



2023 | VOL. 4 | NO. 1

WILS Connect

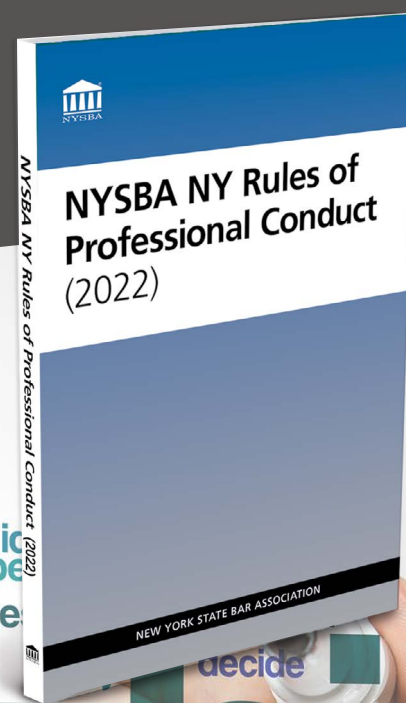
A publication of the Women in Law Section
of the New York State Bar Association

**Resolution and Report of the NYSBA Women in Law Section
Supporting Abortion Rights and the New York State ERA**

***Dobbs v. Jackson*: Changes in U.S. Global and Domestic Leadership**

Collection of Articles on Equal Pay Issues and Laws

NYSBA New York Rules of Professional Conduct (2022)



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This handy reference contains the New York Rules of Professional Conduct, as amended through 2022. The Rules are published as Part 1200 of the Joint Rules of the Appellate Division (22 N.Y.C.R.R. Part 1200).

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Submission Guidelines

WILS Connect welcomes the submission of articles of timely interest to members of the Section in addition to comments and suggestions for future issues. For ease of publication, articles should be submitted via e-mail to tmazur575@gmail.com. Accepted articles fall generally in the range of 1-10 typewritten, double-spaced pages. Please use endnotes in lieu of footnotes. All submissions for consideration to be published in *WILS Connect* should use gender-neutral terms where appropriate or, alternatively, the masculine and feminine forms may both be used. Please contact Terri Mazur, Chair of the Reports, Surveys & Publications Committee, regarding further requirements for the submission of articles. Information on submission of articles can also be found online at nysba.org/womeninlaw.

Unless stated to the contrary, all published articles represent the viewpoint of the author and should not be regarded as representing the views of the Co-Editors or the Section or substantive approval of the contents therein.

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Message From the Chair

In a midtown elevator the other day, I met a friend I haven't seen in years (blame the pandemic). Catching up, I mentioned that I chair the New York State Bar Association's Women in Law Section. "Interesting," said my friend, "but what are you accomplishing?"

A lot, actually. More than I could squeeze into an elevator speech. Maybe more than I can squeeze into this message, but here goes.

In November 2022, we successfully petitioned NYSBA to adopt a policy supporting reproductive health care rights, including abortion, and the New York State Equal Rights Amendment that includes protection for reproductive healthcare rights.

As you will read below, that was no easy feat. But first, a little background: when the U.S. Supreme Court issued its decision in *Dobbs v. Jackson Women's Health Organization*¹ in June 2022, overturning *Roe v. Wade*, WILS' Executive Committee was surprised to learn that NYSBA had no policy regarding reproductive health care rights. That meant that WILS' statement decrying the *Dobbs* decision could be issued only from WILS, not NYSBA.² It meant that when the *New York Law Journal* interviewed me about *Dobbs* (during an interview arranged by NYSBA), I could answer questions only in my individual capacity, not as chair of WILS. And, most crucially, it meant that NYSBA could not advocate for laws affecting reproductive health care rights. Considering that the *Dobbs* decision took away constitutional protections for reproductive healthcare rights (and potentially other privacy rights), leaving those rights at the mercy of federal and state political winds, we needed NYSBA to take a stand and adopt support for reproductive health care rights and the state equal rights amendment among its federal and state legislative priorities.

Reaching that goal required several steps. We first drafted a proposed resolution and supporting report. Our dedicated ad hoc committee spent many hours researching, writing, revising, and editing those documents.³ We then reached out to bar association leaders, including past presidents of NYSBA and current NYSBA officers, and to NYSBA's Sections and committees, to describe our policy proposal and ask for their support. We are grateful to the many bar association lead-



Sheryl B. Galler

ers and NYSBA Sections and committees who gave us their endorsements.

Last, but not least, it was time for the oral argument. On Friday, November 4, 2022, at the NYSBA Bar Center, with WILS past chairs Susan Harper and Terri Mazur at my side, I presented our case to the NYSBA Executive Committee. We were grateful to hear President Sherry Levin Wallach respond with unqualified support for our proposal, followed by expressions of unconditional support from

Immediate Past President T. Andrew Brown, Member-at-Large Sarah E. Gold, and Vice President David Louis Cohen, among others. Susan, Terri, and I were then ushered out of the room for the Executive Committee's discussion and vote. After we spent several tense minutes pacing the hallway, Nancy Sciocchetti, vice president, 4th District, and an active member of WILS, came out to share the wonderful news that the EC had voted in favor of our proposal. Hooray!

The next morning, WILS Chair-Elect Kim Wolf Price joined me to watch Susan and Terri present our proposal to the NYSBA House of Delegates. Kim brought along an adorable plastic doll of the late Justice Ruth Bader Ginsburg as a good luck charm. Fortunately, Susan and Terri did not need it! They made an exceptional presentation to the House of Delegates and expertly handled questions from the audience. President Levin Wallach again vigorously expressed her support for our proposal, as did past presidents Justin Vigdor and T. Andrew Brown, among others. President-elect Richard C. Lewis then called for a vote on our policy proposal from the delegates in the room and those participating remotely. I took a deep breath and waited. The booming sound of voices shouting "aye" in support of WILS' proposal echoed off the walls. The blue line on the screen, reflecting remote votes in support of WILS' proposal, got longer and longer. NYSBA had adopted our resolution and report. We succeeded in our goal. Susan and Terri beamed. Kim and I hugged. And yes, dear readers, my eyes filled with tears of joy.

I am tearing up again as I write these words, feeling immense pride in our brilliant, dedicated, passionate, and hard-working team. We owe a debt of gratitude to Susan, Terri, Kim, Linda Redlisky, Morghan Richardson, and Laura Sulem for the many hours they spent painstakingly drafting and

editing our report and preparing for our presentations to NYSBA's Executive Committee and House of Delegates. We thank President Levin Wallach and WILS Executive Committee members Sarah Gold, Nancy Sciocchetti, and Kaylin Whittingham for their support and insights. And we are especially grateful for the round-the-clock guidance and advice of NYSBA's staff, including Executive Director Pam McDewitt, General Counsel David P. Miranda, Deputy General Counsel Thomas J. Richards and, last but certainly not least, our incredible liaison, Ernesto Guerrero.

Of course, WILS had many other accomplishments in the second half of 2022.

In the weeks and months immediately following the *Dobbs* decision, WILS offered an interactive webinar on managing the trauma and grief of recent events, held a forum with the New York State Attorney General's Pro Bono Task Force on how attorneys could help support reproductive rights, and presented webinars on the legal and ethical repercussions of the *Dobbs* decision. Meanwhile, our General Counsels Committee presented speakers on legal and ethical issues confronting in-house counsel; our Programming Committee continued its popular virtual book club; we held an in-person Welcome Back Mixer and a virtual Holiday Social Hour; our Equity in the Legal Profession Committee began its research on how to help women attorneys re-enter the workforce; and our Annual Meeting Committee planned our January 2023 program on the gender wage gap and the anniversary of the federal Equal Pay Act of 1963.

You can read about these programs, and more, in the pages of this journal and in future issues of *WILS Connect*. Of course, we hope that you will do more than read about us. We hope that you will be inspired by what we have accomplished and will have ideas for what we can yet do. We hope that you will join us as we work together toward our mission and goals.


We look forward to connecting with you!

**Warm regards,
Sheryl**

Sheryl B. Galler is Chair of the Women in Law Section. She has been a member of NYSBA since 1994 and a member of WILS and its predecessor, CWIL, since 2012. Galler is also the Chair-Elect of NYSBA's Labor and Employment Law Section and a member of the LELS Executive Committee. She practices employment law in New York City where she is a partner at Book Law LLP.

Endnotes

1. *Dobbs v. Jackson Women's Health Organization*, No. 19-1392, 597 U.S. ____ (2022).
2. See <https://nysba.org/new-york-state-bar-associations-women-in-law-section-issues-statement-on-the-supreme-courts-decision-in-dobbs-overturning-roe-v-wade/>.
3. See Resolution and Report of the New York State Bar Association's Women in Law Section Supporting Abortion Rights and the New York State Equal Rights Amendment, https://nysba.org/app/uploads/2022/06/Resolution-and-reports-of-the-Women-in-Law-Section_RC_PRINT_White-Border-WIL.pdf.



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Message From the Editors

On November 5, 2022, the Women in Law Section successfully petitioned the New York State Bar Association's House of Delegates (HOD) to adopt a policy supporting reproductive health care rights, including abortion, and the New York State Equal Rights Amendment (NYS ERA), which includes protection for reproductive health



Terri A. Mazur

care rights. The HOD's vote approving WILS' Resolution and Report marked the culmination of months of hard work on the Report by WILS members following the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, No. 19-1392, 597 U.S. ____ (2022). It was important to secure the HOD's approval of this policy so that NYSBA can support the NYS ERA before the New York State Legislature. Although the Legislature passed the NYS ERA in June 2022, it must be passed again by the Legislature that just took office in January 2023 and by voters in a subsequent public referendum before the ERA can become part of the New York State Constitution. Our work on the Report and presentation is a shining example of WILS' commitment to women's issues and of the teamwork and commitment among our members to advancing women. In honor of this achievement, we have included the adopted Resolution and Report in this edition of *WILS Connect*, an article from NYSBA's Chief Communications Strategist Susan DeSantis about the historic House of Delegates vote, and an article from two contributing authors examining the impact of *Dobbs* on the United States' international and domestic leadership in women's rights, "*Dobbs v. Jackson: Changes in U.S. Global and Domestic Leadership*." We also feature an article on President Biden's signing of the historic Right To Marry Bill.

2023 marks the 60th anniversary of the Equal Pay Act of 1963. In honor of this anniversary and in recognition of the pay transparency laws that went into effect in 2022, we have included several articles by our contributing authors focusing on the new pay transparency laws in New York State, New York City, and Westchester and Albany counties.

In this issue we also present an interview of WILS' Annual Meeting, Programming and CLE Committee Chair



Linda A. Redlisky

Laura Sulem, who is director of litigation at Practical Law, Thomson Reuters and a phenomenal event organizer and editor. We feature articles by contributing authors on ways to set and achieve revenue targets in your law practice for 2023; taking the time to reset yourself this

winter; the historic election of Kathy Hochul as New York's 57th and first female governor and of 11 other women governors around the country; the fight by Iranian women for justice; and WILS members in the news.

Finally, we share highlights and photos from WILS' many cutting-edge webinars, programs and networking events over the past six months, including our long-awaited return to in-person events with our Welcome Back Mixer in October. If you missed any of our CLE programs, we invite you to access them on demand from the NYSBA website.

We would like to thank Chair Sheryl Galler, Chair-Elect Kim Wolf Price, Member-at-Large Laura Sulem, and Secretary Kaylin Whittingham for writing articles, along with our featured authors and contributors. We also thank WILS' Reports, Surveys and Publications Committee, and everyone who helped with editing and proofreading. We especially thank NYSBA's professional staff members, Alyssa Colton, section publications coordinator, and Lori Herzing, publications design manager, for their invaluable work producing and publishing this issue.

We hope you enjoy reading these articles about subjects and events that are important to advancing women in the legal profession and women generally. As always, we welcome your suggestions and feedback and invite and encourage you to take an active role in our Section! Please contact Section Liaison Ernesto Guerrero (eguerrero@nysba.org) if you are interested in contributing to future issues of *WILS Connect* or joining WILS or any of our committees.

**Warm regards,
Terri A. Mazur
Linda A. Redlisky**

Member Spotlight: Interview With Laura Sulem

By Kim Wolf Price

Laura Sulem is a senior director at Practical Law, a Thomson Reuters company. She oversees editorial content and business strategy for the 60-member U.S. litigation service and looks after the teams who publish *Practical Law The Journal*, and create Practical Law's audio and video content. Laura is also a senior advisory council member of Women@TR, a network of women and men committed to elevating women as drivers of commercial value to Thomson Reuters and increasing the number of women in senior leadership roles globally. Before joining Practical Law, Laura was a litigator at Golenbock Eiseman Assor Bell & Peskoe, where she concentrated on complex commercial litigation in state and federal courts. She began her career at Fried, Frank, Harris, Shriver & Jacobson, where she was an associate in the litigation department. Laura graduated *summa cum laude* from New York Law School and earned a B.A. in English from the State University of New York at Buffalo. Laura sits on the Executive Committee of the New York State Bar Association's Women in Law Section and is a Member at Large and the Chair of the Section's Annual Meeting, Programming and CLE Committee.

Q: You are a senior director at Practical Law (Thomson Reuters). Can you tell us a bit about that role?

A: Practical Law publishes legal know-how resources that help practicing attorneys understand the law, efficiently complete tasks, and draft legal documents. I joined Practical Law in 2011 as a senior editor writing federal and New York State procedural content. Over the years, I was promoted to various management positions and am now a senior director. In that role, I oversee Practical Law's litigation service of over 50 editors and strategize about which content we should prioritize and how we can best allocate editorial time to ensure we are creating and updating resources of value to our customers. I also look after the team that publishes Practical Law's digital magazine, *Practical Law The Journal*, and our multi-



Laura Sulem

media team that films and produces our videos and podcasts.

Q: What do you enjoy most about your work?

A: The best part of my job is that I work with scores of smart, experienced, accomplished attorney editors and content managers who are passionate about our product. They are invested in creating resources and tools to help practicing attorneys work efficiently and stay up to speed on legal developments. My colleagues take great pride in their work and foster a collaborative and supportive workplace.

Q: You have been at Practical Law for over ten years—what drew you to the non-practice side of the law?

A: I worked on complex commercial litigation matters, first at a large and then at a mid-sized firm, both in Manhattan, for over a decade. After 12 years of litigating, however, I decided I was better suited to work that was more collaborative and less adversarial. During my job search in 2011, I came across a position for a legal editor at a company I had never heard of: Practical Law Company. They were looking for a lawyer—specifically a litigator—to write legal know-how resources for federal and New York State practice. It looked like my dream job and I applied and received an offer. Practical Law Company was acquired by Thomson Reuters shortly after I started working there. Leaving the practice of law was scary at first, but I'm glad I took a chance to do work I find rewarding and fun.

Q: The WILS Programming Committee is a huge engine behind making the Women in Law Section run. You have served on the committee—now as chair—since before we became a section. Why do you enjoy working on the programming committee?

A: The members of WILS have a knack for conceiving of and executing on the most interesting and impactful programming. We have hosted programs on all kinds of topics, including Ruth Bader Ginsburg's legacy, the importance of celebrating Juneteenth, electing women politicians, creating

inclusive spaces in the workplace, coping with work and life responsibilities during the COVID-19 pandemic, and advocating for yourself at work, just to name a few. We have also run virtual tours of the National Women's Hall of Fame, the Notorious RBG exhibit at the New York Historical Society, and lower Manhattan's architectural gems. Our programs are informative and unique, and I enjoy helping to put them together.

During the pandemic, the Programming Committee started a virtual book club with the idea that we would invite attorneys who are also authors to discuss their books. Some of the books we have featured include legal thrillers and love stories, a cookbook by an at-home attorney chef, a multi-generational tabletop book on African American history, an anthology on building connections during COVID-19, and a book on addiction and recovery in the legal profession. Our virtual book club is popular and we are always looking for authors to share their books and experiences with us!

Q: Thinking about your career path, both within Thomson Reuters and more broadly, what skills do you think have helped you succeed?

A: I have three skills that have helped me succeed in my career and in life. First, I am very organized. I keep to-do lists (personal and work lists) and charts and have devised a simple but relatively effective system of calendaring what I need to discuss with people at work when I next meet with them, to try to cut down on email traffic.

Second, I work well with colleagues. To succeed in a large organization and get things done, I have found that you have to build trust and relationships with colleagues. I have learned to compromise on some things and to be open to hearing constructive criticism. I am surrounded by very smart and capable people at work, and I always try to learn from them.

Lastly, I trust my good judgment. That's not to say that I don't make mistakes or that I know everything. I also have the good judgment when faced with a particularly difficult problem or project to loop in colleagues who know more than I do and who have great instincts and ideas.

Q: You have a family and career, you volunteer, and you have other interests and personal obligations. How do you navigate work/life balance?

A: Finding work/life balance is tricky and I do not profess to be an expert in achieving it. I have two daughters, age 14 and 9. I have found that it helps to have a reliable and loving caregiver who takes on some of the responsibilities around school pick up, activities, and meal preparation, and a supportive spouse who is a true partner in taking care of our family. I have been fortunate to have both. Additionally,

Thomson Reuters has flexible work policies that greatly help in balancing work and family priorities.

Q: If you could give Law School Laura any advice, what would it be?

A: My advice to law students is to begin networking immediately upon starting law school, and to keep in touch with professors, students, and administrators. After graduation, keep in touch with co-workers and bosses. Platforms like LinkedIn make it easy to stay connected with professional contacts. It takes effort and time, but is well worth it. You never know who can make an introduction or connect you to your next position.

Q: A great thing about Member Spotlight is we always learn something new about our WILS members. You graduated from the University of Buffalo. How did you get there? What was your time in WNY like?

A: I grew up in a relatively small town in Upstate New York and wanted to go to college in a bigger, more urban environment. At the time I attended SUNY Buffalo there were two campuses—the South Campus, which is in the city of Buffalo, and the North Campus, which is in the suburb of Amherst. I chose to live on the South Campus and enjoyed the faster pace of city life. What I remember most about living in Buffalo is how fiercely Buffalo residents love the Buffalo Bills. I root for them every year!

Q: Finally, what does serving on the WILS Executive Committee mean to you?

A: I am honored to serve on the Executive Committee of WILS. I was especially proud when, following the U.S. Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, the current, former, and future leaders of WILS persuaded NYSBA leadership to support a federal right to an abortion and to lobby for congressional passage of a law prohibiting restrictions on a woman's right to choose to end a pregnancy. They also successfully persuaded NYSBA leadership to pledge support for an Equal Rights Amendment to the New York State Constitution. These incredible leaders are devoted to fiercely protecting women and their rights, and I am privileged to know them and help them in that endeavor.



Kim Wolf Price, a member of the Executive Committee of NYSBA's Women in Law Section (WILS) and currently serving as Chair-Elect of WILS, will become Section Chair on June 1, 2023. She is the attorney professional development and diversity officer at Bond Schoeneck & King, PLLC.

NEW YORK STATE BAR ASSOCIATION

Resolution Adopted by the House of Delegates on November 5, 2022

WHEREAS, the New York State Legislature has found that “comprehensive reproductive health care is a fundamental component of every individual's health, privacy and equality”¹ and that “New Yorkers deserve a constitution that recognizes that every person is entitled to equal rights and justice under the law regardless of who they are, whom they love, or what their families look like”;² and

WHEREAS, effective January 22, 2019, New York State enacted S.240/A.21,³ which amended the New York State Public Health Law, Education Law, and Penal Law, and added new Article 25-A, the Reproductive Health Act, to the New York State Public Health Law;⁴ and

WHEREAS, on June 13, 2022, New York State enacted six laws (together, the “June 13, 2022, Legislative Package”)⁵ to protect patients and providers in anticipation of the U.S. Supreme Court’s final decision in *Dobbs v. Jackson Women’s Health Organization*, as follows: (i) S.9039A/A.10094A Establishes a Cause of Action for Unlawful Interference with Protected Rights; (ii) S.9077A/A.10372A Relates to Legal Protection for Abortion Service Providers; (iii) S.9079B/A.9687B Prohibits Misconduct Charges Against Healthcare Practitioners for Providing Reproductive Health Services to Patients Who Reside in States Where Such Services Are Illegal; (iv) S.9080B/A.9718B Prohibits Medical Malpractice Insurance Companies from Taking Adverse Action Against a Reproductive Healthcare Provider Who Provides Legal Care; (v) S.9384A/A.9818A Includes Abortion Providers and Patients in the Address Confidentiality Program; and (vi) S.470/A.5499 Authorizes a Study to Examine Unmet Health and Resource Needs and Impact of Limited Service Pregnancy Centers; and

WHEREAS, on June 24, 2022, the U.S. Supreme Court issued its decision in *Dobbs v. Jackson Women’s Health Organization*, No. 19-1392, 597 U.S. __ (2022), overturning *Roe v. Wade* and *Planned Parenthood of Southeastern Pa. v. Casey*, cases which had recognized a right to abortion under the U.S. Constitution; and

WHEREAS, on January 21, 2022, the Executive Committee of the New York State Bar Association adopted an affirmative legislative proposal in support of passage of New York State Senate Bill S.1268, which proposed an amendment to Article 1 of the New York State Constitution in relation to equality of rights and protection against discrimination,⁶ and the New York State Bar

¹<https://www.nysenate.gov/legislation/laws/PBH/2599-AA>

²<https://www.nysenate.gov/legislation/bills/2021/s51002>

³<https://www.nysenate.gov/legislation/bills/2019/s240>

⁴<https://www.nysenate.gov/legislation/laws/PBH/A25-A>

⁵<https://www.governor.ny.gov/news/governor-hochul-signs-nation-leading-legislative-package-protect-abortion-and-reproductive>

⁶<https://www.nysenate.gov/legislation/bills/2021/S1268>

Association had previously in 2019 adopted support for proposed equality amendments to the New York State Constitution and an Equal Rights Amendment to the U.S. Constitution; and

WHEREAS, on July 1, 2022, the New York State Senate and Assembly passed S.51002, a concurrent resolution of the Senate and Assembly proposing an amendment to Section 11 of Article 1 of the New York State Constitution in relation to equal protection,⁷

WHEREAS, federal legislation, titled the Women’s Health Protection Act of 2022,⁸ has been proposed in the U.S. Senate and House of Representatives, to prohibit governmental restrictions on the provision of, and access to, abortion services; and

WHEREAS, federal legislation has been proposed that would ban abortion nationwide and/or diminish the current protections under New York law;

NOW, THEREFORE,

IT IS RESOLVED, that the New York State Bar Association supports the rights of individuals to choose legal reproductive health care, including abortion; and it is

FURTHER RESOLVED, that the New York State Bar Association supports the amendments to New York State Public Health Law, Education Law, and Penal Law, as enacted in New York State by the signing of S.240/A.21 in 2019; and it is

FURTHER RESOLVED, that the New York State Bar Association supports N.Y. Public Health Law Article 25-A as enacted in 2019; and it is

FURTHER RESOLVED, that the New York State Bar Association supports the June 13, 2022, Legislative Package, as enacted by New York State and supports the policies and intent of the legislative package enacted; and it is

FURTHER RESOLVED, that the New York State Bar Association supports S.51002 of 2022, as passed by the New York State Senate and Assembly, and as policy the proposal codified in this concurrent resolution to amend Section 11 of Article 1 of the New York State Constitution in relation to equal protection; and it is

FURTHER RESOLVED, that the New York State Bar Association supports passage of the Women’s Health Protection Act of 2022, and supports the policies and intent of this bill; and it is

FURTHER RESOLVED, that the New York State Bar Association opposes passage of laws that would ban abortion nationwide and/or diminish the current protections under New York law; and it is

⁷ <https://www.nysenate.gov/legislation/bills/2021/s51002>

⁸ <https://www.congress.gov/bill/117th-congress/senate-bill/4132>

FURTHER RESOLVED, that the New York State Bar Association approves the report and recommendations of the Women in the Law Section; and it is

FURTHER RESOLVED, that the officers of the Association are hereby authorized to take such other and further action as may be necessary to implement this resolution.

