



by Nicole M. Moen

# Hon. John R. Tunheim, Chief Judge of the U.S. District Court for the District of Minnesota

**O**n July 1, Hon. John R. Tunheim became the chief judge of the District of Minnesota. Before becoming a judge, he worked in both private practice and in public service. As a judge, he has worked tirelessly to improve the administration of the District of Minnesota and the district courts across the country. He has also developed an expertise in international rule of law initiatives and election law and has worked with officials from many countries to strengthen their judicial systems and to improve and supervise elections.

### Calling To Become a Lawyer

Chief Judge Tunheim discovered his calling to become a lawyer when he was only a freshman in high school—and he remembers exactly when it happened. In his ninth-grade civics class, the teacher decided to have the students do trials—not on specific cases but on the public policy issues of the time. Tunheim was one of the students who tried a “case” on a public policy issue. His team didn’t win, but Tunheim had so much fun doing the trial, he was hooked. He decided then and there he would be a lawyer.

It was, in some ways, a surprising decision for him to make. He was born and raised in Newfolden, Minnesota, which was a great place to grow up. Newfolden was a small farming community of 350 people in the prairies of northwestern Minnesota—a six-hour drive from the Twin Cities of Minneapolis and St. Paul. Neither of his parents were lawyers, nor were any of the people in town. In fact, when he decided that day in his civics class that it was his calling to be a lawyer, he had never even met a law-



yer. (He would not meet one until nearly eight years later, when he was a senior in college.) But he knew it was the right decision for him, and he never wavered from it.

Later that same year, one of his class assignments was to write about three different careers. He told his teacher he couldn’t possibly write about three different careers, because he already knew he was going to be a lawyer. His teacher initially told him to write about three anyway, but Tunheim insisted that it wouldn’t be right, and he successfully negotiated a resolution with his teacher: He would write about only one career—his

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future career as a lawyer—but his essay would be three times as long.

### **Preparing for the Law**

When he finished high school, Tunheim went to college at Concordia College in Moorhead, Minnesota, where he majored in history and political science. He graduated summa cum laude in 1975. In 2004, Concordia College gave him the degree of doctor of humane letters, honoris causa, and honored him with its Distinguished Alumni Achievement Award. Chief Judge Tunheim has served on the board of regents of Concordia College for 10 years, and he currently serves as chairman.

After graduating, he worked as a staff assistant to U.S. Sen. Hubert H. Humphrey from 1975 to 1978. Working with Humphrey allowed him to work with the public policy issues and questions of the day. He developed an expertise in, and appreciation for, the intersection of law and policy.

In 1977, he moved one step closer to his goal of becoming a lawyer and enrolled at the University of Minnesota Law School. Tunheim excelled in law school, and he became president (editor in chief) of the *Law Review*. When he assumed his duties as president, the *Law Review* had fallen behind in publishing issues. Tunheim made it a priority for the *Law Review* to get caught up. It was a lot of hard work, and Tunheim had to call in the last few changes to the last issue from a pay phone—but it paid off. The *Law Review* got all the delayed issues published by the end of Tunheim's term as president.

Chief Judge Tunheim has maintained his ties to the University of Minnesota and the law school. He has taught federal and state constitutional law as an adjunct professor of law at the University of Minnesota Law School. He received the Distinguished Alumni Award from the *Minnesota Law Review* in 2006 for extraordinary contributions to the profession and society. In 2010, the board of regents of the University of Minnesota gave Judge Tunheim its Outstanding Achievement Award, which is rarely given. Chief Judge Tunheim is currently serving as a member of the advisory council at the law school, as well as the chairman of the dean's advisory council at the University of Minnesota Humphrey School of Public Affairs.

### **Federal Clerkship and Private Practice**

After graduating from law school, Tunheim became a law clerk to Senior U.S. District Judge Earl Larson in Minneapolis from 1980–81. When his clerkship was complete, he worked in private practice with the St. Paul law firm Oppenheimer, Wolff, Foster, Shepard, and Donnelly from 1981–84.

