

# HENNEPIN LAWYER

## Pandemic Perspectives

How We Work Today





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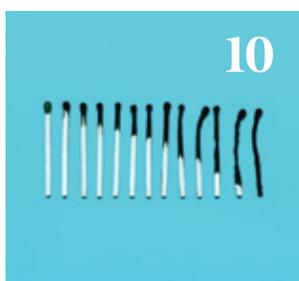
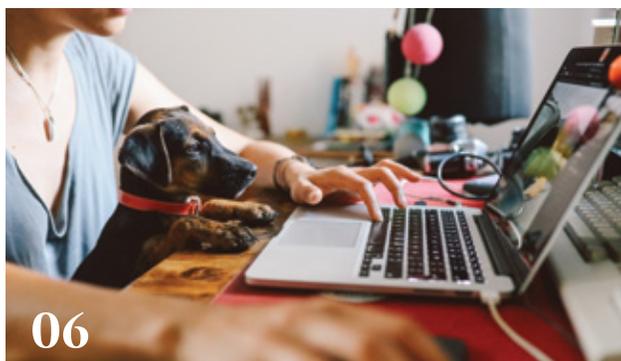
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# HENNEPIN LAWYER

Official Publication of the Hennepin County Bar Association



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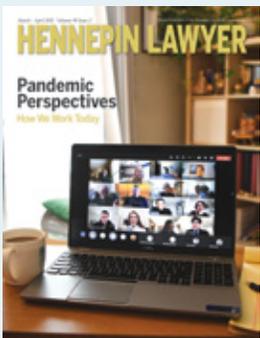
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# The Pandemic as Accelerant



## ON THE COVER:

The way we work, meet, and gather changed last year and we're still in the midst of this evolution.

As our

cover depicts, HCBA meetings, like its Publication Committee who oversee the *Hennepin Lawyer*, continue to meet via remote participation platforms.

2020 was a year of disruption and change. For many in the legal profession, it was a year of working from home, with even the most fervently old-school quarters forced to adapt to the technology of “Zooming,” ensuring you weren’t muted or unmuted at the wrong time, that your internet connection was “stable,” and that your client wasn’t casually snacking during a hearing.

The pandemic has sped up the evolution of our courts and how we do our work. In a little less than a year, Zoom hearings and even trials are routine and this has saved many clients considerable time and money, as two writers in this issue note. Some of these processes may outlast the pandemic and help ensure courts, interpreters, and legal assistance are accessible far more often and broadly than before. Our profession and our court systems have rapidly adapted to the virtual world and that’s a testament to both; given the right pressures, we can find ways to deliver services and justice more conveniently and efficiently.

Unfortunately, the pandemic didn’t halt or suspend legal problems. Some of the most vulnerable in our society have seen debt and stress skyrocket. While we as lawyers and legal professionals may have found our lives adaptable to the world of remote business, for some of our clients, the pandemic has not postponed anything except a key hearing or the end of their cases. While court hearings were continued and backlogs of motion hearings, default hearings, and trials built up, justice was delayed as the courts were adjusting to business in light of public health protections. As two writers in this issue describe, these delays coupled with the harsh realities of the pandemic have highlighted some of the fractures in our system, with problems worsening for those on the brink of losing their home or their immigration status. Stopgaps and automatic continuances have maintained an already tenuous status quo while disparities based on wealth, race, and status appear to have worsened.

And our own stress hasn’t subsided either. As two other writers in this issue observe, working from home is not itself a solution for achieving work-life balance. In a pandemic, we’ve found ourselves shut off from the socializing of our off-time with co-workers and friends and the invasion of work into our private spaces. It’s easy to guilt ourselves into doing more work when what we need, for both our personal health and our productivity, is to intentionally take care of ourselves, whether it’s through routine breaks, connecting with others, or getting out of the house.

There is a cliff awaiting us at the end of the pandemic, whenever that may be. It’s the cliff of “going back to normal.” We’ve all heard and perhaps thought often enough: *begone 2020!* But there’s no erasing 2020 and there’s no

forgetting it because we still live there. We live in the difficulties and anxieties that 2020 pushed in front of us and those aren’t going away once everyone has gotten the vaccine. The “normal” pre-pandemic was in many ways an enemy to change; for years the legal profession and the courts have been tentative about certain adaptations to our way of doing things and now the pandemic has brought to the fore just how untenable some parts of our legal systems are. This past year, the pandemic year, was an accelerant of change for us all and these changes, at times positive and at others inflaming, will be with us into the future. Rather than pushing past that fact in search of a return to normal, it may be wiser to retain what we’ve learned and move forward with renewed focus on serving the needs of our clients and the public, particularly the most vulnerable.



## Cresston Gackle

March/April  
Issue Editor

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Cresston Gackle is a solo practitioner of juvenile and family law and a part-time public defender of children in child protection and delinquency matters. Before entering solo practice, he was a law clerk in the Fourth Judicial District. Originally from Iowa, Mr. Gackle pursued his education at the University of Minnesota as an undergraduate and then as a law student. Pre-COVID-19 pandemic, Mr. Gackle was an avid fair and festival goer and he now spends most of his leisure time learning and playing modern board games online.

# Time is Saved

**A**lthough COVID-19 has not been ideal for most things in life, it has improved and streamlined several things for the practice of law. COVID-19 has taught us and showed us that we were underutilizing the available technology. Several platforms such as Zoom, Microsoft Teams, FaceTime, Google Hangouts, WhatsApp, etc., were available a year ago, but were not utilized to their full potential by many lawyers because we were too comfortable with the traditional ways of doing things. These technologies have improved and shortened many lawyers' workdays and have made our lives and the administration of justice more efficient.

These technologies have shortened our workdays, or at least our commutes to court appearances, client meetings, CLEs, etc. I remember going for in-person court appearances for immigration cases that lasted 10 minutes, but the commute, waiting time, and going through security took 120 minutes. Most of the time, I brought other things to do during the wait, but I feel that now—with virtual or telephonic hearings—I am much more productive with the extra 110 minutes while I am working from home or the office. I really enjoyed bar association meetings and the social part of seeing my colleagues several times a month. However, sometimes the commute from meeting to meeting made it difficult to attend several meetings close to each other in time. Now, it is easier to attend different virtual social events and CLEs due to the same reason. In fact, the attendance for HCBA programs, which are now offered virtually, has been higher than prior years. I want to take this opportunity to encourage members to attend the upcoming Hennepin County Bar Foundation (HCBF) Bar Benefit, become a HCBF Fellow, and donate to the HCBF. With the current platforms, it is

easy to jump from meeting to meeting given that there is no commute involved. I envision that we will have somewhat of a hybrid model in the future.

**These technologies have improved and shortened many lawyers' workdays and have made our lives and the administration of justice more efficient.**

I also think that several parts of the legal process have improved due to COVID-19. For example, in criminal court, judges and prosecutors have encouraged me to have my clients plea by mail. I think in several cases that can be done effectively and improves the process. It also reduces the cost and time of litigation in general. The immigration courts are also implementing reducing the initial master calendar hearings and only have initial hearings when there are contested issues. In most cases, that would reduce the total time of litigation. Immigration cases can take several years to be resolved and in some circumstances the reason that a person qualifies for a relief is no longer there, or the beneficiaries that made a person eligible for a relief aged out due to the extended time for immigration cases to get to a final hearing.

Furthermore, our clients are getting more comfortable utilizing these technologies, increasing the reach of our client base. Immigration law is a federal practice field, so these technologies have made it possible for me to have consultations with people all over the United States and the world. I also think that people in Minnesota who are not close to the metro area now feel more comfortable having consultations and meetings over these platforms, making our potential reach bigger.

Of course, I cannot wait to see people in person and have some normalcy in our social lives. But at the end of the day, COVID-19 has brought several positive changes to the practice of law for the future. I am always amazed about the capacity of lawyers and human beings to adapt to difficult circumstances. I think we should make the best of the current situation and take the positives that this has brought to our practice.

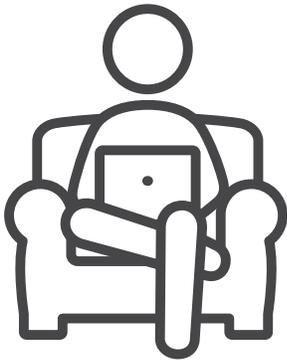


**Esteban  
A. Rivera**

2020-2021  
HCBA President

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Esteban A. Rivera is an attorney licensed in Minnesota and Ecuador. He practices mainly immigration and international law with emphasis in Latin America. He practices investment, employment and family-based immigration law as well as removal defense. He is very active in the local legal community and the local bar associations.



## New Lawyers Spotlight: Work & Wellbeing



**Elizabeth Kriz**

Meagher + Geer

**What's one change in your work life that you've enjoyed this past year?**

This being my first year as a practicing attorney, I have really enjoyed being able to come into the office every day. We follow the social distancing guidelines and wear masks in the hallway. We

are also a small satellite office, and not at headquarters in downtown. It is a lot easier to learn and receive mentoring from the partner I work for in-person. To have the human interaction and even just a smile has been nice. Receiving feedback in-person rather than over email or Zoom has given me a tremendous boost in my abilities to practice law.

**What has been your favorite non-work activity to support your wellbeing?**

I jumped on the Peloton craze that happened at the beginning of the pandemic. I love the energy that the instructors bring to the class, and I use the other riders in the class as motivation to push myself to finish the rides. I also moved to Bismarck, North Dakota when I accepted my job with Meagher & Geer, and the winter here has been pretty mild. It has been nice to be able to get outside and explore my new town and the various outdoor activities it offers.

**If you could tell the March 2020 version of yourself one thing, what would it be?**

I would tell myself that everything will work out and to not stress over Zoom classes and finals. I would really emphasize to just keep moving forward even though the world around you is changing at a rapid pace. Focusing on the positives in life rather than the negatives will propel you forward. Hindsight is always 20/20, but not having a physical graduation ceremony was not the end of the world, although it seemed like it at the time. My family and friends still celebrated my accomplishments, and I can still say I successfully graduated law school and passed the bar exam.

**What's one book, podcast or movie you'd recommend to fellow HCBA members?**

I recommend reading *Where the Crawdads Sing* by Delia Owens. I am not a reader in my spare time typically, but I could not put this book down. I have actually read it twice now.



**Eder Castillo**

Hennepin County Attorney's Office

**What's one change in your work life that you've enjoyed this past year?**

The most significant change was my graduation from law student to government lawyer. I feel fortunate to put what I learned into action in service to our community. Last year, the quality

of my legal arguments determined my grade. Today, my arguments affect the lives of others. It is a solemn responsibility that I don't take for granted.

**What has been your favorite non-work activity to support your wellbeing?**

I support my well-being by playing games with my loved ones. I spend equal amounts of time going bankrupt to my fiancée in Monopoly, letting my brother down in Rocket League, and running around aimlessly in Roblox with my little sister. They've taught me a much-needed lesson in having fun while losing.

**If you could tell the March 2020 version of yourself one thing, what would it be?**

Invest in GameStop.

**What's one book, podcast, or movie you'd recommend to fellow HCBA members?**

My office is reading *The New Jim Crow* by Michelle Alexander. This book traces a line from our nation's origins to the most recent events in our community. If you choose to read this book, I recommend reading it with others, discussing it, and responding with collective action on the issue of mass incarceration.



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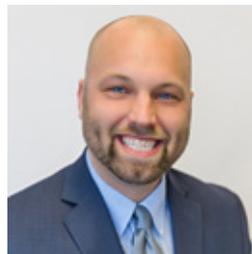
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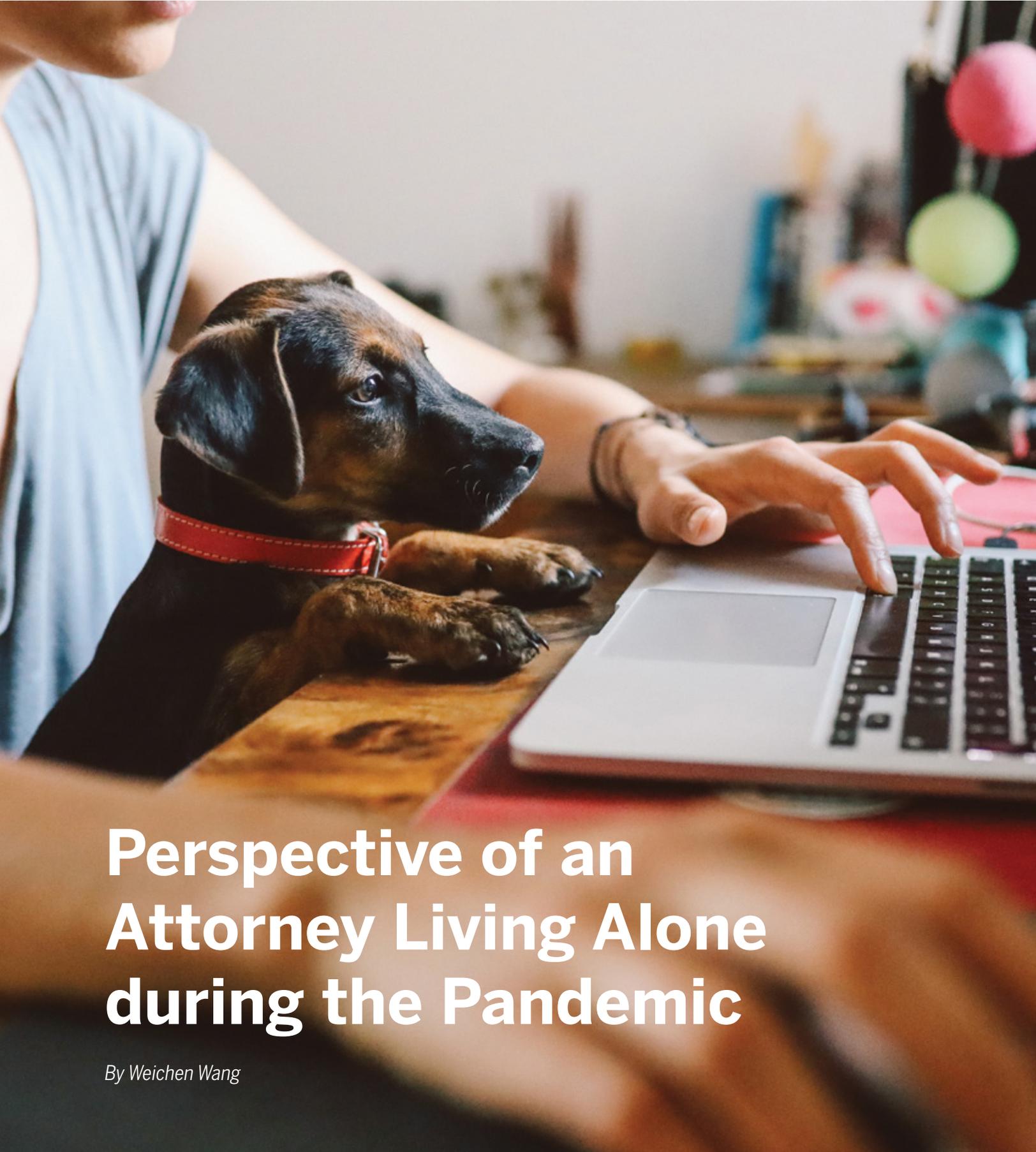
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Protecting Your Practice is Our Policy.®



# Perspective of an Attorney Living Alone during the Pandemic

*By Weichen Wang*



**T**here are certain perks of being single and living alone during these crazy times. I am insulated from many common sources of stress such as worrying over childcare and distance learning, finding space for more than one working adult, and getting along with roommates when everyone is at home almost all the time. But there are corresponding disadvantages, too, in the form of the loss of day-to-day structure, a larger dose of social isolation, and being more prone to loneliness. The same set of stressors manifest differently in work, life, and travel. I have identified a few coping strategies that have helped me along the way.

### Finding Support & Structure

Before the COVID-19 pandemic started, I was already working from home three to four days a week. As a result, I experienced a smoother transition working entirely from home than people who are used to going into the office every day. The biggest change was the enhanced feeling of loss of social interactions with coworkers. I miss seeing the faces of my coworkers: Jane from HR greeting me with her cheerful hellos, Jim from Quality popping in to ask a random question, and my supervisor Alex proposing lunch together at a nearby restaurant after we have finished discussing the issue at hand.

I remember hearing about (pre-pandemic) research from the UK showing that even though productivity and job satisfaction improved when employees worked from home, after a couple of weeks, most of them wanted to go back into the office. I didn't believe the study before, but the loss of human company we've had in the pandemic has hit home for me. As my company further tightened the work-from-home policy for office workers, I missed the friendly social environment I had at my workplace.

As one social aspect of my life, my workplace, was closed off, I felt a loss of motivation. As a corporate lawyer, many if not most of my projects have flexible deadlines. Managing the priority list and planning the order of completion have always been part of the job.

