

Volume 14
Issue 3
March 10, 2021

[www.fedbar.org/
Minnesota.html](http://www.fedbar.org/Minnesota.html)

Inside This Issue:

New E-Discovery Guide	1
NLC Luncheon – Magistrate Judge Wright	1
NLC Luncheon – Judge Tostrud	3
Minnesota Chapter Hosts February Monthly Luncheon	3
Clerk's Corner	4
January Monthly Luncheon - State of the District	5
Discussion on Judicial Sealing	5
Practice Pointers for Virtual Depositions	6
Seventh Annual Affinity Bar Meet + Greet	6
New Members	6
Civil Rights Etouffee	7
District of Minnesota IP Update	7



**Federal Bar
Association**
Minnesota Chapter

Bar Talk

District of Minnesota Publishes New E-Discovery Guide for Practitioners

By Kelly Fermoye

The Federal Practice Committee of the U.S. District Court, District of Minnesota released a new guide for electronic discovery at Federal Rule 26(f) conferences for federal practitioners. The guide is intended to assist counsel with discussions with their client in preparation for the Rule 26(f) conference and in conducting the Rule 26(f) conference with opposing counsel. The guide is available on the District of Minnesota's website [here](#).

To support counsel in preparation for the Rule 26(f) conference, the guide provides helpful information for the preservation and collection of their client's ESI, as well as the search and

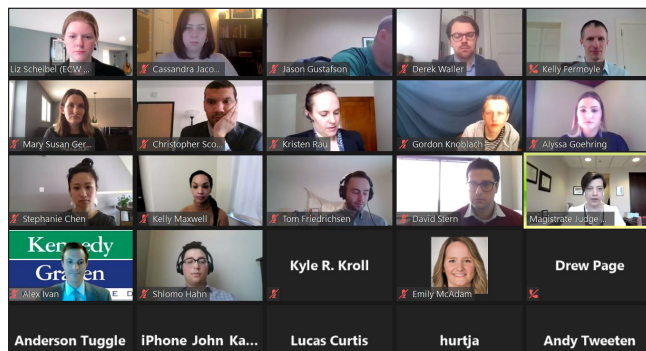
review of the ESI. Rebekah Bailey of the Federal Practice committee describes the guide as "user friendly. It identifies and describes for litigators the kinds of conversations they should have with their clients in preparation for the initial discovery conference, as well as the topics the parties may want to discuss at the Rule 26(f) meeting."

When it's time for the Rule 26(f) conference, the guide encourages parties to "engage in a transparent and cooperative dialogue in hopes of reducing later discovery disputes." The parties should identify their sources of potentially relevant ESI, discuss parameters around their

District of Minnesota Publishes New E-Discovery Guide for Practitioners, continued on page 2.

Magistrate Judge Wright Shares Her "Random" Path to the Law and Insights from Her First Couple Years of Judging

By Kyle R. Kroll



On February 11, 2021, and as part of this year's Newer Lawyers Committee's series of virtual monthly luncheons, Magistrate Judge Wright shared stories about her path from private practice to the bench and experiences since. In addition to sharing her journey, Judge Wright shared useful tips for practitioners of all ages.

From her perspective, Judge Wright's path to the law was "random." In school, Judge Wright was always interested in law and political science, but she didn't have any lawyers in her family, and she thought it was important to choose a field with strong job prospects. She loved math and science, so she pursued those interests instead. After obtaining a master's degree in engineering, she went to work at 3M. Ironically (and fortunately), though, it was math and science that brought her to the law: at 3M, she became acquainted with intellectual property—patents, in

Magistrate Judge Wright Shares Her Path, continued on page 2.

Magistrate Judge Wright Shares Her Path, continued from page 2.

particular. She then decided to enroll at William Mitchell part-time, and she “loved it from day one.”

Law school nurtured Judge Wright’s love for the law, but she developed a love for justice while clerking for Judge Ericksen. She witnessed how much thought and care goes into decisionmaking and how courts come to the right decisions. And through her work for the Court, she developed a deep amount of respect for the judiciary. After this experience, Judge Wright knew she wanted to be at the Court in the future. And just a couple years ago, she received the call in which she learned she’d been selected for the vacant magistrate judge position. She vividly remembers this moment. She was in her law firm office and immediately felt the tremendous responsibility of her new role.

Since joining the bench, the sense of responsibility hasn’t dwindled, and Judge Wright has greatly enjoyed the diversity of her work. Magistrate judges work on both criminal and civil matters, and a large part of the time is spent in settlement conferences. She says effective advocacy in settlement conferences means being “in the weeds” and conversant with the details. Lawyers who have impressed

her the most are those who have been frank with clients about the weaknesses of their cases, truly earning the title “counselor,” rather than those who treat settlement conferences like oral argument.

That said, Judge Wright also enjoys oral argument. Although she is supportive of newer lawyers presenting oral argument, she removed provisions in her practice pointers specifically encouraging this because she believes the decision of who argues at a hearing should be made by the client and counsel. Still, she permits lawyers to divide oral argument to allow more than one lawyer to argue. Judge Wright encourages lawyers to always be prepared for oral argument, both in their knowledge of the facts and the law, but also in their own professional development. She enjoys hearing from lawyers of all experience levels who have the requisite knowledge and are ready to argue a motion.

The Newer Lawyers Committee thanks Judge Wright for taking the time to share her path to the bench and insights. The next luncheon will be with Judge Loken on March 23. ■

Kyle R. Kroll is an attorney at Winthrop & Weinstine, P.A. His practice includes business and intellectual property litigation in federal court at both the trial and appellate levels. Kyle can be reached at kkroll@winthrop.com.

District of Minnesota Publishes New E-Discovery Guide for Practitioners, continued from page 1.

collection of such ESI, consider possible search and review protocols, among other important topics addressed in the guide. A member of the judiciary and a committee member, Magistrate Judge Hildy Bowbeer, stated:

From the court’s perspective, we often find in the initial scheduling conference that counsel have only barely touched on the issue of electronic discovery in their Rule 26(f) conference, even though Rule 26(f)(3) specifically requires it. Sometimes there really isn’t much ESI to think about, and we certainly don’t want them to negotiate over some complicated protocol when it would serve no real purpose. But often, counsel aren’t discussing e-discovery at the 26(f) conference because they simply haven’t thought about it ahead of time. Even more problematic, they may not have talked with their clients in any detail about what relevant ESI their clients might have and how counsel and client are going to work together to preserve it, collect it, review it, and produce it. Similarly, counsel may not have started thinking yet about what relevant ESI the other side may have and the form in which they would like to receive it. If the lawyers haven’t thought or talked about these issues with their clients, they won’t be ready to talk in detail about them with opposing counsel at the 26(f). And if they aren’t ready for that discussion at the 26(f), then it’s going to be virtually impossible for the parties to propose a meaningful discovery plan to the court at the Rule 16 conference. Our hope for this Guide is that it will help to prompt and frame those conversations, with clients and with opposing counsel, so that a practical discovery plan that fits the needs of their specific case can be crafted. ■

Kelly Fermoye is an associate at Faegre Drinker Biddle and Reath, specializing in business and intellectual property litigation, and Co-Editor of Bar Talk.
