Background Study Act passed during the 2009 legislative session. Many of these amendments were technical and provide clarification, while others result in more substantive changes to the background study standards. Amendments impacting DHS background studies are contained in the following Chapters of 2009 Laws of Minnesota:

- Chapter 79, Articles 1 and 6
- Chapter 142, Articles 2 and 3
- Chapter 173, Article 1

The Public Law Section Truly a “Full Service” Section

In addition to its bimonthly cooking service at the Loaves and Fishes program in the basement of Holy Rosary Church in south Minneapolis, Public Law Section volunteers have added two new services to their repertoire of public service projects; a legal advice clinic at the Loaves and Fishes site and a *wedding*.

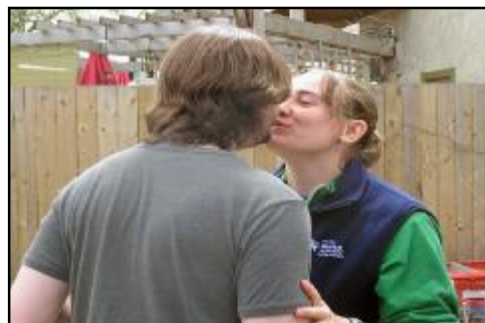
Starting at the February Loaves and Fishes night and continuing in April and June, the PLS has staffed a legal advice clinic comprised of criminal and civil public attorneys. These attorneys are available for consultation by Loaves and Fishes attendees during the meal to discuss their legal issues. Volunteer attorneys have included: Nancy McLean, Mary Miller, Dana Banwer, Pete Connors, Elizabeth Johnston, Mark Kerr and Barb Lindberg.

An historic first for PLS occurred at the May 1, 2009 Habitat for Humanity project – a wedding! When on-site Habitat for Humanity Coordinator Ayla Renay Grey discovered the make up of her unique

PLS crew at the work site on May 1st she asked if one of the volunteer judges would be willing to perform a marriage ceremony for her and her fiancée Roy Salter. They had the license and were planning to be wed in a few weeks but the idea of getting married at an actual Habitat site appealed to Ayla. Hennepin County District Court Judge Dan Mabley was happy to oblige. So with Assistant County Attorneys Nancy McLean and Al Harris serving as Maid of Honor and Best Man, the wedding took place. Other PLS witnesses to the happy event included Dana Banwer, Pat Diamond, Margaret Olson, John Kirwin (very happy to share his birthday with the wedding party), Molly Watters, and Tom Kalitowski. Of course PLS Newsletter Editor Kim Buechel Mesun was there to catch it all on film. The bride was radiant with her bouquet of newly cleaned paintbrushes. The groom was a little dazed from being called from his job for this spur-of-the-moment event, but beaming nonetheless.



Bridegroom Roy Salter & Bride Ayla Renay Grey (note the fancy paint brush bouquet)





Ayla, Roy, Best Man Al Harris, Maid of Honor Nancy McLean, and Presider Judge Dan Mabley



The Public Law Section Witnesses



The Bride and her Maid of Honor



Judge Dan Mabley making it legal (note the unique plastic tub cover writing surface)



The signing of the license by Ayla



The signing of license by Roy



The signing of license by witness Nancy McLean



The newly married couple



The signing of license by witness Al Harris

**Habitat for Humanity
Brush with Kindness
May 1, 2009**



Scraping paint



Replacing rotted siding



Brush with Kindness Volunteers: (left to right): Tom Kalitowski, Mark Chapin, John Kirwin, Pat Diamond, Molly Watters, Al Harris, Nancy McLean, Dan Mabley, Dana Banwer, Margaret Olson, Kim Mesun

This Section of the PLS News is added through an agreement between the Public Law Section and the Administrative Law Section.

Law and Languages in Minnesota

By Thomas F. Pursell¹

Ernestina had a problem. She received a summons and complaint from an insurance organization she had never heard of (the Minnesota Automobile Assigned Claims Bureau), for a reason that made no sense to her (her mechanic got into an accident with her car). The amount of the claim far exceeded what she made in a year. And she couldn't speak a word of English.

