

TEAM



WORK

REPORT *to* CLIENTS

A LETTER FROM THE



BOARD OF DIRECTORS

Welcome to our latest Report to Clients. Since our last report, we have been involved in efforts exciting for our clients — and for us — as we continue to contribute to the success of our clients and the well-being of our community.

Once again, our report features examples of client success stories achieved through teamwork among our lawyers and support personnel and across practice specialties. These are stories we are eager to tell because our driving mission continues to be focused on performing with total *excellence* in serving our clients in the most effective, creative, and efficient ways.

Moss & Barnett recently completed an exhaustive survey of the many ways in which our firm can reduce the use of energy and natural resources. One tangible result of our survey is printing this report on “FSC-Certified” paper. The Forest Stewardship Council (“FSC”) is an international organization that promotes responsible stewardship of the world’s forests. In fact, all of the paper stock we use is now FSC-Certified. Other initiatives we are putting into place as a result of our survey include: reduced use of HVAC on weekends; use of recycled printer cartridges; emphasis on electronic internal and external communications; proactive use of scanned documents and extranets;



We are also proud of our role within the local community. This report highlights just a few of the many selfless contributions made by our colleagues to the health and vitality of the Upper Midwest. We continue to recognize the highest level of community service within our organization with our annual Paul Van Valkenburg Award, and we recently inaugurated a weekly radio program in partnership with WCCO Radio entitled *MINNESOTA LAW, Presented by Moss & Barnett*, that is dedicated to providing important legal news and information to the public.

active recycling of all paper, glass and plastic; and an increased subsidy for mass transit fares for all employees. In addition, our office building, the Wells Fargo Center, has earned the highest available energy conservation rating.

As always, we extend our sincere appreciation to each and every one of you for the confidence you continue to place in us to serve you!

Sincerely,

Board of Directors,  
MOSS & BARNETT  
A Professional Association

*2008 Moss & Barnett Board of Directors from left to right: Curt Smith, Susan Rhode, Kevin Busch, Tom Shroyer, Dave Senger, and Rick Johnson*



## YOU CAN WORK IN THIS TOWN AGAIN

**Issue:** Our client hired a new salesperson — a hardworking young fellow, eager to prove himself on the job. He and his wife, who had some health problems, hoped to buy a bigger house and start a family.

**Challenge:** Shortly after the salesperson started working, his former employer, a competitor in the same industry, sued the salesperson and our client, claiming breach of a non-compete agreement and seeking to prevent the salesperson from working for anyone in the industry anywhere in the world for a full year. The former employer actually secured a court order that temporarily forced the salesperson, who had also become our client, to stop working.

**Action:** Convinced that the non-compete was unenforceable, litigation attorney **Dave Jendrzejek** advised our clients to challenge the agreement and force the former employer to prove its case and worked with a team of attorneys to vindicate our clients' legal rights.

**Result:** Just a few days before Christmas, after the salesperson had been unemployed for 16 weeks, the court declared the non-compete agreement unenforceable, allowing him to return to work immediately. He was also awarded back pay of over \$31,000 for the time he was wrongfully prevented from working, and his new employer was awarded over \$36,000 in attorneys' fees for having to defend the case. The salesperson is now back at work, and he and his wife are enjoying life in their brand new home and have recently become proud parents.



*Dave Jendrzejek, Senior Litigator,  
Employment and Business Litigation*



## YOU CAN WORK IN THIS TOWN AGAIN

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**Team:**

**Matt Kostolnik**, *Litigator*,  
directed legal analysis  
and court submissions.

**Ed Blomme**, *Business Attorney*,  
co-directed strategy.

**Dave Jendrzek**, *Senior Litigator*,  
directed strategy and tactics  
and tried the case.





## BY ANY OTHER NAME

**Issue:** Our client owns a very valuable trademark, protected by multiple federal registrations. In late 2007, the client learned that its registered mark was being used to promote the sale of an energy drink named “Cocaine.”