### **Minnesota Office of the Attorney General**

In 1984, he left private practice and moved to the Minnesota attorney general's office to work for Attorney General Skip Humphrey. Tunheim worked there for the next 10½ years. He served as the Minnesota solicitor general and manager of the attorney general's

public affairs litigation division from 1984–86. He was then named chief deputy attorney general, the senior appointed official working under the attorney general. In this role, he was responsible for supervising and directing all operations of the office, including supervising all legal services in both criminal and civil litigation, recruiting and hiring the office's lawyers, chairing the management team, representing the governor and other top state officials, working with the Minnesota legislature, and handling significant constitutional cases.

As chief deputy attorney general, Tunheim personally argued three cases before the U.S. Supreme Court: *Hodgson v. State of Minnesota* (1989), *Perpich v. U.S. Department of Defense* (1990), and *Grove v. Emison* (1992). He won two.

He received the 1988 President's Distinguished Service Award from the National Association of Attorneys General (NAAG) for his work as an editor of the book *Office of Attorney General — Powers and Duties*. Tunheim received the Marvin Award from NAAG in 1991, which is presented annually to the most outstanding assistant attorneys general in America. In 1994, the Minnesota Bar Association awarded him the first-ever David Graven Public Service Award, which is given to the Minnesota lawyer who best exemplifies the high standards of the profession in combination with a commitment to public or community service.

The Minnesota attorney general's office was a perfect intersection of law and policy—in some ways, an echo of his high school civics class “trial.” Tunheim honed his skills as a trial and appellate lawyer and participated in the policy issues of the day.

### **President John F. Kennedy Assassination Records Review Board**

While working at the Minnesota attorney general's office, Tunheim was appointed by President Bill Clinton to serve on the U.S. Assassination Records Review Board. He was selected as chairman of the board. The President John F. Kennedy Assassination Records Collection Act of 1992 created the Assassination Records Review Board as an independent federal agency to reexamine for release the assassination-related records that federal agencies still regarded as too sensitive to open to the public.

The board's successful four-and-a-half-year term resulted in more than 5 million pages of materials concerning the assassination becoming available to the public at the National Archives. Tunheim also led negotiations with intelligence officials from Russia, Belarus, Cuba, and Mexico for the release of foreign records. To declassify intelligence and law enforcement records, he was frequently called upon to review current classified operations to determine whether the release of older records was appropriate. The board finished its work in September 1998, issued a final report, and transferred all of its records to the National Archives and Records Administration.

As a result of his work in declassifying intelligence and law enforcement records for the board, Tunheim



Chief Judge Tunheim and fifth-grade students from Orono Intermediate School at a naturalization ceremony in which they participated in 2002

received the James Madison Award in 1999 from the Coalition on Government Information.

### **Becoming a Federal Judge**

Tunheim was nominated for appointment to a federal judgeship in 1995. Sen. Paul Wellstone of Minnesota recommended him, and Clinton nominated him on July 10, 1995. The U.S. Senate confirmed him on Dec. 22, 1995.

Chief Judge Tunheim is one of seven district court judges in the District of Minnesota. His courtroom and chambers are in Minneapolis, and he handles both criminal and civil trials. He also occasionally hears cases in Duluth, St. Paul, and Fergus Falls. He has served as a U.S. district court judge for nearly 20 years.

Chief Judge Tunheim brings his passion for the rule of law into his courtroom. He loves being a judge, with the diversity of intellectual and legal challenges it brings on a daily basis. There is literally something different every day; he might have a criminal trial one day and an intellectual property dispute the next.

### **Court Administration and Judicial Committee Work**

From 2000–09, Chief Judge Tunheim served on the U.S. Judicial Conference Committee on Court Administration and Case Management, a committee with broad jurisdiction for making policy recommendations for the federal judiciary. He was the chairman of the committee from 2005–09. He was also a member of the Judicial Conference Executive Committee's Committee on Long Range Planning.

