

NEWSLETTER

Spring 2024



The Hon. Lavenski Smith presents signage from the Hon. William Riley’s chambers to Judge Riley’s daughter, Erin Riley Hoffman. Judge Riley passed away on January 27, 2023. Friends and colleagues joined Judge Riley’s family for a memorial ceremony in November 2023. Story on page 2.

Also in this issue:

Justice and Democracy Center opens in Minnesota.....	4
Meet the Association’s new board members.....	6
The Hon. Steven M. Colloton begins term as Chief Judge.....	9

Friends, colleagues remember Judge Riley

By Mark Hill

The United States Court of Appeals for the Eighth Circuit held a Memorial Session this past November at the Roman L. Hruska United States Courthouse in Omaha, Nebraska, in honor of the former Chief Judge of the Circuit, the Honorable William Jay Riley. Judge Riley died on January 27, 2023. Federal and Nebraska State Court Judges joined Judge Riley’s family, friends, and law clerks to celebrate Judge Riley’s life and legacy. Then-Chief Judge of the Eighth Circuit Lavenski R. Smith, who presided over the ceremony, explained the special court session was held “to honor Judge Riley and publicly state our high esteem for him as a federal circuit judge and as former Chief of our Court.”

Judge Riley’s many personal and professional accomplishments were of course recognized. Born and raised in Lincoln, Nebraska, Riley obtained his Bachelor of Arts degree in political science in 1969, and then his law degree from the University of Nebraska in 1972. Riley then clerked for Judge Donald P. Lay of the Eighth Circuit Court of Appeals. Before taking the bench, Riley excelled as a trial attorney and leader in the Nebraska community. He also served as a Fellow of the American College of Trial Lawyers, a charter member and master of the Robert M. Spire American Inn of Court, the president and treasurer of the Omaha Bar Association, and in various leadership roles for the Nebraska State Bar Association.

President George W. Bush nominated Judge Riley to the Eighth Circuit in May 2001. Judge Riley served on the Eighth Circuit for over sixteen years, from August 2, 2001, until September 1, 2017. During his time on the bench, Judge Riley wrote 845 published opinions and many other unpublished opinions. Judge L. Steven Grasz, Judge Riley’s successor on the Eighth Circuit, observed the quantity of Judge Riley’s opinions was matched by “the quality of his work,” which “was outstanding.” Judge Grasz pointed to a 2011 Law Review article which proposed an objective “judicial evaluation tool” and, using that tool, ranked Judge Riley first out of 383 federal circuit judges. See Robert Anderson IV, *Distinguishing Judges: An Empirical Ranking of Judicial Quality in the United States Court of Appeals*, 76 Mo. L. Rev. 315 (Spring 2011).

This ranking was no surprise to those who



understood Judge Riley’s commitment to excellence. As Judge Riley’s former law clerk Jason Grams, an attorney and immediate past president of both the Nebraska State Bar Association and the Eighth Circuit Bar Association, explained: Judge Riley’s “insistence on excellence was labor intensive, both for the judge and for [his law clerks], but he never wavered in his commitment to ‘get it right’ no matter how much time it took.” Judge Grasz noted Judge Riley’s reputation as “a hard worker” whose judicial opinions have “had a lasting impact on the Eighth Circuit and the development of the law.”

Judge Riley’s service to the federal judiciary involved much more than his written opinions. He served on the United States Judicial Conference’s Executive Committee and Criminal Law Committee. Judge Riley also served as the Long Range Planning Coordinator for the federal judiciary in 2013. He also periodically sat by designation as a district court judge, mainly during the summers when the Eighth Circuit was not in session. Noting Judge Riley’s love of trials from his time in private practice, Robert R.

Continued on next page

Continued from previous page

Rossiter, Chief Judge of the United States District Court for the District of Nebraska, explained Judge Riley volunteered to handle well over fifty cases on the district court docket.