**Challenge:** To end the sale and marketing of “Cocaine” under the client’s registered mark.

**Action:** Trademark attorney **Marsha Stolt** assembled a team of litigation attorneys and office professionals to obtain an injunction.

**Result:** The court granted our request for a temporary restraining order just weeks later, on December 7, 2007, and enjoined advertising and sales of the energy drink using the client’s mark and shut down the web site of the violator.



*Marsha Stolt, Attorney,  
Intellectual Property Law*



## BY ANY OTHER NAME

**Team:**

**Lorie Klein**, *Attorney*,  
**Tom Shroyer**, *Senior Litigator*,  
and **Marcy Frost**, *Attorney*,  
prepared the necessary  
documents for seeking the  
injunction and argued the  
motion to the federal court.

**Chris Hiatt**, *Paralegal*, and  
**Chris McGrath**, *IT Support  
Specialist*, gathered physical  
evidence to support the motion.

**Marsha Stolt**, *Attorney*,  
directed analysis of the  
trademark legal issues.





## A FAMILY AFFAIR

**Issue:** Our client was controlling owner of a group of successful businesses and valuable real estate, but shared ownership with a litigious, inactive family member. In addition, the estate of the family member who founded the empire had languished in probate for several years.

**Challenge:** The controlling owner hired Moss & Barnett after the litigious relative started a lawsuit and scheduled a hearing for a temporary restraining order within days of filing the lawsuit.

**Action:** Business and estate planning attorney **Dave Senger** organized and led a multi-disciplinary group of attorneys who discovered a flaw in a partnership agreement that greatly complicated our client's position and then developed the pathway to client success.

**Result:** The Moss & Barnett legal team quickly negotiated a global settlement of all issues, including a very favorable financial settlement for our client, ensuring our client's continuing control of the businesses and closing the probate proceedings within just 90 days.



*Dave Senger, Attorney,  
Business Law and Estate Planning*



## A FAMILY AFFAIR

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**Team:**

**Cindy Ackerman, Attorney,**  
executed probate strategy.

**Jeff Watson, Attorney,**  
handled the real estate issues  
and drafting of key documents  
needed for the settlement.

**Dave Senger, Attorney,**  
directed legal analysis and  
acted as lead negotiator.





## COMMUNITY EDUCATION: FAMILY LAW

Members of our family law practice group have teamed up to improve the practice of family law.

### **The Minnesota CLE Family Law Financial Deskbook**

**Ed Winer, Susan Rhode, Ben Henschel** and **Jim Vedder**, attorneys from our family law practice group, wrote chapters for *The Minnesota CLE Family Law Financial Deskbook* that drew on their research skills and practice expertise. The *Deskbook* is available to all family law practitioners as a reference on financial issues in family law such as spousal maintenance, child support, nonmarital property, property division, and premarital agreements. The family law practice group enhanced this effort by providing live teaching experiences and web casts.

### **Financial Early Neutral Evaluation Program (“FENE”)**

Family law attorneys **Susan Rhode** and **Ben Henschel** have worked on the creation and implementation of the *Financial Early Neutral Evaluation Program (“FENE”)*. The program provides affordable neutral assistance to families in divorce to resolve their financial disputes early in the case in order to reduce the effects of long term conflict on the family. Ben and Susan have given generously of their time to train evaluators for this program in both Minnesota and Colorado. Their efforts have been recognized with a special commendation from the Hennepin County Board of Commissioners. They both remain actively involved in growing the program throughout Minnesota.



*Left: Ed Winer, Attorney*

*Above: The Minnesota CLE  
Family Law Financial Deskbook*



## COMMUNITY EDUCATION: FAMILY LAW



**Family Law Team:**

**Jim Vedder**

**Ben Henschel**

**Susan Rhode**

**Ed Winer**



*It is our duty and privilege to provide*

*clear legal information to the community.*

## COMMUNITY EDUCATION: *MINNESOTA LAW, PRESENTED BY MOSS & BARNETT*



In May 2008, we partnered with WCCO Radio and began *Minnesota Law, Presented by Moss & Barnett*, a weekly radio program airing on Saturdays at noon on WCCO Radio (830 AM). Each program features a different Moss & Barnett attorney discussing his or her area of expertise and responding to listener questions. **Tom Shroyer** is the primary host of the show, with **Susan Rhode** and **John Rossman** serving as backup hosts.