During the last few months, I have seen myself falling down the holes of procrastination and poor productivity frequently.

By now I have found a reliable way of climbing out of the pit: first, I locate the easiest task of the day and make short work of it; second, I use the sense of satisfaction, however tiny it might be, to power through one or two tasks deliberately selected not according to priority but the likelihood of quickly receiving nice thank-you emails; third, I allow myself to feel good, or even gloat if I must, over the "thank you so much!", "you're the best!", and the smiley face at the end; and last, filled with renewed motivation, I return to my regular working state. I have been blessed with colleagues who know a hundred different ways to voice their appreciation. As I draw support from my fellow workers, I have come to realize just how essential motivation is when we are enduring a pandemic, cut off socially, and see the lines between work and after-work relaxation start to blur.

Working from home full-time has also amplified the importance of having structure. When I got my dog three years ago, I learned to build into my day two 10- to 30-minute periods for walks. When my company continued to tighten the work-from-home policy due to the coronavirus, I learned that all the spontaneity and flexibility I love about working from home are outweighed by the growing need for more predictability and stability. My mornings are now "quiet hours" for researching and my afternoons are designated email-responding time. I have an earlier and full-hour lunch break as I cook a lot more than before, and my first dog-walking of the day is consistently around 1 p.m. There is a sense of comfort in knowing what happens next, and this is also a way to gain a bit more control over my life in these times of great uncertainty.

### On social isolation, loneliness, and solitude

Social isolation can give rise to the feeling of loneliness, but loneliness can occur without social isolation. Solitude is being alone without feeling lonely, and that's the desirable state of being for lone dwellers like me.

Social isolation is an inevitable result of the world we live in. Living by myself, I am looking at an increased chance of loneliness for an extended period of time. It's a creeping sensation, at times almost tangible, as if I could catch a glimpse of it in the shadows had I turned my head fast enough. Then I actually turn around and see instead my dog curling into a fluffball on the sofa, her head on the armrest, facing the window and ready to bark at any human or dog who dares to appear in her line of sight on the sidewalk outside. Any sadness that has begun to accumulate just dissipates or gives way to exasperation as I yell at her to stop barking. I am not surprised at all that many animal shelters have been cleared out during the lockdown<sup>1</sup>—a furry friend is one of the best companions that a person could have in the fight against loneliness and social isolation. (However, I was surprised at the 60 percent price jump at the breeder where I got my dog, and, boy, isn't that the perfect example of supply and demand?) Whatever the price, the companionship of a pet is invaluable. I, for one, know that I cannot live alone without my dog, at least not as happily as I have been.

The other pillar that supports me and my sanity is my lovely group of friends, who have quickly adjusted to virtual meetings and commit to appearing regularly on video calls. We see and talk to each other on our scheduled times every weekend. The call goes on for about two hours, during which we clean, cook, fold laundry, lounge on the sofa, and enjoy the company. It's not the same as trying new restaurants, going to summer art fairs, watching a movie or play, or playing board games together, but it's what we have, or rather, what I'm so, so lucky and grateful to have. In the rare instances of in-person encounters, such as the two socially distanced picnics we had in the park and short conversations when a few of us made the rounds dropping off food and gifts, I have realized time and again that we humans are social animals that derive a lot of positive energy from socializing face-to-face. Solitude is most easily achieved when one is in the warm embrace of a stable social network. We shouldn't need the pandemic to tell us that in-person interactions are indispensable.

### On wellness, mental health, and therapy

Related to but separate from the topic of managing loneliness is maintaining mental health and wellness in the time of coronavirus. Wellness is embedded in the most mundane—food, sleep, exercise, media consumption—and it takes a lot of deliberation and care to do the upkeep. The therapist in the television show *Rick and Morty* said it best: "Because the thing

about repairing, maintaining, and cleaning is it's not an adventure. . . . It's just work."<sup>2</sup> But sometimes even when you are doing every right thing to promote general wellness, your mind can still sink into a state of unwellness.

It's all about catching early signs. Back in the summer, there was a day that I moved around slowly with an invisible heavy weight on my shoulder. I could hardly do any work, and I would randomly burst into tears. My dog sensed my shift in mood and would sit down right beside me without prompting and put her paw on my knees. Usually that would be sufficient, but it wasn't working. On the second day of the same conditions, I asked my supervisor for some mental health days, which he immediately approved with a reply email containing many kind words. The triggers were glaring and hard to miss. It was around the time of George Floyd's death. The trauma was compounded by a post that was circulating on WeChat of a mother asking for help for a young Chinese student who went missing on the way to the airport. I had experience with anxiety and depression that were rooted in internal factors such as my own beliefs and thoughts, but I realized that external events could be every bit as damaging.

As I sat down and clicked open the "Find a Provider" tab on my insurance website, I saw that it was possible to sort therapists by race and ethnicity. On another day I would pause and ponder whether this unnecessarily highlights the individual differences between all qualified providers on which they have no control, but at that moment, I just felt relieved. Commonalities make one feel closer to another. I've known that since college, when I found it easier to converse with other international students, whichever continent they were from.

It's important to find a therapist with whom it is easy to build trust. I've met with six therapists throughout the years. The two with whom I didn't have a second appointment had the same issue from my perspective in that there were too many assumptions, voiced and unvoiced, that hindered my process of sharing. The rest have been extremely helpful and they are each different in their approach. I used to think that therapy works best if the therapist carefully stays neutral, but the most recent therapist I visited wasn't shy to share his thoughts and opinions and I found it sincere and validating. I could also see how I changed as I became more self-aware and used more tools that were given in previous sessions. I started out as a lost traveler who saw walls everywhere, but this time around, I had pieces of the map and just wanted another source of encouragement and assurance to draw on as I keep going in the direction I chose.

I started my search for a therapist at my insurance company's database of in-network providers, but there are other resources available. Many employers have employee assistant programs (EAP) that include free therapy sessions. As lawyers, we have organizations that provide peer and professional help such as Lawyers Concerned for Lawyers.<sup>3</sup>

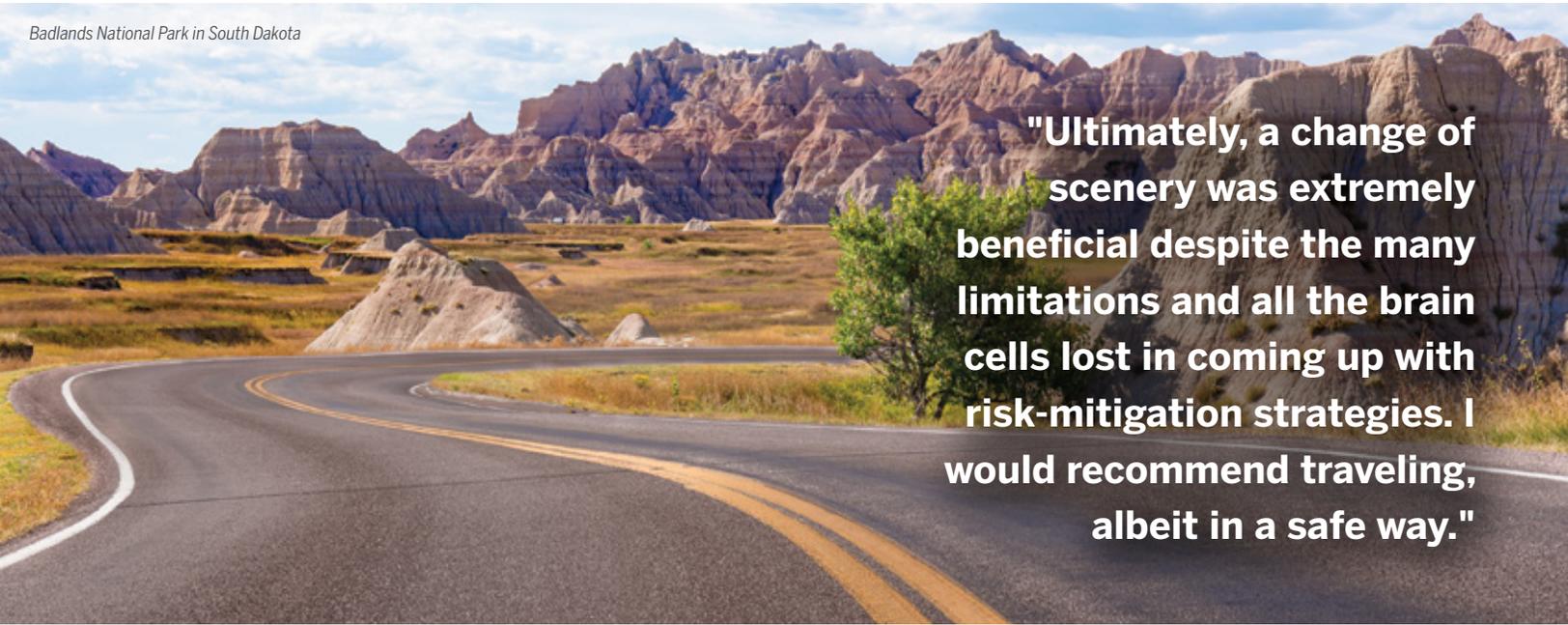
There are many reasons people do not seek out therapy. First is the perceived inability to seek help from other people. It feels like an unsurmountable challenge because you are essentially fighting yourself. But know that it gets a lot easier once you take the first step. I first went into therapy through intervention from my school, but now, equipped with more self-knowledge, I am able to seek help as soon as I spot the signs. The second is the stigma-inducing misunderstanding from other people. When I took a break from law school, my dad's judgment added to the guilt and shame I was already feeling. He couldn't understand why I was suddenly so "weak" with no visible signs of physical illness, a track record of academic success, and a goal of going into a profession of advising other people. Present-day me would explain that it wasn't about being weak. On the contrary, I could even argue that the fact I didn't give up and was trying to nurture my mind back to health through therapy was a clear display of strength. I had questions, some stemming from thought distortions and some legitimate life decisions, that I couldn't answer all by myself, and therapy was an available solution that proved effective. So why should there be any barriers to trying or continuing? I wasn't as eloquent then, but I had support from my mom, and ultimately my dad understood that it was what I needed. I didn't have to worry about the costs or life's many necessities, but my first-world problems were nevertheless important to me. These attempts at resolution ultimately became an integral part of my personal growth.

Surrounded by social isolation and uncertainty, we are all weakened by the pandemic and may have become more vulnerable against the many stressors thrown our way. It's important to know that there is support from various sources, and therapy can be of great assistance, like it has always been to me.

### On traveling during the pandemic

Right when everyone was suffering from pandemic fatigue in October, I took full advantage of the flexibilities of being single and working from home by taking a month-long road trip. I selected major cities in South Dakota, Iowa, Nebraska, and Missouri that are four to five hours apart. The driving was quite pleasant as it felt like I was going back in time with the fall

Badlands National Park in South Dakota



**"Ultimately, a change of scenery was extremely beneficial despite the many limitations and all the brain cells lost in coming up with risk-mitigation strategies. I would recommend traveling, albeit in a safe way."**

colors getting more vibrant the further south I went. But the impact of the coronavirus was all over the plan and the actual trip as I tried my best to lower the risk.

I limited my choices of accommodations to places where I could have the whole place to myself: an apartment, a second floor with its own entrance, or a house. The only exception was in Sioux Falls, where I stayed in an Airbnb house with three other people, each of us having our own room. We were careful to maintain socially distanced interactions, most of which occurred on the patio.

My food adventures were devoid of any possible pluses from charming interiors. But the value of customer service wasn't diminished at all. I left my first Google Map review for an Afghani deli where I was greeted warmly and where the chef had mastered the secret sauce for the best chicken shawarma wrap. The second time I was there to pick up my food, the server/owner recognized me as the reviewer and offered to reserve one of the deli's most popular menu items—a serving of roasted lamb leg—for my Wednesday lunch.

On my trip, the most time I spent indoors was 10 to 15 minutes in gift shops and used bookstores here and there. I didn't want to behave like a misanthrope, but crowds of people without masks, even seen from some distance away, filled my head with worry and dismay. I was in Iowa in October when it was one of the very few states that still didn't have a mask mandate! I also remember feeling anxious when maskless people in a crowded downtown area in Nebraska asked to pet my dog.

Without the virus I would have visited museums, arboretums, shopping malls, and theaters, but instead my trip was full of parks, lakes, and downtown sidewalks. Those outdoor places were beautiful though. The Pappajohn Sculpture Park and the Gray's Lake Park in Des Moines were perfect for a leisurely stroll (with falling snow in the background). The Old Market neighborhood in downtown Omaha was charming with its red brick roads and horse-drawn carriages, and the Jefferson Barracks Park in south St. Louis was an oasis of nature full of white-tailed deer that curiously peeked through the bushes. Pandemic-style travel meant that I spent more time getting an overview of the cities than I did exploring specific cultural structures.

Ultimately, a change of scenery was extremely beneficial despite the many limitations and all the brain cells lost in coming up with risk-mitigation strategies. I would recommend traveling, albeit in a safe way.

### Conclusion

With the pandemic raging on, we must stay resilient. I have learned to refuel my motivation for work through virtual connections with colleagues, building and modifying structures for the workday, surrounding myself with supportive friends, taking care of my emotional health with the help of pet and human therapy, and drawing energy from a change of scenery. In these trying times, let us continue to be strong by taking care of ourselves.

### Notes

- <sup>1</sup> See, e.g., Marcheta Fornoff, Before Minnesota Animal Shelter Temporarily Halts Adoptions, Hundreds of Pets Find New Homes, MPR News, March 23, 2020, <https://www.mprnews.org/story/2020/03/22/before-minnesota-animal-shelter-temporarily-halts-adoptions-hundreds-pets-find-new-homes>.
- <sup>2</sup> "Pickle Rick." Rick and Morty, season 3, episode 3, Cartoon Network, Aug. 6, 2017. Hulu, <https://www.hulu.com/series/rick-and-morty-d76d6361-3fbf-4842-8dd7-e05520557280>.
- <sup>3</sup> For immediate assistance, please call 651-646-5590 or 1-866-525-6466. Lawyers Concerned for Lawyers, <https://www.mncl.org/contact>.



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# WORKING FROM HOME

## From Burnout to Balance

*By Shuangqi "Joy" Wang*



I never expected to work from home full-time this early in my career. The COVID-19 pandemic has brought enormous changes to our daily lives, and working from home is now my daily routine. While the “WFH” experience has been mostly positive, there have been challenges that allowed me to better understand myself, my work, and the critical link between productivity and wellness.

My story of working from home begins with a lesson about burnout.

I am a midlevel associate in a global law firm’s regional office. Internationally, my firm has thousands of lawyers and legal staff, but in the Minneapolis office, there are only 11 attorneys—partners, counsels, senior associates, and me. At the beginning of 2020, I was in the middle of my third year at the firm, still learning to do a lot of substantive legal work but also starting to take on more projects and responsibilities. I was constantly stressed and overwhelmed by the number of projects and deadlines on my plate, and I struggled with managing my time and the increased workload. Generally, I find the key to reducing stress is to complete the project that is causing the most significant stress for me. I kept thinking that, in order to feel less overwhelmed, I should spend more time focusing on work and “getting things done.”

In March, after COVID-19 proliferated in the U.S., the leaders of my office quickly decided to close the office and required most employees to work from home unless instructed otherwise. I was nervous about COVID-19 and concerned about the situation in China, where my parents and other family members reside, but I was glad to have an opportunity to work from home for more than just a day or two. Since I was looking for more time to focus on projects, I thought working from home would allow me to control my time and schedule more effectively so that I would have fewer distractions and more time for billable work. I set a goal to reduce stress by being as productive as possible.

What I did not understand at that time is the importance of balance, and how harmful it can be when life is exclusively about work. Without going to the office or meeting friends for lunch or dinner or coffee, I had a lot more time for myself, and I decided to devote all of that time to my job. Between the middle of March and the end of May, my life was 90 percent work. Every weekday, I started working immediately after waking up, and worked until I had to sleep. I spent limited time socializing, and I certainly did not exercise.

The only breaks I took were for food and hygiene. On the weekends, although I would have virtual social activities with family and friends, I would consciously limit the time I spent on those activities to maximize time for additional work. In retrospect, it seems inconceivable that I was so determined to work as much as possible and had made little or no time for myself. But in the moment, I was convinced that once I “cleaned up” the projects on my plate, I would feel more in control, more efficient, and less overwhelmed with work going forward.

**"Humans aren't designed to be nonstop work machines that operate at 100% efficiency and productivity. Or maybe just not in the middle of a worldwide pandemic where anxiety is already amplified by the uncertainty of the virus."**

Working constantly was exhausting, but I persisted through March and April. I thought that the exhaustion was only temporary and that I would soon feel more at ease with my job. However, contrary to what I hoped for, devoting more time to work did not make my workload more manageable nor did it make me less stressed. I ran into the opposite. Without making an effort to protect my nonwork time, I ended up with more work than I could handle, became more overwhelmed than before, and felt even more out of control.

