

JOURNAL

NEW YORK STATE BAR ASSOCIATION



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150 Years



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150 Years of Progress – and Purpose

In 1876, a small group of New York lawyers set out to do something extraordinary. Years before there was an American Bar Association, at a time when the law was practiced by candlelight and correspondence traveled by post, they came together under a guiding vision:

To cultivate the science of jurisprudence, promote reform in the law, facilitate the administration of justice, and elevate the standards of integrity, honor, professional skill and courtesy in the legal profession.

Every generation of members has carried that purpose forward, and this year the New York State Bar Association honors its past and embraces the promise of its future.

When our founders first gathered, formal legal communications were transmitted by courier and rail. Collaboration required patience and proximity. The legal world of our founders in 1876 would be unrecognizable today. Today, connection happens in an instant. The transformation has been extraordinary. Yet the principles that guide us – integrity, professionalism, service, access to justice, and defense of the rule of law – remain constant. Our forebearers could not have imagined that we would have forged relationships and networks with bar associations across the country and around the world.

Our association's first president, John K. Porter, urged lawyers to "exercise a collective and permanent influence" on the great issues of their time. Those words remind us all of our obligation to shape civic discourse and promote legal reform where we see the need. By harnessing the expertise of attorney members to provide thoughtful, well-researched, balanced reports on issues that impact the public at large, we have had a permanent influence. And we *have* been at the forefront of the issues of our time: from proposing a permanent tribunal for international disputes that formed the groundwork for what is today the International Court of Justice at The Hague to our early support for marriage equality and advocacy for no-fault divorce in New York. We promoted legal reforms to support the right to counsel for indigent defendants, and to address the scourges of antisemitism, anti-Asian hate and gun violence. We have advocated for more family court judges, for the safeguarding of the legal rights of immigrants, and for diversity, all while grappling with



the impact of generational advances in technology on our profession and the justice system.

And while our founders were all white men, a reflection of their era, they laid the groundwork for a profession that has grown far beyond its beginnings. As only the ninth woman to serve as president of our association, I carry that legacy with humility and deep gratitude. The path for women and people of color in our profession has not been clear or smooth, but each generation of the New York bar has widened the door for those who follow. Our diverse membership in 2026 reflects the intellect and energy of the lawyers of New York and beyond. There are now over 55,000 members of the association. That is our strength.

We celebrate our 150th anniversary in a moment of great challenge. The rule of law, often taken for granted, is being tested, quite often by our own government. Civil discourse has been coarsened and often replaced by divisive rhetoric and calls to violence. We have witnessed an insurrection and still contend with its aftermath. In times like these, our role as lawyers extends beyond the courtroom and the boardroom. To honor our oath, we must amplify the truth, elevate civil discourse, defend constitutional principles, and always act with integrity.

The New York State Bar Association continues to be a welcoming community, a place where we learn from one another, lift each other up, and dedicate ourselves to something larger than any one case, client, or cause. Whether gathered in a courthouse, in the Great Hall in Albany, or connected online, we remain united by our common purpose and ideals to do the public good.

Here's to another 150 years of progress, service and justice.

Kathleen Sweet

Message From the Executive Director

There are many things to like about my job as executive director of the New York State Bar Association: the interactions with lawyers from so many different practices and places, the chance to be involved with the most important legal issues facing the state, helping the profession thrive in a world being reconfigured by artificial intelligence. But one thing that I especially like is not having to explain exactly what it is that an executive director does.

It wasn't always so.

More than 75 years ago the leaders of the association decided the time had come to hire someone to actually run things. They turned to a man named John E. Berry. Technically, Berry was not to be the executive director, at least not at first. He took the title of executive assistant. But to do what? The president of the association decided the answer to that important question should not be left to chance.

So, there it is in the minutes from a 1949 executive committee meeting: a careful recitation of how the newly minted executive assistant was to spend his time, a list that the president insisted should be set forth "at length." Not that the leadership didn't have other pressing business that day: There was a discussion of how to better provide legal services to veterans and a terse note that the leadership was not the least bit happy to learn that a lawyer from Buffalo did not have the "proper capacity" to write an article that had recently appeared in a bar publication.