***Some of our recent programs have included:***

- **Chris Stall** on the basics of starting up a business
- **Brian Grogan** on the future of United States communications law
- **Curt Smith** on construction law for homeowners
- **David Biek** on inventions and patents
- **Richelle Wahi Reiff** on important changes to child support laws

We will feature many more of our attorneys discussing a variety of topics on Saturdays to come. You can learn more about upcoming programs and listen to any of our past broadcasts by visiting our web site at [www.moss-barnett.com](http://www.moss-barnett.com) and clicking on the *Minnesota Law* icon.



COMMUNITY EDUCATION: *MINNESOTA LAW, PRESENTED BY MOSS & BARNETT*



**WCCO**  
NEWS/TALK  
830  
**Minnesota Law**  
presented by Moss & Barnett

*Minnesota Law Team:*

Tom Shroyer

Susan Rhode

John Rossman







*Many members of our Moss & Barnett team  
find ways to serve the larger community.*

## COMMUNITY INVOLVEMENT

**Tom Keller**, an attorney with our firm, serves on the boards of **Minnesota Diversified Industries**, which offers development and job opportunities to the disabled and disadvantaged; **Minnesota Heart Institute Foundation**, which focuses on cardiovascular health research; **Abbott Northwestern Hospital Foundation**, which is devoted to raising funds for the hospital; **Children's HeartLink**, which treats heart disease in needy children in developing countries; and **Graywolf Press**, a publisher of contemporary fiction, nonfiction, and poetry. Tom also is Chair of the **Advisory Board for the University of Minnesota Department of English**, which promotes programs of the English Department.

**Kelly Hicks**, a legal assistant, volunteers with **Wishes & More**, an organization dedicated to granting wishes to children fighting life threatening conditions, and **St. Paul Children's Hospital**, a medical facility dedicated to providing unwavering clinical excellence for children and their families.

**Peter Koller**, an attorney with our litigation practice group, has served as an officer, director and coach for the **North Saint Paul Area Hockey Association** and volunteers as a lacrosse coach for the **Oakdale Athletic Association**. Both associations are devoted to providing opportunities for area youth to gain the physical, emotional and psychological benefits of participating in team sports.



*Tom Keller, Kelly Hicks, and Peter Koller*

*Many members of our Moss & Barnett team  
find ways to serve the larger community.*

## COMMUNITY INVOLVEMENT

**Marcy Frost**, an attorney with our employment law practice group, serves on the board of **Families Moving Forward**, a faith-based organization of volunteers that provides temporary emergency shelter, permanent affordable housing, and supportive services to low income families with children. Marcy also serves as an ombudsman for **Employer Support for Guard and Reserve**, an organization providing information to employers of activated service personnel regarding their rights and obligations.

**Paul Zisla**, an attorney with our real estate practice group, serves on the board of **RS Eden**, a nonprofit, multi-faceted organization that facilitates positive changes in the community by providing housing and other supportive services, such as home monitoring and drug testing, for people in recovery and transition services for recently released prisoners.



**Jennifer Reussé**, an attorney with our real estate practice group, serves as Chair of Programs and Arrangements for the **Junior League of Minneapolis**, a volunteer organization that develops and implements community projects that focus on the health and welfare of women and children. Jennifer also serves on the **Business Circle Committee of the Guthrie Theater**, a group dedicated to cultivating corporate donors for the programs of the nonprofit Guthrie Theater.

**Jim Rubenstein**, an attorney with our business litigation practice group, serves on the boards of the **College of Visual Arts**, a private, accredited, four-year college of art and design located in Saint Paul, Minnesota, and of **The Legal Aid Society of Minneapolis**, a provider of general civil legal services to low-income and elderly people.