When May came, I began to break down. I cried multiple times a day when I was working. I was constantly anxious about either not being able to complete assignments (and consequently botch a work project) or not being able to sleep enough (and thus negatively affect my physical and mental health). I was physically weak and tired.

I felt helpless, hopeless, and alone emotionally. I could not appreciate my job; instead, I felt stuck in a pit not knowing how to get out.

I was burned out. Mayo Clinic defines *burnout* as “a state of physical or emotional exhaustion that also involves a sense of reduced accomplishment and loss of personal identity.”<sup>1</sup> *Psychology Today* describes it as “a state of emotional, mental, and often physical exhaustion brought on by prolonged or repeated stress.”<sup>2</sup> According to the World Health Organization<sup>3</sup>:

Burn-out is a syndrome conceptualized as resulting from chronic workplace stress that has not been successfully managed. It is characterized by three dimensions:

- feelings of energy depletion or exhaustion;
- increased mental distance from one’s job, or feelings of negativism or cynicism related to one’s job; and
- reduced professional efficacy.

People who experience burnout symptoms need to act immediately and make changes in their work and lifestyles. Common recommendations include taking time away from work, focusing on self-care, having social interactions, exercising, and getting enough sleep. Thinking back about the time that I used to spend on dressing up for work, commuting to the office, taking bathroom breaks, talking with coworkers when I ran into them, or stepping out of the office to buy lunch, I realized that while all that time prevented me from billing two more hours every day, it was also built-in breaks that kept me from working nonstop and burning out. Before the pandemic, I thought those breaks were wasted time that stopped me from achieving maximum efficiency and productivity—how wrong I was!

Humans aren’t designed to be nonstop work machines that operate at 100% efficiency and productivity. Or maybe just not in the middle of a worldwide pandemic where anxiety is already amplified by the uncertainty of the virus.

Thanks to the advice and encouragement of those closest to me, I gathered up some courage and engaged in honest conversations with partners at my firm. I was candid about the difficulties I experienced with work and the negative effects on my mental, emotional, and physical health. To my huge relief, both partners responded extremely well to what I shared and were incredibly supportive, caring, and understanding. They did not realize how

much I was struggling and were glad that I raised the issue. They encouraged me to talk to them sooner if, in the future, I feel overwhelmed again. I felt extremely fortunate, thankful, and appreciated as part of the team.

Although it took another six months and additional support for me to recover from burning out, I appreciate what the experience has taught me about myself, my job, and working and being productive in general. I underestimated the importance of breaks and balance, and I have become more mindful of, and thankful for, the value that every additional step or small distraction brings me.

After discovering that finishing project after project is not the solution to work stress, I have been actively researching, thinking about, strategizing, and testing different productivity tools, and trying different time management strategies, to find a work system that is the most suitable and sustainable for me. It is a trial-and-error process, but at least I know now that compromising break time is not the answer.

With a newfound appreciation for distractions and conscious efforts to keep work from

encroaching on my wellness, I consider myself thriving with WFH. I am thankful for the additional hour of sleep every day due to time saved from dressing up and commuting, and I appreciate all the hours when I can work in my pajamas and not be “on” for professional social interactions. I cherish the walk I take downstairs to check my mail, and I enjoy doing a quick yoga exercise when I have 10 minutes. In particular, I enjoy the opportunities to make a fresh, healthy meal for lunch when I don’t have urgent projects—I feel so spoiled!

During the past several months, my firm proactively sent out surveys assessing firm members’ interest in working from home long-term after the pandemic. According to the survey results, I am not alone in appreciating the opportunity to work from home. Anecdotally, people shared increased happiness with having additional time for family and self. Although there are concerns about the lack of face-to-face training, mentoring, and communication opportunities, I am optimistic that firm leadership may be willing to offer regular WFH opportunities after the pandemic and, ultimately, may become more open to other flexible work arrangements as well.

It is difficult to predict when the pandemic will end and when our lives will be back to “normal.” But even after the pandemic passes, I anticipate that our lives will never be the same again, as all of us will likely have developed new habits, acquired new skills, adapted to a new working/living situation, and/or gained new understanding of ourselves and maybe also of others. Many of us will excitedly welcome back some old pastimes such as dining out, going to theaters, visiting museums. Some of us will also be reluctant in giving up new habits. For me, that may be working in pajamas all day.

Before that day comes, I hope all of us can use the current opportunity to experiment with a different working style or schedule, to learn what works and what does not work for our health, wellness, and productivity, and to better understand ourselves in ways that we were unable to before. By the time we return to our “old” way of living, I hope we will all have new appreciation for the journey we have all been on in an unusual year.

Notes

- <sup>1</sup> “Job burnout: How to spot it and take action.” *Adult Health, Healthy Lifestyle*, Mayo Clinic, available at <https://www.mayoclinic.org/healthy-lifestyle/adult-health/in-depth/burnout/art-20046642> (last visited January 14, 2021).
- <sup>2</sup> “Burnout,” *Psychology Today*, available at <https://www.psychologytoday.com/us/basics/burnout> (last visited January 14, 2021).
- <sup>3</sup> “Burn-out an ‘occupational phenomenon’; International Classification of Diseases,” World Health Organization, May 28, 2019, available at <https://www.who.int/news/item/28-05-2019-burn-out-an-occupational-phenomenon-international-classification-of-diseases> (last visited January 14, 2021).



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# Housing Is Healthcare

## How Preventing Evictions Keeps People Alive

*By Joey Dobson*

Sky-high rents. Nonexistent rental vacancies. Thousands of families being evicted. Record numbers of people forced to sleep on the streets. Shelter bed shortage for those in need. Stark racial disparities in who had access to a healthy and stable home. This was the reality in Hennepin County a year ago.

Then came COVID-19.

## Eviction Moratoria Save Lives

Before 2020, there were about 6,000 eviction cases filed in Hennepin County Housing Court each year. Only about 10 percent of those renter families were represented by a lawyer, usually from Legal Aid or the pro bono community, coordinated by the Volunteer Lawyers Network. Facing one of the fastest eviction court processes in the country without legal defense left thousands of families with no choice but to move out with nowhere else to go.<sup>1</sup>

By March 2020, the coextensive economic crisis and public health emergency dealt body blows to Minnesota communities. On March 23, 2020, Gov. Tim Walz issued an executive order halting many eviction cases.<sup>2</sup> Other states across the country took similar action to keep people in their homes as we learned that the public health and related economic impacts of the COVID-19 pandemic would be widespread and devastating. In September, the Centers for Disease Control and Prevention (CDC) issued a moratorium on some eviction court cases nationwide.<sup>3</sup> This moratorium was initially effective through December 31, 2020, and was later extended through March 31, 2021. The state moratorium is extended alongside the extensions of EO 20-01, declaring the peacetime state of emergency.

These partial moratoria on evictions have not only kept many families in their homes, they have saved lives. In issuing Executive Order 20-14, Governor Walz acknowledged that “Losing a home is catastrophic at any time, and during the COVID-19 peacetime emergency in particular, losing housing endangers the public peace, health, and safety of all Minnesotans. Public health and safety are promoted by stabilizing households which, through no fault of their own, may suddenly have the inability to afford rent.”<sup>4</sup> The federal moratorium issued by the CDC and the Department of Health and Human Services—not the Department of Housing and Urban Development (HUD)—shows the recognition on the federal level of the health implications of evictions. “In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease.”<sup>5</sup> Stable housing is a public health issue. A recent study by public health experts and legal scholars estimates that nationwide, eviction moratoria saved approximately 38,730 lives through September 3, 2020. In Minnesota alone, 680

additional people would have died without the state eviction moratorium.<sup>6</sup> The time period for this study doesn’t include the frigid winter northland months, when people die at higher rates due to lack of shelter. Hypothermia can cause serious health consequences even at temperatures as high as 50 degrees.<sup>7</sup>

According to epidemiologists, “When tenants are evicted, they often move in with other family members, increasing the size of households and the chance for viral transmission . . . a 1% eviction rate would result in a 5% to 10% higher incidence of infection, leading to approximately 1 death for every 60 evictions.”<sup>8</sup>

**Just 25% of Black families in Minneapolis own their home, the lowest Black homeownership rate of any metro area in the U.S. with more than 1 million residents.**

Experts have demonstrated the health inequalities exacerbated by COVID-19 and the role housing stability plays in keeping people healthy and safe: “Black people have had less confidence in their ability to pay rent and are dying at 2.1 times the rate of non-Hispanic whites. Indigenous Americans and Hispanic/Latinx people face an infection rate almost 3 times the rate of non-Hispanic whites. Disproportionate rates of both COVID-19 and eviction in communities of color compound negative health effects and make eviction prevention a critical intervention to address racial health inequity. In light of the undisputed connection between eviction and health outcomes, eviction prevention, through moratoria and other supportive measures, is a key component of pandemic control strategies to mitigate COVID-19 spread and death.”<sup>9</sup>

## Families Are Still Getting Evicted: Moratorium Exceptions and Racial Disparities

Not all eviction cases are on pause. In Minnesota, the only way to legally remove a tenant from their home is by going through the court eviction process.<sup>10</sup> Unfortunately, some landlords circumvent the court system by illegally locking out or otherwise excluding renters from their homes. Legal Aid has represented over 30 tenants in Hennepin County in illegal lockout cases since the eviction moratorium was issued on March 23. And these are just the renters who knew to call a lawyer for help.

The moratorium as it exists now allows landlords to file eviction cases if they allege that a tenant is creating a public safety risk, causing damage to property, or if the landlord needs to move a family member into the property.<sup>11</sup> While these exceptions might seem narrow, they are in fact canyons that tenants without legal representation fall into.

Black, Indigenous, and People of Color (BIPOC) are more likely to face eviction than white renters.<sup>12</sup> Based on a study of families facing eviction court in Hennepin County, 71% identify as BIPOC. More than half identify as Black or African American. 87% of families have a minor child in the home. At least one-third have a family member in the home who has a disability; 70% of families are households led by women.<sup>13</sup>

And, we know that BIPOC are more likely to be accused of criminal activity relative to actual commission rates. “Minnesota’s criminal justice system arrests, charges, tries and incarcerates people of color at rates that are disproportionate to those of white residents.”<sup>14</sup>

Systemic racism and inequality show up in vast gaps in income and wealth for Black people in our local communities. Generations of oppression and discrimination have prevented people of color from owning homes and accumulating wealth in the form of real property. According to the *Washington Post*, “The typical black family in Minneapolis earns less than half as much as the typical white family in any given year. And homeownership among black people is one-third the rate of white families.”<sup>15</sup>

These disparities are even worse in the Twin Cities than in most places nationwide. Just 25% of Black families in Minneapolis own their



**“When tenants are evicted, they often move in with other family members, increasing the size of households and the chance for viral transmission . . . a 1% eviction rate would result in a 5% to 10% higher incidence of infection, leading to approximately 1 death for every 60 evictions.”**

home, the lowest Black homeownership rate of any metro area in the U.S. with more than 1 million residents.<sup>16</sup>

All of these factors mean the exceptions to the current eviction moratorium are more likely to be used against renters of color. And exceptions are certainly being used, despite a common narrative that evictions have not been happening during the pandemic. Case numbers jumped dramatically after the amended executive order with added exceptions was issued in September. While landlords filed about 20 eviction cases in Hennepin County in July 2020, that number jumped to 36 evictions in November 2020. In just one week in December (December 14–December 18), 31 eviction first-appearance hearings were scheduled in Hennepin County Housing Court. While the court does not maintain data on racial identity of eviction defendants, our housing lawyers at Legal Aid are representing many of these defendants, and our clients are disproportionately BIPOC.

While there is not yet a right to counsel for eviction cases, Legal Aid and volunteer lawyers through the Volunteer Lawyers Network seek to represent every tenant family who faces eviction in housing court. When we represent them, families win or settle 96% of the time. Most leave court with clear eviction records. Those without any legal services win or settle only 62% of the time.<sup>17</sup>

Evictions lead to homelessness. Homelessness is a dire health hazard for everyone who experiences it, and a death sentence for far too many. The COVID-19 pandemic has only made our housing emergency worse. Access to legal counsel is just one of many areas where policy change could make a critical difference. Advocates and policymakers who prioritize safe, affordable, healthy housing are engaged at many community levels to address the housing crisis. Proposals at the city, county, state, and federal level are needed now more than ever to help keep our neighbors housed—and alive.

## Notes

<sup>1</sup> According to a 50-state study from 2019, Minnesota is tied for the third-fastest eviction court process in the country. “New Nevada Law to Give Tenants Facing Eviction More Time to Pay Rent” — VIDEO | *Las Vegas Review-Journal*.

<sup>2</sup> Executive Order 20-14.

<sup>3</sup> 85 Fed. Reg. 55292 (Sept. 4, 2020).

<sup>4</sup> Executive Order 20-14.

<sup>5</sup> 85 Fed. Reg. 55292 (Sept. 4, 2020).

<sup>6</sup> Kathryn M. Leifheit et al., *Expiring Eviction Moratoriums and COVID-19 Incidence and Mortality* (Nov. 30, 2020). Available at SSRN: <https://ssrn.com/abstract=3739576> or <http://dx.doi.org/10.2139/ssrn.3739576>

<sup>7</sup> “Hypothermia and Cold Temperature Exposure,” *Michigan Medicine* uofmhealth.org

<sup>8</sup> <https://www.bloomberg.com/news/articles/2020-10-22/landlords-launch-legal-attack-on-cdc-eviction-ban>

<sup>9</sup> Benfer, E.A., D. Vlahov, M.Y. Long et al. “Eviction, Health Inequity, and the Spread of COVID-19: Housing Policy as a Primary Pandemic Mitigation Strategy.” *J Urban Health* (2021). <https://doi.org/10.1007/s11524-020-00502-1>

<sup>10</sup> Minn. Stat. § 504B.375.

<sup>11</sup> Executive Order 20-79.

<sup>12</sup> Brittany Lewis, “The Illusion of Choice: Evictions and Profit in North Minneapolis” (2019). <http://evictions.cura.umn.edu/illusion-choice-evictions-and-profit-north-minneapolis-full-report> [<https://perma.cc/X36S-FD36>] (reporting landlords disproportionately file evictions against Black women).

<sup>13</sup> Luke Grundman and Muria Kruger, *Legal Representation in Evictions — Comparative Study 1* (2018). <https://www.minnpost.com/wp-content/uploads/2018/11/2018-Eviction-Representation-Results-Study-with-logos.pdf> [<https://perma.cc/RT8A-4LZ4>].

<sup>14</sup> “In Minnesota Racial Gap Law Enforcement Plays Key Role” *twincities.com*

<sup>15</sup> “Racial Inequality in Minneapolis Is among the Worst in the Nation,” *The Washington Post*, 5/30/2020.

<sup>16</sup> “Black Homeownership Rates in Twin Cities Are among the Lowest in the U.S.” *MPR News* 12/20/2018; “Minneapolis, Milwaukee, and Salt Lake City Have the Lowest Black Homeownership Rate in the U.S.” *redfin news* 6/29/2020.

<sup>17</sup> Grundman and Kruger, *supra* note xiii.



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A photograph of a prison cell. The wall is made of rough, grey concrete. On the right side, there is a window with a black metal grid. The lighting is dim, creating a somber and confined atmosphere.

# IMMIGRATION DETENTION, REMOVAL DEFENSE, AND THE PANDEMIC

*By Kerry McGuire*

**N**oncitizens are vulnerable in removal proceedings. Due process rights are severely limited and for most, removal carries very serious consequences. The process has been complicated through several instances of reform and, for some, removal carries very serious consequences.<sup>1</sup> As one immigration judge noted, removal proceedings can be like “doing death penalty cases in a traffic court setting.”<sup>2</sup> The pandemic has exacerbated the shortcomings and challenges of noncitizens’ removal proceedings (often referred to as “deportation”), and this article will explore those shortcomings and their effects on the individuals involved in the process.

For those fighting to remain in the United States, the question to remain in detention boils down to: should I put my long-term health at risk here in the United States or put my life at risk back in the country I fled? It’s impossible to sit for months or years in a jail, but the alternative for many is torture or death in another country. This could be a country that someone escaped. Or, it could be a country their family escaped and the immigrant has never known. The complexity of citizenship laws means that someone could be a citizen of a country they’ve never seen. Deportation could mean leaving one’s partner to be a struggling single parent and missing at least 10 years of the children’s lives. These consequences are all the more severe when we remember that ICE custody is *civil detention*.

## Background on Bonds

Any noncitizen may be detained. A lawful permanent resident (“Green Card” holder), a recipient of a temporary visa, or a person residing in the United States without lawful status may be subject to immigration detention. At first glance, immigration detention is similar to criminal detention. Noncitizens are held in county jails while their immigration cases proceed. Immigration detention, however, is *civil* and not criminal. Immigration detention is *not a direct consequence of criminal punishment or alleged criminal conduct*.