**SECOND AMENDED REPORT OF THE NYSBA WOMEN IN LAW SECTION IN
SUPPORT OF ITS PROPOSED RESOLUTION SUPPORTING REPRODUCTIVE
HEALTH-CARE RIGHTS AND REPRODUCTIVE AUTONOMY AND THE NEW
YORK STATE EQUAL RIGHTS AMENDMENT¹**

October 24, 2022

I. INTRODUCTION

On June 24, 2022, the United States Supreme Court issued its decision in *Dobbs v. Jackson Women's Health Organization*, No. 19-1392, 597 U.S. (2022), overturning *Roe v. Wade*, 410 U.S. 113 (1973). When the *Dobbs* decision was leaked and then issued, overturning millions of Americans' constitutional right to abortion, bar associations across New York and the country issued strong statements in opposition to *Dobbs* and the potential impacts on other rights at stake (e.g., contraception access, same-sex relationships, and same-sex marriage). However, one prominent bar association – the New York State Bar Association (NYSBA or the Association) – could not speak as the Association on this important issue because it does not have a policy on reproductive health care.

The U.S. Supreme Court in *Dobbs* held that reproductive rights are a legislative issue.² NYSBA's mission statement makes clear:

Our mission is to *shape the development of law*, educate and inform the public, and respond to the demands of our diverse and ever-changing legal profession. *NYSBA advocates for state and federal legislation and works tirelessly to promote equal access to justice for all.*³

Why Support this Proposal Now?

As a result of *Dobbs*, there are now, or soon will be, laws on the federal and New York State (NYS) level that need the immediate attention of the Association.

New York State has supported the right to reproductive health care, including abortion, for more than 50 years. NYS recently updated its laws with the Reproductive Health Act of 2019. NYS reaffirmed its commitment to reproductive health care and health-care providers in June 2022, when the New York Governor signed into law six pieces of legislation protecting reproductive and

¹ This report amends the Report of the NYSBA Women in Law Section (WILS) in Support of its Proposed Resolution Supporting Abortion Rights and the New York State Equal Rights Amendment, dated August 22, 2022, and its amended report dated August 26, 2022.

² *Dobbs v. Jackson Women's Health Organization*, No. 19-1392, 597 U.S. __ (2022), slip op. at 69. In July 2022, in *Dobbs*, the U.S. Supreme Court held that “the Constitution does not confer a right to abortion. *Roe* and *Casey* must be overruled, and the authority to regulate abortion must be returned to the people and their elected representatives.”

abortion rights for all.⁴ However, the *Dobbs* decision paves the way for federal and state legislation that would place existing NYS reproductive health care rights at risk.

On the state level, we ask NYSBA to advocate for the current version of the Equality Amendment (ERA) to the NYS Constitution, S.51002. Since 2019, NYSBA consistently has adopted as policy three prior versions of the NY ERA legislation.⁵ In 2019, NYSBA also adopted the Federal ERA as a policy of the association. The New York State ERA currently pending, S.51002, is a concurrent resolution of the Senate and Assembly proposing an amendment to Section 11 of Article 1 of the New York State Constitution in relation to equal protection and includes protections for reproductive health care and autonomy.⁶ On July 1, 2022, the New York Legislature passed this version of the ERA to the NYS Constitution. The process for amending the NYS Constitution requires the ERA amendment to pass two separate legislative sessions and then be approved by referendum. This means the ERA will be on the State legislative agenda again in 2023 and, assuming it is passed again, it must then be approved by the voters, presumably in 2024.

On the federal level, bills were proposed that would impose nationwide restrictions on reproductive health care rights including abortion. If a nationwide abortion law passes, it would severely restrict, if not eliminate, the rights we have held under New York state law for over 50 years.

As detailed more fully below, the threats to women's and girls' health care and family planning are real. A majority of Americans support the right to choose, including in states where abortion has been strictly curtailed.⁷ NYSBA cannot advocate on this important issue if it does not have a

⁴ These laws are: S.9039A/A.10094A (Establishes a Cause of Action for Unlawful Interference with Protected Rights); S.9077A/A.10372A (Relates to Legal Protection for Abortion Service Providers); S.9079B/A.9687B (Prohibits Misconduct Charges Against Healthcare Practitioners for Providing Reproductive Health Services to Patients Who Reside in States Where Such Services Are Illegal); S.9080B/A.9718B (Prohibits Medical Malpractice Insurance Companies from Taking Adverse Action Against a Reproductive Healthcare Provider Who Provides Legal Care); S.9384A/A.9818A (Includes Abortion Providers and Patients in the Address Confidentiality Program); and S.470/A.5499 (Authorizes a Study to Examine Unmet Health and Resource Needs and Impact of Limited Service Pregnancy Centers). See <https://www.governor.ny.gov/news/governor-hochul-signs-nation-leading-legislative-package-protect-abortion-and-reproductive> (attached as Exhibit A).

⁵ See Exhibit B: <https://nysba.org/app/uploads/2020/03/19-20NYSBA11.pdf> (New York State Bar Association #11 Memorandum in Support of the 2019 ERA bill (prohibiting discrimination against a person based on “sex” and “pregnancy,” among other protected categories, circulated to the NYSBA Legislature on Feb. 28, 2019)); Women in Law Section Updated Memorandum in Support of Equal Rights Amendment to the New York State Constitution, Bills A.271 and A.272/S.517 (Feb. 6, 2019) (prohibiting discrimination against a person based on “sex” and “pregnancy”); Resolution of the Women in Law Section Supporting the New York State Equal Rights Amendment (S.1268) (Sept. 24, 2021) (prohibiting discrimination against a person based on “sex” and “pregnancy and pregnancy outcomes,” among other protected categories).

⁶ <https://www.nysenate.gov/legislation/bills/2021/s51002>.

⁷ See New York State Bar Association's Women in Law Section Issues Statement on the Supreme Court's Decision in *Dobbs* Overturning *Roe v. Wade*, n.4, <https://nysba.org/new-york-state-bar-associations-women-in-law-section-issues-statement-on-the-supreme-courts-decision-in-dobbs-overturning-roe-v-wade/>.

policy. For this reason, it is critical that NYSBA adopt a policy supporting reproductive health care, including abortion, and reproductive autonomy.

As lawyers we are sworn to uphold the law. As leaders of the state bar, we are duty bound to raise our voices and advocate when individuals, including our members, are not treated equally under the law. Recently, the President of NYSBA, Sherry Levin Wallach, Esq., spoke of the importance of the need to act:

It is more important than ever that we seize every opportunity to work together. In light of the *Dobbs* decision, I believe that we have an obligation to act. As a leader for women and for equal rights for all, this section has a vital role to play. We must see this as the opportunity it is, we are in the right place at the right time. Because it's not just reproductive rights, but all our rights that are in jeopardy.⁸

The Women in Law Section urges NYSBA to adopt WILS' Report and Resolution Supporting Reproductive Health-Care Rights and Reproductive Autonomy and the current New York State ERA, so that we can maintain these important existing NYS health-care laws and preserve our right to reproductive health care and reproductive autonomy. This includes:

- (i) recognition of the rights of individuals to access legal reproductive health care, including abortion;
- (ii) support for amendments to the NYS Public Health Law, Education Law, and Penal Law, as enacted in NYS by the signing of S.240/A.21 in 2019;⁹
- (iii) support for N.Y. Public Health Law Article 25-A as enacted in 2019;¹⁰
- (iv) support for the June 13, 2022, Legislative Package as enacted by New York State¹¹ and support for the policies and intent of the legislative package enacted (*see* Exhibit A for summaries of the June 13, 2022 Laws);
- (v) support for S.51002¹² of 2022, the NYS Equal Rights Amendment (ERA), as passed by the New York State Senate and Assembly, and as policy the proposal codified

⁸<https://nysba.org/dobbs-decision-presents-wide-ranging-ramifications-for-womens-rights/>.

⁹ <https://www.nysenate.gov/legislation/bills/2019/s240>.

¹⁰<https://www.nysenate.gov/legislation/laws/PBH/A25-A>.

¹¹ *See* n.4, *supra*.

¹² *See* <https://www.nysenate.gov/legislation/bills/2021/s51002>.

in this concurrent resolution to amend Section 11 of Article 1 of the New York State Constitution in relation to equal protection;

- (vi) support, as a federal legislative priority, for passage of the Women’s Health Protection Act of 2022¹³ and support for the policies and intent of this bill; and
- (vii) opposition to laws that would ban abortion nationwide and/or diminish the current protections under New York law.

II. NYSBA SHOULD SUPPORT REPRODUCTIVE HEALTH CARE RIGHTS INCLUDING THE RIGHT TO CHOOSE ABORTION

When the Supreme Court issued its decision in *Dobbs*, WILS drafted a statement in opposition and, in doing so, learned that NYSBA does not have any policy regarding reproductive health-care rights, including abortion rights. As a result, WILS has prepared this report and the accompanying resolution asking NYSBA to adopt a policy supporting reproductive health-care rights.

A. Many Bar and Medical Associations Support Reproductive Health-Care Rights

Bar associations across the country, including the American Bar Association¹⁴ (ABA), the National Association of Women Lawyers¹⁵ (NAWL), the Women's Bar Association of the State of New York¹⁶ (WBASNY), New York County Lawyers Association¹⁷ (NYCLA) and the NY City Bar Association¹⁸ expressed their opposition to the *Dobbs* decision and their support for reproductive health care and abortion rights. Associations of medical professionals, including the American Medical Association¹⁹ (AMA), the American College of Obstetricians and Gynecologists (ACOG), the American Academy of Pediatrics, and the American Academy of

¹³ See <https://www.congress.gov/bill/117th-congress/house-bill/8296> (emphasis added).

¹⁴ <https://www.abajournal.com/web/article/aba-stands-up-for-abortion-same-sex-marriage-and-contraceptive-rights>; see also <https://www.americanbar.org/news/abanews/aba-news-archives/2022/08/aba-reaffirms-support-reproductive-rights/>.

¹⁵ <https://www.nawl.org/page/reproductive-justice>.

¹⁶ <https://rcwba.org/wbasny-supports-a-womans-right-to-make-her-own-reproductive-healthcare-decisions-and-strongly-opposes-the-leaked-united-states-supreme-courts-draft-decision-in-the-dobbs-v-jackson-w/>.

¹⁷ [https://www.nycla.org/pdf/NYCLA%20Statement%20on%20SCOTUS%20Ruling%20re%20Dobbs%20\(1\).pdf](https://www.nycla.org/pdf/NYCLA%20Statement%20on%20SCOTUS%20Ruling%20re%20Dobbs%20(1).pdf).

Family Physicians, also issued statements opposing the *Dobbs* decision and supporting abortion rights.²⁰ As reported in the news,

The American College of Obstetricians and Gynecologists' position on abortion is that it should be legal and available to patients with healthy pregnancies up to fetal viability (when the fetus has a chance of surviving outside of the uterus). While it's generally understood to occur around 23 weeks, fetal viability is ultimately a "medical determination," according to the ACOG, and it may vary pregnancy to pregnancy.²¹

The various positions of the ABA, NAWL, WBASNY, ACOG, AMA, American Academy of Pediatrics, and American Academy of Family Physicians include: (i) abortion is health care; (ii) abortion bans pose an existential threat to the health, safety, and well-being of women, children, all child-bearing persons, and their families; and (iii) abortion bans are inequitable and perpetuate inequities.²²

As we said in our own WILS statement in reaction to the *Dobbs* ruling,

The majority's decision . . . intentionally disregards the importance of women's autonomy over their lives, physical selves, and well-being. It takes away from women and all childbearing persons the right to make decisions about their own bodies, reproductive freedom, and healthcare. It subverts women's status as equal citizens under the law and the right to privacy and liberty under the 14th Amendment.²³

B. NYS Has Supported Abortion Rights for Over 50 Years

In New York State, abortion has been legal since 1970. New York expanded abortion rights in 2019.²⁴ In June of this year, in response to the leaked draft decision in *Dobbs*, NYS enacted legislation, including the June 13, 2022 Legislative Package, to expand abortion access within the

²⁰See, e.g., <https://www.cnet.com/health/medical/the-medical-community-says-abortion-access-is-health-care-heres-why/>; see also <https://www.aap.org/en/news-room/news-releases/aap/2022/aap-statement-on-supreme-court-decision-in-dobbs-v.-jackson-womens-health-organization/>.

²¹ *Id.*

²² See n. 14, 15, 16, 19 and 20.

²³See <https://nysba.org/new-york-state-bar-associations-women-in-law-section-issues-statement-on-the-supreme-courts-decision-in-dobbs-overturning-roe-v-wade/>.

²⁴See <https://www.nysenate.gov/legislation/bills/2019/s240>; <https://www.nysenate.gov/legislation/laws/PBH/A25-A>.

State of New York, to help protect persons who travel here for abortion services, and to protect health-care providers who provide abortion services in the State.

As set forth above, NYS has introduced several ERA proposals. Following *Dobbs*, the NYS ERA proposal was modified once more to explicitly include a person’s “reproductive healthcare and autonomy” as a protected classification. To avoid any confusion, the bill’s sponsors made clear what this means in their supporting memorandum:

It is not possible to achieve sex equality while prosecutors and state agencies single out pregnant people for punishment because of their pregnancy, the outcomes of their pregnancies and their reproductive healthcare decision making. *And because the right to abortion is central to a pregnant person's equality, this amendment clarifies that any action that discriminates against a person based on their pregnancy, pregnancy outcome, reproductive healthcare, or reproductive autonomy is a sex-based classification.* This is critical given the Supreme Court's recission of the constitutional right to abortion care. As one protected pregnancy outcome, abortion care is a fundamental right that is integral to a person's reproductive autonomy. *Indeed, reproductive autonomy is the power to decide and control one's own contraceptive use, pregnancy, and childbearing. For example, people with reproductive autonomy can control whether and when to become pregnant, whether and when to use contraception, which method to use, whether and when to continue a pregnancy, and decisions in childbirth.* And this is consistent with our state's long history of protecting bodily autonomy long enshrined in our common law, as established in 1914 with Justice Cardozo's famous articulation of the doctrine in *Schloendorff v. Society of New York Hospital*, 211 N.Y. 125, 129-130 (1914) that every human being of adult years and sound mind has a right to determine what shall be done with his own body. The State shall further not use its police power or power of the purse to burden, limit, or favor any type of reproductive decision making at the expense of other outcomes, and, as consistent with section 17 of this article, shall guarantee rights and access to reproductive healthcare services.²⁵

On July 1, 2022, the New York Legislature passed this version of the ERA to the NYS Constitution, which would add “reproductive rights and autonomy” as a protected category.²⁶ As noted above, the ERA will be on the State legislative agenda again in 2023 and, assuming it is passed again, will go to a referendum, presumably in 2024.

Elsewhere in the United States, however, some states began to enact or trigger abortion bans. Within weeks, in some instances days, after the Court issued the *Dobbs* decision, ten states enacted laws banning almost all abortions, four states enacted laws banning abortion after six weeks, and

²⁵ Sponsor Memo, <https://www.nysenate.gov/legislation/bills/2021/S51002> (emphasis added).

²⁶ <https://www.nysenate.gov/legislation/bills/2021/S51002>.

additional bans have been enacted or are about to be triggered.²⁷ Some states make no exceptions for victims of rape or incest.²⁸ The status of abortion in each state is constantly changing.²⁹

WILS urges NYSBA to adopt as policy and legislative proposal Senate Bill S51002,³⁰ the ERA to the NYS Constitution that was passed by the State's Senate and Assembly on July 1, 2022, and as policy the proposal codified in this concurrent resolution to amend Section 11 of Article 1 of the New York State Constitution in relation to equal protection.

C. Abortion Is Health Care

Abortion bans cannot stop tragic medical complications and violent criminal behavior. Soon after the first abortion bans went into effect, we began to read reports of their dreadful effects on women and children across the United States.

- In Ohio, a ten-year-old rape victim had to travel to Indiana for an abortion (before Indiana imposed its own abortion ban).³¹
- In Tennessee, doctors canceled an abortion while the patient was in the procedure room, despite acknowledging that the fetus was not viable, forcing her to travel to Georgia to terminate her pregnancy.³²
- In Louisiana, a woman carrying a fetus that was missing part of its skull and would not survive, was denied an abortion in her home state.³³
- In Texas and Wisconsin, women carrying non-viable fetuses were forced to wait until they showed signs of life-threatening infections before doctors would terminate the pregnancies.³⁴

²⁷See <https://www.cnn.com/2022/08/25/politics/abortion-access-trigger-laws-idaho-tennessee-texas/index.html> (published Aug. 25, 2022).

²⁸See <https://www.chicagotribune.com/nation-world/ct-aud-nw-abortion-conservatives-supreme-court-20220506-zdfjswn4cveora32emjhu3m4x4-story.html> (published May 6, 2022).

²⁹See <https://www.washingtonpost.com/politics/2022/06/24/abortion-state-laws-criminalization-roe/>.

³⁰ See <https://www.nysenate.gov/legislation/bills/2021/s51002>.

³¹ See <https://www.cnn.com/2022/07/14/us/indiana-ag-ohio-rape-victim/index.html> (published July 15, 2022); see also <https://www.cincinnati.com/story/news/2022/09/27/affidavits-2-more-raped-minors-were-denied-ohio-abortions/69520380007/>.

³²<https://www.nytimes.com/2022/08/01/us/abortion-journey-crossing-states.html>.

³³<https://news.yahoo.com/louisiana-mother-said-she-denied-003726187.html> (published Aug. 16, 2022).

³⁴ <https://www.nbcnews.com/health/health-news/abortion-laws-texas-wisconsin-forcing-pregnant-women-wait-care-rcna41678> (published Aug. 8, 2022).

- Patients of child-bearing age who are suffering from painful and often debilitating rheumatoid arthritis have been denied prescriptions for essential medications because they may cause abortions.³⁵
- In states that prevent pregnant women from getting a divorce, pregnant women could not free themselves of abusive spouses.³⁶

These types of patients were denied or are being denied basic health care. Before *Dobbs*, treating physicians could have recommended and performed abortions, if appropriate, for victims of incest and rape, or where the abortion was in the best interest of the physical and mental health of the patient.

But as states have been imposing abortion bans and restrictions, medical professionals and facilities are now refusing to perform abortions or are delaying them until later than otherwise medically advisable.

As health care is delayed, the dangers to a pregnant person increase.³⁷ A procedure that should be done as soon as the problem is diagnosed is postponed for days or weeks, as doctors are forced by law to wait for the worst outcomes. Care is often delayed even for persons with the financial means and ability to travel to other states for abortions, because it takes time to schedule appointments in other states, schedule time off from their jobs, arrange care for children or other family members at home, and, for some, raise funds needed for the costs of travel, hotel stays, and medical care.

Abortion bans are also causing medical professionals and facilities to refuse to perform necessary procedures to end ectopic pregnancies.³⁸ According to medical professionals, an ectopic pregnancy is not viable, and is a life-threatening condition that requires emergency treatment. An ectopic pregnancy is also a serious risk to the pregnant person. Yet, due to the repressive laws imposed by certain state abortion bans, doctors in those states are forced to wait until their patients

³⁵ <https://www.washingtonpost.com/health/2022/08/08/abortion-bans-methotrexate-mifepristone-rheumatoid-arthritis/>; <https://www.reuters.com/world/us/state-abortion-bans-prevent-women-getting-essential-medication-2022-07-14/>.

³⁶ <https://www.austinchronicle.com/news/2022-08-05/texans-cant-divorce-while-pregnant-can-use-ivf-for-now/>; <https://www.msn.com/en-us/news/us/women-in-missouri-cant-get-a-divorce-while-pregnant-many-fear-what-this-means-post-roe/ar-AAZMpIB>.

³⁷ See, e.g. n. 33.

³⁸ <https://my.clevelandclinic.org/health/diseases/9687-ectopic-pregnancy> (an ectopic pregnancy is “a pregnancy that happens outside of the uterus.... This is a life-threatening condition. *An ectopic pregnancy is not a pregnancy that can be carried to term* (till birth) and can be dangerous for the mother if not treated right away.”) (emphasis added).

exhibit life-threatening symptoms before they can provide the care needed to end those pregnancies.³⁹

Medical professionals in states with abortion bans are delaying or refusing to perform procedures that would be standard medical care for women and childbearing persons who have miscarriages.⁴⁰

And medical professionals face grave concerns over what might be permissible in treating pregnant persons with cancer, when treatments can unintentionally end pregnancies.⁴¹

Forcing minors to carry a pregnancy to term is especially cruel and is profoundly unacceptable in cases of rape and incest. A forced pregnancy effectively means ending the minor's childhood. For example, in August 2022, "a Florida court of appeal upheld a decision stating a 16-year-old could not get an abortion because she lacked the maturity to make a decision, even after the parentless minor said she was not ready to have the child and was still in school."⁴² In some cases, children who are pregnant leave school due to the shame and burdens of the pregnancy. Others may leave school to start working in order to pay for the costs of medical care and childcare, while still being a child themselves. Either way, the loss of educational opportunities will affect their lifetime earnings and potential. Further, some pregnant minors will be forced into marriage, which often means victims are forced to marry their rapist and will be vulnerable to further victimization by sexual assault, abuse and domestic violence.⁴³

The right to reproductive healthcare and autonomy includes more than the right to an abortion. Abortion bans are also causing medical professionals and pharmacies to stop prescribing or dispensing medications to persons of child-bearing age with serious health conditions such as cancer and rheumatoid arthritis, because the medications may cause abortions.⁴⁴

³⁹<https://www.wired.com/story/the-fall-of-roe-makes-complex-pregnancies-even-riskier/> (published Aug, 8, 2022).