Judge Riley’s professional service to the United States Judiciary was highlighted by his time as Chief Judge of the Eighth Circuit from 2010 to 2017. Judge Grasz noted past recognition of Judge Riley’s “innovative approach to trying new venues and formats” for court sessions and events such as the Eighth Circuit Judicial Conference. Circuit Judge Bobby E. Shepherd, Judge Riley’s colleague on the Eighth Circuit, recounted how much Judge Riley loved working with judges throughout the Circuit, their clerks, and the entirety of the Eighth Circuit staff, for whom he “had great admiration and appreciation.” This included his longtime judicial assistant, Kristine Schneiss, Clerk of the Court Michael Gans, and Circuit Executive Millie Adams, all of whom Judge Riley credited for much of his success as Chief Judge. As Judge Grasz observed, Judge Riley was a “natural leader,” who “made the Eighth Circuit and Nebraska proud with his work[.]”

Several aspects of Judge Riley’s personality were highlighted during the ceremony. Whether it was his storytelling, humor, collegiality, or care for others, a common thread emerged from the speakers—Judge Riley’s greatness sprung from his character, integrity, and service of others.

For example, each speaker highlighted Judge Riley’s fun-loving personality and, as Chief Judge Smith observed, “an unswerving appreciation for the value of friendly humor.” This came through to family, colleagues, and even litigants. Judge Grasz noted the Almanac of the Federal Judiciary aptly included comments from lawyers who practiced in front of Judge Riley, describing him as a “hoot” and a judge who made you “almost want to laugh along with him.”

This humor occasionally even made it into judicial opinions. Chief Judge Rossiter told of Judge Riley’s ultimately successful quest to insert the comic strip Calvin & Hobbes in order to make a serious point about the importance of clarity in writing. Referencing “inconsistent, incomplete, and at times even incomprehensible” explanations by a

government agency, Judge Riley joked the panel was “reminded of Calvin, America’s comic six-year-old, who told his stuffed tiger ‘the purpose of writing is to inflate weak ideas, obscure poor reasoning, and inhibit clarity. With a little practice, writing can be an intimidating and impenetrable fog.’” *Union Pacific R. Co. v. U.S. Dep’t. of Homeland Sec.*, 738 F.3d 885, 901 & n.15 (8th Cir. 2013) (quoting Bill Watterson, *Homicidal Psycho Jungle Cat: A Calvin and Hobbes Collection* 62 (1994)).

Judge Riley’s good humor often emerged in his legendary storytelling. Judge Shepherd explained Judge Riley was “a great storyteller, often making fun of himself.” Judge Riley’s daughter, Erin Riley Hoffman, agreed, noting her “dad was an excellent storyteller, usually because he took a measure of truth and a bigger measure of creative license to make a story entertaining. Odds were, the older the story, the smaller the measure of truth and the greater the entertainment value.” She added her dad “used storytelling, his levity, and professionalism to make connections with everyone he met in every part of his life.”

This ability to connect allowed him to influence others and demonstrate the importance of civility and collegiality. Chief Judge Smith explained Judge Riley “left a legacy of high respect for the law, sincere regard for the court staff and genuine collegiality among judges[.]” Judge Shepherd agreed, noting Judge Riley “had great respect and affection for the Eighth Circuit family, and he enjoyed so much working with and teaching his law clerks and getting to know the law clerks of other judges.” He “viewed and treated everyone in the court family as an equal, of value and worthy of respect.” Erin explained: “Dad didn’t care if you were the Chief Justice of the Supreme Court ... or the gentleman who cleaned his chambers each evening. In fact, he would afford the same level of respect and interest to all he met.”

Grams emphasized that Judge Riley passed on his commitment to civility and professionalism to his law clerks—many of whom attended the ceremony—teaching them “civility and professionalism not only makes the practice of law better for lawyers, it leads to better outcomes for clients.” Grams read from a recent

Continued on page 5

Justice and Democracy Center Opens



By Elizabeth Bentley

The U.S. District Court for the District of Minnesota and the Minnesota Chapter of the Federal Bar Association are excited to announce that the Justice & Democracy Centers of Minnesota (“J&DC”) at the Warren E. Burger Federal Building and U.S. Courthouse in St. Paul is now open to the public. The J&DC reflects a collaboration between the Court and the Minnesota legal community to address the decline in civics education in recent years. The J&DC’s mission is “to promote public understanding of the rule of law and the role of an independent judiciary in our democracy through free, accessible, and equitable educational programming, both virtual and in-person.” It accomplishes that goal with on-site permanent and rotating exhibits, an informational website

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with educational resources and curriculum support for teachers, and close collaboration with court staff and judges to enhance school-age children’s exposure to and understanding of the judicial system.