The 12-point list of Berry's duties is both timeless and of the moment. He was to help local bar associations in the solicitation of qualified lawyers for membership (no. 2), organize and promote a better system of public relations (no. 4), obtain some advertising to keep the association's publications afloat (no. 5), and of course be the key player in the collection of delinquent dues (no. 6). But no. 7 best

captured the reality of the job, both then and now: "to assist the president and secretary in such other manner as they find useful."

Whatever else can be said about the job, it tends to come with long tenures. I am only the fifth person to hold the position since it began in 1949. In the years between Berry and me, the post has been held by William Carroll, Patricia Bucklin, and David Watson.

I won't try to guess what challenges, large and small, they dealt with. But when I arrived eight years ago from working at the ABA in Chicago, I couldn't have imagined what was ahead. In my short tenure the association has had to navigate the COVID pandemic, contend with the deep national divisions mirrored across our profession, stay at the forefront of the ongoing debate over the future of the bar exam, reimagine continuing legal education, and work with leadership to implement a new business model for the association – one where all members have access to all the CLE opportunities, forms and publications NYSBA creates.

None of it was easy for any of us, but I have felt fortunate to be sitting where I am, to work directly with such talented colleagues – people who care about their fellow lawyers and are committed to finding the best possible solutions to the problems the profession confronts every day.

Sitting here today, I can't predict what will be coming my way next. Unlike John Berry, I have no 12-point list to turn to. But whatever it is, the job of the executive director doesn't really change, no matter who is sitting in the chair. The job will always be to help the association and its leaders in, as they say, "such other manner as they find useful."

Pamela McDewitt



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The Adventures of the New York State Bar Association

By Hon. Rowan D. Wilson

The founding of the New York State Bar Association 150 years ago came alongside a host of notable events. The United States celebrated its 100th birthday that year, yet scarcely a decade before it was unclear whether the nation would survive. That same year, to secure a victory for Rutherford B. Hayes in the election of 1876, the Republican platform called for the withdrawal of federal troops protecting African Americans in the South, ultimately facilitating not just Hayes's inauguration, but also the Klan's campaign of murder and terror. Also in 1876 Alexander Graham Bell spoke the world's first telephone message: "Mr. Watson, come here, I need you"; Melvil Dewey published his eponymous decimal system; Custer had his last stand at Little Big Horn; Wyatt Earp took a job in Dodge City; the first transcontinental train traveled from New York to San Francisco; Boss Tweed was captured in Spain and returned to prison in New York; and Heinz ketchup and Budweiser beer debuted.

When NYSBA was founded in 1876, it adopted a mission statement:

[T]o promote reform in the law, to facilitate the administration of justice, to elevate the standard of integrity, honor and courtesy in the legal profession, and to cherish a spirit of brotherhood among the members.

That mission statement is quite general, but also in 1876, someone else published a detailed guide for NYSBA to follow over the next 150 years. Even though the guide's author was famous, NYSBA was not quick to recognize it as its instruction manual. The work's title may have



thrown NYSBA's members off: the manual was called *The Adventures of Tom Sawyer*, by, of course, Mark Twain.

You may scoff at the notion that Tom Sawyer was NYSBA's guide through 150 years of history, but Twain himself, in the preface, explained that the book was not just "for the entertainment of boys and girls," but also "to pleasantly remind adults ... what queer enterprises they sometimes engaged in." Twain's point, in highlighting those queer enterprises, was to urge change. Let me give you just a few examples to convince the scoffers among you. One of the climaxes of the novel is the trial of Muff Potter – the town drunk who is charged with a murder he did not commit. The townspeople are eager for his conviction because they believe him to be "the bloodiest-looking villain in this country, and they wonder he wasn't ever hung before," even offering that "if he was to get free they'd lynch him." Muff Potter is saved not by the rule of law or the procedural protections we now take for granted, but because Tom and Huck Finn know him to be "kind of good" – someone who stands by them when they are out of luck – and therefore Tom decides to testify to clear Potter even though he believes he is signing his own death warrant.