Thousands of people in Minnesota share Ernestina's predicament of being caught up in a legal system they literally cannot understand. Ernestina came from a long-established, Spanish speaking community; but the number of languages spoken by Minnesota's fast growing immigrant community is amazing. According to the State Demographer, more immigrants settled in Minnesota in 2005 than in any other year, and our state ranked 17th in the nation in the number of new arrivals (15,456), and second behind California in the total number of immigrants claiming refugee status. Last year, the Demographer reported, Minnesota drew immigrants from over 130 foreign countries.

This growing diversity poses an almost staggering challenge to the courts and to the public lawyers who will come into contact with the new arrivals. Federal law requires courts to adopt Limited English Proficiency (LEP) Plans, and Minnesota law establishes as state policy that qualified interpreters be available to assist people who are unable to fully understand proceedings in English. But to give an idea of the difficulty, while Hennepin County Court Administration reports that approximately two-thirds of its foreign language interpretation and translation requests are for Spanish, followed by Somali and Hmong staff use a language identification flash card with 38 different languages, and "I need an interpreter" cards in 10 foreign languages commonly spoken in Minnesota. At the same time, the Bilingual Staff Roster includes people who provide non-courtroom communication in only six

languages (Spanish, Somali, Hmong, Italian, French and Hebrew).

Court budgets, not surprisingly, show continued growth in requests for funding for interpreter services. The average annual increase since 2003 has been 6%, with requested funding for 5% yearly during the upcoming biennium. The total recommendation for the biennium was \$653,000. While funding in the current environment is almost surely inadequate, there is evidence that interpreters, when available, make a real difference to people caught up in a (to them) foreign legal system. A 2006 survey of Spanish-speaking litigants in Hennepin County (only 1.8% of whom described themselves as understanding English very well) showed high levels of satisfaction with interpreter services, and a solid understanding of the role of interpreters.

In my view, it is critical to the future of our evolving Minnesota community to foster the perception that the legal system treats everyone fairly, no matter what language they speak. It is hard to imagine how we can do that without continuing a high level commitment to providing interpreters. That commitment must include recruiting immigrants, and their children and grandchildren into all corners of the profession.

The private bar, too, will continue to play an important part in helping bridge the language gap. For example, the Volunteer Lawyer Network's *Linea Latina Legal* enlists Spanish-speaking lawyers to provide advice and referral services to non-English speaking clients, and sometimes *Linea Latina* attorneys take on *pro bono* litigation. I was able to help Ernestina understand and settle her automobile case. She got a fair result. I learned something about the pitfalls of letting someone else drive your car—and got a glimpse of what it must feel like to be drawn into a system where you don't even understand the language.

¹ Tom Pursell is a partner at Lindquist & Vennum. He serves on the Governing Councils of the MSBA Administrative Law and Health Law Sections, helped organize the *Linea Latina Legal*, and serves as President of the Immigration Law Center of Minnesota.

Eyes on the Court

This summary was submitted by Assistant Sherburne County Attorney Todd Schoffelman.

On May 7, 2009 the Minnesota Supreme Court issued an opinion dealing with personnel data and independent contractors of governmental entities, *IBEW, Local No. 292 v. City of St. Cloud*, 765 N.W.2d 64 (Minn. 2009). The International Brotherhood of Electrical Workers (IBEW) had sought release of wage and employee data of the employees of a contractor of the City of St. Cloud. The contractor objected. Minn. Stat. § 13.43 (personnel data) classifies data of public employees as either public or private. It also applies to individuals who act as an independent contractor of a government entity. The Court held that Minn. Stat. § 13.43 does not apply to the contractor's employees because these employees were not independent contractors of St. Cloud, but rather employees of an independent contractor and not covered by the express language in Minn. Stat. § 13.43, subd. 1. The Court recognized that the result of the case seemed anomalous, since individual employees of a government entity contractor have less privacy protection than an employee of the government entity. The addresses and wage data of the contractor's employees was public and must be released, unless protected by a different statute, See, e.g., Minn. Stat. § 13.355 (providing that Social Security numbers are private data).