Currently, Chief Judge Tunheim serves the Judicial Conference as one of the leaders of the development of a new electronic filing system for the federal courts. He does not shy away from technology and the law; he embraces it. The current case management and electronic case filing (CM/ECF) system was developed several years ago as an electronic version of traditional paper filings; it does not take advantage of the capabilities of current technology. The District of Minnesota has already been designated a pilot district for a new CM/ECF system. Chief Judge Tunheim would like the District of

Minnesota to be at the forefront of new technology. One of his goals is that the District of Minnesota will be an innovator in the development and use of new court system technology.

Chief Judge Tunheim has also been a long-time member of the board of directors of the American Judicature Society, an organization that is devoted to justice system improvements in the areas of judicial ethics, merit selection of judges, juror comprehension, and avoiding wrongful convictions. Chief Judge Tunheim served as president of AJS in 2007–08.

He is also a member and former board member of the Federal Judges Association.

### **Bar Associations**

Chief Judge Tunheim has been actively involved in bar associations throughout his career, including the American Bar Association (ABA), the Minnesota Bar Association, and the Federal Bar Association. He is a former chairman and current member of the Council of the ABA Division on Government and Public Sector Lawyers, a division he helped establish, and he serves on the division's Council of Fellows. He is also the former chairman of the Executive Committee of the National Conference of Federal Trial Judges in the ABA Judicial Division and serves on the ABA advisory committees to the Standing Committee on Law and National Security and the Standing Committee on Election Law. From 2006–15, Chief Judge Tunheim was the chairman of the Standards Task Force on the Prosecution and Defense Function for the ABA Criminal Justice Section, which has been responsible for revising the standards governing prosecutors and defense lawyers in criminal matters. He is currently a member of the board of the ABA's Rule of Law Initiative and chairman of the regional council for eastern Europe and central Asia.

For the Minnesota Bar Association, he co-chaired the Minnesota State Bar Association/Attorney General Task Force on Legal Advice to Farmers in 1985. He also served a two-year term as co-chair of the Public Law Section of the Minnesota State Bar Association, a section he helped establish. The section honored him in 2004 with its Justice Rosalie Wahl Award for Judicial Excellence.

Chief Judge Tunheim is a member of the Minnesota Chapter of the Federal Bar Association.

### **International Rule of Law Initiatives and Election Law**

Chief Judge Tunheim has spent a substantial amount of time in international rule of law initiatives and elections. He has worked on rule of law development projects in Kosovo, Uzbekistan, Georgia, Russia, Montenegro, Jordan, Hungary, Bulgaria, Macedonia, Kazakhstan, Kyrgyzstan, Moldova, Lithuania, Nepal, Tunisia, the United Arab Emirates, and Ukraine.

**Kosovo.** Chief Judge Tunheim has been to Kosovo more than 50 times, and he was there every month for a year during a crucial period. His early work in Koso-

vo helped the United Nations reestablish and improve the legal system and ultimately to restructure the entire judiciary. His first trip to Kosovo was comparable to winter camping. (Chief Judge Tunheim enjoyed winter camping in Minnesota's Boundary Waters canoe area.) In 2007–08, he worked as the principal outside adviser to the process that developed the Kosovo Constitution. He helped train the constitutional commission, and he drafted constitutional provisions that established the judicial system, the constitutional court, and the intelligence and security sectors. He also negotiated the final compromises in drafting the constitution.

He continues to assist with the development of the Kosovo Constitutional Court, drafting rules of procedure with the court, devising a code of conduct for the court, and leading extensive training efforts for the Constitutional Court.

Chief Judge Tunheim has also been instrumental in the restructuring of criminal law and procedure in Kosovo. In addition, he spearheaded the highly successful plan to recruit American judges to serve as international judges in Kosovo, and he is currently establishing a mentoring partnership between the Kosovo Chamber of Lawyers and the Minnesota State Bar Association.

**Uzbekistan.** Chief Judge Tunheim's international work also includes extensive efforts in Uzbekistan. In recent years, he has made 18 trips to Uzbekistan and has developed a good relationship with Uzbek leaders. Through his efforts, Uzbekistan has implemented important changes in pretrial criminal procedures that are intended to improve the country's human rights record. He has worked extensively to train prosecutors and judges.