The Court and the Chapter celebrated the St. Paul center’s opening on June 21, 2023, with a reception for early supporters of the initiative. Individuals from the Court, Chapter leadership, and the legal and business communities gathered to recognize the strong collaboration that made the center possible. The group was welcomed with opening remarks from Chief Judge Patrick J. Schiltz,

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Justice and Democracy Center, continued

Judge John R. Tunheim, past and current presidents of the Chapter, and representatives from Split Rock Studios, the exhibit creators. The speakers noted the importance of civic education in many aspects of our democracy, including maintaining the legitimacy of our judicial system, ensuring protection of individual rights and liberties, and instilling a respect for the rule of law.

Following the remarks, guests explored the center's interactive exhibits, which highlight the basics of our democratic structure, explain landmark cases, introduce the people that make up the court system, and emphasize the role that individuals can play in enhancing our democracy

and judicial system. The center is now open to school groups and members of the public.

A complementary center is under development at the Diana E. Murphy U.S. Courthouse in Minneapolis. For more information about either center, visit the J&DC website: <https://justicedemocracymn.org>. If you or your organization are interested in contributing or collaborating, please reach out to Elizabeth Bentley, Co-Chair of the Chapter's Justice & Democracy Centers Committee.

Elizabeth Bentley is a member of the Minnesota Chapter's Executive Committee and Co-Chair of the Justice & Democracy Centers Committee. She is a Visiting Assistant Professor of Law and the Director of the Civil Rights Appellate Clinic at the University of Minnesota Law School.

Judge Riley, continued

Nebraska State Bar Association professionalism award citation, which stated “[a]s a lawyer and a judge, no matter how high his rise, Bill Riley remained an unsurpassed example of personal humility and civility in our profession. He always had a smile for you and treated everyone, even in difficult situations, with the utmost respect and courtesy.”

Judge Riley's impact on others extended well beyond the courtroom. Erin noted, no matter the context, her dad “loved teaching and mentoring” and did so in countless ways. For example, before taking the bench, Judge Riley took great joy in participating in the Boy Scouts with his two sons, Brian and Kevin. This led to serving in the Boy Scouts for many years, both as a Scout Master and a member of the Board of Trustees of the Mid-America Council of the Boy Scouts of America. He also dedicated time over many years to teaching trial practice to hundreds of future attorneys at Creighton University School of Law and the University of Nebraska School of Law.

Of course, Judge Riley's impact on others started at home, where he was the consummate family man. Erin explained the star of many of Judge Riley's stories was his beloved wife Norma because “she was the center of his world.” Judge Shepherd emphasized “most of all,” Judge Riley

loved “his family enough to understand when the time had come to leave the court and devote full attention to [Norma] and them.” Judge Shepherd relayed how much Judge Riley “enjoyed and cherished those final years, watching and chauffeuring grandkids to basketball and baseball games, celebrating birthdays and special family events together, travel and spending precious time with Norma.”

In the end, those attending the ceremony were struck by the example Judge Riley set of a life well-lived. Erin summed it up perfectly: “At the end of the day, our storyteller built a life by creating one story at a time; by engaging, mentoring, teaching, respecting, and bringing lighthearted fun to those around him.”