Over the past 150 years, NYSBA has been at the forefront of promoting the rule of law and advancing the fairness of the criminal justice system. People like Muff Potter are now protected by the right to counsel even if the defendant cannot afford one, *Miranda* warnings and the exclusionary rule, the *Molineux* rule, and numerous other constitutional protections. True to Twain's concern for the fairness of court proceedings and to its mission, NYSBA

was instrumental in securing passage of legislation in 2017 that expanded full state funding of indigent criminal defense services from a five-county region to all of the state's 62 counties, and simultaneously helped block a proposal to defund the Legal Services Corporation.

Next, if we move back to the beginning of the story, we immediately learn that Tom and his half-brother, Sid, live not with a parent, but with their Aunt Polly, who, in the very first pages of the novel, is attempting to administer a beating to Tom. Tom is also regularly beaten by the schoolmaster (in one instance for the mere act of talking to Huckleberry Finn on the way to school). Eventually, he and Huck and Joe Harper, tired of such treatment, run off to pretend to be pirates. When the boys are missing and presumed dead, Aunt Polly and Joe's mother both realize that Tom "wasn't any more responsible than a colt," and that the beatings administered to Tom and Joe were abusive. When the boys arrive unharmed near the conclusion of their own funeral service, the adults "threw themselves upon their restored ones, smother[ing] them with kisses." No one was there for Huck, but Tom grabbed him as he tried to slink away, and said "Aunt Polly, it ain't fair. Somebody's got to be glad to see Huck."

The law's treatment of children has advanced greatly since 1876; as Aunt Polly explained, children cannot be held to the same level of culpability and responsibility as can adults. Children can, as in the case of both Tom and Huck, come from homes where the parents are not to be found, or in Huck's case, where an alcoholic father lacks the ability to care for him. And as Tom explained, the rest of us have a duty to care for children whose parents or other adult caregivers are unavailable, physically or emotionally. NYSBA has always prioritized advocating for a justice system worthy of New York's families, including by championing reforms that the state has adopted – including increasing pay for 18-B attorneys and family court judgeships to help reduce backlogs – and reforms still yet to be realized – such as mandated parental representation. Recognizing, too, that women like Aunt Polly contribute as much or more to our society than do men (who, in Tom's and Sid's cases are completely absent, and in Huck's case completely unable to support his son), Governor David B. Hill, while he was also NYSBA's president, signed legislation in 1886 permitting women to become lawyers. And, finally, NYSBA has long been supportive of our treatment courts, so that people once written off as "drunkards," like Muff Potter and Huck's father, have a prospect of court-aided recovery and reintegration as productive members of society.

Finally, when Becky Thatcher, with whom Tom is having a quarrel, accidentally tears a page in the schoolmaster's book she has surreptitiously taken, Becky believes she will be whipped for the first time in her life. Tom, who had already been whipped that morning for spilling ink,

does something no student had ever done: he volunteers that he was responsible – even though, in this case, he was not. Though "he took without an outcry the most merciless flogging that [the schoolmaster] had ever administered," the gratitude that "shone upon him out of poor Becky's eyes seemed pay enough for a hundred floggings," and as he went to bed his thoughts of vengeance against the schoolteacher gave way "to pleasanter musings."

Twain reminds us that doing good for others – even those who have transgressed, and even at personal cost – brings a unique type of satisfaction and fulfillment. That is the same sort of fulfillment lawyers achieve through pro bono work – the selfless devotion of time, expertise and resources to help the helpless. Both through its recruitment and organization of volunteer pro bono attorneys and through its philanthropic arm, the New York Bar Foundation, which just celebrated its 75th anniversary, NYSBA has provided vital legal representation to people in desperate need who could not afford to hire a lawyer.