⁴⁰<https://www.nytimes.com/2022/07/17/health/abortion-miscarriage-treatment.html> (published July 17, 2022).

⁴¹<https://www.bloomberg.com/news/articles/2022-06-24/overturing-roe-can-impact-therapy-for-cancer-miscarriage> (published June 24, 2022); <https://abcnews.go.com/Health/pregnant-women-cancer-doctors-fear-abortion-bans-death/story?id=85948248> (published July 19, 2022).

⁴² See "Florida court says teen isn't mature enough to get an abortion." The teen, identified only as Jane Doe 22-B, has no parents. https://apple.news/AdFRONuIkQbq_WA3ZgBxLhQ (published on August 16, 2022).

⁴³ See "Unintended Pregnancy and Its Adverse Social and Economic Consequences on Health System: A Narrative Review Article," at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4449999/> and "Economic burden of unintended pregnancy in the United States," <https://www.rtihs.org/publications/economic-burden-unintended-pregnancy-united-states>.

⁴⁴ See <https://www.washingtonpost.com/health/2022/08/08/abortion-bans-methotrexate-mifepristone-rheumatoid-arthritis/>; <https://www.reuters.com/world/us/state-abortion-bans-prevent-women-getting-essential-medication-2022-07-14/>.

The right to reproductive health care and autonomy also includes the rights to access contraceptives and fertility treatments, which are rights that could be placed at risk by any restriction or ban on abortion. There are grave concerns that laws that ban abortion at the moment of conception could deprive persons of the ability to build a family using in vitro fertilization (IVF).⁴⁵ IVF helps many people start their families, including couples who are infertile, and "people who have cancer or have other reasons that they want to preserve their fertility for the future," as well as "same-sex couples, transgender patients, and patients with a wide range of health challenges, such as uterine abnormalities and recurrent pregnancy loss... However, if new laws specify that embryos are protected from the time of fertilization, then that could create a significant problem for patients."⁴⁶

D. Abortion Bans Place Medical Professionals at Risk

Medical professionals are acutely aware that the potential repercussions for violating state abortion bans are harsh: they could face criminal and/or financial penalties, lose their licenses to practice medicine and jeopardize their professional reputation. For example, the Indiana doctor who treated the 10-year-old rape victim from Ohio was investigated by the Indiana's Attorney General's office, even though the procedure was legal in Indiana at the time of the treatment.⁴⁷ Even where abortion bans have exceptions for the life of the mother, "doctors say that what constitutes imminent death has remained vague under the laws, which could put pregnant patients in grave danger."⁴⁸

Health-care providers know when abortions are medically necessary. Yet in some states, doctors are told to consult with their attorneys for clarity.⁴⁹ Physicians know when to recommend ending a pregnancy before the patient becomes severely ill, or is at risk of bleeding to death, losing organ function, permanently damaging reproductive health, or worse. But due to vague and draconian laws, doctors are sending pregnant persons home to wait until they are at imminent risk of death before they are willing to perform abortions, if ever.

⁴⁵ See <https://www.medpagetoday.com/special-reports/exclusives/100028> (In the IVF process, embryos "that have not progressed to a state that is normal" before implantation are typically discarded, and there may be additional embryos with chromosomal abnormalities "that are discarded or donated to research. Providers are able to determine which fertilized eggs are likely to go on to a pregnancy and which are not.").

⁴⁶ *Id.*

⁴⁷ <https://www.theguardian.com/us-news/2022/jul/27/indiana-investigates-abortion-doctor-10-year-old-rape-victim>.

⁴⁸ <https://www.nbcnews.com/health/health-news/abortion-laws-texas-wisconsin-forcing-pregnant-women-wait-care-rcna41678>.

⁴⁹ <https://www.wvno.org/news/2022-07-28/louisiana-doctors-confused-about-abortion-law-advised-by-state-board-to-consult-with-lawyer>.

E. Abortion Bans Exacerbate Inequity and Inequality

Abortion bans will not end abortions. They did not do so prior to 1973 and they will not do so today. Persons who need an abortion for medical reasons or other reproductive health reasons will find a way. Some will choose medication abortions, at least while such methods are legal. Persons who cannot afford or obtain medication abortions may attempt dangerous methods such as counterfeit medications, herbal supplements, and even, horribly, the methods used before *Roe*: hangers or knitting needles. Others may travel to states where abortion is accessible.⁵⁰

Not everyone has the means or support system to make the trip to the nearest state where abortion is accessible. Some persons cannot take time away from their jobs without losing pay or risking getting fired. Some are caring for children or other family members at home and will need to find caregivers to take care of their families during their absence. Some do not have a relative or friend who can accompany them to care for them after the procedure. Some do not have the financial means to pay for gas, carfare, flights, hotels, medical care, post-surgical care, and other costs of out-of-state abortions. Abortions later in pregnancy may require two trips to the medical provider. This means that all these issues – taking time off, finding caregivers, travel, and medical costs – are likely to be more burdensome. And, where anesthesia or other sedatives are involved, hospitals and clinics are unlikely to proceed unless the patient has arranged for someone to pick them up and care for them afterward.

Persons with means and a support network are more likely to be able to travel to states where abortions are accessible. But this may be difficult, if not impossible, for others. Women without the means or support to obtain reproductive health care may be forced to carry their pregnancies to term or forced to find other, potentially dangerous, methods to terminate their pregnancies. Abortion bans thus exacerbate inequity and inequality, and deny women and all child-bearing persons equal protection under the law.

Those most impacted by abortion bans are those already impacted by lack of access to health care. They also face poverty and issues of bias in the health-care system.⁵¹ A 2018 study by the American Journal of Public Health reached this conclusion: “[w]omen denied an abortion were more likely than were women who received an abortion to experience economic hardship and insecurity lasting years.”⁵² In other words, the cycle of poverty is perpetuated.

We live in a nation where there is no safety net for families. We have no universal health care, no universal childcare, and no nationwide paid family or medical leave. Millions of women and their

⁵⁰ <https://www.msn.com/en-us/travel/news/it-is-ridiculous-its-a-lot-texas-women-describe-traveling-to-new-mexico-for-abortions/ar-AA116ADC> (published Aug. 25, 2022).

⁵¹<https://abcnews.go.com/Health/abortion-restrictions-disproportionately-impact-people-color/story?id=84467809>;
<https://www.npr.org/2022/08/18/1111344810/abortion-ban-states-social-safety-net-health-outcomes>.

⁵² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5803812/>.

partners have relied upon *Roe* and *Casey* for family and life planning and for health care decisions.⁵³

Forced pregnancies can have negative consequences not only for the person forced to carry the pregnancy to term, but also for their family members. They may lose income during any time that the pregnant family member must take unpaid leave for medical care, pregnancy-related conditions, childbirth, and recovery. They may be pushed into poverty, or further into poverty, with the addition of another child in the family. They may not have the funds to pay for the costs of prenatal care, childbirth, and other pregnancy-related medical conditions, especially if the pregnancy causes the mother to suffer severe or life-threatening medical conditions. And, in the worst-case scenario, the mother could die.

And make no mistake, abortion bans are a matter of economic and health justice that disproportionately impact people of color.

While maternal mortality has increased among all races of U.S. women over the past 20 years, recent CDC data shows that U.S. Black women are three times more likely to “die from a pregnancy-related cause” than their White counterparts. Studies show that even when Black and White women have similar incomes, prenatal care and other health indicators, Black women have a higher risk of pregnancy-related death.⁵⁴

With ectopic pregnancies ranking as the fifth highest cause of maternal death for Black women, the delays in care caused by abortion bans as noted above will undoubtedly increase the risk of death for Black women.⁵⁵ With higher rates of pregnancy complications, increased difficulties in accessing contraception, issues of bias in receiving health care and lower rates of insurance coverage, the likely outcome is that Black women, along with many women of color including Latinx and Indigenous women, as well as women and all child-bearing persons who are experiencing poverty, will be most directly and negatively impacted by losing access to abortion as a reproductive health option.

⁵³ <https://nysba.org/new-york-state-bar-associations-women-in-law-section-issues-statement-on-the-supreme-courts-decision-in-dobbs-overturning-roe-v-wade/>.

⁵⁴ <https://www.washingtonpost.com/politics/2022/06/25/dobbs-roe-black-racism-disparate-maternal-health/>; *see* <https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2020/maternal-mortality-rates-2020.htm>.

⁵⁵ *Id.*; *see* <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2021.306375>.

F. Abortion Bans Violate Religious Freedoms

Abortion bans also violate persons' freedom of religion.⁵⁶ There are many religions that permit abortions for reasons that are not permitted by many state abortion laws, including the physical and mental health of the mother. Each pregnant person should have the option to follow their own religion and spiritual beliefs and consult with religious or spiritual leaders of their choosing when deciding whether to abort a pregnancy. An abortion ban, by making the decision for everyone regardless of their personal religious and spiritual beliefs, deprives persons of their religious freedoms.⁵⁷

G. Abortion Must Be Kept Legal and Safe

Pregnancy is dangerous, and there are many medical reasons why abortion may be the best option for the health and well-being of the pregnant person. There is no one list that could account for all the scenarios in which abortion is the safer choice.

As the ACOG said in 2017:

Induced abortion is an essential component of women's health care. Like all medical matters, decisions regarding abortion should be made by patients in consultation with their healthcare providers and without undue interference by outside parties. Like all patients, women obtaining abortions are entitled to privacy, dignity, respect, and support.

Many factors influence or necessitate a woman's decision to have an abortion. They include but are not limited to, contraceptive failure, barriers to contraceptive use and access, rape, incest, intimate partner violence, fetal anomalies, illness during pregnancy, and exposure to teratogenic medications.

Pregnancy complications, including placental abruption, bleeding from placenta previa, preeclampsia or eclampsia, and cardiac or

⁵⁶ <https://verdict.justia.com/2022/06/29/the-roadmap-for-pregnant-girls-and-women-to-assert-their-religious-liberty-to-invalidate-abortion-bans>; <https://www.nbcnews.com/news/us-news/religions-support-abortion-rights-leaders-are-speaking-rcna27194>.

⁵⁷See, e.g., <https://religionnews.com/2022/10/07/3-jewish-women-file-suit-against-kentucky-abortion-bans-on-religious-grounds/>; <https://www.azmirror.com/2022/08/25/jewish-congregations-mount-legal-challenges-to-state-abortion-bans/>; see also *Jane Doe No. 1 v. Attorney General of Indiana*, 2022 WL 5237133, at *3-9 (S.D. Ind. Sept. 26, 2022) (Indiana fetal disposition law, requiring healthcare facilities to bury or cremate fetal tissue and prohibiting them from incinerating the tissue as medical waste, violates the Free Exercise clause because it burdens plaintiffs' sincerely held religious and moral beliefs of treating aborted fetuses as medical waste).

renal conditions, may be so severe that abortion is the only measure to preserve a woman's health or save her life.⁵⁸

Moreover, as detailed above, abortion bans threaten the ability of persons to access life-saving medications, to make reproductive health choices involving contraception and in vitro fertilization, and to exercise their religious freedom.

As a result, we cannot support policies or laws that ban abortions even if they provide for exceptions (which some state abortion bans do not) in cases of rape, incest, fetal non-viability, or serious and life-threatening health conditions of the mother. Rather, each pregnant person should have the right to assess their own situation and needs, the right to choose to consult with their own medical provider, religious advisor, and/or family member, and the right to choose whether to continue or terminate a pregnancy.

Laws that prohibit abortion after 6 weeks, or even until 15 weeks of pregnancy, are not the answer. Significantly, these laws often start the count as of the pregnant person's last menstrual cycle, which is before conception.⁵⁹ Six weeks later, a woman may be prohibited from having an abortion before she even knows that she is pregnant.⁶⁰ At 15 weeks, a woman may know that she is pregnant but not have had the opportunity to seek prenatal care to evaluate her own health and the health of the fetus. She may not have had the time to take whatever steps she needs to decide whether to continue with the pregnancy. She or the fetus may not yet have developed medical complications that would make continuing with the pregnancy a danger to her own health or lead to a determination that the fetus is not viable. Persons with forced pregnancies often cannot, or do not, obtain prenatal care, thus endangering their own health and that of the child. And women who travel for abortions may have those procedures later in their pregnancies, increasing any health risks.

For these reasons, we believe that New York's law is the best model to protect reproductive rights and health-care providers. The Reproductive Health Act of 2019 removed abortion from the criminal code and broadened abortion rights.⁶¹ New York law permits abortion up to and including 24 weeks of pregnancy (the estimated time of fetal viability). After 24 weeks, pregnant persons can still have access to health care, including an abortion, if the patient's health or pregnancy is at risk.⁶²

⁵⁸ <https://www.acog.org/advocacy/facts-are-important/abortion-is-healthcare>.

⁵⁹ <https://flo.health/pregnancy/week-by-week/gestational-age>.

⁶⁰ <https://www.npr.org/2021/09/01/1033171800/texas-abortion-ban-supreme-court->.

⁶¹ <https://www.nysenate.gov/legislation/bills/2019/s240>; <https://www.nysenate.gov/legislation/laws/PBH/A25-A>.

⁶² <https://www.ny.gov/programs/abortion-new-york-state-know-your-rights>;
<https://ag.ny.gov/sites/default/files/abortion-laws-english.pdf>.

H. We Cannot Take Our Reproductive Rights for Granted

We cannot discount the significant chance that, even in New York, our rights may be in jeopardy. The *Dobbs* decision, by removing the federal Constitutional protection for abortion, cleared the path to a potential national abortion ban. Such a ban could pre-empt the laws of our State and other states that protect abortion rights, overruling the choice of the people.⁶³ Anti-abortion politicians in Congress have made clear their interest in enacting such a law, were they to control Congress. Pro-choice leaders in Congress recognized this risk when they brought to a vote a law that would have codified *Roe* nationwide.⁶⁴ Our State Legislature responded to *Dobbs* when it voted in favor of amending the NYS Constitution to add protected categories including protection for reproductive health care and autonomy.⁶⁵

The risks to our reproductive rights and health-care rights are too great to sit on the sidelines. New York must adopt the ERA to the State Constitution to add “reproductive rights and autonomy” as a protected category. In addition, we must vigorously support a national law protecting reproductive health-care rights, and strenuously oppose any national law banning abortion.

To achieve these goals, it is imperative that the New York State Bar Association engage its advocacy and lobbying efforts on behalf of the ERA and federal reproductive health-care rights, including abortion rights, and reproductive autonomy.

⁶³ As we recently saw in Kansas, when the people are asked to vote for or against abortion rights, they overwhelmingly choose to protect abortion rights. See <https://news.yahoo.com/kansas-abortion-protections-results-constitutional-amendment-024132082.html> (published Aug, 2, 2022).

Polls show that a majority of Americans support a woman’s right to choose, including in states where abortion has been strictly curtailed. See, e.g., <https://news.yahoo.com/cbs-news-poll-americans-react-130011112.html> (published June 26, 2022); <https://www.houstonpublicmedia.org/articles/news/health-science/2022/05/04/424672/poll-shows-majority-of-texas-voters-would-oppose-overturning-roe-v-wade/> (published May 4, 2022).

⁶⁴ <https://www.congress.gov/bill/117th-congress/house-bill/8296>.

III. CONCLUSION

For the foregoing reasons, WILS strongly urges NYSBA to adopt WILS' Report and Resolution Supporting Reproductive Health-Care Rights and Reproductive Autonomy, including Abortion Rights, and the current New York State Equal Rights Amendment (ERA), so that we can maintain these important existing NYS health-care laws and preserve our right to reproductive health care and reproductive autonomy. This includes:

- (i) recognizing the rights of individuals to access legal reproductive health care, including abortion;
- (ii) support for amendments to the NYS Public Health Law, Education Law, and Penal Law, as enacted in NYS by the signing of S.240/A.21 in 2019;
- (iii) support for N.Y. Public Health Law Article 25-A as enacted in 2019;
- (iv) support for the June 13, 2022, Legislative Package as enacted by New York State and support for the policies and intent of the legislative package enacted (*see* Exhibit A for summaries of the June 13, 2022 Laws);
- (v) support for S.51002 of 2022, the NYS Equal Rights Amendment (ERA), as passed by the New York State Senate and Assembly, and as policy the proposal codified in this concurrent resolution to amend Section 11 of Article 1 of the New York State Constitution in relation to equal protection;
- (vi) support for passage of the Women's Health Protection Act of 2022 and for the policies and intent of this bill;
- (vii) opposition to laws that would ban abortion nationwide and/or diminish the current protections under New York law; and
- (viii) authorization for the officers of the Association to take such other and further action as may be necessary to implement this resolution.

Submitted by:

NYSBA Women in Law Section

October 24, 2022

FOR THE COMPLETE RESOLUTION WITH LINKS, PLEASE SEE [NYSBA.ORG/APP/UPLOADS/2022/06/RESOLUTION-AND-REPORTS-OF-THE-WOMEN-IN-LAW-SECTION_RC_PRINT_White-Border-WIL.pdf](https://nysba.org/app/uploads/2022/06/RESOLUTION-AND-REPORTS-OF-THE-WOMEN-IN-LAW-SECTION_RC_PRINT_White-Border-WIL.pdf)

New York State Bar Association Votes To Make Passage of a Federal Right to an Abortion Bill a Legislative Priority and To Support New York's Equal Rights Amendment

By Susan DeSantis

The New York State Bar Association voted Saturday, Nov. 5, 2022 to support a federal right to an abortion and said it would lobby for Congressional passage of a law prohibiting restrictions on a woman's right to choose to end a pregnancy.

"I am deeply concerned that the U.S. Supreme Court ruling in *Dobbs v. Jackson Women's Health Organization* is denying women their right to be equal citizens and their right to privacy and liberty under the 14th Amendment," said Sherry Levin Wallach, president of the New York State Bar Association. "Before *Dobbs*, every time the U.S. Supreme Court overturned precedent, it was to expand individual rights. The idea that the Court would take away rights that were fundamental to the lives of women since 1973 is truly disturbing."

Since the Supreme Court ruled in *Dobbs* on June 24 that there was no federal right to an abortion, ten states banned almost all abortions, four states eliminated the ability of women to obtain abortions after the sixth week of pregnancy, and three states with abortion bans enacted harsher punishments for those who violate the law, according to a report prepared by the association's Women in Law Section.

"As lawyers we are sworn to uphold the law," the report said. "As leaders of the state bar, we are duty bound to raise our voices and advocate when individuals, including our members, are not treated equally under the law."

In adopting the report, the association's House of Delegates, its governing body, also pledged to support passage of an Equal Rights Amendment to the New York State Constitution. The amendment would prohibit discrimination based on gender, age, sexual orientation, disability, ethnicity, national origin, and pregnancy. It was approved by the state Legislature in June but must be passed again by a separately elected Legislature, whose members take office in January of 2023, and also by the voters in a subsequent public referendum.

"It's hard to believe that New York State's Constitution doesn't already prohibit such discrimination," Levin Wallach said. "It's about time that we unequivocally declare that discrimination against all people by the government violates not only our laws but also the ideals we hold so dear in New York."

Susan DeSantis is chief communications strategist at NYSBA. This article originally appeared at NYSBA.ORG on Nov. 5, 2022.

NYSBA Calls ERA a Crucial Amendment to the State Constitution

By Susan DeSantis

Sherry Levin Wallach, president of the New York State Bar Association, issued the following statement about the state Legislature's passage of the ERA:

"The New York State Bar Association commends the state Legislature for deciding today to put the ERA, a crucial amendment to the state Constitution, before voters. The Equal Rights Amendment extends protections to classes of New Yorkers we didn't recognize when the Equal Protection Clause of the state Constitution was written. It prohibits discrimination based on ethnicity, natural origin, age, dis-

ability, sexual orientation, gender identity, gender expression, pregnancy, reproductive health care and autonomy. If voters approve, the ERA will permanently enshrine these rights in our state Constitution, protecting the state's residents from the vagaries of politics, changes in the composition of the Legislature or a shift in the makeup of the judiciary."

This article originally appeared at NYSBA.ORG on Jan. 24, 2023.

***Dobbs v. Jackson*: Changes in U.S. Global and Domestic Leadership for Women’s Rights**

By Laurie Coles and Danielle Essma

“In light of [the] worldwide liberalization of abortion laws, it is American States that will become international outliers after today.”¹ So concluded the dissenting United States Supreme Court Justices Breyer, Sotomayor and Kagan in their response to the majority opinion in *Dobbs v. Jackson Women’s Health Organization*.² *Dobbs*, issued on June 24, 2022, tumultuously overturned 50 years of precedent in abortion law set in 1973 by *Roe v. Wade*,³ eliminating the constitutional protection U.S. women had from unduly restrictive state regulations during the early stages of pregnancy. This decision called into question many things – the vulnerability of the judicial branch to political influence, the equality of women under the U.S. Constitution, the impact of geography on personal choice and the power of societal institutions to control decisions about women’s bodies. Importantly, because *Dobbs* came from the highest court of our nation, it also called into question the ability of the U.S. to be a global leader on issues of women’s rights, including its ability to protect freedoms previously taken for granted.

This article uses the *Dobbs* decision to explore the United States’ international leadership role in women’s rights. It examines the United States’ past record in this area, revealing that the U.S. has not necessarily been the global leader one might assume it to be. It explores the fragmentation of leadership among states with varying laws and the resulting disparate impacts on women. Finally, the article posits that the new supporters and protectors of women’s rights might be neither state nor federal institutions.