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This summary was submitted by Kim Buechel Mesun

Forest Grove School District v. T.A., No. 08-305, slip op. (U. S. S. Ct. June 22, 2009).

This case involves a parent's request that a public school district (Forest Grove, Ore.) reimburse the parent for the cost of private school tuition. In this case it was a private residential school. The issue before the Supreme Court was whether changes to the Individuals with Disabilities Education Act (IDEA) in 1997 limited when a public school district could be required to reimburse a parent for private school tuition. In particular, did the fact that the student had never received special education services by a public school mean that the school district could not be required to pay for the student's private school tuition? The U.S. Supreme Court

in a 6-3 decision said that it did not matter whether a student had previously received special education services from a public school. If the parents could show that (1) the district denied their child a free appropriate public education (FAPE); and (2) the private school selected is an appropriate educational setting for the child, the district could be required by the hearing officer and/or court to reimburse the parent for the tuition to attend that private school.

The facts in the *Forest Grove* case involved a student who struggled in school and started doing poorly in middle school. In middle school the parents had sought an initial special education evaluation for the child and the district had determined the child was not eligible for special education services. The parents did not challenge this determination. In high school, the student continued to struggle and in the student's 10th grade year the parents had the student evaluated by a private therapist who diagnosed the student with ADHD and recommended that the student attend a certain private residential school. The parents pulled their child out of the public high school, enrolled him in the private residential school and then requested a due process hearing from the public school seeking reimbursement for the private school tuition. The public school, with the parents' cooperation, once again evaluated the student for special education services and again determined that the student was not eligible for special education services because his ADHD did not significantly interfere with his ability to benefit from his educational services. Because it had determined the student was not eligible, the district refused to propose an Individual Education Program (IEP) for the student. The hearing officer at the due process hearing determined that the student was in fact eligible for special education services and consequently, the district had denied the child a FAPE for not meeting its IDEA child find obligation. He ordered the district to reimburse the parent the private school tuition. On appeal, the federal district court did not reach the FAPE determination because it found that since the child had never received special education services previously by a public school, the 1997 amendment to IDEA precluded the parent from seeking private school reimbursement. On further appeal, the 9th

Circuit Court of Appeals reversed the federal district court saying that it was irrelevant whether the student had previously received special education services by a public school. The 9th Circuit then remanded the case back to the federal district court to determine if the facts warranted reimbursement (denial of FAPE and private school an appropriate placement) and if so, how much. The U.S. Supreme Court affirmed the 9th Circuit's decision.

In October, 2007 the U.S. Supreme Court had looked at a similar case from New York (*Board of Ed. of City School Dist. of New York v. Tom F.*, 552 U.S. ___ (2007)) involving a Kindergarten student who had never attended public school. In that case the Court had split 4-4 (Justice Kennedy did not participate), which meant the 2nd Circuit's decision ordering the school district to reimburse the parent the private school tuition remained in effect. In the *Forest Grove* case, Justice Kennedy did participate and was part of the majority siding with the parent's position. Additionally, one other Justice switched sides to vote with the 6-3 majority.

Independent School District No. 12, Centennial v. Minnesota Dept. of Education, No. A08-1600 (Minn. Ct. App. June 23, 2009).