There are a number of distinctions when it comes to bond (payment for release from detention). An immigration bond may be available to those who can afford to pay \$1,500 to \$20,000 or more. Even then, bonds are not universally available. A slew of criminal convictions can subject a

## Terms

**EOIR:** The Executive Office for Immigration Review, the immigration courts, and judges. The EOIR is a large agency within the Department of Justice. With 60 courts across the United States and Puerto Rico, the size, types of cases, and local practice vary.

**ICE:** Immigration and Customs Enforcement, within the Department of Homeland Security. Both the Office of the Chief Counsel (OCC—the Attorneys) and Enforcement and Removal Operations (ERO Deportation Officers) fall under ICE. ICE plays the role of prosecutor, police, and sheriff in the immigration contact. **ERO** initially detains a noncitizen. **OCC** charges the noncitizen with removability. **ERO** manages detention while that person remains in removal proceedings, and sometimes after.

**Noncitizen:** Used here to describe anyone who is not a United States citizen who is present in the United States. This includes Lawful Permanent Residents (LPRs or “Green Card” holders), persons present without authorization, and those present on temporary visas.

noncitizen to “mandatory detention,”<sup>3</sup> meaning that person is not entitled to a bond and will remain detained for the duration of his or her immigration case. Was the person picked up after a simple drug possession conviction? He’s out of luck and doesn’t have access to a bond. Is the person in immigration proceedings following two shoplifting convictions? She will stay detained. Was the person transferred to immigration after being charged with selling marijuana? There is a significant chance he or she will not be granted a bond. Asylum seekers whose first steps into the United States are at the border cannot seek a bond before an immigration judge, even if they are transferred to a Minnesota detention facility. If someone falls in a mandatory detention category, getting out before the proceedings are completed is nearly impossible. In 2018, 71% of detained persons were subject to “mandatory detention,” while 51% of the same population were classified as “non-criminal.”<sup>4</sup>

Immigrants who do not fall under a mandatory detention category bear the burden of proving they are *not* a flight risk or danger. In practice, this means any DWI conviction on someone’s record creates too high of a burden to overcome.

Or a single person without children who has been in the United States for one to two years might not have sufficient ties to Minnesota to prove he or she is *not* a flight risk. Those who cannot meet this burden are denied bond and remain in detention.

Unlike criminal bonds, an immigration bond must be paid in full prior to release, no percentages. Many bond companies do not pay immigration bonds, and paying the bond is left to family members who are often struggling without their main breadwinner. Without the important work of the Minnesota Freedom Fund, even more Minnesotans would be in detention, unable to pay a bond.

## Immigration Detention in Minnesota

As a non-native Minnesotan, I have toured the state and come to know it through one- to two-hour-long drives to county jails that contract with ICE for bed space. ICE primarily contracts with Sherburne County Jail, Freeborn Adult Detention Center, Kandiyohi County Jail, and Carver County Jail to detain adults. There are no family detention centers in Minnesota.

These jails each offer a different number of beds and practices with regards to meeting space, communication with detained persons, and programming available to detained persons. Each jail permitted in-person attorney visits prior to the pandemic, but rules varied widely. Sherburne County Jail permitted entry to attorneys any time from 8 a.m. to 9 a.m., while other facilities required attorneys to make the 90-minute drive prior to an 11:30 a.m. lockdown. Arrive too late and the attorney would have the opportunity to have lunch at the one Mexican restaurant or coffee at the one shop in town until lockdown ended at 1:30 p.m.

These jail facilities are designed and intended for pretrial criminal detention. Average pretrial detention lasts from 5 to 200 days.<sup>5</sup> Noncitizens detained by ICE spend an average of 63 days in detention.<sup>6</sup> However, this number is skewed by those who do not seek relief in an immigration case and are deported within a month of being detained. Noncitizens who seek relief in immigration court can expect to spend months in detention. Months become an average of 404 days or more if they decide to appeal.<sup>7</sup>

The long wait in detention is demanding on a noncitizen's well-being. Lives are reduced to a small, inescapable space. Because they are pretrial detention facilities, they do not offer the same recreational opportunities and programming as the state's prisons where inmates are serving criminal sentences. A detainee will generally have no access to the outdoors, and possibly will not have a window

which can be at such high dosages that some clients enter a walking coma. Whether a person has spent days, weeks, or months in segregation has no bearing on whether he or she is entitled to an immigration bond, because it does not fit within the dangerousness/flight-risk analysis. In fact, the mental health crisis, if accompanied by erratic behavior, might be used to justify continued detention.

restrictions have meant that my clients might not have access to a private space in a jail from which to make a phone call. Privilege with clients is destroyed, because they cannot make a phone call without one to twenty other people overhearing it. The lack of privacy not only prohibits privilege, it also endangers safety when, for example, a man discloses his sexuality to his attorney by phone in the midst of others.



Even timing of phone calls presents a challenge. Space is limited and court hearings and attorney phone calls may occupy the same room. This means that on any day that there are master calendar hearings, an attorney is unable to reach a client until the afternoon. This can mean I have only five minutes to discuss an important point of information that could go to the client's credibility—and ability to remain in the United States. One of the best solutions in certain cases, especially if the practitioner does not have young children that demand attention, is to shift client calls to the evening, 6 p.m. to 9 p.m.

Human contact and connection are missing in a jail setting. Language barriers leave clients who don't speak English, Spanish, or Somali without company. Extended lockdowns intended to prevent the spread of COVID give many detained persons only two hours outside of their cell in which they must squeeze in time to check in with family and attorneys. Due to the pandemic, ICE now provides 520 minutes of free calls each month, but participation in this program is at the facility's discretion. Freeborn Adult Detention Center has declined to participate, meaning ICE detainees must have money in their personal account and be able to afford \$5 phone calls. This situation exacerbates the isolation while also cutting off an important lifeline in the preparation of their case.

with natural light. At the Freeborn Adult Detention Center, an immigrant may have access to AA, art therapy, prayer groups, a gym, and even a tablet that permits texts and calls to loved ones from their cell. At the Sherburne County Jail, the very same person may expect access to a gym and a Christian-only prayer group.

These facilities are not equipped to treat persons with serious health needs, especially long-term. Persons with serious mental health issues have, in some cases, been placed in segregation (sometimes referred to as "isolation") because the staff lack appropriate means to manage a mental health crisis. My clients with serious mood disorders or who perhaps suffer hallucinations related to schizophrenia have spent 60 or more days in segregation. This means 22 to 23 hours each day in their cell where they are not permitted access to books or any type of activity. This solution only exacerbates mental health symptoms. Getting out of segregation often requires taking medication,

### The Pandemic's Impact on ICE Detention

All in-person visits at the county jails were suspended as closures swept the state in March 2020. The jails have long allowed phone access to clients. Sherburne County Jail is able to facilitate Zoom access for client meetings, however, the rest only offer phone access to attorneys. Depending on the facility, I am able to call a client directly, while other facilities pass on a message for a call back. There is varying success with the latter method. Clients whose first language is not English may not understand the question or maybe an unexpected COVID lockdown will prevent them from calling me back.

This problem becomes especially critical when I am trying to reach a client in preparation for a hearing. I might need to discuss a police report I just received prior to a hearing the next morning or review a declaration for signature, but I cannot because of a lockdown. COVID

During the pandemic, the staff at each jail has facilitated the exchange of documents between clients and attorneys via email, which has made obtaining signatures and document delivery much faster. However, reviewing documents with clients creates a new challenge. Our clients face language, health (physical and mental), and education barriers. When discussing an application or a declaration I have sent a client, I cannot guarantee we are even looking at the same page. I cannot send my clients a stapled copy, and I often wonder if their copy is in the right order.

I appreciate the time saved now that I don't spend hours on the road, but now I find myself asking the following questions during each client meeting:

- Is this a secure connection?
- Is my client standing in a room with anyone else?
- Is he able to access a private space?
- What is her appearance like?
- Do they really understand what I'm saying?
- Are they experiencing audio or visual hallucinations?
- I'm not getting called back; are they sick with COVID?
- Or maybe they are reliving trauma after discussing their asylum case?
- Does this person feel like they can trust me?

There is no surefire way of guaranteeing we get the right answers to these questions. These questions must be answered with every client, in almost every conversation. A client of mine as a member of the Nuer tribe was seeking protection from South Sudan. Members of the Nuer tribe are often identifiable based on traditional scarification patterns of their forehead. This would be clear to anyone who has met him—in person. I did not have that advantage. And

perhaps because it was so common to the client's experience, he did not bring it up. If I had not asked about any scarring patterns, I could have missed an important and obvious method by which he could be identified in South Sudan.

Another client was able to understand and communicate by phone with me effectively. What I didn't know was that he was experiencing visual hallucinations. I was only able to see him during his video appearance at hearings—an unreliable way to ascertain whether a client is experiencing hallucinations. Strange behaviors are often the result of nerves. Fortunately, he later disclosed the hallucinations to me, and we were lucky that he was able to distinguish hallucinations from reality. This is not always the case. I was able to connect him with a psychologist. He was diagnosed with schizophrenia—a condition that can put him at risk of persecution and torture in his country of origin. If he had not been able to identify his hallucinations, he might not have been able to remain in the United States—or still be living.

## COVID-19 in Minnesota Detention Centers

The COVID-19 pandemic created opportunities for early release from state and federal prisons.<sup>8</sup> The pandemic has provided little relief to those in immigration detention with respect to early release. EOIR's bond analysis sidelines COVID concerns, because dangerousness and flight risk do not account for the present danger to someone who is currently in detention. Petitions for *habeas corpus*—a request for release to the federal district court—have had limited success. A nationwide class action, *Fraihat v. ICE*, requires ICE itself to affirmatively seek out vulnerable persons in its custody. The goal is to identify the most vulnerable for release. In practice, this does not occur unless an attorney requests a review of a client's custody. Locally, few, if any, people have been released after making a request under *Fraihat*.

Our clients regularly report that they feel as if they are in a petri dish and cannot keep

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themselves healthy.<sup>9</sup> Some detained noncitizens with symptoms of COVID have never received confirmation of whether they are positive.<sup>10</sup> Detention centers in other areas of the country have seen deaths.<sup>11</sup> ICE's own reporting tool has proved unreliable. Sometimes the numbers of confirmed cases at a detention facility decrease without an explanation. Some facilities are omitted from the data.<sup>12</sup>

Even those persons who asked to be deported as soon as possible remain waiting, sometimes for months, in detention. Prior to the pandemic, removal flights to certain countries were infrequent—once or twice a year. Now, with the U.S. COVID number surging out of control, additional countries have refused to accept flights from the United States. Even some who are awaiting deportation to a geographically close country, like Guatemala, have been left sitting and waiting in detention for months. This means no end in sight to sitting in detention without access to the outdoors and maybe without the ability to contact loved ones.

The size of the detained population has decreased since the beginning of the pandemic, and a growing portion of those in detention are those who have not been physically removed from the country after a removal order. Some practitioners have shifted toward engaging in more habeas work at the federal district court, but this does little to address scenarios like those detainees from Guatemala who are sitting and waiting to leave.

Those waiting for an indefinite period of time are at risk both physically and mentally. Clients who have served criminal sentences consistently express that there is a vast difference between living in detention with and without an end date. Sitting in indefinite detention is its own type of torture. It is in these moments that we, the attorneys who are here to make the process a little more humane and provide some protections, can feel powerless. We still must work with the options that the law provides—which are few.

## Access to Telehealth While in Detention

The pandemic has pushed us all to realize the possibilities that technology provides in our practice. And one of the greatest advantages that has come about for my clients is the growth of telehealth services. Detention previously was a barrier to a client's access to mental health and chemical health services. It was challenging for providers to both travel to the county jails and ensure access with an appropriate interpreter. The pandemic created a necessity for telehealth services. Detained noncitizens can now access these services by phone or video—depending

on the jail—to a degree that was previously impossible. Some of my clients have been able to work with bilingual and culturally competent mental health providers for the first time in their lives. For some, it is the first opportunity they've had to regularly discuss mental health on a regular basis. The difference it makes is palpable. If ICE detention continues under the same current practices, this is a valuable resource we must retain.

## The Pandemic and the Immigration Court

### Dockets

In the last four years, immigration attorneys have become accustomed to looking to Twitter (of all places) for major immigration-related policy announcements. Somehow, I still did not anticipate that I would need to turn to checking Twitter at midnight or later in anticipation of a hearing's cancellation the following day.<sup>13</sup> In March, as the pandemic closures spread across the United States, the courts suspended all hearings for those who were not in ICE custody. Filing updates and closures (published by EOIR) existed exclusively on Twitter.<sup>14</sup> These notices were provided solely in English on Twitter without an effective means to reach out to non-represented parties.

EOIR has since streamlined its system to make announcements via email, a website, and Twitter. However, the logic behind a court's opening and closing is opaque. Courts in New York, Atlanta, and Florida, all areas that have seen surges at various points, have reopened seemingly in spite of infection rates. The Minnesota nondetained docket remains suspended for the time being. Every week, EOIR announces whether these courts will remain closed for another two to three weeks. Evidentiary deadlines are set 15 to 30 days prior to the hearing. This results in large evidentiary filings for cases that will be reset to a later date on a non-detained case. Preparing these filings becomes an exercise in futility when the rescheduled hearing is in 2023.

Detained cases are time-intensive, emotional, and exigent. They move much faster than non-detained cases. Where the life of a non-detained case could be years, a detained removal case timeline might require presentation of evidence within six weeks. That is six weeks to meet the high burden that the noncitizen qualifies for relief. Now, with courts and agencies with necessary documentation working with a skeleton staff, it can take five weeks or more to obtain evidence. The shift in the number of detained cases has shortened the detained length of a case in Minnesota. These shortened timelines are intensified by a four-year attorney general led campaign to limit an immigration

judge's authority to grant continuances. I have seen evidentiary hearings scheduled within one to two weeks of an attorney's initial appearance.

In light of these changes, attorneys can't help but feel some hostility from government agencies. These suspicions might sound conspiratorial, but I would ask you to take into consideration EOIR's continued use of Twitter to announce COVID closures. Generally, if there is a COVID exposure, a court closes "out of an abundance of caution."<sup>15</sup> These announcements give little guidance as to when and where the exposure occurred in the building. These announcements only identify who entered a building with COVID when it is "[d]ue to a violation of EOIR Policy Memorandum 20-13 by a practitioner."

### Email Filing at the Immigration Court

The immigration courts lagged far behind others as far as e-filing. Prior to the COVID-19 outbreak, all exhibits were filed on paper. In light of the evidentiary burden on noncitizens, filings commonly reach 500 to 1,000 pages. I remember Senator Amy Klobuchar reminiscing about being a young attorney running to reach the filing window by 3:59 p.m. or begging a clerk to accept a late filing and thinking to myself, that is still what we do at the immigration court.<sup>16</sup> This excludes the well-organized lawyers who perhaps placed their exhibits in the mail before the filing deadline.

E-filing has been rolled out in some courts across the country. Locally, the transition to e-filing was to have begun in May 2020, but, of course, the pandemic has pushed back this date. For courts that do not have e-filing, EOIR introduced email filing for detained cases. The court does not permit compressed files or encrypted emails and restricts email to filing 50 pages over the life of an entire case. Submissions that would exceed the 50 pages must be accompanied by a motion to exceed the limit. Email filing has overall facilitated a lawyer's ability to remain at home and avoid entering public spaces in spite of these limitations. Even so, I still rush to the filing window some days with any filing that is too large to attach to an email.

### Technology in the Court Room

Prior to the pandemic, ICE transported detained noncitizens to the courthouse for hearings that included a judge, an ICE attorney, and a Spanish language attorney all in the same room. Although EOIR announced the closure of non-detained hearings on March 18, 2020, detained cases have continued. After some sporadic court closures, on April 7 the local court began its transition to having most participants joining by video. Currently, the immigration judge appears via video from a separate courtroom, and the noncitizen appears via video from the

detention facility. The OCC may also appear by video. The courtroom is now down to two people: the respondent’s attorney, if he or she has one, and an interpreter, if needed. Attorneys and witnesses are permitted to appear by phone.

While a much safer option, it is not conducive to litigating complex issues. Confidential client-attorney communication during a video hearing is impossible. The use of video also depersonalizes a discussion of often traumatic events. The impact of live testimony is lessened by the loss of nonverbal cues. Even conferring with opposing counsel becomes more complex. Efforts to discuss and narrow issues prior to hearings mitigate this last problem, but it makes it difficult to discuss new issues that come up during the hearing.