**Georgia.** Chief Judge Tunheim has been involved in a major effort to train all criminal court judges in the Republic of Georgia to implement an adversary system and jury trials for criminal cases. He has been working with select criminal court judges on improving the handling of complex criminal terrorism trials.

**Elections.** Chief Judge Tunheim serves as an elections expert for the International Foundation for Electoral Systems on elections throughout the world. He has supervised elections in Kosovo and Macedonia. In July 2013, he led an extensive review of the election dispute resolution processes in Dhaka, Bangladesh. Chief Judge Tunheim conducted election training in the Maldives in February 2014.

**Central and Eastern European Law Initiative.** The Central and Eastern European Law Initiative (CEELI) Institute, headquartered in Prague, Czech Republic, is an independent, nonprofit organization dedicated to providing training, exchanges, and education to legal professionals. Chief Judge Tunheim has worked closely with the CEELI Institute. He moderates conferences of a network of young central and eastern European judges who discuss current challenges faced by the judiciary in eastern Europe and consider appropriate efforts to promote and strengthen judicial independence and accountability. The judge enjoys these conferences



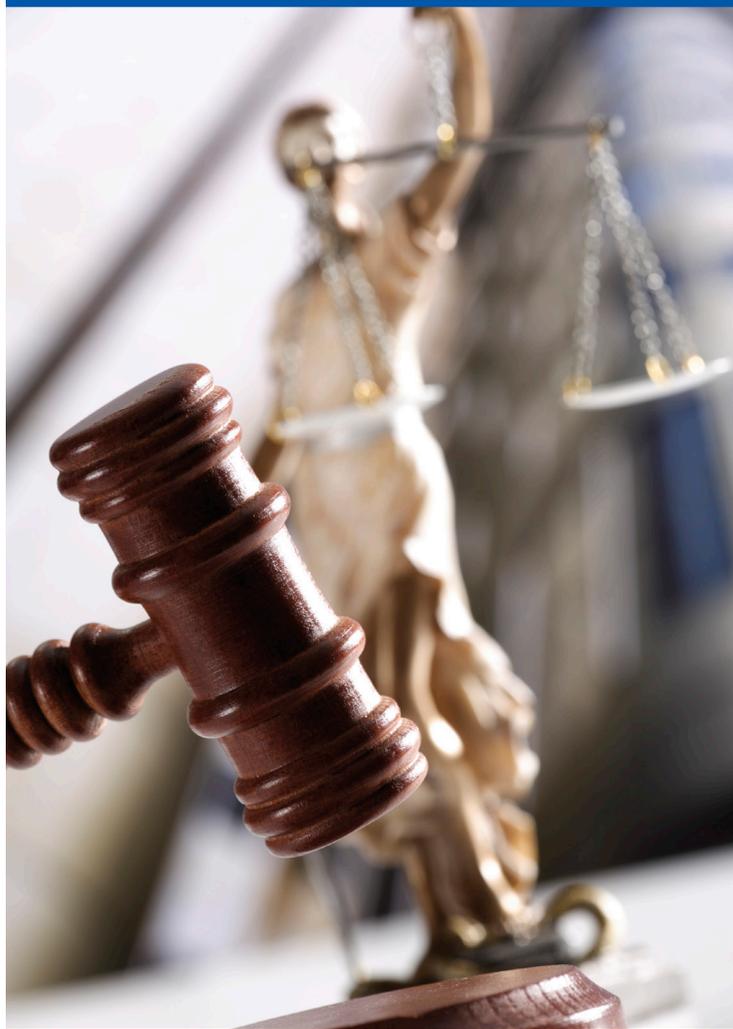
Chief Judge Tunheim in Samarkand, Uzbekistan, in 2012, a country in which he has assisted in many reforms, mostly focused on criminal procedure and human rights issues.

very much. At one such conference in Tunisia in December 2014, he was reminded again that the world watches events in the United States very closely. Near the end of that conference, he opened the floor to questions. Interestingly, they did not want to talk about issues in their countries. Instead, they wanted to discuss the police shooting in Ferguson, Missouri, and how the American justice system handles such events.