This case addresses the issue of special education IEP (Individual Education Program) accommodations for extracurricular activities. The decision involves the appeal of ISD 12 (Centennial) from a Minnesota Department of Education (MDE) special education complaint decision. The complaint involved the parents' request that accommodations be added to their daughter's IEP so that she could participate in extracurricular activities. There were three issues in the appeal:

1. Did MDE err by requiring the district to include in the child's IEP accommodations necessary for the child to participate in selected extracurricular and nonacademic activities? Court decision – **Affirmed** MDE's determination that the parents identified an extracurricular activity sufficiently to require the child's IEP team to *consider* whether the activity should be in the child's IEP and, if so, what accommodations are appropriate. **Reversed** MDE's determination that *the parent's request alone* necessitates inclusion of accommodations for the activity in the child's IEP and MDE's further determination that such accommodations are required regardless of a nexus

between the activity and an appropriate education for the child. The court stated that in looking at extracurricular activities the IEP team need only include in the IEP "such activities as are *required for the education of the child.*"

2. Did MDE err by concluding that the procedural requirements of IDEA were applicable to a complaint alleging the failure to include in an IEP accommodations for extracurricular and nonacademic activities required by IDEA? Court decision – **Affirmed** MDE's determination that IDEA procedures apply to a complaint alleging a failure to include required accommodations in an IEP and that such process is not precluded by Section 504 of the Rehabilitation Act of 1973.

3. Did MDE err by concluding that the Parent Teacher Organization (PTO)-sponsored graduation party was an activity subject to the accommodation requirements of IDEA? Court decision – **Reversed** MDE's determination that the district must provide special education support for a PTO-sponsored event held off school grounds, outside the school day, not financed by the school district, and not supervised by school staff. Court determined IDEA does not apply to such activities.

The bottom line in this case is that if school staff and/or the parent identify specific extracurricular activities in which they want a special education student to participate and request that the IEP team include accommodations in the IEP needed to allow the student to participate in that activity, the IEP team needs to consider that request and decide whether participation in that activity is required for the education of the child. If yes, those accommodations should be included in the IEP. If no, those accommodations should not be included in the IEP and the school (separate from the IEP process) can then look at whether "reasonable accommodations" under Section 504 are needed for the child to participate so as not to discriminate against the child because of his/her disability.

Licensing Background Studies:

Dobie v. Ludeman, No. A08-1546 (Minn. Ct. Appeals June 16, 2009) (unpub. dec.).

In this case Ms. Dobie challenged her permanent disqualification from providing direct-contact services to persons served by state-licensed facilities

based on a determination that in 1991 she had committed second-degree assault. The facts were summarized by the court as follows.

In 1991, appellant Vikki Dobie was ending an abusive two-year relationship. Just before the abuser moved out of Dobie's residence, he violently attacked her. Soon thereafter Dobie encountered her abuser and, in attempting to retrieve her electronic-benefits-transfer (EBT) card from him ultimately chased him with a knife. Dobie was arrested for suspected second-degree assault. But Dobie was not charged with any crime as a result of this incident, and the police advised her to obtain an order for protection against her abuser.

Though this conduct had resulted in Ms. Dobie being disqualified from providing direct-contact care in licensed facilities since 1996 under the Background Studies Act, up until 2006 she was granted variances from the Minnesota Department of Human Services (DHS) allowing her to continue to work as a direct care provider in DHS and Minnesota Department of Health licensed programs. The variances were granted because of the determination by DHS that Ms. Dobie presented a low risk to the clients that she served. In 2006 Ms. Dobie was notified by DHS that due to 2005 amendments to the Background Studies Act, DHS no longer had authority to set aside her disqualification.

Ms. Dobie requested a hearing to dispute the determination that she committed a permanently disqualifying second-degree assault offense. The Human Services Judge found that facts drawn from the police report and Dobie's testimony "contain the elements of second-degree assault." Ms. Dobie appealed to the district court. The district court denied her request for reversal of the disqualification finding that Ms. Dobie had "failed to show that the commissioner's decision was arbitrary, capricious, or unreasonable." Ms. Dobie then appealed to the Minnesota Court of Appeals.