### What’s Next?

A book could be written about the impact of COVID-19 on immigration law, processes, and noncitizens in the United States. I encourage you to reach out to your colleagues in the immigration world who can shine a light on issues I have not discussed here. A history of reactionary lawmaking created a modern system that more readily pushes our community members out of the country rather than welcome a single person to the country. The “process” is a labyrinth that challenges even the most experienced practitioners. In the context of removal proceedings, detained immigrants must try to rush through a complicated process, providing an even greater opportunity to fail. Nondetained immigrants must wait years for an answer to whether they can remain in the country.

The COVID-19 pandemic shines a light on the injustice baked into the system. Civil detention is civil in name only. U.S. immigration law upholds civil detention while simultaneously stripping away the little due process afforded to the detained. It is punitive and harmful not only to those caught in it but also to their families and our communities.



**Kerry McGuire**

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Kerry McGuire is a staff attorney at the Immigrant Law Center of Minnesota. She represents detained noncitizens in removal proceedings at the Fort Snelling Immigration Court.

### Notes

- <sup>1</sup> As of July 2020, the Migration Policy Institute’s Catalogue of President Trump’s changes to the U.S. Immigration System was 126 pages long: <https://www.migrationpolicy.org/research/us-immigration-system-changes-trump-presidency?s=09>.
- <sup>2</sup> Immigration Judge Dana Leigh Marks during the April 1, 2018, edition of *Last Week Tonight* with John Oliver.
- <sup>3</sup> 8 U.S.C. § 1226(c)
- <sup>4</sup> <https://immigrantjustice.org/staff/blog/ice-released-its-most-comprehensive-immigration-detention-data-yet>
- <sup>5</sup> [https://www.hamiltonproject.org/assets/files/BailFineReform\\_EA\\_121818\\_6PM.pdf](https://www.hamiltonproject.org/assets/files/BailFineReform_EA_121818_6PM.pdf)
- <sup>6</sup> <https://www.ice.gov/doclib/detention/FY20-detentionstats.xlsx>
- <sup>7</sup> *Rodriguez v. Robbins*, 804 F.3d 1060, 1072 (9th Cir. 2015)
- <sup>8</sup> For example, <https://www.jdsupra.com/legalnews/pandemic-is-changing-compassionate-5368705/>
- <sup>9</sup> [https://www.wctrib.com/news/crime-and-courts/6815868-Advocates-push-for-ICE-detainees-to-be-released-from-Kandiyohi-County-Jail-due-to-COVID-19-concerns-sheriff-says-he-doesnt-have-that-power#.X\\_nWWwuv-LpI.twitter](https://www.wctrib.com/news/crime-and-courts/6815868-Advocates-push-for-ICE-detainees-to-be-released-from-Kandiyohi-County-Jail-due-to-COVID-19-concerns-sheriff-says-he-doesnt-have-that-power#.X_nWWwuv-LpI.twitter)
- <sup>10</sup> The medical provider which contracts with Minnesota County Jails is under investigation for unethical practices: <https://www.kare11.com/article/news/investigations/kare-11-investigates-unethical-record-of-minnesotas-largest-jail-health-care-provider/89-aed51ef6-ca37-4ace-b6d0-3e079389c9c9>
- <sup>11</sup> <https://www.ice.gov/coronavirus#>
- <sup>12</sup> <https://www.vera.org/tracking-covid-19-in-immigration-detention>
- <sup>13</sup> [https://twitter.com/DOJ\\_EOIR/status/1237906108347531267](https://twitter.com/DOJ_EOIR/status/1237906108347531267)
- <sup>14</sup> [https://twitter.com/DOJ\\_EOIR/status/1237736034789621762](https://twitter.com/DOJ_EOIR/status/1237736034789621762)
- <sup>15</sup> [https://twitter.com/DOJ\\_EOIR/status/1347688828782465029](https://twitter.com/DOJ_EOIR/status/1347688828782465029)
- <sup>16</sup> <https://www.justice.gov/eoir/fort-snelling-immigration-court>

If you are interested in representing clients detained in civil detention or learning more about advocacy surrounding civil detention, please reach out to Kerry McGuire at [Kerry.mcguire@ilcm.org](mailto:Kerry.mcguire@ilcm.org) or to the Advocates for Human Rights by contacting John Bruning at [jbruning@advrights.org](mailto:jbruning@advrights.org).

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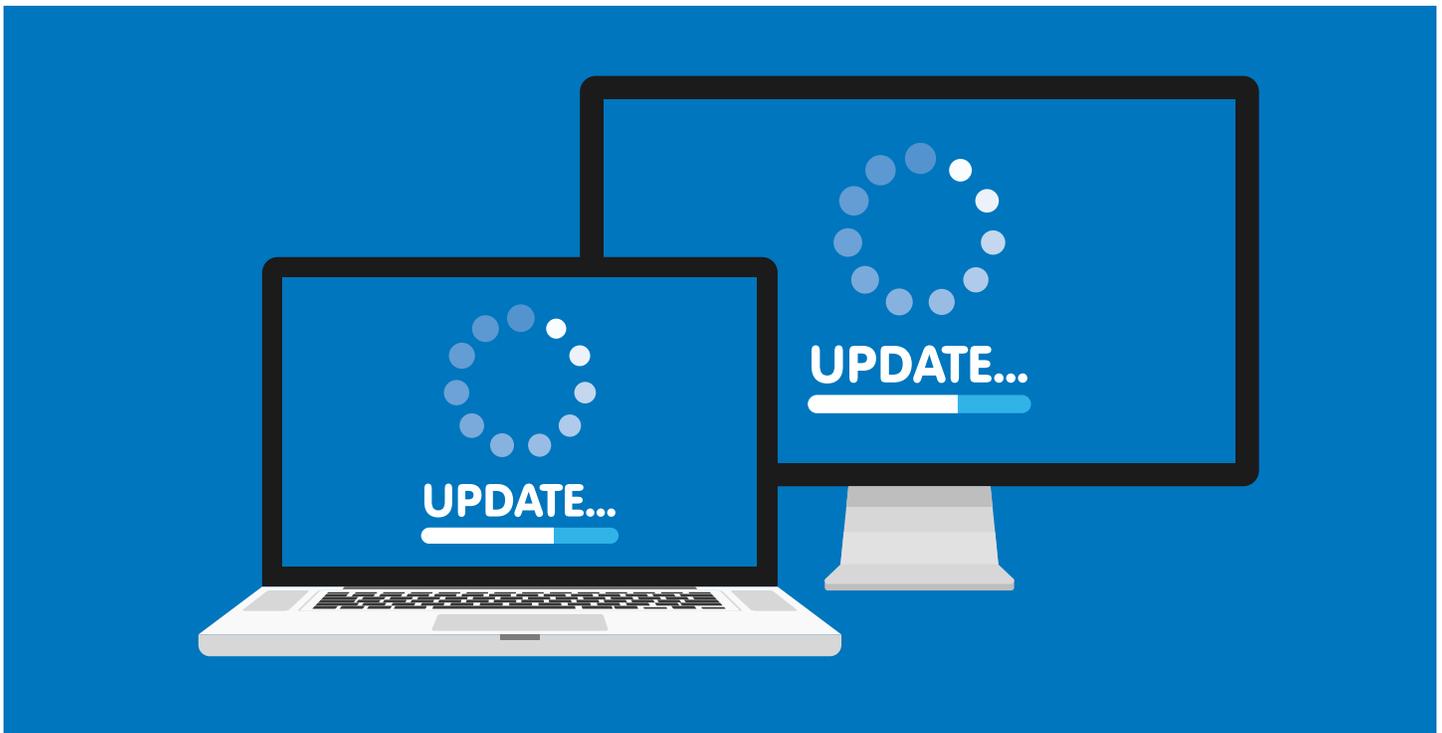
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## Legal Aid Update

# Serving Clients During a Pandemic

By Jean Lastine



When the COVID-19 pandemic escalated in March of 2020, Central Minnesota Legal Services (CMLS) began operating as a virtual law office on March 19 after adopting protocols to protect the health and safety of CMLS staff and the people it serves.

When Governor Tim Walz issued an executive order on March 27 directing Minnesotans to stay at home and limit movements outside of their home beyond essential needs, CMLS rethought its operations as it was clear staff would be working remotely with limited presence in our physical offices for a longer time than we originally thought.

### Reevaluating Needs

The CMLS culture was to work from our physical office space with clients coming in for meetings, and support staff close at hand for assistance

with pleadings and case management. Most CMLS staff used desktop computers, and a few laptops were available to check out as needed for legal clinics and occasional remote work.

CMLS had purchased a few laptops at the beginning of March but it was clear when the stay-at-home order was issued that a much larger investment in technology was necessary to provide staff with the tools to work remotely for a longer period of time.

The technology needs went well beyond what CMLS had budgeted for technology expenditures in 2020.

The Legal Services Corporation (LSC) received \$50 million in the first stimulus package passed by Congress on March 25, 2020, and LSC made \$2.4 million available for Telework Capacity Building grants to its grantees. CMLS receives funding from the LSC, as do Anishinaabe Legal Services,

Legal Aid Service of Northeastern Minnesota, Legal Services of Northwest Minnesota, and Southern Minnesota Regional Legal Services.

The legal services community is grateful that other funders also provided support for pandemic needs, including technology. The Minnesota State Bar Foundation received two grants from the Minnesota Disaster Recovery Fund for Coronavirus and re-granted the funds to civil legal aid organizations. The MSBA also contributed funds for these needs. These resources helped many legal aid providers obtain necessary technology and equipment while experiencing strained budgets and unanticipated expenses.

CMLS received a grant from LSC which allowed it to purchase hardware and software to support teleworking while promoting staff safety and the continuity of operations for clients and the program.

## Virtual and Physical Office Updates

CMLS was able to purchase laptops for staff use for data security. This also maximized the use of organization-issued software which would otherwise not be available on personal devices of staff that they might use for work-related tasks.

The laptops allowed CMLS to continue to provide quality advocacy for clients while in-person appearances were limited. CMLS purchased multiple Zoom licenses for use in court hearings and other client meetings. Printers, scanners, and mobile hotspots were also purchased.

CMLS obtained e-signing software to allow clients to electronically sign documents from their smartphones or personal computers in a secure manner.

These efforts provided staff with the tools to continue allowing attorneys to accept cases for extended representation and provide other services without risking the health or safety of staff or clients.

Reconfiguring conference rooms and client meeting spaces was another adjustment CMLS and its partner Mid-Minnesota Legal Aid (MMLA) made during the last year. CMLS and MMLA are co-located at their office locations. Three conference rooms in the Minneapolis location were reconfigured into hearing rooms with enhanced technology and protective equipment to allow participants in hearings to safely be in the same space and follow social distancing protocols.

The programs are also planning for the future as the courts and other agencies increasingly resume their work. Recently two smaller conference rooms were remodeled into a fourth larger hearing room. The programs also decided to create a temporary in-office client facilitator position to help manage office use by staff and clients as the need for more people in our offices increases.

This position involves ensuring clients and other visitors to our offices follow our health and safety protocols, directing clients and others to their meeting space and the attorney they have come to meet, and sanitizing spaces for meetings after use.

A very important duty of the facilitator is to troubleshoot technology arising in conference/hearing rooms in connection with Legal Aid's Information Technology staff.

## Looking Ahead

Like many other organizations, CMLS is working on what work will look like in a post-pandemic world when it is safe for more staff to return to its offices for in-person work and meetings. The time since the shutdown until now has shown that working remotely has not only kept staff safe but is an environment where staff can work productively, coming to the office and going to court as needed.

Zoom occasionally causes staff to feel fatigued, but it has also been a platform for collaborating with co-workers and office community building events. Having this platform has allowed more flexibility for meetings and has reduced the need for some travel for work functions.

Office conversations on becoming a "paperless office" are becoming a priority as we continue to assess office file maintenance and evaluate technology tools that will help staff work productively and efficiently in a remote environment.

Operating in a manner that protects our staff and clients is still our priority going forward as we continue to deal with the pandemic. Working on the balance between a virtual environment and fostering a collaborative work community with the personal connections to support each other will be a continuing discussion for legal aid programs in the year ahead.



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Jean Lastine is the executive director of Central Minnesota Legal Services. The organization, with offices in Minneapolis, St. Cloud, and Willmar, assists people in 21 counties in central Minnesota. Lastine also has served on several boards, including the HCBA Board of Directors, the MSBA's Access to Justice Committee, and the MSBA Board of Directors.

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# Post-Pandemic Practice

*By Debra Bulluck and Eric T. Cooperstein*



THE PANDEMIC HAS HIGHLIGHTED THE ADAPTABILITY OF THE COURT AND COURT USERS. SO LONG AS THE COURTS CONTINUE TO THINK OUTSIDE THE BOX TO MEET COURT USERS' NEEDS, REMOTE HEARINGS HAVE A PROMISING FUTURE.

Here's a pandemic experience that will be familiar to many lawyers. You represent a client on a routine motion. Instead of driving to the courthouse, arriving well in advance because of the unpredictability of traffic and parking, and waiting for the hearing to begin, you log into a Zoom link 10 minutes before the hearing is set to begin. The judge conducts a 20-minute hearing and you're done. You log off and move on to your next matter. No walking to the car, driving back to the office, parking, etc. You bill the client for 30 minutes instead of an hour and a half or more. Yes, you billed less on that matter, but you gave the client better value for her money because you charged only for legal services, not for driving and waiting.

As the light grows larger at the end of the pandemic tunnel, thoughts are increasingly turning to how lawyers and law firms will operate as restrictions on in-person meetings, group activities, work environments, and court appearances fade away. Since people are creatures of habit, there will be a tremendous pull to return to old ways: managing paper files, in-person court appearances, commuting in the snow to an office to do the same work you have done from home for over a year. Left to their own devices (so to speak), it might be an open question whether lawyers will continue to leverage the technologies and efficiencies they learned during the pandemic. The court system, however, is poised to lead the way in integrating lessons from the pandemic into the practice of law.

### Early Adaptors

Let's take stock of how the state court system has adapted and embraced the challenges of the pandemic. Honestly, it's a little weird to argue before the Minnesota Supreme Court from your bedroom, worried that during your argument the mail carrier will arrive and your dog will freak out. But all court hearings

were conducted remotely during the first two months of the pandemic and Chief Justice Lorie Gildea reports that even after courthouses reopened, three-quarters of all cases were still being handled remotely. Remote interpreting went swiftly from a goal to a reality, saving interpreters' time and making them more available, particularly in remote counties. Some districts have created "Zoom Rooms" in their courthouses to allow litigants access to technology to participate in otherwise remote hearings without compromising their safety. The treatment courts not only made the transition to remote hearings but also learned that some participants engaged more deeply when they could do so from their homes.

On the back end, the part that the bar and the public do not see, Chief Justice Gildea implemented a variety of new tools, from weekly "Stay in Touch MJB" emails to judges and court staff to keep them abreast in real time of Court operations to the Remote Hearing Workgroup, a small team appointed by the Chief at the onset of the pandemic. The workgroup, composed of court administrators and IT experts, explored technologies that would allow the district and appellate courts to begin conducting hearings remotely and provided an array of training materials to help all stakeholders adapt to our new reality.<sup>1</sup>

### Access to (Virtual) Justice

The repercussions of these technological changes for the affordability of legal services and access to justice are clear and affect the profession at all levels. The Legal Aid or *pro bono* attorney can handle more matters, faster, through remote video appearances. The middle-income party who might otherwise be forced to appear *pro se* may be able to afford counsel, which benefits both the party and the court system. No higher-income or corporate clients are going to be disappointed if the cost of their litigation goes down.

Jean Lastine, executive director of Central Minnesota Legal Services (CMLS), notes that many hearings in family court, such as Initial Case Management Conferences, pretrials, and post-decree motions, have worked well remotely. CMLS was fortunate to receive a grant at the beginning of the pandemic to upgrade its attorneys' technology. Like the district courts, CMLS has developed accommodations for low-income clientele whose access to technology is limited. For example, for remote trials, CMLS has found it more effective to bring clients to its office to access a remote hearing (while socially distancing, of course). Overall, the attorneys at CMLS appear to appreciate not traveling to the courthouse all of the time. By reducing the travel time, Lastine recognizes the potential of being able to serve more clients. Like other businesses, CMLS will be evaluating whether its office footprint can be reduced, potentially freeing up funds to serve more clients.

### The New New Normal

Chief Justice Gildea recognizes that the courts have the opportunity to retain the best of what has been learned about work during the pandemic and institutionalize it. In early summer 2020, the Minnesota Judicial Branch conducted a survey of judicial officers and staff across the state to examine how they were adjusting to the "new normal." Remarkably, eight out of ten respondents wanted remote hearings to become a permanent fixture in our justice system going forward.<sup>2</sup> There have been unexpected benefits of remote hearings. For example, the Chief Justice notes that there has been a significant decline in the failure-to-appear rate in child-support hearings. The judicial branch is already investing in server infrastructure for MNCIS (Minnesota Career Information System) to ensure it is prepared for long-term reliance on technology and future upgrades to the MNCIS platform.