***Dobbs*: An Embarrassing Clawback of Constitutional Rights**

When the Supreme Court decided *Roe v. Wade*, it spoke with a voice of reason and balance, which is the type of voice that is easy to hold up as an example to other nations. In *Roe*, the Supreme Court needed to reconcile two strongly competing sets of interests: the interests of the states in protecting fetal life and the interests of women in being able to make very personal and consequential life decisions autonomously. In such cases of competing goals, the court will often strike a balance, recognizing the interests and rights of both sides and creating a middle ground to effectively pave a pathway forward. Accordingly, the interests of the states and women in *Roe* were blended into a functional rule balancing an individual’s right to make this personal choice during the early stages of pregnancy on one side, with the state’s right to



Protestors in France after the *Dobbs* decision (July 2, 2022).

protect fetal life in the later stages of pregnancy on the other side.

By taking into consideration the interests of women, and using those interests in formulating a decision, *Roe* helped strengthen the status and autonomy of women under the Constitution. At the same time, it encouraged a positive societal relationship between the federal government and women. “Like many constitutional rights, the right to choose situates a woman in relationship to others and to the government. It helps define a sphere of freedom, in which a person has the capacity to make choices free of government control.”⁴ Having this sphere of freedom is important because as a general principle “we do not believe that a government controlling all private choices is compatible with a free people.”⁵

In *Dobbs*, the court (and specifically the conservative majority controlling the Supreme Court) presents a completely different approach. Casually throwing precedent and the doctrine of stare decisis out the window, *Dobbs* forgoes a balancing of interests and instead focuses solely on the interests of the states. As noted by the dissent, “[t]he Constitutional regime we enter today erases the woman’s interest and recognizes only the State’s.”⁶ *Dobbs* denies that women have any constitutionally protected interests in this area, under the Fourteenth Amendment or otherwise, effectively collapsing the “sphere of freedom” in which women had the ability to make a private choice without government control. This collapse is devastating to women’s autonomy and equality, and it’s damaging to women’s relationships with government institutions.

Dobbs leaves open the possibility for individual states to create laws that mimic the earlier, balanced approach of

Roe; however, they have no obligation to. Indeed, there is no constitutional obstacle to a state forcing a woman to bring a pregnancy to term from the moment of conception, regardless of rape, incest, viability of the fetus or medical harm to the mother. The constitutional protections of privacy and autonomy have been lost, and this loss is profound: “Whatever the exact scope of the coming laws, one result of today’s decision is certain: the curtailment of women’s rights, and of their status as free and equal citizens.”⁷

Remarkably, *Dobbs* arrives at its result by asserting that the 14th Amendment cannot possibly include a privacy choice involving abortion, because there was no “deeply-rooted” American tradition affording such a right in 1868 when the 14th Amendment was written. This backwards reasoning immediately endangers all progress and evolution of constitutional liberties and rights that the U.S. has made since 1868. To put this timing into context, women had no constitutional right to vote until 1920. Until 1967, states could still outlaw interracial marriage. Certainly no “deeply rooted”⁸ American tradition affording a right to interracial marriage existed in 1868, so by the court’s reasoning, the Constitution should not protect this right today.

In *Dobbs*, the Supreme Court thus turns the U.S. Constitution into a static, stale and expressly limited document instead of an enduring declaration of liberty for other nations to admire. Global leadership arguably involves moving forward and adapting to changing circumstances over time. By this measure of leadership, the Supreme Court failed.

International Reaction to *Dobbs*: Distancing and Criticism

As an expression of U.S. judicial (and political) power on a global stage, *Dobbs* was impossible to ignore. Global leaders from the European Union and the United Nations reacted to the decision with concern and by expressing solidarity with U.S. women. It is problematic to have a country that is supposed to be a powerhouse of economic and social leadership take a “serious step backwards for women’s rights,” as stated by Norway’s prime minister and echoed by both the U.K.’s prime minister and the first minister of Scotland.⁹ They were joined by French President Macron who expressed his support for “the women whose liberties are being undermined by the Supreme Court of the United States,”¹⁰ while a popular photo in the media showed French women out protesting *Dobbs* in solidarity with U.S. women.¹¹ At the same time, Belgium’s prime minister recognized that the U.S. has global influence and expressed concern about “the signal [*Dobbs*] sends to the world.”¹²

Perhaps the comments most damaging to the U.S.’ authority in women’s equality came from United Nations representatives. The U.N. secretary general spokesperson and the

U.N. high commissioner both criticized *Dobbs* as running counter to the ideals of international human rights law. Their comments were particularly damaging because the United Nations is itself a global authority – one that recognizes on a global scale that every individual (regardless of nationality) deserves certain rights and freedom from certain oppressions. U.S. women may have experienced confusion in having their interests reaffirmed as a global citizen by a global authority, while having those same interests eliminated as a national citizen by a national authority. Even greater confusion ensued as each state looked to put its own rules into place, whether or not those rules were compatible with those of neighboring states. Such domestic fragmentation further jeopardizes the U.S.’ ability to be a global leader.

Was the U.S. a Global Leader of Women’s Rights Prior to *Dobbs*?

Some key milestones in gender history could lead one to think that the U.S. was a leader of women’s rights. The Equal Pay Act of 1963 marked significant, meaningful progress, even if the goals of the act have not matched reality particularly well. In 1971, the Supreme Court’s decision in *Eisenstadt v. Baird*¹³ determined the right of unmarried women to birth control as another stepping stone of progress. And the U.S. presents as a strong leader when contrasted with countries running much more gender-oppressive regimes.

However, a closer look at the U.S.’ gender equality record reveals that the U.S. is not at the forefront of advancement or strong leadership in this area. For example, while the goals of the Equal Pay Act remain difficult to achieve in the U.S., Iceland bolstered its equal pay laws with a requirement for all companies with at least 25 full-time employees to obtain government certification verifying equal pay practices, ensuring better compliance.¹⁴

The U.S.’ failure to ratify the Equal Rights Amendment is another indicator of weak women’s rights leadership. The ERA, first presented 50 years ago, would have added language to the Constitution stating that “equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.”¹⁵ Unfortunately, the amendment has yet to be ratified by 38 states and still is not part of the Constitution. In contrast, 85% of U.N. member states have express constitutional provisions prohibiting discrimination on the basis of sex.¹⁶ In this respect, “the U.S. is out of step with the rest of the world to the detriment of women and girls.”¹⁷

The U.S. also showed weak leadership in gender equality by failing to ratify the Convention on the Elimination of Discrimination Against Women (CEDAW). Adopted by the U.N. in 1979, the convention aims to end discrimination against women and establish equality in various focus

areas such as health care, education, employment, marriage, and political participation. “The U.S. is the only established democracy in the world that has failed to ratify CEDAW.”¹⁸

Additional examples are easy to find, such as the U.S.’ dubious status as one of only nine countries that do not guarantee paid leave to mothers of newborns.¹⁹ Thus, the U.S. is not a global trailblazer for women’s equality. It is not even, necessarily, a good follower.

Dobbs and the Interstate Network Effect: Fragmentation in the Absence of Federal Leadership

When *Dobbs* removed federal recognition of women’s interests and left decisions to the states, it prompted women to reassess their relationships with the state authorities surrounding them, which leads to the question of how power is maintained at a national level. The ideal function of nationalism “. . . demand(s) that there be no rule of difference in the domain of the state.”²⁰ Ironically, this disfunction of the nation is exactly how the U.S. federal government conceded power to individual states regarding the protection of reproductive rights.

These federal and state authorities present inconsistent and competing rules that leave women in a bewildering maze of where they can find their reproductive health care interests protected. This specifically happens in the fragmented and conflicting laws between states. The disjointed, inconsistent inability for a state to protect rights based on geography is caused by a failure of federal leadership. When leadership on the national level fails, states are enabled to default to populist-driven politics.

The relational networks in the U.S. between the states can be both weak and strong; either way, there is no guarantee of leadership that promotes women’s interests. At the same time, “trans-territorial or trans-state collectivities in turn [bring] about an important repercussion, namely the development of strong tendencies to redefine boundaries of collectivities, and of new ways of combining ‘local,’ global, transnational, or trans-state components.”²¹ When cultural values align between states that swing politically to the most conservative version of Republican ideals, as in Texas and Idaho, repressive law is not only passed but considered a new and normal standard, forming new ideological collectives that jump across geographical boundaries. States like Texas and Idaho form a strong network, and these states are then supported by a larger network of states having similar ideology. These networks, whether weak or strong, are derived from illusory borders that are chartered to lead their respective collectives; but networks are vulnerable to trends.

Shortly after strict state abortion laws were passed in Texas, Idaho followed to pass a total abortion ban as well. Though Texas and Idaho are not contiguous, these non-tangible borders held together by the idea of a network of laws reinforce the moral-fueled ideology of statehood. The imaginary borders are held together by collectives in networks that influence and uphold the laws in these areas, causing a gap in leadership for the vulnerable individuals within these invisible boundaries. However, state identity defined in this way can be divisive. “The effects of deeply penetrating interventions on state autonomy transcend the realm of ideology and cultural legitimation. Increased penetration of civil society by the States activates political responses and increases the likelihood that societal interests will attempt to invade and divide the state.”²² Indeed, this division is seen within neighboring states to Idaho, like Oregon, where the network of services, particularly around abortion, had previously been transitory between state lines. For example, Idaho’s capital city, Boise, with a total population close to one million people, is no longer in a position to provide women of Eastern Oregon, who live geographically closer to the Idaho border than to urban areas in their own state, the health care they need to access.

Even with laws that protect women’s interests, the leadership of the states are not able to create equity in health care. The issue is that even at the state level, the laws of other states decide the outcomes for women in a network effect “. . . as more and more states put bans in place . . . residents are going to have to travel out of state for care.”²³ The overarching problem is that traveling out of state is what some women had to do to begin with, and now that those states have halted services, there is a backlash on state government as a capable structure to protect and preserve freedoms. The division that is apparent between states and their polarized political arguments leaves the states positioned as weak leaders, swinging one way or the other on a polarized issue, and leaving women grouped on either side of an imaginary boarder in an absence of representative leadership.

When the federal government leaves it to the states to govern based on their own disparate ideologies, many of which are dismissive of women’s interests, the collective of all states reflecting the identity of the nation has failed to maintain its position as a global leader.

Dobbs and the Rise of Corporate Leadership

With national and state leadership in fragmented disarray, a gap opened for new leadership to come forward. Corporations stepped into this gap. Mentioned in “The Rights of Man and the Rights of the Man-Made: Corporations and Human Rights,” there are “important implications of business corporations being considered as bearers of human rights for determining the proper scope and purpose of international

human rights norms, and for conceptualizing their relationship to constitutional democracy.”²⁴ The world has seen this responsibility of bearing protection over human rights led by international corporations.

Leadership is both reactive and proactive as well as progressive and regressive. It is evident that the Supreme Court provided regressive leadership for the U.S. in its ruling excluding consideration of women’s interests. These laws concede proactive power to corporations that set standards in the private sector for proactive protection of women and their interests at the cost of a demotion in global position as a nation.

When the federal government allows states to choose to what degree interests will be protected, like the freedoms that are allowed to be dismissed in the wake of *Dobbs*, it is private sector corporations that lead by providing care for the people whom the states fail to protect. This was evident in the media after *Dobbs*. Many private companies stepped up publicly to state that they would help their employees pay travel costs associated with abortions.²⁵ It is ironic that “the man,” slang for an organization of power and authority, is both left to and able to provide for women in this instance of diminished freedom by state governing law, which was enabled by deflection of leadership at the national level.

Corporations like Amazon and Adidas, among dozens of other international companies, are raising the bar in terms of what support is provided to protect reproductive health. Peter McGuinness, CEO of Impossible Foods, for example, has stated that “[s]upporting our colleagues in their reproductive health is absolutely the right thing to do.”²⁶ As another example, Walmart has taken the lead on offering health care services to its female employees by expanding health care coverage. In addressing racial disparity in maternal care, Walmart acknowledges that in some states, distrust of the medical community puts women at risk. To this end, Walmart offers coverage for doula services for family planning in order to reach those who would otherwise be underserved and at risk when giving birth, exemplifying the care corporations can and are extending to women in their organizations.²⁷

There is a limit to the reach of corporate leadership in this area, however. Unemployed women are at risk of being failed by national and state law and unable to be helped by a corporation. The list of companies that are increasing coverage for reproductive health is long, but women who have no income and cannot work for such a generous company are left as victims. The federal government fails them, the state fails them and the corporate sector that is there as an alternative leader does not have reach past the women who qualify to have their rights protected because they have employable skills.

Conclusion

The intersection of society and culture with political belief is ever-changing. As sociologist Bonilla Silva said in *Social Currents*, “We must become sociologically driven citizens concerned with building a more democratic, inclusive, and just society.”²⁸ Some sociologically driven citizens have worked to reinforce women’s interests as a meaningful response to *Dobbs*, resulting in encouraging progress, such as New York’s passage of the ERA in two consecutive legislative sessions, which now allows the ERA to be placed on the ballot for vote by New Yorkers during the 2024 general election.²⁹

However, the idea of a “just” society is still fragmented on a state and national level leaving leadership to a sector that has the power to leverage its economic muscle for leading and protecting human rights. “In social and political contexts, we typically attribute power to agents when we hold them responsible for bringing about significant outcomes.”³⁰ The leadership and power to protect and bring about these significant outcomes for women in the U.S. is in some states entirely up to the organization of private sector corporations. The interstate network effects further fragmentation and decay of global leadership, which in turn signals the rest of the world that, in this respect, the U.S. has an atrophied system of governance. The international response to *Dobbs* sent a wave of shock and disapproval for a decision that appeared reactionary and regressive for women under global standards. This was not a ruling made in a vacuum involving only the U.S.; it impacts the entire world, and with fragmentation and shifting collectives in place of leadership, the U.S. appears as “one of many countries that appear whole only on maps.”³¹

Moreover, such fragmentation leads to confusion for individuals who must reconsider what it means to be citizens of a particular state, of the United States or a global citizen, when each type of citizenship brings different levels of protection or types of affirmation. “The bond of citizenship has long been premised on the belief that states serve to protect certain socioeconomic, political, and civil rights of their citizens.”³² This bond becomes strained when protection is inconsistent, and geography is a determining factor of whether important personal interests will be valued. State governing bodies are now allowed to independently impose law where federal leadership has failed to consider the interests of women, and international corporations have new leadership, power and opportunity to deliver solutions.

The clawback of the constitutional rights of women and the international reaction to *Dobbs* have both a globalized impact and a localized state impact that leaves power to corporations in the private sector, mainly for U.S.-led companies, to correct infringements on human rights. Who knew that the corporate “man” would still need to protect a woman’s decision in 2022?



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President Biden Signs Historic Right To Marry Bill

By Hilary Jochmans



President Biden has signed a historic bill enshrining the right to marry into law. All states will be required to recognize same-sex marriages performed in other states, and same-sex marriage will be recognized at the federal level.

“With President Biden signing the Respect for Marriage Act today, the right to marry has now been enshrined into federal law,” said Sherry Levin Wallach, president of the New York State Bar Association. “While same-sex couples rejoiced when the U.S. Supreme Court ruled in the 2015 case *Obergefell v. Hodges* that the Fourteenth Amendment required states to license and recognize same-sex marriage, we now know that precedent is not enough when it comes to basic human rights. We saw the folly of that in June when *Roe v. Wade* was overturned after more than 50 years.

“The government has no place deciding who we should love and who we should marry, and this new federal law makes that clear, protecting not only same-sex couples but interracial ones as well. The New York State Bar Association values diversity, equity and inclusion. That is why we fought for the legalization of same-sex marriage in New York more than a decade ago. That is why we support a women’s right to choose an abortion. And that is why we are thrilled on this historic day to see President Biden sign the Respect for Marriage Act into law.”

Equality under the law is a core tenet of the New York State Bar Association. In 2009, the association issued a landmark report calling for the extension of full marriage rights to same-sex couples as the only legal and pragmatic way to ensure equality.

In 2015, the association joined 30 organizations nationwide in filing an amicus curiae brief to the U.S. Supreme Court in the landmark case *Obergefell v. Hodges*. The brief argued that marriage bans set people apart and discriminate against gay men, lesbians and their families. The Court ultimately ruled that states cannot ban same-sex marriages and must recognize same-sex marriages performed in other states.

The association also supports the Equality Act, which is pending in Congress. The measure would expand the protected category of “sex” to include “sexual orientation and gender identity” and provide additional protections within the new expanded category.

It would bar discrimination in employment, public schools, housing, credit opportunities, juries, and federally funded programs on the basis of sex, gender identity, and sexual orientation. This bill is among the association’s federal legislative priorities.

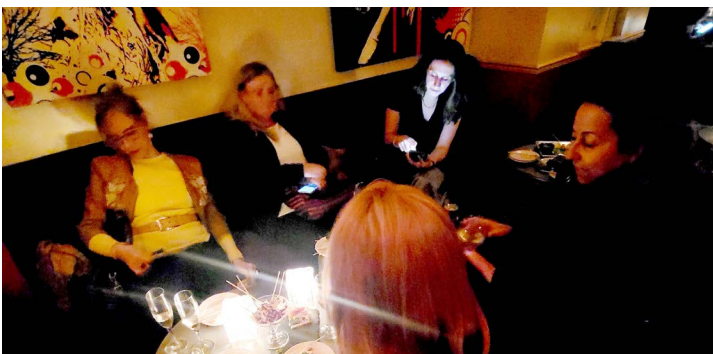
Hilary Jochmans is policy director for NYSBA. This article originally appeared at NYSBA.ORG on Dec. 13, 2022.

WILS EVENTS

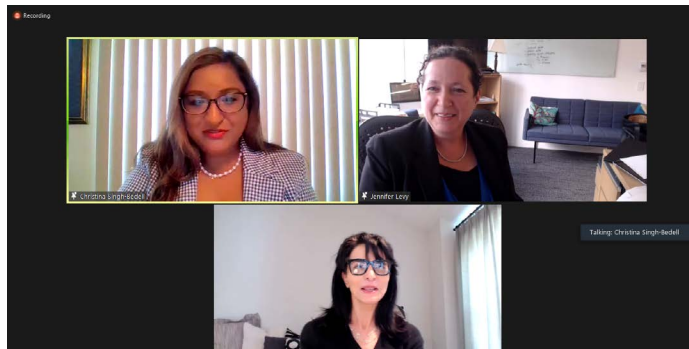
WILS Welcome Back Mixer

By Laura Sulem and Kaylin L. Whittingham

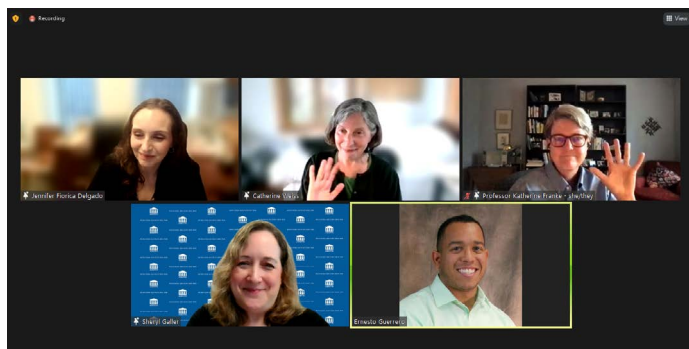
After more than two and a half years of exclusively virtual programming, on October 6, 2022, the Women in the Law Section was extremely excited to host an in-person evening of connecting and reconnecting at Flute Bar & Lounge in midtown Manhattan. Approximately 30 members and (hopefully!) future members of WILS attended this event to hear about the work the Section is doing and how to get involved. Attendees included Sheryl Galler, Chair of WILS; NYSBA past president Claire Gutekunst; and several members of the WILS Executive Committee. We were pleased with the impressive turnout and everyone enjoyed the company, the delicious appetizers, and the champagne!



Below, left: WILS program “What To Do After *Dobbs*: Access to Reproductive Health Care and How To Help,” July 14, 2022.



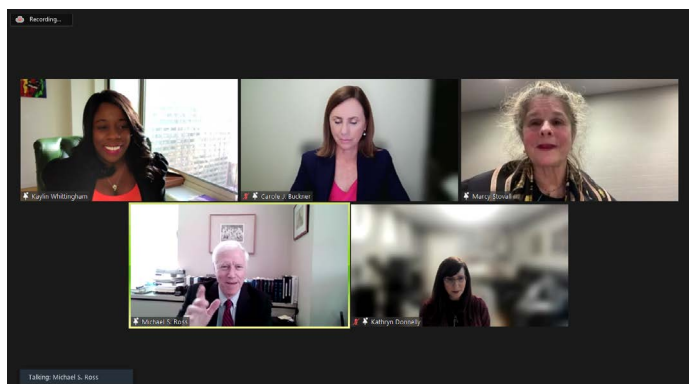
Below: WILS program “*Dobbs*: Historical Context and Future Implications,” July 18, 2022.



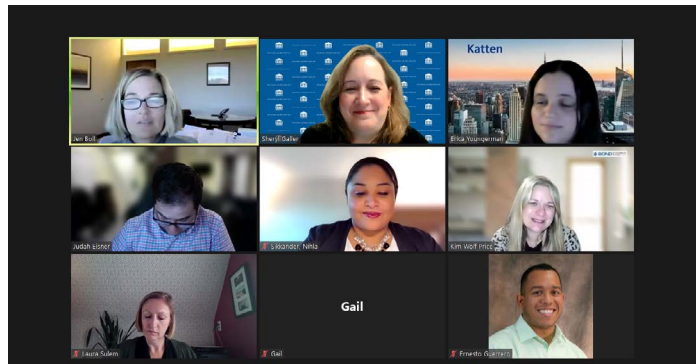
Below: Women on the Move: “Dissecting *Dobbs*: The Constitutional Implications,” Oct. 20, 2022.



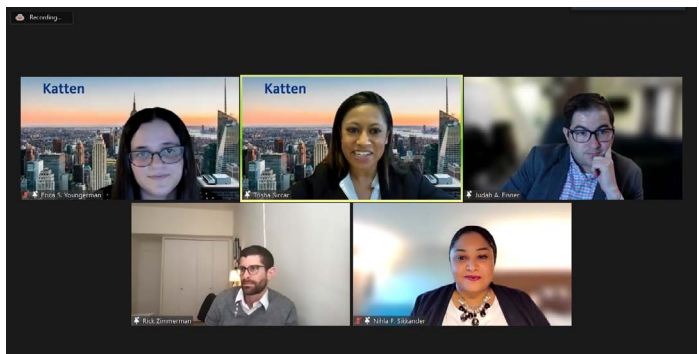
Below: Women on the Move: “*Dobbs* Dilemmas: Ethical Implications,” Oct. 20, 2022.



Below, right: WILS Chair Sheryl Galler, Chair-Elect Kim Wolf Price and others at the 2022 Women on the Move program, Oct. 20, 2022.