While the hearing before the Human Services Judge was taking place in 2007 the Background Studies Act was once again amended by the Legislature. This time the Act was changed to state that only a felony-level violation of the assault statute results in permanent disqualification and that gross

misdemeanor and misdemeanor levels result in ten- and seven-year disqualifications. The court determined that it was this 2007 version of the law that applied to Ms. Dobie's case. The court went on to find that since DHS had applied the wrong version of the law (the 2006 version) it had arbitrarily determined that Ms. Dobie was permanently disqualified. The court remanded the case to the commissioner of DHS to determine the "appropriate level of offense that a preponderance of the evidence indicates Dobie presumably committed under the totality of the circumstances of her 1991 conduct." The court further stated that

based on the record as a whole, including the findings of mitigating factors and the lack of prosecution in 1991, we conclude that there is not sufficient evidence in the record to support a determination that Dobie committed a felony-level second-degree assault, therefore, on remand, the commissioner may only consider whether her offense level was gross misdemeanor or misdemeanor.

If you have a case summary that you believe would be of interest to other public attorneys, please send it to kim.mesun@mpls.k12.mn.us.

Public Attorneys on the Move

Allen Giles has been chosen to receive the 2009 Nelson Award recognizing exceptional service to the American Bar Association and in particular the Government and Public Sector Lawyers Division of the ABA. He will be presented with the award on July 31 at the ABA's Annual Meeting in Chicago. Allen was a past member of the PLS Executive Council and served as section co-chair for two years. He previously worked as an Assistant Minnesota Attorney General, Administrative Law Judge, and General Counsel for the Minneapolis School District. He currently serves as General Counsel for Twin Cities Public Television.

Congratulations Allen!

Announcements

The 74th Annual Conference of IMLA (International Municipal Lawyers Association) is being held in Miami, Florida October 18 – 21, 2009. For those lucky enough to have money to spend on training and no bans on travel, registrations are still available from the IMLA website www.IMLA.org.

Effective Friday, May 1, 2009, the U.S. District Court, District of Minnesota, will increase the individual file size limit for PDF documents filed on the court's CM/ECF system. The current file size limit of 2.5 MB per document will increase to 5 MB per document. For attorney e-filers, this change will reduce the need to split large documents filed electronically in CM/ECF, such as exhibits, into two or more smaller PDF documents. It also means that some e-filed documents could take longer to view/download when accessing them from e-mail Notices of Electronic Filing (NEFs), or when using PACER. The complete announcement regarding this change is available on the court's public website at: http://www.mnd.uscourts.gov/Press_Releases/2009-01Notice-Of-Filesize-Increase.pdf

News from the Bench

On June 22, 2009, an overflow crowd of family and friends gathered to salute Administrative Law Judge **Steve M. Mihalchick** for his nearly 20 years of dedicated service with the Office of Administrative Hearings. The well-wishers gathered at the Mai Village restaurant in Saint Paul to toast (and in some cases, roast) Judge Mihalchick; recalling some of the light-hearted moments and key decisions that mark the Judge's two decades of service. Judge Mihalchick, who officially retires from state service in early July, will return to OAH to preside in contested cases on a part-time basis under the state's post-retirement option program. Chief Administrative Law Judge Raymond R. Krause remarked: "Not only is Steve Mihalchick a very fine judge, we all have appreciated his willingness to pitch in and help the agency in whatever ways he could. I am grateful for his assistance in tackling our agency's complex IT issues and the real contributions he has made to the reform and improvement of our processes."

Sixth District - Governor Pawlenty recently appointed **John E. DeSanto** to a Sixth Judicial District trial court bench vacancy in the City of Duluth in St. Louis County. The vacancy is as a result of the Minnesota Supreme Court's conversion of a vacant court referee position into a district court judgeship.

DeSanto was an attorney in private practice in Duluth. He was an Assistant St. Louis County Attorney in Duluth from 1973 to March 2008 and served as chief prosecutor in charge of the criminal division from 1976 to 2007. He was also a faculty member at the Bemidji State University Honorable James E. Preece Trial Advocacy School from 1982 to 2001, and has taught law enforcement classes to students at Fond du Lac Tribal and Community College in Cloquet. DeSanto earned his juris doctorate degree from the University of Minnesota Law School in 1973, and his bachelor of arts degree *cum laude* from the University of Minnesota – Duluth in 1968.