Even more changes may come down the line. Calendar calls are functional for the courts but expensive for parties. The expense is not solely in dollars paid to attorneys: many middle- and lower-income parties have to take time off from work to attend court hearings. Our court system places a great burden on them when they have to take off a half-day of work, pay for parking or transportation, or find childcare just to attend a 15-minute court appearance. To this end, the judicial branch is exploring the feasibility of allowing attorneys and self-represented litigants to choose hearing and appointment dates and times through an online scheduling system. On the domestic abuse calendars, feedback overwhelmingly suggests that parties feel safer

appearing remotely and there tends to be a shorter wait time. As noted, remote hearings have made it easier for parties to make their court appearances. The pandemic has shown us that there are alternative ways of managing these calendars that are centered more on the parties, which benefits the system as a whole.

Part of access to justice is maintaining the general public's access to court hearings even though they take place on a remote platform. Anecdotally, members of the public have contacted the court's clerk to obtain a Zoom link for a hearing they wished to attend. Thus far, the remote platform has not deterred the public from observing in the virtual gallery, and it still attracts observers, such as the occasional law student and family member.

In considering the future use of remote technology, Chief Justice Gildea notes, "First and foremost, we need to make sure remote hearings work for those we serve." Additional surveys are rolling out. These upcoming surveys to court users and attorneys will be crucial in identifying needed improvements and determining the appropriate role of remote hearings going forward. According to Chief Justice Gildea, within the Minnesota Judicial Branch, a few project teams have been formed to tackle issues such as "developing a statewide solution for managing electronic exhibits; implementing processes to help with remote hearings, such as online check-in for court hearings and creating an electronic process for filing public defender applications; and ensuring that those who do not have online access are able to attend hearings at courthouses or other public locations."<sup>3</sup>

To be sure, remote hearings may continue to present their own challenges. For one, it is not clear that we are all operating with the same notion of what courtroom decorum looks like in a remote hearing. We do not yet know how litigants' and witnesses' perceptions of court change when appearing remotely. There have been stories of litigants driving, lying in bed, eating, and turning cameras on and off at will during hearings. Attorneys have shown up for remote hearings in sweatshirts—and worse! We have all spent Zoom-time looking at another person's forehead or a dark silhouette against a bright window. Not all bandwidth, internet speeds, and devices are created equally. Lastly, although civil matters have fared well by being able to use remote technology, our criminal counterpart has mostly postponed its hearings. In a post-pandemic world, it is unclear to what extent criminal proceedings will utilize remote technology.

### The Future is Now

The pandemic has highlighted the adaptability of the Court and court users. So long as the Courts continue to think outside the box to meet court users' needs, remote hearings have a promising future. The legal profession, notorious for the snail's pace at which it evolves, has been thrust forward into the future. The message for lawyers is clear: we are not going back to the way things were. If you haven't already bought that upgraded microphone headset and camera, now would be a good time. Lawyers must master the technology, including remembering the "little" things (i.e., taking oneself off mute, screen sharing only documents you want others to see), paying attention to your background and lighting, learning how to share documents during hearings, and packing extra patience while navigating the internet lags during remote hearings. When we get to the other side of the pandemic tunnel, remote technologies will continue to play a central role in the judicial system, improving both access to justice and the practice of law.



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Eric T. Cooperstein, the "Ethics Maven," defends lawyers and judges against ethics complaints, provides lawyers with advice and expert opinions, and represents lawyers in fee disputes and law firm break-ups.



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# THE NEW CORNER OFFICE

## How the Most Successful People Work from Home

Summary by Lisa Buck

The coronavirus pandemic has drastically changed the workplace landscape, with millions of Americans now working remotely. It has also changed the legal landscape, with hearings held virtually and attorneys working from home.

Time management expert and TED speaker Laura Vanderkam offers strategies for boosting productivity in remote work in her book *The New Corner Office: How the Most Successful People Work from Home*.

According to Vanderkam, the key is to shift from the old way of thinking about work and adopt new habits, whether you are working remotely or managing a team of remote employees.

Her tips include:

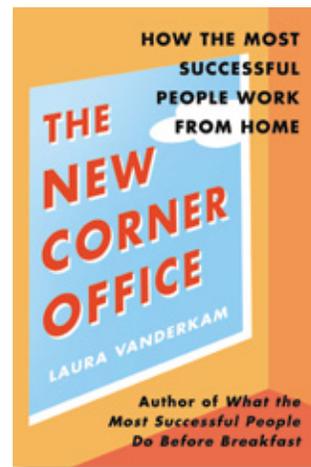
1. Manage by task, not time
2. Get the rhythm right
3. Nurture connections

### Manage By Task, Not Time

The old way of thinking about work is focused on time: a workday is a certain number of hours. Attorneys are hyper-aware of time, as many of us live our lives in billable hours. However, time is not the only marker of productivity.

Vanderkam suggests a workday should focus on accomplishing prescribed steps toward a goal, rather than spending a certain number of hours sitting in a chair. In other words, focus on *results*.

Managing by task rather than time does not mean time is ignored. Vanderkam says that the openness of a remote workday can be disorienting, and therefore it needs to have structure.



Book by Laura Vanderkam

### Plan on Fridays

Vanderkam suggests setting a designated weekly time to plan for the week ahead. She uses Friday afternoons to plan. During this time, think through the week to come and make a list of your top priorities. Priorities fall into three categories: career, relationships, and self. Think about when tasks can happen and the logistics required.

Vanderkam suggests leaving one day per week (for her, it's Friday) relatively open. This acts as a buffer to absorb spillover from the rest of the week: things that take longer than expected or didn't get done because of an unexpected crisis.

### Harness the Power of Progress

In your daily planning, resist the urge to make a long to-do list, which ends up being more like a wish list. We have all experienced the mismatch

between morning ambition and evening reality. An effective to-do list is short, containing about 3-5 items. A short list forces us to prioritize.

Vanderkam suggests viewing the daily to-do list as a contract with yourself, an agreement to complete those 3-5 items by the end of the workday. For remote workers, a completed to-do list indicates when the workday is done.

A completed to-do list also allows us to see progress. A *Harvard Business Review* article reports the single most important thing that can boost motivation of workers is the sense of *making progress in meaningful work*. Team members who feel they are making progress will be happier and more productive.

Vanderkam uses a Ferris wheel analogy to describe the to-do list: the items on your daily list are at the top of the Ferris wheel. Keep spinning the Ferris wheel as the week goes on, and eventually all of the items will make it to the top.

### Rethink Meetings

Vanderkam believes that many meetings are unnecessary, go on too long, or involve people that don't need to attend. A meeting should only be called if that is the most efficient way to achieve the desired result. A well-planned meeting should have a specific purpose and an agenda sent in advance. The agenda could even include chit-chat time at the beginning if connectivity is a purpose of the meeting.

An alternative to meetings is having an agreement among team members that during certain hours, everyone is open to unscheduled phone calls to chat or collaborate. This is the remote equivalent of an open-door policy. The agreed upon "office hours" are for calls and collaboration and "quiet hours" are for focused time.

## Get the Rhythm Right

A good workday has rhythm, a general template which helps you manage your time and energy.

### Start Well

Conscious markers of time help shift our mind from home to work. Traditional work involves a commute to the office which signals the start. In remote work, you can open the day by mindfully making a cup of coffee or creating a musical cue. Some people create a playlist for their home offices. You might light a scented candle. Some companies have a virtual “opening ceremony” each morning, a purposeful and short (no longer than 10 minutes) check-in with team members.

Your template for the workday should recognize when your peaks and valleys are likely to happen. Vanderkam advises doing your most important work during your most productive times. Do work that requires deep thought when you have the most energy and the least distractions. For example, if you are freshest in the morning, you might reserve the first 90 minutes of your workday for your top priority project. You might reserve time in the afternoon for less intense work such as answering phone calls and emails. Vanderkam says using “sprints of focus” can be helpful in protecting interrupted work time. For example, work for 25 minutes, take a 5-minute break, repeat.

We all battle distractions, and working from home may amplify those distractions. Family members, household tasks, unopened mail, the dog barking, and social media compete for our attention. Even noise cancelling headphones can't protect us from our own distracting thoughts like what to make for dinner. Vanderkam says that when something pops into your head, immediately write it down (she calls this a “Later List”), then return your focus to work.

Vanderkam encourages a “box lunch” approach to lunchtime—a 30-minute break during where you take 15 minutes to eat, and spend 15 minutes on a personal aspiration that would otherwise never find time in your life. This aspiration could be reading a classic, drawing, playing a musical instrument, or learning a foreign language.

### End Well

Just as a workday should start well, it should end well. Create an ending ritual to indicate the work day is done. This may include reviewing your to-do list for the next day, meditating for five minutes, making a cup of tea, or unplugging your laptop. This ending ritual will help disengage your brain from work.

Vanderkam says people with children at home or other care-giving responsibilities tend to be better at observing an end to the workday. People without care-giving responsibilities often let work bleed into all hours of their life. If you find yourself in that group, Vanderkam suggests making non-work commitments such as a class or club or even a regular evening appointment with your garden to help signal the end of the work day.

**In your daily planning, resist the urge to make a long to-do list, which ends up being more like a wish list. We have all experienced the mismatch between morning ambition and evening reality.**

For weekends, Vanderkam suggests creating windows of time for work, such as Saturdays before noon and Sundays after 7p.m. Otherwise, she says, Sunday will look just like Wednesday and that can lead to employee burn out.

## Nurture Connections

In remote work, the water cooler chats are gone. Vanderkam says it's crucial to build in time for social interaction with your remote team. For example, send a birthday cake to a remote worker on their special day while co-workers sing “Happy Birthday” via Zoom, create a team book club, or host a virtual wine tasting. Get creative when it comes to social interaction.

Vanderkam is a fan of “home office tours”, where employees take turns showing off their work space with a quick sweep of their laptop, perhaps introducing a willing family member or pet.

In addition to socializing with your team, Vanderkam recommends scheduling a lunch, coffee, or walk once a week with someone worth getting to know better. Vanderkam calls these “curiosity conversations”. It doesn't matter whether the person is in the legal profession—they have a network, and by reaching out to them, you will broaden yours.

She also suggests getting in the habit of sending one note each day to build and maintain your network: congratulate someone on a promotion, refer to an article you read about their organization, or mention that you recently spoke with a mutual friend. This will help to avoid the “out of sight, out of mind” plight that can plague remote workers.

Another way to build connection is to intentionally select your background setting for virtual meetings. Make conscious use of whatever visuals you share onscreen to convey something about yourself and advance your personal brand. Interesting art, a travel souvenir, or a framed album cover of your favorite band tells colleagues about your interests and is an obvious subject for the small talk that starts most meetings.

## Conclusion

There is reason to believe that many of us will continue to work remotely in a post-pandemic world. According to a 2020 Gallup poll, two-thirds of remote employees want to continue working remotely. By shifting how we think about remote work and adopting new habits to support it, employees can be motivated, productive, and engaged regardless of their work location.



**Lisa  
Buck**

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Ms. Buck practiced corporate law in Minneapolis and was an adjunct professor at William Mitchell College of Law. When she isn't writing for the *Hennepin Lawyer*, you can find her behind the lens at Lisa Buck Photography.

# IS THIS ALL THERE IS?

What to Do If You've Lost Passion for Your Career

## QUERY:

Does the time you spend on Sundays dreading the arrival of Mondays outweigh the satisfaction you derive from practicing in your current position? Is “relaxing weekend” just an aspiration in your world?





*By Charles Goldstein and Emily Goldstein*

## “Did I make the ‘right’ decision to go to law school?”

**T**hough we all appreciate the academic stimulation, human interaction, and financial security that our profession promises to deliver, it seems undeniably reasonable to assume that the question of suitability crosses the minds of most professionals: Did I make the ‘right’ decision to go to law school? Should I reconsider continuing in my current job or even in this profession? Are my current responsibilities in accord with my personal beliefs? Circumstantial catalysts—whether personal, political, or economic—often trigger these doubts. COVID-19, for example, has presented challenges that have inevitably made career and job reconsideration more commonplace.

### When the Practice of Law Is No Longer Fulfilling

Certainly, for many attorneys the practice of law is a fulltime passion; they don’t question or regret their career choices. Others, for myriad reasons, come to discover that their practice no longer fits their life circumstances. These realities necessitate reassessment of at least some elements of career planning and potential transition.

Counseling (whether therapist, family, friends, or colleagues) to address career frustration and personal impasses is certainly a good first step to address emotional or career challenges. There are additional avenues already geared up to help with this process, including human resources (if your firm is large enough to have such a department), alumni services at your law school (or even undergraduate college), and career coaching. These services encourage clients to make pro and con lists, discuss desires, and vent frustrations and fears.

Maybe the most important “practice pointer” is to carefully assess the direction in your professional development that would best suit your interests, abilities, and emotional well-being. It’s not just students who need to go through this process. In fact, it can be essential for the midcareer or veteran attorney to ponder, “Is this all there is?” Think about the activities and opportunities you may have missed due to the unique requirements of practicing the law: time with family and friends that can never be recovered, missed vacations, and not having time to pursue hobbies, to name a few. Unfortunately, these too often fall by the wayside due to employer, court, and client expectations, as well as one’s own desire for prestige and financial well-being that may leave you disenchanted and feeling like a stranger to yourself. Of course, family and economic situations are important, but exercising the freedom to contemplate options outside of your present “box” is healthy and vital for your overall satisfaction and ongoing engagement.

### How Has “Workaholism” Affected Your Nonwork Life?

When considering either leaving one’s workplace or the practice of law altogether, it often takes a leap of faith to make the move. Speaking for myself, I felt I was one class short in law school: Juggling 10.0. I felt like I was trying to keep 25 balls up in the air at once: handling a family law caseload while operating a law firm, supervising and managing several law clerks, multiple paralegals, and attorneys; and dealing with clients (many

of whom were going through the most stressful event of their lives). Then there was marketing the firm, article writing, and, most importantly, my family, and relatives with serious illnesses. I had to learn to juggle it all.

Early in the evolution of my law practice when I did not have an office administrator, I would have dinner and get my children to bed, then go hit tennis balls against a machine at 9 p.m. in order to revitalize myself. Then I would return to the office for a while, so that I could stay “ahead of the game.”

Query – Why do attorneys like Fridays? Answer – Only two working days left until Monday!

Though workaholism is a badge proudly worn by many, a person can only be repeatedly stretched like a rubber band for so many years before showing some wear. Unfortunately, “success” usually breeds more stress. It is important to recognize the potential negative impact on health, relationships, and happiness that result from the trappings of career advancement. One must not deceive himself or herself into thinking that career achievements would necessarily provide for greater freedom. Instead, getting off the “hamster wheel” may actually be the golden ticket to sanity.

### Taking a Step Back

Many mental health practitioners are of the opinion that therapy, medications, and other interventions can play an important role in addressing disquietude, but that they are not panaceas. Instead, evaluating and potentially removing the sources of distress is often more beneficial. Just the exercise of allowing yourself to consider other options helps to refresh your perspective and ameliorate your doubts. Regardless of your current circumstances, the causes of your professional stress will likely never change without self-reflection. Hence, recalibrating your professional life may require short-term pain in exchange for long-term gain.

You may discover through this reevaluation that adjustments to your present work life, or even re-assessment of your career, are both realistic and possibly even necessary. Many such avenues do not demand the 60-plus-hour-week typical of law practice. These could include narrowing the focus of your practice: perhaps limiting yourself to firm administration, academia, or possibly serving as in-house counsel. Sometimes, even small tweaks to the existing formula are manageable, easily executed, and can bring about what feels like a seismic shift in your overall satisfaction. Possibly, a vocational assessment will give you some insights as to how to better address the needs of your unique personality. You might enjoy increased mental and physical energy, more time to engage in the things which bring you pleasure, and a renewed interest in your profession.

Of course, maintaining a reasonable semblance of your current lifestyle, or at least covering the basics, is an essential consideration. Remuneration for your work may not have to be substantially sacrificed in the long term if your choices are thoughtfully considered. The reality of maintaining your present level of income can be addressed in a number of ways, including gradual and measured progress toward an alternative goal.



“Re-invention” is now a commonplace term and often requires little or no explanation to friends, relatives, or even potential employers.

### When Is the Right Time to Move?

For those inclined to reconfiguring their career, any time could be the right time. But, inevitable concerns arise: What else can I do to maintain my professional identity? Would the workforce accept me as a re-invented professional? Do I really know what else I would find rewarding? Do I know myself well enough to feel secure that my alternative choice is a wise one? “Re-invention” is now a commonplace term and often requires little or no explanation to friends, relatives, or even potential employers (with some exceptions, of course).

### Vocational and Interest Testing Resources/Taking the Plunge

Evaluation of your vocational aptitude and interests can be challenging and rewarding. For those considering taking the leap—by necessity or desire—the road is not necessarily paved with gold. However, the exercise itself will pay dividends in better self-awareness.