Below: Women on the Move: “Dealing With *Dobbs*: Counseling Clients,” Oct. 20, 2022.



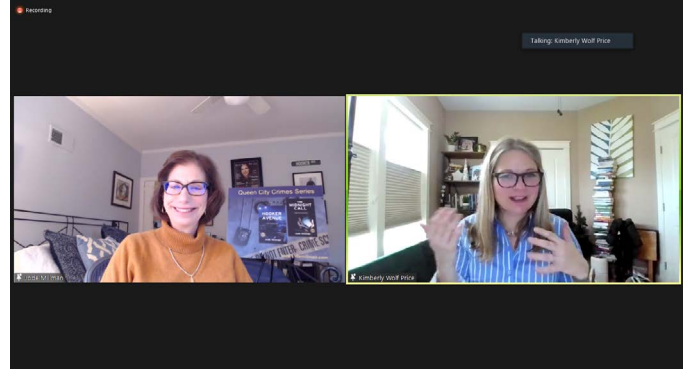
Women in Law Section Virtual Happy Hour

The Women in Law Section hosted its annual holiday social hour virtually to celebrate the end of another busy and productive year on December 6, 2022. This well-attended event drew WILS members and newcomers who enjoyed treats and festive beverages, networked with colleagues, and even wore ugly sweaters to celebrate the holiday season!

Below: House of Delegates and Executive Committee Meeting on Nov. 4-5, 2022 in Albany, where the NYSBA EC and HOD voted to adopt WILS' Resolution and Report Supporting Abortion Rights and the NYS ERA.



BELOW: WILS Book Club: Jodé Millman, author of the Queen City Crime Series, talks with Kim Wolf Price, Nov. 29, 2022.



BELOW: NYSBA President Sherry Levin Wallach and Sheryl Galler testified at a hearing before the New York State Department of Labor on the gender wage gap, Jan. 23, 2023.



New York State and New York City Pay Transparency Laws

By Seth F. Gilbertson and Lisa Feldman

I. New York State Pay Transparency Law

On December 21, 2022, Governor Kathy Hochul signed the long-anticipated New York State pay transparency bill into law. The bill amends New York State Labor Law by adding a new § 194-b, which takes effect on September 17, 2023. Labor Law § 194-b continues a recent trend toward pay transparency both nationally and locally, including similar laws in New York City (discussed below), Albany County, Westchester County and Ithaca.

Employers subject to the law are broadly defined to include nearly every entity with four or more employees, as well as agents and recruiters. Only temporary help firms, as defined under New York State Labor Law § 916(5), are exempt.

Similar to other pay transparency laws, Labor Law § 194-b requires employers to disclose an amount or a range of compensation for any open job, promotion or transfer opportunity that can or will be performed, at least in part, in New York State (see last paragraph on proposed amendments which may change this standard). The law defines “range of compensation” as “the minimum and maximum annual salary or hourly range of compensation . . . that the employer in good faith believes to be accurate at the time of the posting of an advertisement” for the job, promotion or transfer opportunity. Advertisements for jobs, promotions or transfer opportunities that are paid solely on commission must make such a disclosure. Additionally, the law requires employers to post a job description if one exists.

Any person claiming to be aggrieved under Labor Law § 194-b may file a complaint with the Department of Labor, which has the authority to impose civil penalties of up to \$3,000 for violations of the law or forthcoming regulations. Employers are prohibited from refusing to interview, hire, promote, employ or otherwise retaliate against an applicant or current employee for exercising any rights under this new law.

Finally, Labor Law § 194-b contains a provision stating that it shall not be construed or interpreted to supersede or preempt any local law, rules, or regulation. Most of the existing local pay transparency laws in New York failed to predict a parallel state law (despite the fact that one had already passed in the Legislature), so employers subject to these laws will have to comply with overlapping obligations unless

the local jurisdictions yield. The Westchester County Salary Transparency Law is the outlier and expressly gives way to “substantially similar” state legislation.

On January 11, 2023, a bill proposing amendments to the New York State Pay Transparency Law was introduced. If passed, the bill would go into effect on the same day as the law. Among the main changes under this amendment, “can or will be performed” at least in part, in New York State would no longer be the standard; instead, the law would apply to advertisements for “a job, promotion, or transfer opportunity that will physically be performed, at least in part, in the state of New York, including a job, promotion, or transfer opportunity that will physically be performed outside of New York but reports to a supervisor, office, or other work site in New York;” an employer records keeping requirement currently written into the law would be removed; and “advertise” would be defined as “to make available to a pool of potential applicants for internal or public viewing, including electronically, a written description of an employment opportunity.”

II. New York City Pay Transparency Law

New York City’s new Pay Transparency Law went into effect November 1, 2022, amending the New York City Human Rights Law. As the law is still relatively new, the following is an update on the most recent guidance and interpretation to help employers come into compliance.

First, while this is a New York City law, an employer does not need to have a brick and mortar presence in New York City to be covered. If an employer¹ has even one employee currently located in New York City (including remote workers), it is covered by the law.² However, not all postings are covered. The law does not cover postings for positions which cannot be performed, at least in part, within the city (since remote work is covered, postings for remote or hybrid positions must be in compliance). Based on these criteria, advertisements for jobs, promotions and transfer opportunities are covered, whether for full- or part-time, interns, domestic workers, independent contractors and most other categories of employment.

An “advertisement” is defined as a “written description of an available job, promotion, or transfer opportunity that is publicized to a pool of potential applicants,” and is covered whether

posted internally or externally. However, the law does not create an affirmative obligation to create a posting/advertisement.

Under the new law, an advertisement must include “the minimum and maximum salary” the employer believes “in good faith . . . at the time of the posting they are willing to pay for the advertised job, promotion, or transfer opportunity.” “Good faith” is defined as the salary the employer believes at the time of the listing that they are willing to pay the successful applicant(s). While the range cannot be open-ended, if there is no flexibility in the salary for the position, the employer can simply state the salary or wage (e.g., \$20 per hour). Salary includes the annual base or hourly wage rate, without regard to frequency of payment, but does not include additional forms of compensation or benefits such as overtime, bonuses, paid time off, etc.³

Only current employees may sue an employer directly for violations, but members of the public may bring complaints through the New York City Commission on Human Rights and the commission may also initiate its own investigations. The commission will not assess a penalty for an employer’s first violation if the employer cures the offending posting within 30 days.⁴ Employers with uncured first violations and/or any subsequent violations may be required to amend advertisements and postings, pay monetary damages and incur civil penalties of up to \$250,000.

Based on a recent webinar in which the city commission participated, employers should be mindful that the Commission’s investigations will cover both whether a salary range was posted, and whether that range was posted “in good faith.” Likewise, it was expressed by a different panelist that a wide range would be a “red flag” to the latter requirement. We do not necessarily subscribe to this interpretation, but it would be sensible to tie a wide range to some description of the basis upon which a final salary offer may fall on one end or the other of the range (e.g., “based on the successful applicant’s education and experience”).

Endnotes

1. This law covers employers with four or more total employees. *See* New York City Administrative Code § 8-102 (<https://www.nyc.gov/site/cchr/law/chapter-1.page#8-102>).
2. The law also covers Employment Agencies of any size, employees or agents of employers and employment agencies, and employers of one or more domestic workers. *See* New York City Administrative Code § 8-107(32)(a) (<https://www.nyc.gov/site/cchr/law/chapter-1.page#8-107>). Additionally, while Temporary Help Firms seeking applicants to join their pool of available workers are excepted from the law, employers must still be in compliance when working with such firms. *See* New York City Administrative Code § 8-107(32)(b)(1) (<https://www.nyc.gov/site/cchr/law/chapter-1.page#8-107>).
3. These additional forms of compensation may be included at the employer’s discretion but are not required to be listed.
4. *See* question 4, <https://www.nyc.gov/site/cchr/enforcement/assistance-for-the-respondent.page>. Employers may also seek review of the Commission’s determination regarding their submission of proof of cure. For more information and the procedure for seeking such review, *see id.*

NYSBA and WILS Testify at New York State Gender Wage Gap Hearing

By Sheryl B. Galler

NYSBA President Sherry Levin Wallach and NYSBA Women in Law Section Chair Sheryl B. Galler testified before the New York State Department of Labor regarding the gender wage gap. Department of Labor Commissioner Roberta Reardon chaired the hearing, which was held on January 31, 2023, in Albany.

President Levin Wallach testified that equal pay for equal work is not only a women’s issue, but also a family issue that affects the financial security of all American families and especially single-parent households, the majority of which are headed by women. WILS Chair Galler testified that gender pay gap affects women in the legal profession, our clients, and women generally, noting that studies show that pay disparity is one reason that women leave the legal profession.

After the hearing, NYSBA representatives met with Commissioner Roberta Reardon and Department of Labor Policy Advisor Eden Forsythe. Earlier in January, Ms. Forsythe honored WILS by participating in its 2023 Annual Meeting program, which focused on the perpetual gender pay gap and how unequal pay negatively impacts women, society, and the legal profession.



Seth F. Gilbertson is senior counsel at Bond, Schoeneck & King, PLLC, where he focuses on representing and advising institutions of higher education on labor and student affairs issues. Prior to joining Bond, Seth was senior counsel at the State University of New York,



Lisa Feldman, MPA, is an associate within Bond, Schoeneck & King’s labor and higher education practices. Prior to joining Bond, Lisa served as the OGC Meloy Law Fellow at NYU.

Westchester County Wage Transparency Law and New York State Paid Family Leave Policy Updates

By Sam Dobre and Paige Carey

With the year 2022 behind us, many states and counties look to pass new employment laws and regulations at the turn of the year. While this is not intended to be a complete update of New York employment law, this article details a few significant highlights in this area.

Westchester County Pay Law

Westchester County Pay Law became effective on November 6, 2022. Similar to the New York City Pay Transparency Law (*The NYC Pay Transparency Law*), it prohibits all covered private employers with more than four employees from posting a job, promotion, or transfer opportunity without minimum and maximum salary information. The geographic reach extends to all posted positions required to be performed, in whole or in part, in Westchester County, whether from an office, in the field, or remotely.

The Westchester County Pay Law provides a specific exemption from its definition of “posting” for signage that generally indicates that an employer is accepting applications or hiring such as a “Help Wanted” sign or similar communications. Unlike the New York City Pay Transparency Law, the Westchester County Pay Law expressly prohibits all covered employers from questioning prospective employees about an applicant’s wage history.

New York State Paid Family Leave Policy Expansion

Beginning January 6, 2023, employees caring for siblings with serious health conditions will be eligible for Paid Family Leave. The current Paid Family Leave law limits receipt of Paid Family Leave to the care of “family members,” which include spouses, domestic partners, children and stepchildren, parents, parents-in-law, grandparents and grandchildren with serious health conditions. Under the revised law, the definition of “family members” will be expanded to include siblings. The definition of “sibling” covers biological siblings, adopted siblings, half-siblings and stepsiblings who live either inside or outside of New York State.

Key Takeaways

In light of these recent and upcoming employment law developments, all employers should review and update their employee handbooks, bring their job advertisements into compliance and revise their hiring practices as they relate to questioning prospective employees as to their wage history.



Sam Dobre is an associate at Bond, Schoeneck & King in New York City. He represents employers in complex labor and employment litigation matters, including wage and hour class actions; employment discrimination and retaliation cases; breach of employment agreements; restrictive covenant issues; and disputes concerning non-compete agreements. He has successfully defended claims of race, gender, age, disability, national origin and religion discrimination, and retaliation under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), the Family and Medical Leave Act (FMLA), New York State Human Rights Law (NYSHRL) and New York City Human Rights Law (NYCHRL). He represents employers in federal and state courts as well as before administrative agencies such as the New York State Department of Labor and the Equal Employment Opportunity Commission.



Paige Carey is an associate trainee at Bond, Schoeneck & King in New York City. She joined the firm in 2022 after graduating from Notre Dame Law School. She assists in the representation of employers in complex labor and employment litigation matters, as well as management in labor relations. She also advises higher education institutions on issues surrounding Title IX policies and investigations, policy handbooks, grievances, executive contract and compensation, and severance agreements.

Albany County Salary Transparency Law

By Catherine A. Graziose

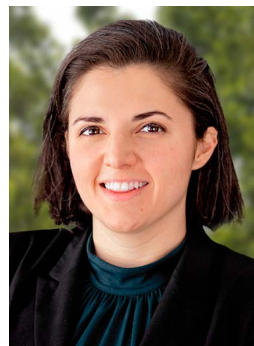
Changes are on the horizon for Albany County after the county Legislature passed several laws in October 2022, including legislation meant to provide greater salary transparency for job seekers. Local Law “E,” sponsored by Albany Democrat Carolyn McLaughlin, requires county employers to post the minimum and maximum salary range when advertising an open position, promotion or transfer. Adopted on October 11, 2022, this law amends Local Law No. 1 for 2013, “An Omnibus Human Rights Law for Albany County,” and is set to go into effect 90 days after being signed by the Albany County executive.

Local Law “E” states that the purpose of the law is to prevent discrimination in employment by requiring the disclosure of the minimum and maximum salary or wage at the time any position for hire in Albany County is solicited. Premised on the belief that certain employment practices lead to employee discrimination and disadvantage, this law builds on a 2017 Albany County Local Law that prohibits employers from requiring job applicants to provide prior or current salary information before an offer of employment is made. The Legislature stated that the county continues to be dedicated to protecting the rights of its residents and eliminating discrimination and bias in the workplace.

Local Law “E” adds new Subdivision 4 to Local Law No. 1 for 2013, “An Omnibus Human Rights Law for Albany County,” which prohibits employers from engaging in the following conduct: “advertis[ing] a job, promotion or transfer opportunity without stating the minimum and maximum salary or hourly wage for such position in such advertisement.” The Local Law goes on to explain that in stating the minimum or maximum salary or hourly wage for a position, the range may extend from the lowest to the highest salary the employer in good faith believes at the time of the posting it would pay for the advertised job, promotion or transfer opportunity.

Though “good faith” is not defined in Local Law “E” or Local Law No. 1 for 2013, employers may consider looking to other laws in the state for guidance. For instance, in New York City’s Salary Transparency Law, guidance for which has been previously published,¹ good faith is defined as the salary the employer believes at the time of the listing that they are willing to pay the successful applicant(s).

Notably, this new requirement does not apply to job advertisements for temporary employment at a temporary help firm as such term is defined by Subdivision 5 of Section 916 of Article 31 of the New York State Labor Law.



Catherine Graziose is an Associate Attorney in Bond Schoeneck & King’s Higher Education and Health Law Practice Groups. Catherine has experience assisting Higher Education, as well as Health and Long Term Care, clients in corporate and business matters, including contract negotiation, regulatory compliance, and corporate governance. In the realm of Higher Education, Catherine has experience counseling clients through Title IX and

Clery Compliance matters and assists clients on matters ranging from labor and employment policy development to corporate strategizing and business advancement.

Endnote

1. See Reminder: NYC Salary Transparency Law- Effective Nov. 1, 2022, <https://www.bsk.com/news-events-videos/reminder-nyc-salary-transparency-law-ndash-effective-nov-1-2022>.

Five Ways To Set and Achieve Revenue Targets in 2023

By Randi Rosenblatt



2023 is off to a roaring start! Businesses are operational, people are traveling for work and pleasure, friends and colleagues are congregating indoors, and athleisure has been (somewhat) traded for office attire. For the first time in a long time, the new year feels like a new beginning.

Professionally, a new year often translates into a fresh start, putting revenue targets at the forefront of our minds. What did business generation look like last year? What is an appropriate growth rate going into this year? How is the pipeline of business looking? What opportunities are on the horizon? Where should time be spent in 2023? What are the plans necessary to hit the new targets?

If you are an attorney in private practice ready to kick it into high gear as the new year begins, below are five ways to set and achieve revenue targets in 2023.

1. Determine Your Revenue Target Based on Information

Whether you are a solo practitioner, an attorney at a mid-size law firm, or practicing at an AmLaw 100 law firm, revenue targets are necessary, regardless of whether or not your firm imposes them. A revenue target is your personal bullseye. It keeps you focused, helps you develop a path forward, and provides a goal against which you can measure your success on both an annual and an ongoing basis.

When developing your revenue target for 2023, consider various factors:

- What was your originated revenue in 2022?
- What originated revenue can you estimate rolling from 2022 into 2023?

- What outliers existed in 2022 that swayed your originated revenue in either direction?
- What relationships are far enough along that you can foresee associated revenue generation in 2023?
- What new projects are you hopeful will commence in 2023?

Your revenue target should be a combination of objective and, somewhat, subjective data points. As you set the target, you should be able to forecast from where a majority of that revenue will come. A portion of the revenue will remain unknown (and will partially hinge on the hustle factor) and will be for you to navigate as the year progresses.

2. Connect With Existing Clients

As you determine your plan to hit your revenue target, existing clients should be at the top of your list. They already know, like and trust you; however, they are not necessarily forever clients and must always be a priority. You must nurture and invest in those relationships so that they become even more meaningful. Create a cadence for outreach with your client contacts and determine the most relevant ways to connect each time. A quarterly “check in” is less impactful than serving as a reliable resource by sharing information, making introductions and extending invitations.

It is necessary to ensure you are capturing all the work you possibly can from your existing clients. You will increase the likelihood of remaining top of mind if you regularly create opportunities to gain an understanding of the scope of work they distribute to outside counsel, while simultaneously ensuring they have an understanding of you (and your firm’s)

various capabilities. Too often it is assumed that clients know all the needs that their outside counsel is able to service when, in reality, they'd benefit from a reminder.

To stay organized in your efforts, track your communications so you can be both strategic, relevant and thoughtful in your outreach.

3. Create a Prospect List and Target List With a Plan for Approach

Those who you are already talking to are “prospects,” and those with whom you are not yet in communication are “targets.” Create a reasonably sized list of both prospects and targets, and a plan on how you intend to approach them. Who are the relevant contacts? What is interesting to them? What is going on in their businesses? Who are their competitors? Who are they using as outside counsel?

Determine your pace for follow-up and put reminders on your calendar so that you are prompted as those dates arise. Connecting with a prospect or a target four times per year keeps you meaningfully on the radar without creating a feeling of excessiveness so, if you can't find a comfortable pace, settle for quarterly as a default.

As you build these relationships, construct a deep understanding of the businesses and the industries in which they operate so that you can continuously add value, thereby strengthening the relationships and increasing the likelihood of opportunities.

4. Focus Your Participation

Hitting your revenue target may include a partial numbers game. Are you in enough “rooms?” Talking to enough people? Seeking enough introductions? Participating in enough opportunities? But, since you can't do it all, strategically choosing how and where to spend your time is critical.

Think about your existing, prospective and target clients. What industry groups are they in? What conferences and events do they attend? What publications do they read? What affinity groups would have led you to meet them?

When you focus your participation, you can create a more meaningful presence in the places that matter. You can build deeper relationships, leading to more business opportunities. Spreading yourself too thin will keep you limited in your reach to the contacts you are seeking.

5. Set Goals

The best laid plans are often simply that. Going into 2023, you have loads of things on your mind that you want to achieve in order to hit your revenue target. But lack of time and shiny objects often get in the way of what you set out to do.

If you set written goals (and list the action steps necessary to achieve them) that you revisit on a regular basis, and measure them against your revenue targets, then you are more likely to look back on the year pleased with what you've achieved. Goals help you stay focused, and they can span all aspects of your practice. The action steps leading to those goals serve as your roadmap.

- How many client meetings do you want to schedule per month?
- How many conferences do you want to attend?
- How many times do you want to get published?
- How many affinity groups do you want to actively join?

Setting a reasonable revenue target centers on using solid data points (and adding in some unknowns with a dash of excitement about the hustle). Hitting or surpassing the target relies on being thoughtful, committed and tactical as you work your way through your business development efforts.

Wishing you a 2023 filled with brilliant ideas, strategic planning, seamless execution and targets that are blown out of the water!



Randi Rosenblatt is the founder and CEO of Upward Stride, a business development training, coaching and consulting firm that works with attorneys and law firms to bring their business to the next level. Prior to founding Upward Stride, Randi was the vice president of business development at Bliss Lawyers, a secondment firm that placed high-caliber attorneys at companies and law firms. Randi was instrumental in successfully growing Bliss Lawyers' business, resulting in its acquisition by the industry leader, Axiom. She was previously senior counsel, director at Heineken USA in New York and also practiced law as a corporate attorney at the law firms of Schiff Hardin LLP and Watson Farley and Williams LLP. She earned her J.D. and MBA from Tulane and her B.A. from the University of Michigan. She can be reached at randi@upwardstride.com.

Wintering

By Amy Johnston and Ashleigh Frankel
The All Rise Initiative



New year, new you. Clean slate. Fresh start. Resolutions. Goal-setting.

Exhausting.

You've (maybe just barely) made it through the holidays, muscled through the end-of-year push at work, tied up the loose ends, and found yourself here. In 2023. It's cold, it's dark, and by 4:00 p.m. you might want to crawl under the covers and stay there 'til morning. You're not alone.

We want to invite you to take a deep breath. And then one more, this time let it land slightly deeper inside your body—exhale a little slower. And one final breath that fills your entire belly; perhaps holding the inhale for a few seconds, and exhaling to release the weight of whatever you are carrying today, in this moment.

Winter can be a hard season for some of us, with shorter days, harsh weather, and the post-holiday slump. But it can also be a nourishing season if we let it be exactly what it needs to be. A time for rest, stillness and recovery. Nature slows right down in the cold of the season, and turns its resources

inwards, nourishing the deep soil where the roots are; a process of rejuvenation and renewal so that they are ready to bloom again come spring. We're not unlike the trees when it comes to enduring the hard seasons. But how we restore, deep below the surface, is just as important as how we endure when it comes to growth and flourishing.

The energy of winter that predominates is a slow, inward energy that encourages introspection and insightfulness. You may notice that you crave heavier foods, move a little more slowly and feel sleepy earlier in the evenings. We often try to deny or push through these desires, but this is the cycle of the season. Winter is around us, but also within us.

While we may still need to tend to the realities of work, child care, and the day-to-day demands of life, we can choose how to protect and spend those precious moments of downtime. We can consider whether to engage in activities that are numbing or nourishing. We can choose to notice and honor our natural rhythms and how our energy ebbs and flows. We can practice single-tasking and focusing our attention, mindfully, on one priority at a time. We can give ourselves permis-

sion to engage in pleasure and to notice and savor even small moments of joy.

What would it look like for you to embrace winter within you? How does it feel to imagine being still, quiet and truly rested?