**U.N. Executive Directorate on Counter-Terrorism.** Chief Judge Tunheim is currently involved in a project with the U.N. Counter-Terrorism Committee Executive Directorate. The team is working with police, prosecutors, and judges in eight South Asian countries (Pakistan, India, Afghanistan, Bangladesh, Sri Lanka, Bhutan, Nepal, and the Maldives) to help them become fully prepared to fairly and effectively handle terrorism cases.

**Other Rule of Law Efforts.** Chief Judge Tunheim is a frequent lecturer on the International Covenant on Civil and Political Rights. He also works with the U.S. Department of Commerce's Commercial Law Development Program, helping foreign countries develop effective bar associations and enforce intellectual property laws, with a current focus on Pakistan. He has frequently hosted foreign judges in the United States, most recently judges from Georgia, Kosovo, Kyrgyzstan, and Uzbekistan, and has twice taught intellectual property law to judges from the Balkan countries. Chief Judge Tunheim worked with

## Judicial Profile Writers Wanted



*The Federal Lawyer* is looking to recruit current law clerks, former law clerks, and other attorneys who would be interested in writing a judicial profile of a federal judicial officer in your jurisdiction. A judicial profile is approximately 1,500 to 2,000 words and is usually accompanied by a formal portrait and, when possible, personal photographs of the judge. Judicial profiles do not follow a standard formula, but each profile usually addresses personal topics such as the judge's reasons for becoming a lawyer, his/her commitment to justice, how he/she has mentored lawyers and law clerks, etc. If you are interested in writing a judicial profile, we would like to hear from you. Please send an email to Sarah Perlman, managing editor, at [sperlman@fedbar.org](mailto:sperlman@fedbar.org).

the United Arab Emirates to restructure the subject-matter jurisdiction of the courts; he traveled to Abu Dhabi to assist in the restructuring efforts.

### Personal

Chief Judge Tunheim lives in Stillwater, Minnesota, with his wife, Kathryn, who is president of the Minneapolis marketing and communications firm Tunheim. They have two adult children, Elizabeth and Samuel, and one granddaughter, Isabel. He has also written a book, *A Scandinavian Saga* (Lakes Publishing, 1984), which is a study of immigration and settlement in northwestern Minnesota. ☉

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perior Court judge and then the country's first Asian-American female U.S. attorney in 2002. She discusses her relationship with Judge Lew fondly. "He is devoted to giving his time, energy, and passion to helping folks throughout his life. I was one of the lucky recipients," she says. She now serves on the management committee of Gibson, Dunn & Crutcher and states that Judge Lew's influence started when she was his law clerk. "He would always ask me to do better, to push harder, to do it smarter. This address towards life has stayed with me until the present. He has been a gift to many, but in particular, to the Asian-American community at large."

When asked about his definition of success, Judge Lew does not consider financial wealth. Instead, he considers having a loving family his real priority. He boasts about his lovely wife of more than 45 years, Mamie, and his four children and 14 grandchildren, saying they are the most important part of success. With a large family and community commitments, there is very little time for himself. It was not until 1995, after his first heart surgery, that he picked up other hobbies, including golf, fishing, and traveling. While most would not sacrifice their personal lives for work, Judge Lew's dedication to his community and those he inspires is what drives him.

Now a senior judge, Judge Lew plans to continue his public service for as long as he can. He has committed his professional life to improving the judiciary and could not be more pleased with his legacy. It's hard to imagine that a young boy with immigrant parents from Los Angeles' Chinatown would pave the way for thousands of law students and attorneys. The journey of overcoming his challenges and adversities resulted in him becoming a cornerstone, trailblazer, and inspiration to generations of Asian-American judges and lawyers throughout the country. Now, as a result of his mission to help others reach the federal bench and beyond, there are more than a dozen Asian-American federal judges throughout the country. As Judge Lew demonstrates, to do truly good work requires a sense of empathy and understanding that can only be gained through one's own suffering and struggle. Judge Lew chose to find meaning in his challenging past, and he continues to find peace and a sense of purpose while "doing good." ☉