*Paul Zisla, Marcy Frost,  
Jennifer Reussé, and Jim Rubenstein*

## PAUL VAN VALKENBURG AWARD\* RECIPIENTS

Moss & Barnett established the Paul Van Valkenburg Service Award in 2001. It is awarded annually to a Moss & Barnett team member in recognition of his or her outstanding volunteer contributions to the community. The award is named after our retired partner, Paul Van Valkenburg, whose volunteer career defined the award and set an example of the spirit of service and dedication that we seek to promote and recognize throughout our firm.

*In 2006, we honored Kevin Busch, an attorney in our business law practice group, whose multiple contributions to our community include several years of service on the board and as an officer of Children's HeartLink, a organization of medical professionals who travel to third world countries to provide life-saving heart surgeries to children who would otherwise not have access to such treatments.*

Kevin and his wife, Susan Wyble, have participated in a Catholic Social Services program, "Share a Life," in which they have welcomed women

in crisis pregnancies to live in their home for up to six months at a time. They have also hosted teachers from Saint Paul's sister city, Neuss, Germany, in connection with a student exchange program at Saint Paul Central High School.

Kevin has also volunteered numerous times for Habitat for Humanity projects in which Moss & Barnett was involved, and at his parish, Church of the Nativity of Our Lord in Saint Paul, Minnesota, where he serves as an usher at the children's mass and counts money at the annual fundraiser.



*Kevin Busch*

*\*The Paul Van Valkenburg Award includes a cash donation by the firm to the recipient's chosen charity, a special recognition ceremony, and a commemorative gift. In addition, the firm has acquired a piece of pottery created by Minnesota artist, Richard Bresnahan. The pottery piece is displayed in the Paul Van Valkenburg Conference Room, placed on a wooden stand with a metal plaque on which are engraved all of the names of the award recipients.*

*We recognize outstanding community service.*

## PAUL VAN VALKENBURG AWARD\* RECIPIENTS

In 2007, we honored **Cheryl Riggs**, a legal assistant in our family law practice group. Cheryl is an active member of North Heights Lutheran Church in Arden Hills, Minnesota, where she is involved in several projects that serve both the local and world community.

Cheryl traveled to San Andreas, Guatemala, in 2006 with a team of 32 individuals to provide medical support to the Homes of Life orphanage as well as residents of the town and surrounding villages. In 2007, she traveled for the third time to Atenas, Costa Rica, with her husband Todd, a clinical social worker, to the Home of Joy Orphanage, where they addressed the needs of abused and abandoned children. In 2008, she returned to San Andreas as one of the leaders of a 26 member medical team where they again provided medical and spiritual support to the orphanage and surrounding villages.

Locally, she provides weekly and monthly services in her home for groups of young men and women and participates in inner city public service projects such as painting and fixing buildings.

We are proud to recognize Kevin and Cheryl for their willingness to be part of teams focused on improving the lives of others.



Cheryl Riggs

*\*The Paul Van Valkenburg Award includes a cash donation by the firm to the recipient's chosen charity, a special recognition ceremony, and a commemorative gift. In addition, the firm has acquired a piece of pottery created by Minnesota artist, Richard Bresnahan. The pottery piece is displayed in the Paul Van Valkenburg Conference Room, placed on a wooden stand with a metal plaque on which are engraved all of the names of the award recipients.*

*Giving back to the community is both  
a privilege and a responsibility.*

At Moss & Barnett, we are aware that giving back to the community includes both volunteer service and financial support. Among the organizations that we have supported financially are the following:



Children's HeartLink



Courage Center and Courage Center Foundation



Friends of Children Foundation



Fund for the Legal Aid Society



Great River Energy Bicycle Festival, benefiting Children's Hospitals and Clinics of Minnesota



Guthrie Theatre



Minneapolis Heart Institute Foundation



Minnesota Supreme Court Historical Society



Minnesota Women Lawyers



Sponsor A Family, a joint holiday project of Catholic Charities and Lutheran Social Service



Young Men's Christian Association of Metropolitan Minneapolis

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