One of our favorite strategies for embracing the winter, especially for busy lawyers, is the Danish concept of *hygge* (pronounced “hoo-gah”). The best English translation for *hygge* is probably “coziness,” but it’s much more. It’s a feeling of warmth, togetherness and comfort. A lifestyle, a culture, a mindset. A deep, satisfying sigh. It’s embracing the slowness of the season and cultivating a feeling in your home and in your life that inspires connection and thoughtfulness. It’s an atmosphere. Some ways to live a more *hygge* life in the small moments this winter include:

- Light your fireplace, or loads of candles (or both!)
- Savor a hot drink from your favorite mug
- Put out your coziest blankets and put on your coziest socks
- Invite friends to cook dinner together, or host a potluck
- Curl up (by the fire) with a good book
- Listen to music you love
- Spend time in nature
- Play a board game
- Eat something delicious, slowly

How would you most like to bring *hygge* into your home, your office, or your mindset to create comfort and settle into the slowness of winter?

By cultivating rest, stillness and *hygge* this winter, we can embrace the season for what it is, and in turn, begin to explore and embrace our own needs, desires and rhythms. That includes occasionally crawling under a cozy blanket at 4:00pm. Ideally with a good book and a hot drink.

New year, same beautiful you. Gorgeously messy slate. Slow, gentle start. Curiosity. Self-compassion.

Restorative.



Amy Johnston is a licensed clinical social worker with extensive experience working in mental health, trauma and burnout. She is dedicated to supporting a culture of thriving, even in the hardest of jobs. She works with leaders to take a clear and honest inventory of their strengths and challenges and to cultivate an atmosphere of growth and authenticity.



Ashleigh Frankel is a leadership and well-being coach, consultant and changemaker. Once upon a time she practiced securities law. For the past decade, She has been working with courageous leaders to produce well work cultures where individuals, teams and business flourish.

About the All Rise Initiative . . .

Ashleigh Frankel and Amy Johnston launched the All Rise Initiative to raise the bar on collective well-being in law. Their upcoming series for the New York State Bar Association, “All Rise: Well-Being for Women in Law,” is a science-backed, human centered program that will guide participants beyond information to insight + inspired action. Participants will cultivate a set of inner strengths and a sense of collective care that expands capacity for well-being, ease and impact in law, leadership and life. This program is launching May 3, 2023 through NYSBA with the Attorney Well-Being Committee and the Women in Law Section as co-sponsors. For general information and updates on the All Rise Initiative, go to NYSBA’s Well-Being site at:

<http://nysba.org/committees/committee-on-attorney-well-being>

Hochul First Woman Elected as Governor of New York: 12 States Will Be Led by Women

By Kim Wolf Price



“I hope that this trend will continue. I look forward to a time when women are fully represented at the highest echelons of politics including the presidency.”

Governor Hochul, originally from the Buffalo area, served as lieutenant governor of New York from January 2015 until taking her oath of office for governor this past summer. A graduate of Syracuse University and Catholic University Columbus School of Law, Governor Hochul began her career practicing law in Washington, DC.

For the first time in its history, New York State elected a woman to serve as its governor. Kathy Hochul, who had served as governor since August 24, 2021 following the resignation of Andrew Cuomo, was elected to the governor’s office in the general election on November 8, 2022.

Hochul, a native of Western New York, was sworn in for her four-year term on January 1, 2023. Her win comes in a history making year where, for the first time, 12 women will serve as governor in the United States at the same time. That breaks the previous record of nine, which was set in 2004.

Seven states re-elected incumbent female governors: Alabama, Iowa, Kansas, Maine, New Mexico, Michigan and South Dakota. Janet Mills of Maine, Michelle Grisham of New Mexico and Gretchen Whitmer of Michigan are all attorneys.

Three other states elected women to their first terms as governor. Those were Arkansas, Massachusetts, and Oregon. In both Arkansas (Sarah Huckabee Sanders) and Massachusetts,¹ this was the first time a woman was elected to the role of governor in state history. Maura T. Healy of Massachusetts, an attorney, and Tina Kotek of Oregon are also the first openly lesbian women to be elected to governor in the United States.

“It is wonderful that this election has brought a record number of women governors into office,” said Sherry Levin Wallach, President of the New York State Bar Association.

She then moved to counsel and legislative assistant roles for U.S. Representative John LaFalce and U.S. Senator Daniel Moynihan. She also worked for the New York State Assembly before seeking elected office in a special election for the United States Congress in Western New York, a race which she won, serving one year as a member of the U.S. House of Representatives.

Endnote

1. Jane Swift served as governor of the Commonwealth of Massachusetts upon appointment for two years following the resignation of Governor Paul Cellucci to serve as U.S. Ambassador to Canada.



Kim Wolf Price, a member of the Executive Committee of NYSBA’s Women in Law Section (WILS) and currently Chair-Elect of WILS, will become Section Chair on June 1, 2023. She is the attorney professional development and diversity officer at Bond Schoeneck & King PLLC.

WILS Members in the News

By Terri A. Mazur

Kaylin L. Whittingham Confirmed to New York Commission on Ethics in Lobbying and Government



New York Governor Kathy Hochul announced the nomination of Kaylin L. Whittingham, principal and managing attorney at Whittingham Law, a law firm focusing on legal ethics and professional responsibility for lawyers, to the Commission on Ethics in Lobbying and Government in November 2022. Ms. Whittingham's nomination by the Executive Chamber was Hochul's third to the Commission on Ethics in Lobbying and Government. Ms. Whittingham was confirmed on December 16, 2022 after review by a committee of law school deans. She began her term in 2023.

Prior to founding her law firm, Ms. Whittingham was the staff counsel of the Attorney Grievance Committee in the First Judicial Department in the Appellate Division for the New York State Supreme Court, and a staff attorney in the Mental Hygiene Legal Service. She is the founder of the Legal Ethics Lab and host of the podcast "Legal Ethics in a New York Minute." Ms. Whittingham also is a member of the NYSBA Women in Law Section's Executive Committee, currently serving as Secretary, and the former president of the Association of Black Women Attorneys.

Prior to founding her law firm, Ms. Whittingham was the staff counsel of the Attorney Grievance Committee in the First Judicial Department in the Appellate Division for the New York State Supreme Court, and a staff attorney in the Mental Hygiene Legal Service. She is the founder of the Legal Ethics Lab and host of the podcast "Legal Ethics in a New York Minute." Ms. Whittingham also is a member of the NYSBA Women in Law Section's Executive Committee, currently serving as Secretary, and the former president of the Association of Black Women Attorneys.

Bond Schoeneck Names Jennifer Boll Managing Partner of Albany Office



Bond, Schoeneck & King named Jennifer M. Boll as managing member of the firm's 30-attorney Albany office on January 11, 2023. Ms. Boll serves in a number of leadership roles at Bond, including as a member of the firm's compensation committee, chair of the firm's tax law practice, and deputy co-chair of its business department. She previously served for four years on the firm's Management Committee and chaired the firm's Women's Initiative.

"Jen has shown exemplary leadership in all her management roles. She is well-respected by her peers and a role model to the women attorneys at the firm," Kevin Bernstein, chair of the firm's Management Committee, said in a statement released by Bond.

Ms. Boll focuses her practice on corporate, tax, and estate and business succession planning matters, advising privately held companies and individuals with respect to a wide range of corporate and tax matters. In addition, she is the director of the M.S. in taxation program at the University at Albany, State University of New York, where she teaches courses on federal, state, and interstate taxation and is an adjunct professor at Albany Law School. Ms. Boll is also a member of the Executive Committee of the NYSBA Women in Law Section; is the deputy co-chair of the WILS Annual Meeting, Programming and CLE Committee; and currently serves as the upstate member-at-large for WILS.

Sheryl B. Galler Named Partner at Book Law LLP



Sheryl B. Galler, Chair of the Women in Law Section, has been elevated to partner at Book Law LLP effective January 1, 2023. Book Law's practice areas include employment law, counseling, mediation and litigation, corporate law, and commercial transactions.

Ms. Galler advises employers and employees on federal, state and local employment laws. She negotiates and drafts employment, severance and non-compete agreements; drafts employee handbooks; and helps clients develop and implement employment policies. Ms. Galler also conducts training on sexual harassment prevention for law firms, nonprofits and commercial entities; investigates discrimination and harassment claims; and counsels clients on a wide range of employment law and compliance matters.

Ms. Galler is the Chair-Elect of NYSBA's Labor and Employment Law Section. She is the author of "Sexual Harassment and Retaliation in the Legal Profession: How To Stop It," *NYSBA Journal* (January/February 2022); "Preventing and Handling Sexual Harassment at Law Firms," *NYSBA Journal* (January/February 2019); and "Know New York-

State's New Paid Family Leave Benefits Law," *NYSBA Journal* (May 2017). She has moderated and presented continuing legal education courses on employment law and professional practice for the New York State Office of the Attorney General, NYSBA, and the Women's Leadership Initiative at Albany Law School.

A 1993 graduate of Columbia University Law School, Ms. Galler was a Harlan Fiske Stone Scholar. She received her B.A. from Columbia University, *summa cum laude*, Phi Beta Kappa. She has been a member of WILS and its predecessor, CWIL, since 2012.

Susan L. Harper Elected Treasurer of the New York State Bar Association

Susan L. Harper was elected treasurer of the New York State Bar Association at the 2023 Annual Meeting of the Association on January 20, 2023. Ms.



Harper is the managing director for New York and New Jersey for the Bates Group, a leading provider of securities litigation support, regulatory and compliance consulting and forensic accounting services to Fortune 500 companies, law firms, financial service companies and regulatory bodies worldwide. Ms.

Harper is responsible for external relations and outreach to the Tri-State financial services and legal community and works closely with senior management on the development and executive of companywide business strategy and new strategic initiatives. An experienced litigation attorney, she also provides strategic litigation and arbitration support to clients.

Ms. Harper is the founding and Past Chair of NYSBA's Women in Law Section and an active member of WILS Executive Committee, has served on NYSBA's Finance Committee, and is a member of NYSBA's Committee on Securities Litigation and Arbitration. She is an ABA award-winning writer with a legal journalism background. Ms. Harper served as a business reporter and legal editor for the *New York Law Journal*, and as an editor for the *National Law Journal's GC Magazine*.

Carol Villegas Winner of New York Law Journal Distinguished Leader Awards



New York Law Journal has named Carol C. Villegas, a partner at Labaton Sucharow LLP, as a 2022 honoree in the Distinguished Leaders category at the New York Legal Awards in October 2022. The Distinguished Leader awards recognize attorneys in leadership roles who achieved impressive results during the past year while also demonstrating clear leadership skills that lead to

positive outcomes.

Ms. Villegas focuses her practice on securities litigation on behalf of institutional investors and holds several leadership positions within the firm, including serving on the firm's Executive Committee, as chair of Labaton's Women's Networking and Mentoring Initiative, and as chief of compliance. She stated: "For many people, access to justice is difficult to obtain—that is why being a lawyer is such an important job in today's society. Working for the public interest or in a job that assists underserved individuals is a must for every lawyer at some point in their career." She is also an active member of WILS.

In Iran, Women Lead the Way in the Fight for Justice

By Azish Filabi

If you've walked around New York City recently, you may have heard the rallying slogan of "Women, Life, Freedom," or, in Persian, "*Zan, Zendegi, Azadi*." From Washington Square to Times Square, demonstrations and rallies are calling for support of Iranian women who have, since Sept. 16, been leading a renewed revolution against the fundamentalist Islamic regime.

The Iranian diaspora rallying in numerous U.S. and European cities are amplifying protestors on the streets and in the prisons of Iran. The uprisings began after the news about the death in police custody of a 22-year-old woman named Mahsa Zhina Amini became widely known through social media. The protestors' chants include "Mullahs get lost," "We don't want an Islamic republic," and "Death to the supreme leader [Khamenei],"¹ calling for the overthrow of an abusive and corrupt regime.

Amini was visiting Tehran with her family from Saqiz, a predominantly Kurdish town in Western Iran, when she was unexpectedly and suddenly detained by the "morality police" for having supposedly covered her hair too loosely with her head scarf. Hours later, she was in a coma at the hospital, bruises on her face and blood dripping from her ear.

Amini's death from injuries sustained under police custody has sparked outrage in Iran and calls for revolution against the Islamic Republic. A billboard in Times Square on Oct. 26 included her photo, commemorating the 40th day of her death.

A History of Human Rights Abuse

Human rights violations are not new in Iran. Neither are protests in support of civil and political rights. In 1979, a popular revolution overthrew Mohammad Reza Shah Pahlavi, who was widely seen as corrupt and unrepresentative of the Iranian people. Iranians then largely sought a secular democratic government, free of Western influence. In the chaos that followed, Ayatollah Khomeini established the Islamic Republic of Iran, a regime that fundamentally changed the legal, social and political system of the country.

Iran had until that time been a multi-religious and multi-ethnic nation. After Khomeini consolidated his power, there was a mass exodus of Christians, Jews, Baha'is, Turks and Kurds, as well as anyone whose political views or speech were contrary to those of the new Islamic government.

Mandatory Islamic dress codes, including a hijab for women, were among the decrees that Khomeini's regime instituted. On March 8, 1979—International Women's Day—the women's rights organizations mobilized. Thousands of women gathered on the streets of Tehran to protest mandatory veiling and in support of equal rights and non-discrimination. Viewed in historical context, Iranian women have been leading a fight for justice for over 40 years, despite violent threats to their lives and livelihoods.

What Solution? Revolution!

What began this year as women-led protests and hijab-burning has expanded to a revolution by a broad cross-section of the Iranian people demanding an end to the Islamic regime. Men and women of all ages, from teens to the elderly, are actively engaged. Generation Z is at the forefront, and a number of teenagers and even younger children have become vocal elements of the movement. Labor strikes, merchant boycotts and even the burning of the childhood home of Imam Khomeini, the original leader of the 1979 Islamic regime, demonstrate the widespread anger among the population. This revolution has been in the making for 40 years.

The regime's crackdown has reportedly targeted minors, using the same brutal imprisonment, torture and punishment tactics against teenage boys and girls that it does against adults. The U.N. reports that at least 14,000 people have been arrested since the protests began this fall, and some estimate this figure is closer to 20,000. There are reports of widespread torture and a fire of unknown origin at Evin Prison in October 2022, a facility notorious for detaining, torturing and murdering political prisoners since the 1980s. Moreover, the regime has begun executing protestors, based on hasty trials without procedural protections or due process.² This is a large-scale humanitarian crisis and must be addressed as such by the international community.

Notably, Mahsa Amini was an Iranian Kurd, thus the Iranian Kurdish community has mobilized in their opposition to the Islamic regime.³ This risks regional conflict, as the opposition Kurdish leaders and other dissenters are based in, or recently escaped to, Kurdish bases in Iraq. The Iranian Revolutionary Guards Corps, a paramilitary group currently devoted to the Islamic government, launched targeted missiles at the Kurds in Iraq in early November, prompting the U.S.



State Department and the U.N. mission in Iraq to condemn the attacks as a violation of Iraq's sovereignty.

The International Community and Diplomacy Called to Action

The Islamic Republic threatens not only its own citizens, but also peace and stability internationally. It recently supplied drones that the Russians used in the war against Ukraine. It funds and trains Shia militias in several countries, including Lebanon, Iraq, Syria and Yemen.⁴ It has continued to attack Kurds in neighboring Iraq and has backed attacks against Israel. The U.S. State Department has designated it as a state sponsor of terrorism.

Standing in solidarity with the Iranian people against the Islamic regime should be a priority for the international community. Naming the protests as an act of revolution honors the voice of Iranians who are putting their lives on the line for basic, universal values. It also helps contain a terrorist regime that threatens global stability.

France and Canada have been leaders in demonstrating the important role of law and diplomacy in this crisis, and they should continue to escalate diplomatic aims. French President Macron recognized the people's movement in Iran as a revolution and met with several Iranian activists to learn more about and support their cause.⁵

The Canadian government designated the Iranian regime and Iranian Revolutionary Guard Corps as a terrorist organization, and identified senior members who will be sanctioned and banned from entry to Canada.⁶ The EU is likely to impose similar sanctions, while the U.S., which had previously designated the Iranian Revolutionary Guard Corps as a terrorist organization, added additional sanctions on companies doing business with Iran, yet stopped short of imposing travel bans on regime officials.

The international community must support the Iranian people amid this crisis by increasing the isolation of the Iranian regime and refusing to treat it as a legitimate government. Governments should strengthen sanctions against the leadership of the Islamic Republic, and freeze the assets of regime officials. The U.S. Congress is considering a bill, H.R. 9203, known as the MAHSA Act, which has bipartisan support to impose targeted sanctions on the leaders of the Islamic Republic. Such sanctions could enable the freezing and seizure of assets owned by those leaders in the U.S. to hold them accountable for their role in human rights violations.

Other actions the international community should consider includes diplomatic ones, such as recalling ambassadors from Iran. Moreover, they should also publicly press for the release of all political prisoners. Now is the time for diplomacy to show its might and support calls for democratic governance.

The Iranian government is a signatory to numerous international conventions and treaties of which it is currently in breach. Those include the International Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination.⁷ The regime's gross human rights violations are running afoul of these laws, and the U.N. should take stronger action.

The U.N. has taken some action against Iran through the Commission on the Status of Women, as well as the Human Rights Council. The Commission on the Status of Women is an organization whose mission is to be a "global champion for women and girls." U.S. representatives indicated that Iran's continuing role would be an "ugly stain" on the commission's credibility, considering the Islamic Republic's human rights record.⁸ On Dec. 14, 2022, Iran was removed

from the 45-member commission in response to strong momentum by the U.S. government and Iranian activists.

On Nov. 24, 2022, the U.N. Human Rights Council voted to establish a fact-finding investigation into human rights abuses in Iran in connection with the recent protests, an important step that could make prosecutions more likely in international courts.

Civil society and professional organizations also have a key role to play in these measures and in maintaining pressure both on Iran and policy makers responding to the Islamic regime's illegal conduct and human rights abuses. To this end, NYSBA President Sherry Levin Wallach and the International Section's Rapid Response Committee have expressed solidarity with Iranian women and others fighting for justice, and grave concern about the brutality and crackdown against them.⁹

The coming months in Iran will inevitably be bloody. The people of Iran are doing their part to fight for the rule of law. The international community should stand in solidarity with them.



Azish Filabi is the executive director of the American College Cary M. Maguire Center for Ethics in Financial Services, Charles Lamont Post Chair of Business Ethics and associate professor at The American College of Financial Services. She has worked as a corporate lawyer and assistant vice president, ethics officer and counsel in the legal group at the Federal Reserve Bank of New York. Filabi was born in Mashhad, Iran, and immigrated to the U.S.

in the early 1980s. She has a J.D. from the University of Virginia School of Law and a master's in international affairs from John Hopkins School of International Studies (SAIS). Filabi is the chair of NYSBA's International Section. An earlier version of this article appeared at NYSBA.ORG on Dec. 12, 2022.

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NAACP President Calls White Supremacy the Greatest Threat to Democracy at NYSBA Juneteenth Event

By Jennifer Andrus

NAACP President Derrick Johnson called white supremacy the most significant threat to democracy at a New York State Bar Association event in celebration of the first federally recognized holiday of Juneteenth.

“The white supremacist dogma dominating the public square is pulling democracy apart,” Johnson said. “What we witnessed on Jan. 6th is an example of what individuals are willing to do to maintain power, domination, control. It is an example of how political parties have been usurped or paralyzed.”

Calling attention to the work of Select Committee to Investigate the Jan. 6th Attack on the United States Capitol, Johnson says the foundation of our democracy is at stake. He said access to voting rights, quality education, and a clean environment are meaningless without the rule of law as the bedrock of our democracy.

“White supremacy is inconsistent with the notions of democracy,” he said. “If you allow white supremacy to carry out harm or domestic terrorism and not be held accountable, we are guaranteeing that there will be more acts of domestic terrorism under the banner of white supremacy. That is our history in the south and it’s why many of our parents migrated to New York as a result.”

Accountability Needed for Social Media

Johnson also discussed the lack of accountability and regulation of social media platforms. The NAACP is advocating for Congressional action against media companies that allow hate groups to use their platforms but do not face consequences when these groups resort to violence.

“When you have a platform you’ve decided not to moderate, and there are legal protections for you not to do so, we have a problem. What happens on Facebook is something that can never happen on ABC News. On Facebook, they have federal law protection. We have to change that.”

What Can We Do?

Several NYSBA members asked Johnson how lawyers can help the civil rights movement. His answer is, “Don’t get comfortable. You may be doing OK but when you walk outside the community and it’s not healthy for your kids. We can all work on issues like equity and public safety in the towns and cities where we live.”

Johnson also encouraged lawyers to press on in their work for equal justice under the law.

“At the end of the day, we live under a social contract we call the Constitution. We have to make that Constitution real and have it apply to everyone, while holding people accountable who are seeking to violate it,” he said.

Why Juneteenth Is Not Just a Holiday for African Americans

Johnson also shared his thoughts on the first federal observance of Juneteenth this year. He sees it as a day of liberation that should be celebrated by all Americans, not just African Americans.

It’s the spirit of celebrating liberty, much like Independence Day, that Johnson feels all should embrace on the Juneteenth holiday. It’s an acknowledgement of the contributions made by the Africans who built this country, he said.

“The White House was built by our ancestors for free, and so this is that moment to recognize that we have equity in this country. An equity was born of our blood, sweat and tears, and we should never see ourselves as victims of governments, because we are owners of government.”

NYSBA’s Women in Law Section and the association’s Committee on Diversity, Equity and Inclusion hosted the event, which was moderated by Justice Tanya Kennedy of the Appellate Division, First Department, and Frettra de Silva, in-house counsel at Standard Chartered Bank.

Jennifer Andrus is a content and communications specialist at NYSBA. This article originally appeared at NYSBA.ORG on June 6, 2022.

WILS Hosts Program on Managing the Trauma and Grief Following Recent Events

By Kim Wolf Price

In the early days following the Supreme Court's *Dobbs* decision, many people were left concerned, afraid, and angry. On June 30, 2022, WILS welcomed Amy Johnston, the director of education at Urban Wellness and a licensed clinical social worker who often works on issues of trauma and grief, to speak with WILS members and others about these issues. The purpose of this virtual, interactive session was to offer a safe space for people to express their concerns and to learn ways to process the trauma and grief brought on not only by the aftermath of this decision, but also the many traumas of the last several years, including the murder of George Floyd and the ongoing COVID-19 pandemic.