DeSanto is a member of the Minnesota State Bar Association; Duluth YMCA Community Services Committee; Christians in Commerce International, of which he is a past president of the Duluth Chapter; an attorney volunteer with the Volunteer Attorney Program in Duluth; and is a prison fellowship volunteer at Federal Prison Camp in Hermantown. He has been a speaker at numerous continuing legal education, Minnesota County Attorneys Association, and law enforcement training seminars, and addressed Duluth school students about criminal prosecution annually for 30 years. He is also a past board president of the Union Gospel Mission of Duluth, former member of the Kiwanis Club of Duluth, former board member of the Duluth YMCA Friendship and Brotherhood Association (now Mentor Duluth), and is active in his church.

DeSanto, 62, lives in Duluth with his wife. They have three adult children.

Daniel K. Lew was recently appointed by the Governor to the Commission on Judicial Selection. Lew, of Duluth, is the managing attorney of the Sixth Judicial District Public Defender's office in Duluth, a position he has held since 2006. He began his career as an Assistant Sixth Judicial District Public Defender in Duluth in 1996, and also was an

Assistant Ramsey County Public Defender before returning to Duluth in 2006. Lew earned his juris doctorate degree from Hamline University School of Law in St. Paul in 1995. He clerked for Hennepin County District Court Judge Tony Leung, as well as in the criminal division of the Minneapolis City Attorney's office while in law school. Lew earned his bachelor's degree from Queens College, City University of New York. He is a member and past president of the Minnesota Chapter of the National Asian Pacific Bar Association, and has served as a board member of the Minnesota Ombudsperson for Asian Pacific American Families and the Minneapolis Civil Rights Commission. Lew replaces Leonardo Castro, who resigned earlier this year, as an at-large attorney member on the Commission on Judicial Selection to complete a four-year term that expires on January 3, 2011.

Race for Justice 2009

by *Mary Miller*

At least five members and friends of the Public Law Section again participated in the 7th annual Race for

Justice this year. It was held April 19, 2009 at Nicollet Island. Storm clouds and occasional rain did not dampen the spirit of the run.

Proceeds from the Race for Justice assist law graduates through the Loan Repayment Assistance Program (LRAP) of Minnesota. By subsidizing education debts for dedicated low-paid public interest attorneys, LRAP helps meet the legal needs of low-income Minnesotans across the state. LRAP encourages new attorneys to enter into and retain positions servicing the legal needs of low-income and other disadvantaged individuals by providing them with student loan repayment assistance. The grants are essential to the attorneys receiving them.

The run begins around Nicollet Island and then takes the runner across the river through the edge of downtown Minneapolis, across the stone arch bridge and back to the Nicollet Island start. The Public Law Section pledged \$500 and encouraged Section members to join in the fun. Impressively, one of the Public Law Section Council's student liaisons, Michael Goodwin, 3L at Hamline University Law School, came in 3rd place in the race this year.

Take some time to relax and enjoy -

Rhubarb Slush

Submitted by *Eileen Wells*

8 cups rhubarb, cut in pieces
2 quarts water
3 cups sugar
½ cup lemon juice
1 small pkg strawberry Jell-O
2 cups vodka (optional)



Cook the rhubarb in water until tender; strain and discard pulp. Stir into the juice the sugar, Jell-O and vodka. Freeze in an ice cream pail or other suitable container. When ready to serve, scoop into glasses and add 7-Up or strawberry pop.

Rhubarb is plentiful right now and I am always looking for ways to save it for use in the "off season". This is a delightfully refreshing drink that can be enjoyed all summer long. It works just as well if you use fresh or frozen rhubarb. I have red rhubarb in my garden so I omit the strawberry Jell-O because it already has a nice red color.