*Mark Hill is the career law clerk and chief of staff for Judge Grasz and a former law clerk for Judge Riley. He gathered background material for this article from the following sources: (1) Kari Scheer, *The Honorable William Jay Riley Retires from the Eighth Circuit Court of Appeals, Summer 2017 Bar Association of the United States Court of Appeals for the Eighth Circuit Newsletter*; and (2) *The Honorable Michael J. Melloy, In Memoriam of the Honorable William Jay Riley, 2020 Resolutions of United States Courts for the Eighth Circuit, Adopted at the Eighth Circuit Judicial Conference, Bloomington, Minnesota, July 12, 2023. On a personal note, Mr. Hill would like to give thanks to former Judge Riley clerks Jeff Mindrup and Tanya Langton for their editorial assistance.**

Association welcomes new directors

The Eighth Circuit Bar Association recently elected Niki Cung, Pamela Dixon, Britni Summers, Dan Goldberg, Ryan Marth, Benjamin Sand, and the Hon. Sarah Pitlyk to its Board of Directors.

Niki Cung has nearly 30 years of experience in commercial litigation and complex insurance defense. A partner at Kutak Rock LLP, Niki works in the firm’s Fayetteville office and advocates for clients in jury and bench trials involving a variety of claims, including contract, construction defect, product liability, wrongful death and personal injury, professional liability and malicious prosecution. She also represents clients in administrative matters before regulatory agencies.

Niki received her J.D. from the University of Arkansas School of Law and her B.S.B.A. from the University of Texas at Dallas. Niki is an elected Fellow of the American Bar Foundation and has earned the “AV Preeminent rating” from *Martindale-Hubbell*®, has been recognized repeatedly in *The Best Lawyers in America*®, has been named to the annual list of *Mid-South Super Lawyers*® 14 times, received the prestigious Darby Award for Meritorious Service on behalf of the Ranger Battalions of World War II, and was recommended to President Barack Obama by Senator Mark Pryor for consideration to fill a vacant position of U.S. District Judge in the Western District of Arkansas.

Niki Cung



The Hon. Sarah Pitlyk



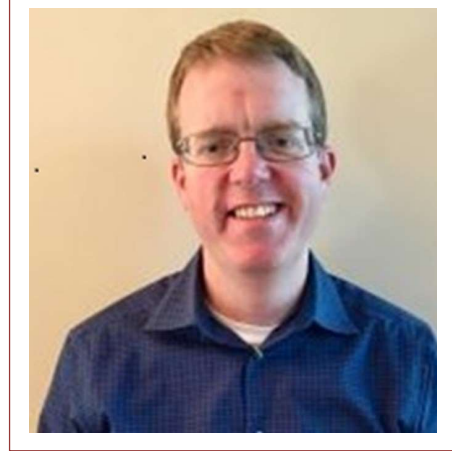
Sarah E. Pitlyk has served as District Judge for the Eastern District of Missouri since 2019. She earned her law degree from Yale Law School, after earning her bachelor’s degree from Boston College and master’s degrees from Georgetown University and the Katholieke Universiteit Leuven in Belgium, where she studied as a Fulbright Scholar. Immediately before taking the bench, Judge Pitlyk served as Special Counsel for the Thomas More Society, a national public interest law firm, after earlier tenures at a small civil litigation boutique in St. Louis, MO, and Covington & Burling in Washington, DC, as well as a clerkship for the Honorable Brett M. Kavanaugh when he was a Circuit Judge on the United States Court of Appeals for the District of Columbia Circuit.



Pamela Dixon

Pamela B. Dixon practiced employment discrimination law with the law firm of Pulliam and Wright prior to joining the Equal Employment Opportunity Commission in 1999. Ms. Dixon represents the federal government in lawsuits against employers who violate the federal discrimination statutes.

Ms. Dixon received a Bachelor of Arts degree in English from the University of Arkansas at Fayetteville, and she graduated with honors from the William H. Bowen School of Law in Little Rock. Before entering the practice of law, Ms. Dixon was an English teacher for 16 years.



Dan Goldberg

After graduating from DePaul Law School in 2001 in Chicago, Dan Goldberg served as a judicial law clerk at the Missouri Court of Appeals. He began his career as a criminal defense attorney at the Missouri State Public Defender’s Office in Kansas City, Missouri. After leaving that office, Dan worked in private practice for a number of years.

In 2016, Dan joined the Federal Public Defender’s Office as an Assistant Federal Defender. The bulk of Dan’s practice is focused on appealing cases to the Eighth Circuit Court of Appeals and to the Supreme Court of the United States.