The well-attended session allowed people to share their feelings and concerns in a safe, comfortable, and facilitated environment. All attendees agreed to keep the conversations confidential, and the program was not recorded.

For additional resources on attorney well-being, please visit the Committee on Attorney Well-Being's resource page at www.nysba.org/attorney-well-being.



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What To Do After *Dobbs*: Access to Reproductive Health Care and How To Help

By Christina H. Singh-Bedell

On June 24, 2022, the Supreme Court in *Dobbs v. Jackson Women's Health Organization*, No. 19-1392, 597 U.S. ____ (2022), overturned the landmark case *Roe v. Wade*, which recognized a woman's constitutional right to an abortion. The *Dobbs* decision allows states to ban abortion, without any exceptions to protect the life and well-being of the mother or in instances of rape or incest.

The *Dobbs* decision left many unanswered questions for women in New York State, including: Where does New York State stand in protecting the reproductive health care rights of New Yorkers? What protections, if any, are afforded to patients from other states? Are there any protections for health-care providers? What resources are available to New Yorkers? How can we help?

On July 14, 2022, the Women in Law Section set out to answer those questions in the virtual event: "What To Do After *Dobbs*: Access to Reproductive Healthcare and How to Help." The goal of this program was to provide attendees with a comprehensive review of New York State's legal protections already in place, those in the works, and ways that anyone could help in the aftermath of the *Dobbs* decision.

Following the *Dobbs* decision, the Office of the New York State Attorney General, in partnership with 24 national law firms and eight nonprofits, launched a Pro Bono Task Force and hotline providing New Yorkers and those visiting the state with legal information and resources about accessing abortion.

The well-attended "What To Do After *Dobbs*" program featured speakers from the Office of the Attorney General's Pro Bono Task Force—Claudia Hammerman, a partner at Paul, Weiss, Rifkind, Wharton & Garrison, LLP, and Jennifer Levy, first deputy attorney general at the New York State Office of the Attorney General. The program was moderated by Christina H. Singh-Bedell, assistant attorney general with the New York State Office of the Attorney General.

During the hour-long program, Hammerman and Levy discussed the Task Force and its goals, which are to provide legal guidance and resources to patients, healthcare providers, and supporters seeking information about their legal rights to access and provide abortions. They also provided information about New York State's free Hotline, (212) 899-5567, which is staffed by trained attorneys and will provide legal information and referrals to those seeking an abortion.

The speakers also explained the reproductive laws in New York State, including the Reproductive Health Act of 2019, and the June 13, 2022 Legislation S.470/A.5499, which directs the New York State Department of Health Commissioner to conduct a study and issue a report examining the unmet health and resource needs facing pregnant people in New York and the impact of limited service pregnancy centers, thus ensuring New Yorkers have access to the information and resources necessary to have healthy pregnancies. They also discussed the Equal Rights Amendment to the New York State Constitution; the July 12, 2022 Funding Award, which provides a support fund for abortion providers; and even touched upon President Biden's Executive Order to protect access to reproductive health care.

First Deputy Attorney General Jennifer Levy led the discussion regarding the protections afforded to reproductive providers by Legislation S.9079B/A.9687B and Legislation S.908B/A.9718B, which includes prohibitions in place against professional misconduct charges and medical malpractice against health-care providers who provided reproductive health-care services for a patient who resides in a state that made abortion illegal.

Claudia Hammerman explained the response from law firms following the *Dobbs* decision, including the contributions to the task force of law firms such as Paul, Weiss, Rifkind, Wharton & Garrison.

The program ended with providing participants with ways that they could help. Participants and others who wish to learn more were encouraged to visit: <https://ag.ny.gov/reproductivehealth>.



Christina Singh-Bedell is an assistant attorney general in the New York Office of the Attorney General, where she represents the State of New York in state and federal courts and handles affirmative justice cases involving civil rights, consumer fraud, charitable donations and workers' rights. She also conducts outreach in the local community, educating New Yorkers on a variety of issues. She is an adjunct professor of law at Hofstra University School of Law. Singh-Bedell sits on the Executive Committee of WILS and chairs the Emerging Lawyers Committee.

Dobbs: Historical Context and Future Implications

By Jennifer Delgado

On June 24, 2022, the Supreme Court overturned *Roe v. Wade* with its decision in *Dobbs v. Jackson Women's Health Organization*. In one of several programs developed by NYSBA's Women in Law Section and the Committee on Continuing Legal Education, a panel discussion entitled "Dobbs: Historical Context and Future Implications" on July 18, 2022 addressed the legal implications of *Dobbs*.

The panel was moderated by Jennifer Delgado, a partner at Lowenstein Sandler. She was joined by Catherine Weiss, also a partner at Lowenstein Sandler and chair of the Lowenstein Center for the Public Interest, and Katherine M. Franke, the James L. Dohr Professor of Law at Columbia Law School. The panelists analyzed the constitutional principles discussed in *Dobbs*, placed the court's decision in historical context, and discussed the decision's likely implications on other constitutional rights.

The program started with a summary and analysis of *Dobbs* by Catherine Weiss. The panel then discussed the historical and political context behind *Dobbs*. Professor Franke explained that *Roe* secured a right of privacy, but not one that resided singularly in the pregnant person. Rather, this right resided in the pregnant person and the pregnant person's doctor. In *Roe*'s wake, an onslaught of regulations and political tactics undermined the very notion of reproductive freedom.

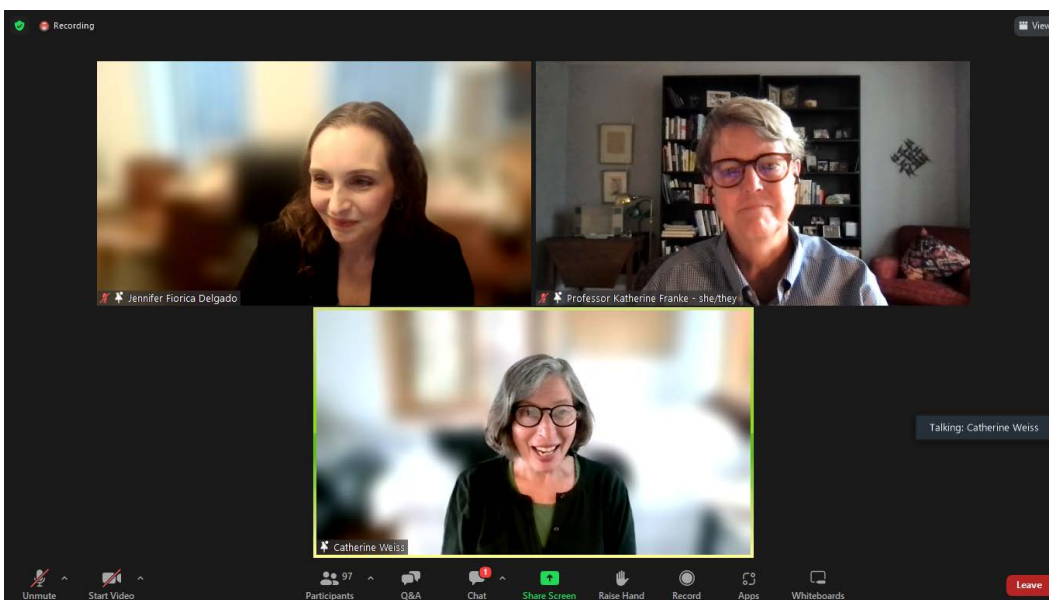
Next, the panel considered the ramifications of the court's decision in *Dobbs*. Weiss noted that rights related to bodily autonomy and contraception, as well as LGBTQ rights, are

now vulnerable. Delgado noted that women in childbearing years who live in abortion-ban states have been denied prescriptions for medications that could lead to abortion. Franke noted that pre-*Dobbs*, cancer patients were denied life-saving treatment because of cancer medications' possible effects on fetuses. Post-*Dobbs*, Franke expects even higher rates of mortality for pregnant people.

The panel concluded by discussing potential avenues of challenging abortion bans in the future, including states' Equal Rights Amendments, and the First Amendment's religious liberty protections, which are necessarily neutral and must protect all religious practices.



Jennifer Fiorica Delgado is a partner in Lowenstein Sandler's business litigation group, where she maintains a robust litigation, investigations, and counseling practice in which she services a diverse client base, from multibillion-dollar asset managers to multinational cosmetics companies. She has experience representing U.S.-based and global asset managers, hedge funds, and institutional investors with a wide range of capital markets disputes, including structured finance and securities litigation; she also routinely handles M&A disputes and bankruptcy-related litigation. In addition, Jennifer maintains a robust pro bono practice, and holds leadership roles within and outside of her law firm.



2022 Women on the Move Examines Extensive Implications of *Dobbs* Decision

By Terri A. Mazur, Jennifer M. Boll, Nancy L. Sciocchetti, and Erica S. Youngerman

The Women in Law Section held its annual Women on the Move (WOM) CLE program on Oct. 20, 2022. Entitled “Aftershocks: Implications of the *Dobbs* Decision,” the virtual CLE program analyzed the impact of *Dobbs v. Jackson Women’s Health Organization*, No. 19-1392, 597 U.S. ____ (2022), from constitutional, ethical and employment law perspectives.

NYSBA President Sherry Levin Wallach’s WOM Introductory Remarks Emphasize Obligation To Act Following *Dobbs*

By Terri A. Mazur



Following introductory remarks by WILS Chair Sheryl Galler, Sherry Levin Wallach, president of the New York State Bar Association, gave welcome remarks. Levin Wallach stated that WILS’ program on *Dobbs* was necessary as we look at “what we can and must do to ensure the health and safety of all New Yorkers.” She emphasized the focus this country has always had on expanding our rights, but concluded that the *Dobbs* decision has changed this:

Throughout our history, our nation has always moved to expand individual rights, not to constrain them. The promise of *stare decisis* is that our rights, once given, cannot be taken away. Case law has affirmed that time and again. But *Dobbs* could change that. As lawyers, we understand that attempts to dilute or roll back our rights undermine the promise of America. As lawyers, we cannot let this go.



Levin Wallach noted how important it is to continue the discussion and work together to preserve our rights: “It is more important than ever that we seize every opportunity to work together. In light of the *Dobbs* decision, I believe that we have an obligation to act. As a leader for women and for equal rights for all, the [Women in Law] Section has a vital role to play. We must see this as the opportunity it is, we are in the right place at the right time. Because it’s not just reproductive rights, but all our rights that are in jeopardy.”

Further, Levin Wallach emphasized the power of maintaining strong relationships and the importance of support, inspiration, mentorship and seizing opportunities to give back to others. Noting that she is the 125th president of NYSBA, but only the eighth woman to hold that office, she urged attendees to make this ratio change, pointing out that NYSBA is a great place to start growing future women leaders.



NOW Vice President Bear Atwood Warns *Dobbs* Endangers Other Constitutional Privacy Rights in WOM Keynote

By Jennifer M. Boll

Bear Atwood, Vice President of the National Organization for Women (NOW), kicked off the 2022 WOM program with a riveting keynote address entitled “*Dobbs v. Jackson: The Impact on Us All*,” discussing the wide-ranging implications of the *Dobbs* decision for women and communities throughout the United States. Atwood stated that the Supreme Court took a “wrecking ball” to constitutional rights and covered the legal, social and economic impacts that are occurring now in many states. For example, Mississippi’s health care system, among other things, is unprepared to handle 5,000 more babies a year after *Dobbs*. She also discussed the impacts that are expected to occur in the future throughout the United States because of the *Dobbs* decision, and shared ways that organizations are working toward mitigating the effects where possible.

Atwood—like other WOM speakers—fears that *Dobbs* may be a springboard for limiting privacy rights, guaranteed protections under the Fifth and 14th Amendments, and freedom in general. Indeed, Atwood noted that the Mississippi governor has stated that contraception is “on the table” in the next legislative session. She offered quotes from two of her heroes to inspire women and men to fight against the aftermath of *Dobbs*: she recited Shirley Chisholm’s famous statement, “if they don’t give you a seat at the table, bring a folding chair.” She also quoted Ruth Bader Ginsburg: “whatever you do, leave tracks.” Atwood urged women not to do things just for themselves, but to leave the world better off, concluding “it’s what keeps women on the move after *Dobbs*.”

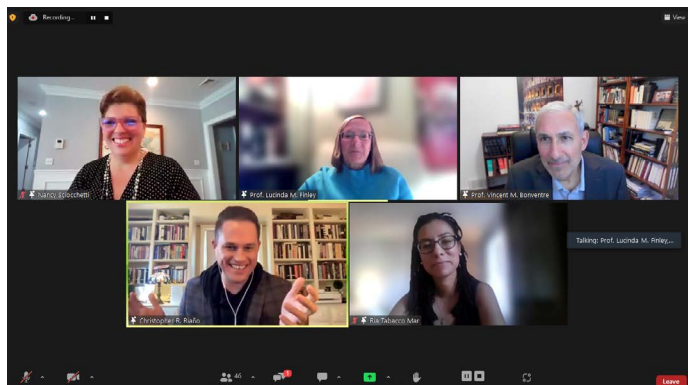
Dissecting *Dobbs*: The Constitutional Implications

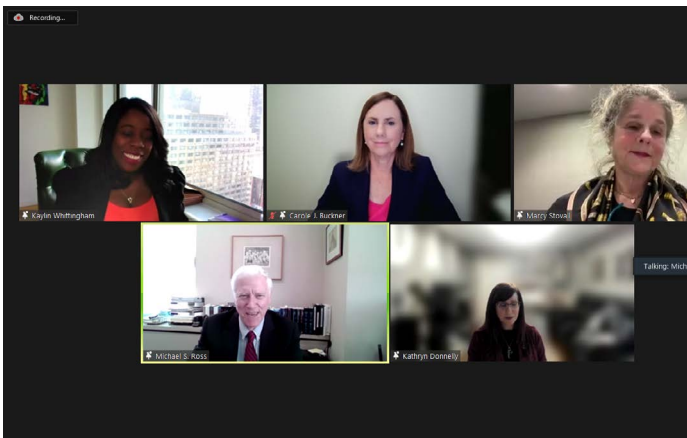
By Nancy L. Sciocchetti

We assembled a distinguished panel of constitutional law experts to discuss the far-reaching implications of the *Dobbs* decision on a variety of other related constitutional precedents of the U.S. Supreme Court. Our panel consisted of Professor Vincent Bonventre, the Justice Robert H. Jackson Distinguished Professor at Albany Law School; Professor Lucinda Finley, the Frank G. Raichle professor of Trial Advocacy and Appellate Advocacy at University at Buffalo School of Law; Ria Tabacco Mar, director of the Women’s Rights Project for the American Civil Liberties Union; and Christopher Riano, president and CEO of the Center for Civic Education, a lecturer on constitutional law at Columbia University, and a partner at Holland & Knight. Nancy L. Sciocchetti, a health care attorney and managing director at Mercury Public Affairs, moderated the panel.

The panel provided a legal analysis of the *Dobbs* decision. Professor Bonaventure noted that the majority’s reliance on the fact that a woman’s right to choose is not mentioned in the Constitution and was not part of the history and tradition of the country at the time the Constitution was enacted is irrelevant because the Constitution is not a catalogue of rights, nor is it supposed to be a catalogue of rights. The panelists discussed the historical significance of the Supreme Court’s decision and its potential impact on other cases of presumed settled law, including *Loving* (interracial marriage), *Obergefell* (same sex marriage), *Skinner* (procreation), and *Griswold* (contraception).

Below: Panelists for Dissecting *Dobbs*: Top row (L-R): Nancy Sciocchetti, Prof. Lucinda Finley, and Prof. Vincent Bonventre. Bottom row (L-R): Christopher Riano and Ria Tabacco Mar.





Left: *Dobbs* Dilemmas panelists. Top row (L-R): Kaylin Whittingham, Carole Bruckner, and Marcy Tench Stovall. Bottom row (L-R): Michael S. Ross and Kathryn Donnelly.

Dobbs Dilemmas: Ethical Implications

By Terri A. Mazur

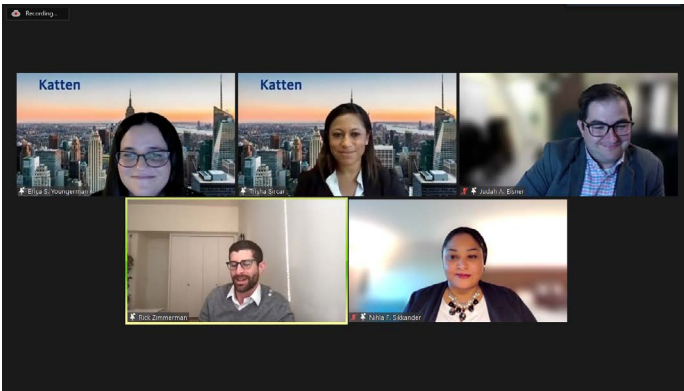
The “*Dobbs* Dilemmas” panel took on the potential ethical challenges lawyers are likely to face in advising clients on the myriad differing abortion laws promulgated by various states in the wake of the *Dobbs* decision. The panel featured prominent attorneys who focus their practice on ethics and professional responsibility and included attorneys who practice in different states—New York, California, and Connecticut—in order to get different state law perspectives on these issues. The distinguished panel consisted of Carole J. Bruckner, the general counsel of Procopio, Cory, Hargreaves & Savitch LLP in California; Kathryn Donnelly, who spent 32 years in the Appellate Division, 2d Department (the last 17 of those years working in Ethics for the Grievance Committee), and now is in private practice at the Law Firm of Daniel J. Reiter in New York City; Marcy Tench Stovall, a partner at Pullman & Comley LLC, based in Connecticut (they also have a Massachusetts office); and Michael S. Ross, who was a U.S. attorney in the S.D.N.Y. until 1981 and since then has been in private practice at his firm, the Law Offices of Michael S. Ross, representing lawyers in grievance matters and teaching ethics at the Brooklyn and Cardozo law schools. The program was moderated by Kaylin L. Whittingham, principal of Whittingham Law, who was nominated by Governor Hochul for the New York State Commission on Ethics in Lobbying and Government and recently confirmed by a committee of law school deans.

Stovall explained that *Dobbs*’ holding that there is no constitutional right to abortion paved the way for states to enact a patchwork of differing laws relating to abortion and reproductive health. Chief among the ethical issues lawyers face as they navigate these laws is the potential for claims raising the unauthorized practice of law for advising clients in other states on laws of those other states, and the obligation to be competent. Ross warned of the potential for grievance proceedings against New York lawyers advising clients in

other states, and the potential collateral estoppel effect of a ruling on such proceedings in New York. The panelists also addressed the ability of lawyers to advise clients who have employees in other states where abortion is not legal (such as Texas), and cautioned that attorneys should be careful about the type of advice they give so as not to assist a client engaged in a crime (such as obtaining an abortion prohibited under another state’s law).

Donnelly addressed the ethical and professional responsibility rules implicated when prosecutors state they will not prosecute cases under their state’s anti-abortion laws, but noted that prosecutors have broad discretion in deciding which cases they pursue. Whittingham cautioned that ethics opinions are not binding because they do not constitute law in New York State, and that judges cannot comment on *Dobbs* or abortion laws because they cannot reveal their opinions or they will risk accusations that they have pre-judged issues. The panelists also covered the duty to supervise and Rule 1.6 of the Rules of Professional Conduct on confidentiality, exceptions for disclosure and choice of law issues. In closing, Buckner emphasized that these issues are very complicated, and cautioned that “[e]veryone should be careful.”





Above: Dealing With *Dobbs* panelists. Top row (L-R): Moderator Erica Youngerman, Trisha Sircar, and Judah Eisner. Bottom row (L-R): Rick Zimmerman and Nihla Sikkander.

WOM Panel Offers Practical Advice For Counseling Clients on *Dobbs*-Related Issues

By Erica S. Youngerman

The final panel discussion of the 2022 WOM program was entitled *Dealing with Dobbs: Counseling Clients*, and focused on offering practical advice on how to deal with *Dobbs* when counseling clients. Moderator and health care attorney Erica S. Youngerman from Katten Muchin Rosenman LLP, led panelists through a wide variety of topics that included items of universal impact to clients in all industries, including confronting rapidly changing state laws, conducting business operations across state lines, and navigating potential implications on technology use, employee benefits, data privacy and information security, and healthcare operations.

The program featured four exceptional attorney panelists: Judah A. Eisner from Maimonides Medical Center and Rick Zimmerman from Zocdoc provided interesting perspectives as in-house attorneys working in different aspects of the healthcare space. Labor and employment attorney Nihla F. Sikkander from Bond Schoeneck & King PLLC provided participants an overview of many of the employment and benefits considerations in the aftermath of *Dobbs*. Privacy, data and cybersecurity attorney Trisha Sircar from Katten Muchin Rosenman LLP outlined several important data privacy considerations.

The 2022 WOM program is available on demand on the Women in Law website.



Terri A. Mazur is the immediate past Chair of the Women in Law Section and co-editor of *WILS Connect*. Her practice has focused on complex financial services, securities and antitrust litigation. She was a partner in Mayer Brown's commercial litigation practice for most of her career and founded and chaired the firm's Women's Initiatives Committee. She was also a partner at Arnold Porter Kaye Scholer and Greenberg Traurig.



Jennifer M. Boll is a member of Bond, Schoeneck & King, PLLC. She was recently named the managing partner of the firm's Albany office. Boll chairs the firm's tax practice, and her practice focuses on corporate, tax and estate planning matters. Boll also serves on the WILS Executive Committee, is deputy co-chair of the WILS Annual Meeting, Programming and CLE Committee, and is WILS' upstate member-at-large.



and CLE Committee.

Nancy L. Sciocchetti is a health care attorney and managing director at Mercury Public Affairs. She concentrates in the area of health care enterprise development and transactions, licensure and operation of health care facilities, certificate of need, sales, mergers and acquisitions, financing, and corporate and real estate issues. Sciocchetti serves on the WILS Executive Committee and is deputy co-chair of the Annual Meeting, Programming



agement services organizations.

Erica Youngerman, an associate at Katten Muchin Rosenman, helps clients as they navigate today's complex health law and health care business transactions landscape. She advises a wide range of health care entities, including physician and other provider practices, hospitals and other health systems, pharmacies and hospice and home care companies, and other participants in the health care industry, including private equity backed management services organizations.