Minnesota Department of Administration Data Practices Opinions Index

By: Mary Miller, Compensation Attorney Principal, Minnesota Department of Labor and Industry

Copies of these opinions can be requested by calling the Department of Administration at 651/296-6733 or 800/657-3721. The full text of the Data Practices Opinions are now available online at www.ipad.state.mn.us.

o. of Opinion	Date of Opinion	Gov't Entity Involved	Topic	Opinion Register
09-001	01/21/09	School District 535	Lack of data for termination of employee.	Rochester Post — Bulletin/Anfinson
09-002	01/21/09	Saint Paul	Address and reason for utility disconnection at a property (overturns Opinion #08-022).	Saint Paul/Staul
09-003	01/27/09	Knutson, Flynn & Deans law firm, for school districts	Whether M.S. § 13.05, subd. 11(a) requires Knutson, Flynn & Deans to provide a list of schools it has represented, contracts with or bills.	Knutson, Flynn & Deans (data requester was KSTP-TV)
09-004	01/28/09	Minnesota Management and Budget	State employees' race, gender and disability status by agency & state; setting an arbitrary number for employee groupings.	Gilbertson
09-005	02/26/09	Duluth	Dog license registrations; ¹ charge for copies; mainframe systems that pre-date M.S. Chapter 13.	Duluth News Tribune, Stahl
09-006	03/19/09	City of Montrose	City "Council agenda digital Word Document."	Siljander
09-007	03/24/09	Metro Gang Strike Force (joint powers)	Date About "X"; who the responsible authority was.	"X"
09-008	04/02/09	School District 47	Copy of parent complaints that were filed with the Office of Civil Rights; availability under Federal Freedom of Information Act.	School District 47/ Waldspurger and Sobieck
09-009	04/17/09	City of Preston	Documents listing the names, addresses, and/or partners of an entity; government benefit under M.S. § 13.591, subd. 1.	Preston/Luhmann
09-010	05/06/09	Cook County	Financial information submitted by responders to a Request for Qualifications.	Cook County, Scannell
09-011	05/06/09	Dakota County	Certified payroll information.	Dakota County Community Development Agency, Shefchik
09-012	05/08/09	Department of Human Services (MDHS)	Grant response data; grant evaluation data; sharing with Hennepin County Board; Open meeting law.	MDHS, West

¹ The City of Duluth submitted a temporary private classification request for the names, addresses and phone numbers of dog license holders.

Upcoming CLE Seminars

<i>DATE</i>	<i>SEMINAR</i>	<i>TIME</i>	<i>PLACE</i>	<i>SPONSOR AND CONTACT</i>
8/18/09	Legislative Website Insights	11:00 a.m. - noon	Room 10, State Office Bldg., St. Paul	Revisor's Office ShereeSpeer@revisor.leg.state.mn.us
9/9/09	U. S. Supreme Court Update	12:00 – 1:30 p.m.	E. L. Anderson Building St. Paul	AG Office Donna Ackerman (651) 296-1799
9/16/09	Legislative Update	3:00 p.m. to 5:00 p.m.	First National Bank Conference Center St. Paul	Ramsey County Bar Association Sharon Elmore (651) 222-0846
9/30/09	Tips for Your Practice and Court System Budget Cuts	3:00 p.m. to 5:00 p.m.	First National Bank Conference Center St. Paul	Ramsey County Bar Association Sharon Elmore (651) 222-0846
<i>To include a notice of an upcoming CLE in the next issue, contact Mary Miller (651) 284-5306.</i>				

The Revisor's Office is pleased to announce its 10th series of free Continuing Legal Education seminars. Seminars will run from August, 2009 through January, 2010. Tentative topics include: Legislative Research on the Internet, Elimination of Bias, Ethics, Supreme Court Update, Employment Law, and Implied Consent Law. Seminars are free and open to the public. For more information and to add yourself to the Revisor's email listserv please email sheree.speer@revisor.leg.state.mn.us.

Public Law Section sponsored CLE
MSBA Convention in Duluth on June 25, 2009.
“Update on Minnesota Open Meeting Law”



Todd Schoffelman, Asst. Sherburne County Attorney and Dale Harris, Asst. St. Louis County Attorney tag-teaming the discussion



Dale Harris discusses updates on open meeting law to 30 MSBA members present.