Britni Summers

Britni Summers practices in the Labor, Employment, and Benefits Group at McGrath North in Omaha, Neb. She advises and represents employers in various employment-related issues, including discrimination, labor relations, non-competes, disability accommodations, and wage and hour laws. Her expertise extends to employee benefits, encompassing health and welfare, ERISA, and retirement plan compliance. Britni is a graduate of the University of South Dakota Knudson School of Law and is licensed to practice law in Nebraska, Iowa, and South Dakota. Prior to joining McGrath North, Britni clerked for the Honorable Roger L. Wollman on the United States Court of Appeals for the Eighth Circuit.



Benjamin Sand



Ben is a partner in Crowley Fleck’s Bismarck office where he maintains a broad-based civil defense practice. A native of Fargo, Ben began his legal career as law clerk for the Honorable United States District Court Judge Daniel Hovland in Bismarck. Ben leverages his knowledge of local rules and practices to help businesses and professionals of all stripes navigate the litigation process throughout North Dakota. From health care professionals to oil and gas developers, small business owners to engineers and construction firms, Ben utilizes his 10 years of experience to help clients reach their goals in Federal and State courts across North Dakota.

Ben serves on the Board of Directors of the North Dakota Defense Lawyers Association and was President of the NDDLA in 2019-2020. He currently serves as the DRI State Representative for North Dakota and is the co-chair of Crowley Fleck’s pro bono practice group. He is also recognized as an associate fellow with Litigation Counsel of America, a Great Plains Super Lawyers Rising Star, and a Benchmark Litigation – Litigation Star.

Ryan Marth is a partner at Robins Kaplan. He advises U.S. and international clients on all aspects of their businesses, including contractual relations, distribution, pricing, privacy, protection of intellectual property, and compliance with U.S. and foreign antitrust and competition laws.

After serving as a law clerk to Hon. Helen M. Meyer of the Minnesota Supreme Court, Ryan began his career at Robins Kaplan, working under the nation’s premier trial lawyers in the most complex antitrust and commercial cases.

Ryan’s practice includes advising businesses that are victims of cartel or dominant-firm behavior on their remedies under U.S. and foreign competition laws, representing these businesses before state and federal courts and regulatory bodies, and collaborating with non-U.S. counsel when appropriate to help them obtain relief abroad. He also defends businesses against investigations and litigation involving accusations of anticompetitive conduct when they arise.

Ryan Marth



Judge Colloton begins term as chief

Judge Lavenski R. Smith of Little Rock, Arkansas, completed a seven-year term as chief judge of the Eighth Circuit on March 10, 2024. As chief judge, Judge Smith also served as a member of the Judicial Conference of the United States. Chief Justice Roberts appointed Chief Judge Smith as a member of the Executive Committee of the Judicial Conference and as chair of the Executive Committee. Judge Smith was appointed as a United States Circuit Judge for the Eighth Circuit by President Bush in 2002. He will continue as a judge in regular active service on the court of appeals.

Judge Steven M. Colloton of Des Moines, Iowa, became chief judge of the circuit on March 11, 2024. Judge Colloton was appointed as a United States Circuit Judge for the Eighth Circuit by President Bush in

2003. Judge Colloton is a native of Iowa City and a graduate of Princeton University and Yale Law School. During his tenure as a circuit judge, Judge Colloton has served on committees of the Judicial Conference of the United States, including as chair of the Advisory Committee on Appellate Rules and as a member of the Advisory Committee on Civil Rules.

By statute, the chief judge of the circuit is the most senior circuit judge in regular active service who has served at least one year as a circuit judge, is under the age of 65, and has not served previously as chief judge. 28 U.S.C. § 45(a)(1).

From the Eighth Circuit Court of Appeals website.

The Eighth Circuit Bar Association thanks Michael E. Gans for his more than 40 years of service to the Eighth Circuit as he completes his tenure as Clerk of Court.

The Eighth Circuit has designated Stephanie N. O'Banion to serve as Acting Clerk of Court, effective April 2, 2024.



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