Dobbs Decision Presents Wide-Ranging Ramifications for Women’s Rights

By David Alexander

The U.S. Supreme Court’s ruling in *Dobbs v. Jackson Women’s Health Organization* may be a precursor of other decisions that limit individual rights, according to speakers at the Thursday webinar “Women on the Move—Aftershocks: Implications of the *Dobbs* Decision.”

The webinar was presented by the Women in Law Section of the New York State Bar Association and included three panels that focused on the long-lasting ramifications of retracting rather than expanding individual rights.

“The words ‘equal justice for all’ are literally carved in stone under the Supreme Court, but *Dobbs* rendered those words asunder,” said Bear Atwood, vice president of the National Organization for Women, during her keynote address.

Atwood and other speakers fear that the *Dobbs* ruling will be a catalyst to limit privacy rights, guaranteed protections under the Fifth and Fourteenth amendments and freedom in general.

Sherry Levin Wallach, president of the New York State Bar Association, said it is incumbent upon women to act.

“Throughout our history, our nation has always moved to expand individual rights, not to constrain them,” she said. “The promise of stare decisis is that our rights, once given, cannot be taken away. Case law has affirmed that time and again. But *Dobbs* could change that. As lawyers, we understand that attempts to dilute or roll back our rights undermine the promise of America. As lawyers, we cannot let this go.”

The consequences of the ruling are overarching. Abortion bans increase the wealth gap, impact the ability of pregnant individuals to access lifesaving medications, and negate the understanding that women with forced pregnancies often cannot, or chose not to, obtain medical care, which may impact their health and the child’s health.

“Community health centers provide essential services to communities that experience the highest effects of abortion bans because of poverty and underservice. Researchers at George Washington University examined whether these centers are prepared to respond to rising maternal and infant care needs. They found that the *Dobbs* ruling raises the staffing challenges health centers are already facing with maternity and infant care. These challenges are most severe in the 26

states that either have trigger bans in effect or are likely to adopt them,” said Atwood.

One of the issues according to two of the panelists in the opening session, “Dissecting *Dobbs*—Constitutional Implications,” is that the current thinking on the U.S. Supreme Court harkens back to a 19th century mindset.

“Think of where we were as a country in 1868. Who had rights? It was white, heterosexual, property owning men. The majority in *Dobbs* makes it clear that they want us to revert to that,” said Ria Tabacco Mar, director of the ACLU’s Women’s Rights Project.

Professor Lucinda M. Finley, University at Buffalo School of Law, added to that thought.

“We see the culmination of originalism, a conscious effort that the Constitution is not a living document, but something that should be frozen in time and that something is only a fundamental right if it was protected in 1868,” she said.

To that end, Levin Wallach spoke of the importance of continuing the discussion and the need to act.

“It is more important than ever that we seize every opportunity to work together. In light of the *Dobbs* decision, I believe that we have an obligation to act. As a leader for women and for equal rights for all, this section has a vital role to play. We must see this as the opportunity it is, we are in the right place at the right time. Because it’s not just reproductive rights, but all our rights that are in jeopardy.”

David Alexander is a content and communications specialist at NYSBA. This article originally appeared in the News Center at NYSBA.ORG on Oct. 21, 2022.

WILS' General Counsel Committee Program Provides Practical Guidance on Working Within Company External Counsel Policies

By Frettra DeSilva

Most companies have guidelines or policies outlining the parameters for engaging external counsel. Sometimes called “Outside Counsel Guidelines” or “Litigation Management Guidelines,” these guidelines tend to provide very specific limitations on how external counsel can act in connection with representing the client. The issue, however, is whether these guidelines go too far in restricting the actions of counsel. The potential tension between outside counsel guidelines and the rules of professional conduct governing lawyers’ standards of practice was the topic of the Women in Law Section’s General Counsel Committee’s panel discussion on November 15, 2022 on “Outside Counsel Guidelines: Their Use and Tension with The Ethical Rules.”

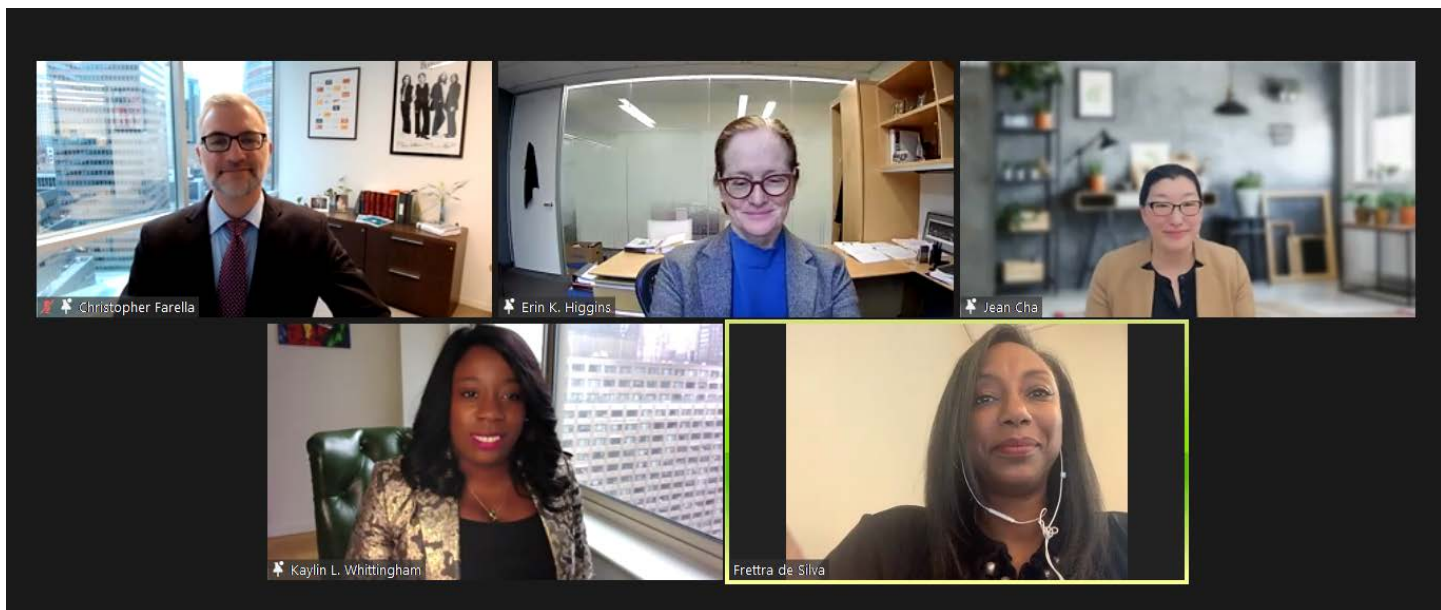
Kaylin L. Whittingham, managing attorney of Whittingham Law, led the discussion, which featured a multi-jurisdictional panel including Jean Cha, managing attorney of Cha Law Ethics; Christopher Farella, general counsel of Epstein Becker & Green, P.C.; and Erin Higgins, managing partner of Conn Kavanaugh Rosenthal Peisch & Ford, LLP. Starting with the structure of these guidelines and actual examples of the provisions from public guidelines, Erin Higgins discussed how a client’s conflict of interest or disclosure policies or the requirements of their insurers may not be consistent with

Panelists for the Outside Counsel Guidelines Program: (top, l-r) Christopher Farella, Erin K. Higgins, Jean Chan; (bottom, l-r) Kaylin L. Whittingham and Frettra DeSilva.

standard practices followed by many firms. While most of the guidelines provide that it is counsel’s legal and ethical obligation to protect their clients, the restrictions on counsel’s actions may challenge their ability to fulfill this duty by imposing requirements that bring into question a firm’s ability to maintain its independent professional judgment. Chris Farella noted that the tensions with the ethical rules may result from restrictions placed on whom counsel can represent. As takeaways, Jean Cha and Kaylin Whittingham noted that counsel should carefully review indemnity and conflicts of interest provisions in these outside counsel policies. In addition, counsel should always confirm how outside counsel guidelines define conflict of interest and whether they prohibit the representation of competitors.

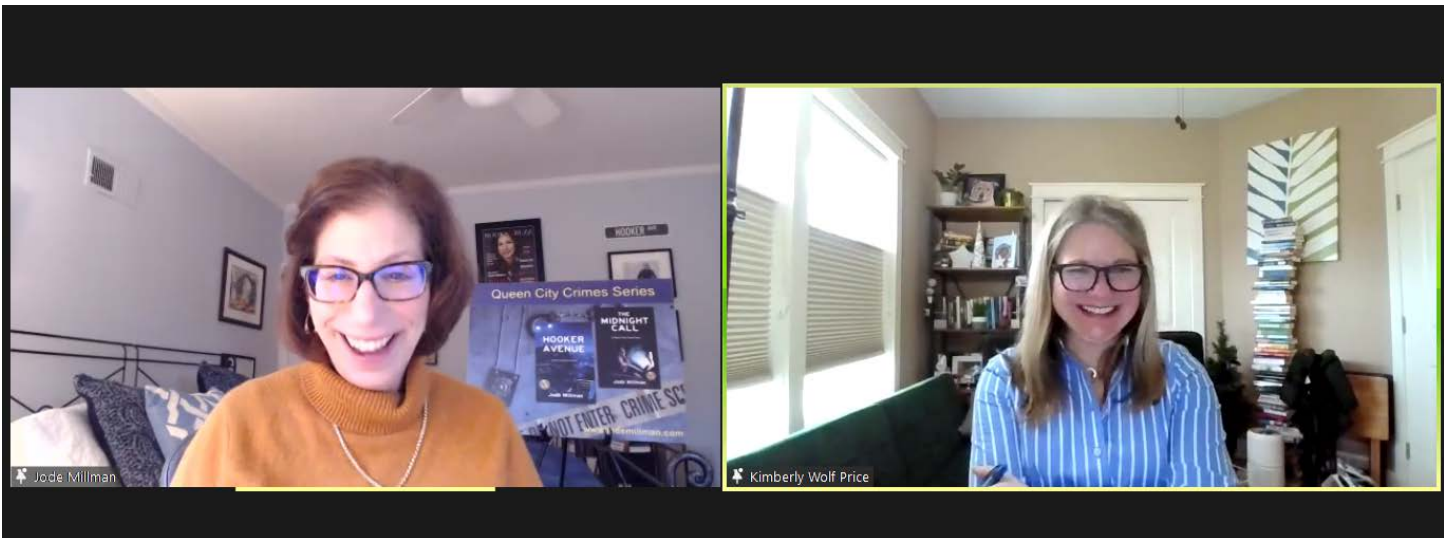


Frettra DeSilva is the head of legal, transaction Banking, Americas for Standard Chartered Bank. She has been practicing corporate, banking and securities law for more than 30 years. She was formerly at Citi and Debevoise & Plimpton. DeSilva is a member of the WILS Executive Committee and chairs the WILS General Counsels Committee.



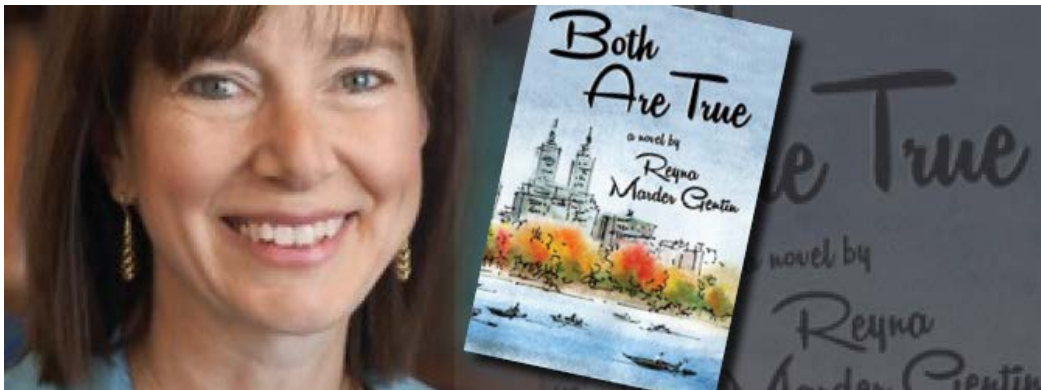
WILS Book Club Series

By Laura Sulem



Above: Author Jodé Millman (left) and WILS Chair-Elect Kim Wolf Price.

The Women in Law Section continued its popular book club series in 2022. We once again invited attorney-authors of fascinating books to attend our virtual book club meeting, discuss their work, and answer questions from the audience. The subject matters covered in the latter half of the year included a novel about the challenges of finding love, a guide from women mentors on building courage, a psychological thriller featuring a prolific serial killer, and a thriller involving the investigation of a string of disappearances of sex workers. We look forward to showcasing more attorney-authors in 2023.



Both Are True, by Reyna Marder Gentin

On May 19, 2022, we featured Reyna Marder Gentin's novel *Both Are True*. We featured Ms. Gentin's novel *Unreasonable Doubts* at our first-ever virtual book club meeting in June 2020 and were thrilled to welcome her back to discuss her newest novel. *Both Are True* centers around Judge Jackie Martin, a woman whose intelligence and ambition have earned her a coveted position as a judge on the Manhattan Family Court – and left her lonely at age 39. Jackie meets and dates Lou Greenberg, who she thinks may be “the one,” but he ultimately bolts without explanation due to unresolved yearning for his ex-wife. The meeting was well-attended and Ms. Gentin answered questions and discussed the meaning of the book's title, her writing process, and the book's strong female characters.

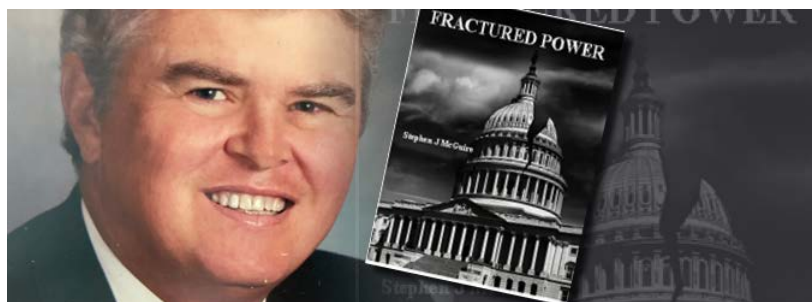


30 Days to Courage: A Step-by-Step Guidebook

The WILS virtual book club featured *30 Days to Courage: A Step-by-Step Guidebook* in its meeting on the evening of June 13, 2022. This inspirational and aspirational guide was written by women mentor experts, who offer their insight on courage from decades-long formal and self-directed learning, documenting, testing, failing, reflecting, and understanding. Authors Carolina M. Billings, Leona Krasner, and Elisa Magill generously shared their personal experiences and stories, helping the meeting’s attendees find courage in their lives and careers and providing action steps to help them find their paths.

Fractured Power, by Stephen McGuire

On Sept. 15, 2022, the WILS Book Club welcomed Judge Stephen McGuire to discuss his novel, *Fractured Power*, a dark and haunting psychological thriller. *Fractured Power* is about Aiden Fletcher, a district attorney, whose office investigates a rash of murders of women in Knoxville, Tennessee. He uses his position to manipulate the evidence while pursuing a serial killer whose arrest and trial puts Fletcher in the public limelight and forever changes the trajectory of his extraordinarily treacherous life. Judge McGuire talked about his more than 30-year legal career as an attorney and as the chief judge of the Federal Trade Commission in Washington, D.C. For this meeting, we decided to talk openly about the plot and the book’s ending, and provided a spoiler alert in advance for those attendees who did not have a chance to read or finish the book. In this fascinating discussion, Judge McGuire answered questions about the book’s plot twists, how he developed his characters, and the process for publishing his book.



Hooker Avenue, by Jodé Millman

On Nov. 29, 2022, the WILS Book Club featured the return of author Jodé Millman for a special lunch-time book club event hosted by WILS Chair-Elect Kim Wolf Price. Ms. Millman discussed her latest novel, *Hooker Avenue*, which is the second novel in her Queen City Crimes series. The first installment, *The Midnight Call*, won numerous awards including the 2021 Independent Press Award for Legal Thriller.

Hooker Avenue sees the return of Jessie Martin, a young attorney in New York’s Hudson Valley. The drama begins from the first page as Jessie finds a woman trapped in a storm drain as she drives home through torrential rains. From there, the drama never stops. Ms. Millman leads the reader on a journey that brings in the complexities of Jessie’s life and career as she seeks to find justice for the young woman. The novel was inspired by true crimes in the Hudson Valley and Ms. Millman spent time during the book talk engaging in a fascinating exploration of the history of the area, as well as the crimes that inspired this thriller.

The Women in Law Section looks forward to inviting Ms. Millman back to the book club after the third installment of the Queen City Crimes series is released in 2023.

GET ACTIVE!

Join a Women in Law Section Committee

Get active and join a WILS committee to help address the many critical issues impacting women attorneys today. Committee membership is a great opportunity for you to shape and influence the laws and policies affecting women, develop research initiatives to spotlight issues important to women, and create innovative programs and events that raise your profile and enhance your professional development. We welcome your ideas and participation!

Please email our Section Liaison, Ernesto Guerrero (eguerrero@nysba.org), to indicate your preference for up to three committee(s) you wish to join.



WOMEN IN LAW SECTION COMMITTEES

Annual Meeting and Programming Committee

Organizes programs throughout the year for the Section, including WILS' Annual Meeting event, the Edith I. Spivack Symposium. Committee members develop and run programs and events, have extensive interaction with leaders in the legal profession, and may have an opportunity to participate as a speaker or moderator of a program.

Awards Committee

Chooses recipients for the Ruth G. Schapiro and Kay Crawford Murray Memorial Awards and participates in the awards ceremonies. This committee will also participate in selecting recipients for the newly created Ruth Bader Ginsburg Memorial Scholarship. Meets September through November and in January.

Champions: Men Advancing Women Committee

Engages men as partners to advance women in the profession, the Association, and society-at-large. Activities include planning Drinks & Dialogues events (small get-togethers to discuss gender issues in a "safe environment" for men and women), commenting on news and issues, and supporting policies that advance women.

Communications Committee

Promotes the work and activities of the Section, including on social media and the NYSBA Communities platform.

Development and Sponsorship Committee

Develops a financial sponsorship plan to support WILS programs, events, and activities. Committee members also foster relationships with companies, legal vendors, and law firms to provide financial support for the activities and mission of the Section and of NYSBA and works closely with senior leadership on developing and executing WILS' strategic operational strategy. If you have an interest in finance and developing relationships with companies, vendors, and law firms to support WILS, this is the committee for you.

Emerging Lawyers Committee

Promotes opportunities and relationship-building for women new to the legal profession and supports their professional development and success. Programming includes networking events for women lawyers at varying career stages, panels featuring women leaders in different practice specialties, and the opportunity to learn about the variety of career paths available for women with law degrees (including non-traditional careers for lawyers). For law students, recent graduates, and new attorneys.

Equity in the Legal Profession (EILP) Committee

Explores, understands, and advances the equity of women in the law. The committee examines issues that may be delaying or derailing the advancement of women in the legal profession due to gender, ethnicity, sexual orientation, age, or disability. Activities include programming, researching and drafting reports, and collaborating with our NYSBA colleagues, law firms, corporations, the public sector, and outside bar associations. We promote scholarship, recognition, networking, and engagement to advance equitable access to leadership positions for women in the legal profession.

Gender Issues Committee

Addresses specific issues and rights that may impact women, children, and families. Examples include domestic violence, human trafficking, and gender violence. The committee also helps women secure leadership positions and develop specific skills, such as negotiation skills.

General Counsel Committee

Develops strategies and tactics to help advance women lawyers within companies and as outside counsel. The committee supports women in-house counsel to help them advance their careers and find and exploit professional opportunities. For current and former in-house counsel in private, public, and not-for-profit practice.

Legislative Affairs Committee (LAC)

Identifies new or existing New York State legislation relating to issues of interest to women, drafts evaluations and memos in support of proposed legislation as it may affect women, and presents such reports to WILS' Executive Committee (EC) for adoption, and when requested by the WILS' Chair or EC, to the NYSBA Executive Committee or House of Delegates for their consideration. Members conduct research, make recommendations to WILS regarding the legislation, and prepare memos supporting or opposing legislation. Members may also participate in meetings with NYSBA's lobbyist, plan programs, and develop partnerships with other NYSBA sections. The time commitment is approximately 15-25 hours annually. The peak committee activities occur between January and June 30.

Membership and Engagement Committee

Recruits, retains, and engages members of the Section and seeks to advance and promote WILS' mission. Committee members are the membership ambassadors of WILS.

Partners Committee

Explores the unique issues faced by women partners in law firms, including maximizing client development, securing firm leadership positions, and finding and acting as mentors and sponsors. Members network with other women partners and foster a strong and supportive community for women partners throughout New York State. For current and former partners or executive level counsel in private practice.

Reports, Surveys and Publications (RSP) Committee

Reviews reports submitted to the House of Delegates and drafts memos about such reports to the WILS Executive Committee for consideration. Committee members also conduct surveys on behalf of the Section, prepare WILS's publication, *WILS Connect*, and write articles, blogs, and other materials to promote the equality and fair treatment of women in the legal profession and all women under the law.

Women on the Move (WOM) Committee

Organizes and runs WILS' annual Women on the Move CLE conference, which focuses on topics of concern to women attorneys and is traditionally held in October. Members identify topics and speakers, work with panelists, and have the opportunity to speak on or moderate panels. This committee meets spring to late October.

Section Committees and Chairs

The Women in Law Section encourages members to participate in its programs and to volunteer to serve on the Committees listed below. Please contact Section Officers or Committee Chairs for further information.

Annual Meeting, Programming and CLE Committee

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Women in Law Section

Events & Activities

For decades, volunteers have been developing and presenting seminars, preparing rich collections of written materials and raising the bar for legal practice in New York. We're happy to provide continuing education programming and events for our Section members, and hope you will join us as we continue to add more to our schedule.

Visit **NYSBA.ORG/WOMENINLAW** and click on "Upcoming Events" tab for more info.



Take a look at what's coming up next...

**Getting To Ellen: A Memoir About Love, Honesty
And Gender Change**
April 27, 2023 | 6:00 p.m. – 7:00 p.m.
Virtual

**WILS Partner's Committee Quarterly Breakfast
Meeting**
May 2, 2023 | 8:30 a.m. – 10:00 a.m.
In-Person

All Rise: Well-Being For Lawyers
May 3, 2023 | 4:00 p.m. – 6:00 p.m.
Virtual

**Women In Law Section's Virtual Book Club
Meeting: Ice Queen**
September 12, 2023 | 6:00 p.m. – 7:00 p.m.
Virtual

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