What resources are available to address career-related conundrums and opportunities? The good news is that such resources abound. One example is O\*NET Interest Profiler—a handy, vocational assessment tool that will help you clarify your work personality and tendencies. It helps to illuminate the elements that may have initially attracted you to the law and might lead you to another path. Your challenge is not in locating professionals and online guidance; that’s the easy part. The goal is to hone in on the best resources to help you diligently work through your concerns and achieve the most favorable results.

Of course, it’s critical to map out your alternatives. This can be a bit daunting, especially during challenging economic times. However, you can’t allow your fear of the future to dissuade you from making decisions that could help you reap your goals starting now. With the right career resources and guidance, your possibilities are vast.

### Why Not Now and Is It True That “Age Is Only a Number”?

One’s age does not always have to be a consideration. There are many studies finding that youth isn’t the be-all, end-all of vocational capabilities. In fact, some cognitive abilities peak into later life. While teenagers more typically have bounding vitality and energy, “older” people tend to exhibit more psychological stability, as well as have more experience, life’s best teacher. In addition, a career change may be just what the doctor ordered; when you are happier and more fulfilled in your career, it’s only natural that you will have more time and inclination to enjoy the emotional and physical capacity to immerse yourself in other activities—thus adding years to your life *and* life to your years.



**Charles Goldstein**

**Emily Goldstein**

Charles Goldstein, Senior Professional in Human Resources and Nationally Certified Career Services Provider. Mr. Goldstein practiced law for more than 25 years and now dedicates himself to career coaching. He helps attorneys and other professionals to pursue vocational shifts to achieve greater fulfillment, financial rewards, reduced stress, and other benefits. He is a partner with My Career Coach MN, together with his daughter, Emily Goldstein, Nationally Certified Career Services Provider and Associate Professional in Human Resources.

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# Judge Julie Allyn

## New to the Bench

### Why did you want to become a judge?

Having dedicated my career to public service, and living in Hennepin County for over 25 years, the opportunity to be a judge in the Fourth Judicial District was a chance to continue helping people within my own community. The majority of my career was prosecuting cases, often advocating for victims in a wide variety of matters spanning from rape and murder, to domestic terrorism. Although such advocacy was meaningful, I wanted the opportunity to be in a neutral role as a judge and listen to all sides and weigh competing issues. Now in that neutral role, I can use my skills and experience in the justice system to evaluate a case and strive to arrive at fair and just outcomes for all participants. It is an exciting and remarkable honor to be a judge.

### What has it been like being on-boarded as a judge during the COVID-19 pandemic?

It is certainly a strange time to begin a new job. Although many court hearings are proceeding, such appearances are almost exclusively conducted remotely via Zoom. The lack of in-person court makes it harder to learn from colleagues, and it is more difficult to feel like I am connecting with the public as they appear before me on a computer screen. But it has also been an exciting time to learn new, virtual ways to conduct court. Hopefully in the long run, such new technology will provide more convenient options for how citizens can participate in the court system.

### What do you think is the most pressing issue facing our judicial system today?

The most pressing issue is racial disparities and how such inequities undermine the integrity of the judicial system. It is critical the judiciary continues to develop systemic, feasible solutions to identifying and addressing the causes of disparities in the judicial system.

### What's been the most surprising thing for you since taking the bench?

Before I started overseeing my own court calendars, I heard some stories of Zoom court appearances that were disruptive and chaotic. But I have been surprised how smoothly my various Zoom court matters have proceeded. The vast majority of participants are taking Zoom court seriously. Overall, I have been impressed with how participants have figured out the technology and (virtually) appear in a manner respectful of the proceedings.

**“I have been surprised how smoothly my various Zoom court matters have proceeded. The vast majority of participants are taking Zoom court seriously. Overall, I have been impressed with how participants have figured out the technology and (virtually) appear in a manner respectful of the proceedings.”**

### What's your favorite thing to do outside of work?

In general my favorite thing is to spend time with my family. I especially enjoy traveling with my family.

### What's is a book you recommend?

A recent book would be *Less* by Andrew Sean Greer.

### Career Timeline

1992: B.A., University of Wisconsin—Madison

1995: J.D., University of Minnesota Law School

1995-1997: Law Clerk to Honorable Judge Ann D. Montgomery, U.S. District Court, District of Minnesota

1997-1999: Assistant Attorney General – Office of the Minnesota Attorney General

1999-2001: Public Policy Analyst, Council of Senior Centers and Services of New York City

2001-2010: Assistant County Attorney – Hennepin County Attorney's Office

2010-2020: Assistant United States Attorney – US Attorney's Office, District of Minnesota

2020: Appointed by Governor Walz to the Fourth Judicial District



# Judge Maximillia Utley

## New to the Bench

### Why did you want to become a judge?

I wanted to be a judge in Hennepin County because it is how I believe I can best serve my community. Hennepin County is where I grew up; it is my home and my community. I was born and raised in Minneapolis and it is where I still live now with my family. Even though I was practicing in Hennepin County District Court as a prosecutor for several years prior to my judgeship, I did not feel like I was able to reach and serve my whole community. I wanted to do more and be more for the people of Hennepin County. I see joining the bench as a way for me to be a bridge between my community and the justice system.

During my career before joining the bench, I had the opportunity to work in courtrooms on an almost daily basis for over 11 years. That experience gave me not only a familiarity with the laws, rules, and statutes that govern the court, but it also gave me an important perspective, particularly after working in juvenile court, which focuses on rehabilitation. I believe in the rule of law and protecting public safety, while also believing strongly in rehabilitation and redemption. I appreciate the need to look at cases holistically, to see the people behind the cases and to hear the perspectives, stories, and truths of the litigants in a courtroom. I also appreciate the need to hear all interested parties in a courtroom: the victims, impacted community members, and attorneys associated with each case.

I believe my personal and professional background gives me the ability to provide a safe space for all of those voices to be heard. Being a bridge between those voices and the justice system is how I believe I can best serve the people of Hennepin County. It is truly an honor to be a Hennepin County District Court judge.

### What was your career path before becoming a judge?

Prior to becoming a district court judge, I worked as an assistant county attorney at the Hennepin County Attorney's Office. While there, I worked in each criminal division. I prosecuted white collar crimes in the Special Litigation Division, felony drug offenses in the Community Prosecution Division, violent felony offenses in the Adult Prosecution Division and juvenile delinquency crimes in the Juvenile Prosecution Division. I was also a senior assistant county attorney in the Juvenile Prosecution Division where I supervised several attorneys and specialty assignments. Before joining the Hennepin County Attorney's Office, I was a judicial clerk on the Minnesota Court of Appeals for Judges Thomas Kalitowski (retired) and Heidi Schellhas (retired).

### Career Timeline

2003: B.A., University of Minnesota

2008: J.D., University of Minnesota Law School

2008-2009: Judicial Law Clerk – Minnesota Court of Appeals

2009-2020: Assistant County Attorney/Senior Assistant County Attorney – Hennepin County Attorney's Office

2020: Adjunct Professor – University of St. Thomas Law School

2020: Appointed by Governor Tim Walz to the Fourth Judicial District

### What has it been like being onboarded as a judge during the COVID-19 pandemic?

It has been interesting. Thankfully, I was already practicing regularly in Hennepin County District Court prior to my onboarding as a judge, so I was aware of the remote hearing changes that had been made during the pandemic. However, handling the court calendars from this side of the bench is an entirely different ballgame. A remote calendar requires a lot of coordination with court reporters, the attorneys, the litigants, interpreters if they are needed, and the court clerks. The court clerks really run the show behind the scenes and they get a good amount of training regarding Zoom and how to run the technology effectively.

Aside from the new technological part of the job, I consider myself lucky that Hennepin County has a robust judicial training program that covers a huge array of topics—from overviews of criminal law and specialty courts to hands-on training with the internal systems we use every day. I was also able to shadow experienced judges on the calendars and assignments I am now handling, which was immensely helpful. The judicial and district court administration do a wonderful job of welcoming the new judges and showing us the ropes.

### What do you think is the most pressing issue facing our judicial system today?

There are many practical issues facing our judicial system today, which include the way the pandemic has affected the ability to hold court hearings and trials, the backlogs that were already present but that have been made exponentially worse by this pandemic, and budget issues all state organizations are facing. Fundamentally, though, the most pressing issues facing our judicial system today are the racial disparities in the justice system and the lack of trust in the justice system by our Hennepin County residents.

**“I think everyone involved in the justice system at every level is trying to figure out how and what can be reformed to address the disparities we see in society and in our courts.”**

These issues have existed for a long time but have become more pronounced recently, particularly in Hennepin County. I think everyone involved in the justice system at every level is trying to figure out how and what can be reformed to address the disparities we see in society and in our courts. I am grateful to come to this role with community and work experience in addressing the elimination of racial disparities in the justice system. I hope to use that experience, as well as my personal experiences as a Black woman working in this justice system, to find solutions to these most pressing issues. I have been pleased to see Hennepin County District Court recognizes the importance of addressing these important matters. Of course, it takes all justice partners working together to address this issue, but I am hopeful we will see changes in this area soon.

**What’s been the most surprising thing for you since taking the bench?**

The most surprising thing for me has been the number of decisions I make in a single day. Even though I worked in front of the district court for years, I took for granted the amount of decision-making that goes into every aspect of a judge’s day. I have come to appreciate that each decision a judge makes—on bail, on conditional release or probation conditions, on fines and surcharges, on jail time, on motions, on continuance requests, on rulings, etc.—can take significant time and consideration. Most importantly, each of those decisions really matter to a litigant (or a victim) in a case and will affect their lives. So, while I have been surprised by this learning curve, I am also humbled by it and have realized the impact a judge makes with each decision made, big or small.

**What’s your favorite thing to do outside of work?**

My favorite thing to do outside of work is to spend time with my family – my husband, our three daughters and French Fry, our 12-year-old pug. In a non-pandemic world, I also love to travel with my family to warm, sunny places during the winter.

**What book(s) do you recommend?**

My two favorite books are *Their Eyes Were Watching God* by Zora Neale Hurston and *Song of Solomon* by Toni Morrison. Those two books are always at the top of my book recommendation list.



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# Judge Terri Yellowhammer

## New to the Bench

**“Part of the work of any attorney representing individuals is to humanize them. Part of the job as judicial officers is to see them.”**

### **Why did you want to become a judge?**

The short answer is that it's a continuation of my career path as a public servant. The longer answer is that I had not thought of it until I was encouraged to apply about six years ago by someone who had served on the Judicial Selection Commission. When I asked why they thought I would make a good judge, the person told me that I had the right kind of background. This was a bit surprising to me at the time. Although I have always kept my license current and have been a tribal judge, I have not practiced law nonstop since passing the bar, and I have done a lot of other things. I was fortunate to have found other ways to be of service that appealed to me, such as providing technical assistance to grantees funded by the Department of Justice, the Substance Abuse Mental Health Services Administration, and the Children's Bureau. Service areas included substance misuse prevention, suicide prevention, education safety, and reducing childhood exposure to violence.

### **What was your career path before becoming a judge?**

I have done a lot of work in child welfare and social services. Starting out, I worked at nonprofits in Minneapolis. I think of that as the school of hard knocks, because I learned a lot from the families we served. I was a legal analyst in the Licensing Division at DHS. After that, I was the Indian Child Welfare Program Consultant for the Minnesota Department of Human Services. In that role, I provided training and guidance on best practices in Indian child welfare to county social service workers, directors, judges, and guardians ad litem. I had the privilege of working on the Tribal/State

Agreement on Indian Child Welfare between the state and the 11 federally recognized tribes in Minnesota. I have served on many different nonprofit boards to try to have an impact in making life better for people who have been marginalized, including those in my community.

### **What has it been like being onboarded as a judge during the COVID-19 pandemic?**

I worked from home before joining the Fourth District, so there is a little bit of familiarity that way. But because of the steep learning curve, it is very challenging, doing everything on Zoom. We have great judicial staff, so that really helps. But, I am looking forward to a non-Zoom judge experience.

### **What do you think is the most pressing issue facing our judicial system today?**

Aside from the challenges that typically face big systems, such as budget, efficiency, and quality service, I think of the things that hit the heart: building trust in our system from the communities we serve. Conveying through the way we do our work that we truly see the people who come before us. Having worked in big systems, I know the importance of data. I also know that data, by its nature, can depersonalize the challenges that people face. Part of the work of any attorney representing individuals is to humanize them. Part of the job as judicial officers is to see them.

### **What's been the most surprising thing for you since taking the bench?**

Being called “your honor” takes some getting used to. Also, judges do an incredible amount of multi-tasking.

### **What's your favorite thing to do outside of work?**

Hang out with my husband at our favorite coffee shop (when COVID allows of course), cook for family and friends, walk by the river, and play doubles tennis with my tennis buddies. I am a tennis fiend.

### **What are some books you recommend?**

Nonfiction: a tossup between *The Warmth of Other Suns* by Isabel Wilkerson and *The Black Dog of Fate* by Peter Balakian. Fiction: a tossup between *Everything is Illuminated* by Jonathan Safran Foer, and *A Constellation of Vital Phenomena* by Anthony Marra.

## Career Timeline

**1985:** B.A., College of St. Catherine

**1995:** J.D., University of Minnesota Law School

**2007-2011:** Judge, White Earth Tribal Court

**2008-2013:** Consultant, Midwest Child Welfare Implementation Center

**2011-2018:** Consultant, Education Development Center, Inc.

**2012-2014:** Appellate Judge, White Earth Tribal Court

**2014-2017:** Indian Child Welfare Law Center, Staff Attorney

**2018-2020:** American Indian Community Relations Development Manager

# Member News

Submit your HCBA member news to [thl@mnbars.org](mailto:thl@mnbars.org) for consideration.



Maslon announces that **Erica Holzer**, attorney in Maslon's Litigation Group, has been elected to serve as Secretary of the Epilepsy Foundation of Minnesota.



Best & Flanagan welcomes **Elizabeth Drotning Hartwell** to their family law practice.



**Jim Krause** has joined Lommen Abdo's litigation practice focusing on professional liability, attorney discipline, insurance defense, insurance coverage and commercial litigation.



Henson Efron announces that attorneys **Anne Haaland** and **Scott**

**Emery** were elected the firm's newest Shareholders.



Chestnut Cambronne announces that **Ryan Prochaska** and **Erica J. Lindquist** have been named partners in the firm. **Eric B. Bjerva** has also joined the firm as an associate.



**Macey L. Muller** has joined the firm of Moss & Barnett.

Arthur, Chapman, Kettering, Smetak &

Pikala has announced the election of **Jeffrey M. Markowitz** as shareholder.



**Kyle Prouty** has joined the firm of Heimerl & Lammers.

Bassford Remele announces that **Casey D. Marshall** has been elected to shareholder and **Kathryn L. Babb, Bryce D. Riddle, Lauren C. Curtright, Khuram M. Siddiqui,** and **Gillian L. Gilbert** have become associates of the firm.

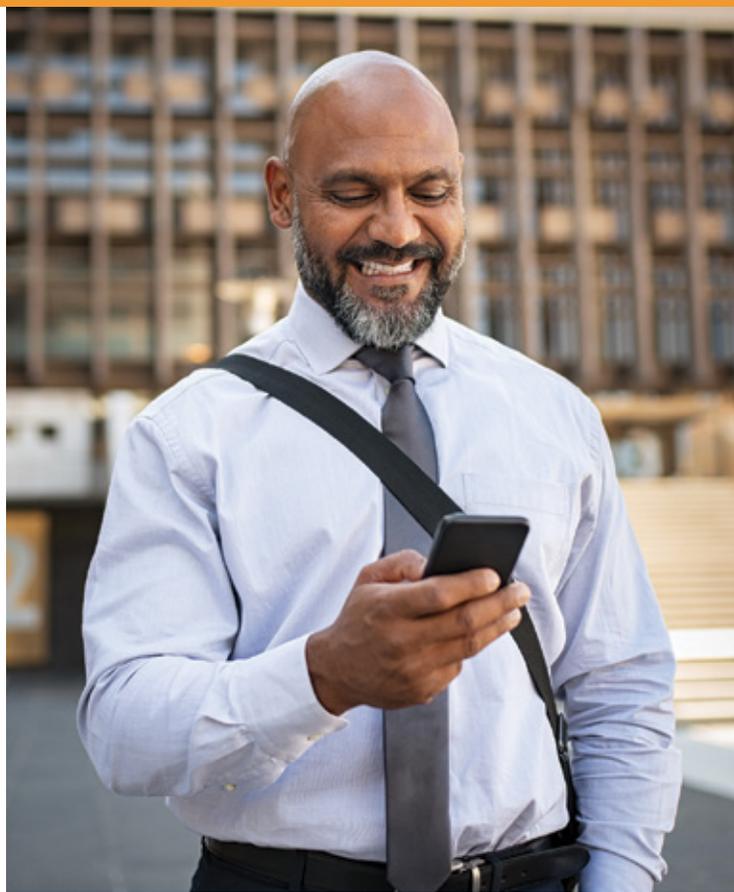
## New Section Serves Our Most Seasoned Members



### Senior Lawyers & Judges Section

Did you know that in the works is a new HCBA Section to address the needs and interests of Senior Lawyers and Judges? As you contemplate a transition from full time employment into a new stage of life, membership in the Senior Lawyers and Judges Section will allow you to take advantage of the experience and maturity of those within this legal community. Programming will enable us to remain professionally relevant and personally connected with colleagues. The new Section will launch in 2021 and we are seeking HCBA members who wish to serve on the leadership team.

**If interested in joining please contact Kathleen Murphy at: [km@kmurphy.com](mailto:km@kmurphy.com)**



# 2021 Bar Memorial

The longer I serve on the HCBA Bar Memorial Committee, the more poignantly am I aware that tragedy, aging, and death are inescapable. Leaving life here on earth is our final act of living. The HCBA Bar Memorial helps ensure that our deceased colleagues' final act is honored and celebrated. Indeed, this Fourth Judicial District special court session has been taking place for over 100 years—the longest running Bar Memorial in Minnesota. Another historic moment happened when the first-ever *virtual* HCBA Bar Memorial happened earlier this year, in the middle of a raging pandemic.

This extraordinary track record is due to the efforts of many dedicated attorneys, judges, staff, and administrators. Collaboration between the Hennepin County Bar Association and the Hennepin County District Court is one key. For this we are grateful, especially for Chief Judge Todderick S. Barnette's leadership. The other key is the HCBA Bar Memorial Committee. These lawyers and judges volunteer hours of time assisting the families who wish to have their loved one memorialized. Every family is unique, as are the circumstances of every passing. Hence, our committee members navigate the family's emotions, both happy and sad, and help shepherd them through the memorial writing process.

The 2021 session will be held virtually on April 30, 2021. With any luck, we will once again gather in person for next year's session. As we plan for 2022, please let us know of any Hennepin County lawyers and judges who pass away in 2021. And last, we can always use more Bar Memorial Committee members. The need is growing. The privilege of helping a family through a loved one's final act is the greatest reward. For more information, contact Sheila Johnson at [sjohnson@mnbars.org](mailto:sjohnson@mnbars.org) or (612) 752-6615.

*Kathleen M. Murphy*  
Chair, Bar Memorial Committee

**April 30, 2021**

**9 – 10 a.m. | Memorial Session**

**Join us virtually at: [www.mnbar.org/hcba-bar-memorial](http://www.mnbar.org/hcba-bar-memorial)**

**Invocation: Judge Martha A. Holton Dimick**

**Main Address: Justice Natalie E. Hudson, Minnesota Supreme Court**

## *To Be Memorialized\**

Hon. Russell A. Anderson	Jerome R. 'Jerry' Jallo	James Grogan 'Jim' Ray
Thomas H. Bennin	Thomas L. 'Tom' Johnson	Malcolm Dennis Reid
Peter Holmes Berge	Sidney Kaplan	Hon. Sean Jerome Rice
Bruce Winthrop Blackburn	Stephen A. Krupp	Lawrence M. Rocheford
Hon. Kurt 'Wiconhpi Toiciye' Bluedog	Bradley Dean Lance	Jerry F. Rotman
James 'Craig' Boone	Richard G. 'Dick' Lareau	Ralph S. Schneider
Hon. Robert E. Bowen	Tom Malone	Clinton A. Schroeder
Conrad 'Con' Carr	Dennis 'Matt' Mathisen	Dale Adair Simonson
Debra Kuipers Erickson	Gary Donald McDowell	Norman Ross Soland
James L. Fetterly	Hon. John C. McNulty	Sue Stingley
Robert L. Findorff	C. Robert 'Bob' Morris	Michael A. Tracy
Hon. Donald MacKay Fraser	Brian Boru O'Neill	John P. Weinard, Jr.
Kyle Jason Hegna	James Robert 'Jim' Pielemeier	Gary Robert Wolf
Stephanie M. Helgesen	John Harold Ramstead	Michael William Wright
Hon. Doris Ohlsen Huspeni	Larry Rapoport	Paul G. Zerby

\* Additional individuals may be added. Please see the May issue for a complete list of names.

# Events and Meetings

All events are being held virtually. Visit [www.hcba.org](http://www.hcba.org) for more information.

## MARCH 2

**Business & Securities Law**  
Contract Drafting  
Tips and Traps

## MARCH 4

**Civil Litigation**  
Intro to Litigation Funding

## MARCH 4

**New Lawyers**  
Celebrating Trailblazing  
Women Attorneys

## MARCH 17

**Debtor & Creditor Remedies**  
Subchapter V of Chapter 11

## MARCH 23

**Immigration Law**  
A New Day for Immigration

## MARCH 25

**2021 HCBF Bar Benefit**

## APRIL 30

**Bar Memorial**  
Honoring HCBA members  
who passed away in 2020

## CLE ON DEMAND

HCBA now has CLE programs  
available on demand.  
[mnbar.org/hcba-on-demand](http://mnbar.org/hcba-on-demand)



### ANSWER:

This monthly networking event will take place on March 17, April 21, and May 19.



### QUESTION: What is the New Lawyers Section trivia night?

Join the NLS for their monthly trivia nights through the winter and spring. Open to all members.

**Register at: [mnbar.org/cle-events](http://mnbar.org/cle-events)**

## HCBA CAREER CENTER

# Connecting Legal Talent with Opportunity

- ✓ Post your job in front of HCBA attorneys and legal professionals
- ✓ Promote your jobs directly to candidates via our Job Flash emails
- ✓ Manage your posted jobs and applicant activity
- ✓ Search our anonymous resume database to find qualified candidates



# CAREER CENTER

**EMPLOYERS: Post your job opportunity at [www.hcba.org](http://www.hcba.org)**



# HCBA Notice of Election

## HCBA Notice of Election

To: Members of the HCBA  
From: Nicole Kettwick, Secretary

### Application/Deadline

For an application, position descriptions, and the Nominating Committee process, please visit [hcba.org](http://hcba.org). Completed applications, including a resume, should be submitted to Ariana Guerra at [aguerra@mnbars.org](mailto:aguerra@mnbars.org). Applications are due **Wednesday, April 14, 2021**. Applicant interviews will be scheduled in late April.

## Nominating Committee

The Nominating Committee shall nominate at least one nominee per officer or other election. No applicant shall communicate with the committee or any member of the committee about a matter relating to the committee's HCBA Notice of Election business, except through the chief executive officer. HCBA bylaws are available at [www.hcba.org](http://www.hcba.org).

The Nominating Committee is chaired by Jeff Baill, Immediate Past President of the HCBA. Other committee members are: Nicholas Ryan, Kendra Brodin, Esther Agbaje, Aaron Frederickson, Inti Martinez- Aleman, Creig Andreasen, Brandon Vaughn, Landon Ascheman, Nicole Kettwick, Jessica T. Lindstrom and Faris Rashid.

## Additional Opportunities

Besides the HCBA's formal elections, additional opportunities for service through committees and sections during the 2021-22 bar year are available by presidential appointment or section elections. If you would like to be considered for a leadership position, contact President-Elect Brandon Vaughn at [bvaughn@robinskaplan.com](mailto:bvaughn@robinskaplan.com) or HCBA CEO Cheryl Dalby at [cdalby@mnbars.org](mailto:cdalby@mnbars.org).

## HCBA OFFICES FOR 2021-22

### Elections

#### Officers and Directors

	Positions Open	Term
HCBA Secretary <i>Track position, serves as president 2024-25</i>	One	One-year
At-Large Director	Three	Three-years
At-Large Finance & Planning	Two	Two-years

#### Other Representatives

ABA Delegate	One	Two-years
MSBA Assembly Delegates	Eighteen	One-year
MSBA Assembly Alternates	Eighteen	One-year

#### Other Boards

Hennepin County Law Library	Two	Four-years
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### Other Leadership Opportunities

Those interested in service and leadership opportunities should also be aware of nominations / elections through the MSBA to positions on the following Boards:

MN State Bar Foundation (four positions), MSBA Delegates to the ABA (two positions), MN CLE Board of Directors (one position).

Interested members must submit a Qualifications & Interest Statement to the MSBA office by Friday, May 28, 2021. This form is available on the MSBA website or through Ariana Guerra at: [aguerra@mnbars.org](mailto:aguerra@mnbars.org)



# HCBF Notice of Election

## HCBF Notice of Election

To: Members of the HCBA  
From: Cory Olson, Secretary

The Hennepin County Bar Foundation (HCBF) is seeking applications for open seats on its Board of Directors and for the position of treasurer.

The mission of the HCBF is to “promote equal access to justice for the people of Hennepin County.” The HCBF fulfills this mission through supporting partner organizations and awarding grants to organizations that provide legal services to individuals of limited resources, educate the public about the legal system, and contribute to the improvement of the legal system and administration of justice.

The HCBF Nominating Committee looks for board members from the local legal community who are enthusiastic about increasing access to justice initiatives through the foundation’s fundraising, grantmaking, and community engagement.

## Application/Deadline

To be eligible to serve on the HCBF Board of Directors, individuals must be members in good standing of the Hennepin County Bar Association. Members of the HCBF board are elected to three-year terms and are eligible to serve two consecutive terms.

The position of treasurer of the HCBF tends to be held by an individual who is interested in moving up to the leadership positions of secretary, vice president, and president.

For an application and position description, please visit [hcba.org](http://hcba.org). Applications are due by **Friday, April 23, 2021**. Applicant interviews will be scheduled in May.

Applications are available at [hcba.org](http://hcba.org) or by calling 612-752-6600.

## Election

The HCBF Nominating Committee reports its nominations for each position to the HCBF board. Class A members (HCBA officers) appoint board members, while the full board elects officers at their May meeting.



## Thank You Annual Sponsors





# with Jason Schellack

Executive Director, Autism Advocacy & Law Center

## 1 What is your elevator pitch?

I like to think of our firm as a full-service law firm for the disability community. Different laws and government programs each have their own definition of what a disability is. Understanding and applying the different definitions of disability makes a significant difference in our clients' lives. As a result, we are able to assist clients with a wide variety of legal needs, including estate planning, guardianship, family law, and applications for government benefits.

## 2 What is the best part of your job?

The best part of my job is helping people. One of the most persistent problems in the disability community is isolation and not knowing where to turn for help. Navigating the system can be very clumsy and overwhelming. Helping clients work through the system and achieve a positive outcome is very rewarding.

## 3 What do you like to do when you're not working?

I love to be outside. A few years ago I started to convert my yard to native Minnesota plants and wildflowers. It's finally starting to come together. Some of my favorites are wild bee balm and cardinal flower.

## 4 Before working at the Autism Advocacy and Law Center, you were a public defender. How did that experience prepare you for the work you do now?

Minnesota has a great Public Defender's Office. My first lawyer job was in the Public Defender's Office in Itasca County. I learned how to litigate from some of the sharpest, most compassionate attorneys in the state. This skillset really helped prepare me for my current job, because individuals with disabilities are over-represented in the criminal justice system.

## 5 You are fluent in American Sign Language (ASL). Tell us about that.

I learned ASL when I worked for Camp Courage in high school and college. Camp Courage has a strong tradition of providing programming and jobs to the Deaf and hard-of-hearing community. During my years at Camp Courage, about half of the staff was Deaf or hard-of-hearing. I still use ASL in my professional life, because many of our clients have children who are non-verbal and use ASL as an important means of communication.

## 6 What are you reading?

I'm currently reading *The Moscow Rules* by Tony and Jonna Mendez. It's a fascinating first-hand account of the covert activities the United States used during the Cold War.

## 7 If you could have an unlimited supply of one item (besides money) for the rest of your life, what would it be?

Coffee. Caribou coffee. It's one of the staple food groups in our office.

## 8 Once upon a time, there was live theater. What was the last show you went to?

The last show I saw was the national tour of *Hello, Dolly!* Carolee Carmello was amazing as Dolly Levi. When live theater reopens, I hope to see Patti LuPone in the revival of *Company*.

## 9 What is your athletic pipe dream?

My athletic pipe dream is to complete 150 burpees in 10 minutes. Right now I'm at about 100.

## 10 April is National Autism Awareness Month. What would you like our readers to know about autism and the people touched by it?

We live in a world of neurodiversity. Every person has their own individual strengths and challenges, including individuals on the autism spectrum. Individuals with autism and related conditions have normal variations of the human brain. They don't need to be cured; they just experience the world in a different and valuable way. Given the right supports, individuals on the autism spectrum can participate in society as meaningfully as their neurotypical peers.



# 2021 BAR BENEFIT

*Our Largest Annual Fundraiser*

## A DAY OF VIRTUAL FUN & FUNDRAISING

# Thursday, March 25

The Bar Benefit is the premier opportunity to support the Hennepin County Bar Foundation, the charitable-giving arm of the Hennepin County Bar Association. The HCBF provides grants to local legal nonprofit organizations whose programs support equal access to justice. Join members of the Hennepin County legal community for an exciting day featuring speakers, a comedic CLE, cocktail/mocktail class, and more.

**Purchase individual tickets for just \$25**  
or \$50 to include a cocktail/mocktail kit

[www.mnbar.org/bar-benefit](http://www.mnbar.org/bar-benefit)

Contact Amanda Idinge at [aidinge@mnbars.org](mailto:aidinge@mnbars.org) or 612-752-6614 with questions or regarding additional supporter opportunities.

### SCHEDULE OF EVENTS

All presented virtually!



**8:30-9:30 am**  
**Morning Coffee with Justice**  
Barry Anderson



**4:00-5:00 pm**  
**Comedic CLE**  
with Joel Oster,  
Comedian at Law



1.0 CLE credit applied for

**5:00-6:00 pm**

### BAR BENEFIT PROGRAMMING

INCLUDING



**Cocktail/mocktail class**  
with Meteor Bar

**A live auction!**



**Update from Volunteer Lawyers Network**

**DONATE**



## Your support matters more now than ever!

The covid-19 pandemic has increased barriers to accessing basic needs and impacted access to justice in the community. The effects have caused a greater need for technology resources, and in many cases general operating funds to keep the doors open, allowing those in need to access direct legal services. In response to the pandemic, the HCBF cancelled its annual Tee It Up for Justice Golf Tournament in 2020, causing overall fundraising for this year to decline significantly. We invite you to support access to justice by attending or sponsoring this year's Bar Benefit, or by making a one-time donation. Donations can be made at: [www.mnbar.org/HCBFdonate](http://www.mnbar.org/HCBFdonate)

### YOUR SUPPORT OF THE FOUNDATION BENEFITED:

The Advocates for Human Rights | All Square | Cancer Legal Care | Children's Law Center | Civil Society | Community Mediation and Restorative Services  
Conflict Resolution Center | CornerHouse | Discapacitados Abriendose Caminos | Division of Indian Work | HOME Line | ICWA Law Center  
Immigrant Law Center | JustUs Health | Lawyers Concerned for Lawyers | LegalCORPS | Legal Rights Center | Loan Repayment Assistance Program  
Minnesota Assistance Council for Veterans | Minnesota Elder Justice Center | Minnesota Justice Foundation | Minnesota Wills for Heroes | Missions Inc.  
Seward Longfellow Restorative Justice | Sojourner | Standpoint | Tubman | Volunteer Lawyers Network

THANK YOU SPONSORS FOR SUPPORTING EQUAL ACCESS TO JUSTICE

**\$10,000**

— Anthony Ostlund  
BAER & LOUWAGIE

— DORSEY  
always ahead

— ROBINS / KAPLAN LLP

**\$7,500**

— Moss & Barnett

— STINSON



## Joining the Human and Electronic Elements Together

**Computer Forensic Services (CFS)** and **360 Security Services (360)** are two organizations with one mission: To address your investigative and security needs.

Our digital landscape has dramatically increased the amount and quality of information that is useful to investigations. While electronic information can prove to be the most important factor to consider, it is still one factor. For this reason, Computer Forensic Services ([www.compforensics.com](http://www.compforensics.com)) is proud to announce its new strategic partnership with 360 Security Services ([www.360security.services](http://www.360security.services)).

360 takes a holistic approach to conducting investigations. 360's team is comprised of former federal & state investigators and security professionals who possess an array of experience, ensuring clients receive the targeted expertise they need. 360's diverse team together with CFS is positioned to assist with a variety of investigations including, but not limited to:

- Financial, tax, and complex fraud (forensic accounting);
- Employment and backgrounding;
- Personal injury;
- Corporate espionage;
- Family (custody, marital dissolution);
- Criminal (financial, cybercrime, extortion, stalking, violent offenses);
- Investigative and security auditing.

The strategic partnership between CFS and 360 provides clients with a comprehensive and seamless team-based approach to investigations and security.