Simultaneously, Twain reminds us that even those who have been wronged, as Tom was by Becky's "treachery," can, by acting with the consequences for others in mind, engage in "noble" acts that quell the thirst for vengeance and, instead, focus on what will improve the present and future for all. NYSBA has similarly prioritized restoration over retribution in its policy objectives – for instance, in its recent endorsement of the then-pending, now-enacted Clean Slate and Raise the Age Acts.

Just as Mark Twain wrote a guidebook for NYSBA's first 150 years, some author in 2026 is perhaps toiling away to write one for the next 150. Twain described *Tom Sawyer* as "strictly a history of a *boy* ... the story could not go much further without becoming the history of a *man*."

In 1876, NYSBA was newborn, its infancy and childhood still ahead of it. Now, as a full-grown institution, should no author in 2026 provide a roadmap for the next 150 years, NYSBA might turn to Twain's sequel for an instructive tale about two young men, both poor, one white and one Black, rafting down a river together, following the river's current and leaving behind the prevailing rules, written and unwritten, that had subjugated both. By traveling together, Huck comes to understand and value Jim's humanity and moral compass, even deciding that it would be better for him to "go to hell" than to betray Jim. That, and other lessons from *Huckleberry Finn*, might be a good enough navigation chart to guide NYSBA as it leads and supports us over the next 150 years.



The Hon. Rowan D. Wilson is Chief Judge of the State of New York and the New York Court of Appeals. He was previously an Associate Judge to the Court of Appeals from 2017 to 2023. From 1992 to 2017, he was a partner at Cravath, Swaine & Moore in New York City.

Sharing Our Memories

By Rebecca Melnitsky



Vivian Wesson

Vivian Wesson, the chair of the New York State Bar Association's Committee on Artificial Intelligence and Emerging Technologies, is proud of how the association is preparing attorneys for the impact of AI.



"The biggest challenge I see facing our profession is how are we training that next level of lawyers to think like lawyers, to do that type of analysis. If all they can do is query ChatGPT – well, we've seen spectacularly how that does not work. We still have to do the job of being lawyers. There is no concept of going to an actual library, with books, and pulling one off, and having to Shepardize a case, and actually having to go through that process. But it's still that mental training that less experienced attorneys still need. So how do we couple that with the capability of augmenting legal practice, without eviscerating the fact that I still need you to sit and think and be creative and ponder – whether or not this case actually speaks to these facts, or how do you analogize it and draw inferences and implications?"

"All of those things require some legal skill that the bot is not going to give you."

Lauren Sharkey

Lauren Sharkey, past chair of the Young Lawyers Section, recalled presenting the proposal to remove mental health-related questions from the state bar application. The New York State Bar Association feared that these questions were preventing aspiring attorneys from seeking treatment and that they were contributing to the mental health crisis in the legal profession.



"As part of the Young Lawyers Section, we were asked to be part of a report that was submitted to the House of Delegates, and even though I was one of many people who worked on that report, I was asked to co-present with David Marshall of the Committee on Legal Education and Admission to the Bar. That was a really cool experience, being able to present that to the House of Delegates."

"There were lots of different groups involved, so the Young Lawyers Section was asked to comment and be part of the group. We were asked to examine the application to the bar. On it, it had some questions about prior mental health history. Our job was to ask, 'Why is that? Why was that question there? What purpose does it serve? Is it important for the applicants to disclose it, should that affect their admission to the bar?'"

"Ultimately, the working group recommended that it not be included – that the question be eliminated. Just because someone has some mental health history should not be a distinctive factor of them being admitted to the bar."

As a result of the association's advocacy, mental health questions were removed from the bar application a few months later.

Peter Clark

Peter Clark, an attorney in Chautauqua County, fondly recalls bringing his family to New York State Bar Association meetings.



"My favorite spot to go for the bar meetings was Cooperstown. There's nothing quite like the Otesaga, in my opinion, for relaxation, the rocking chairs on the porch. I played golf on that course. And I used to take my son William there. He loved baseball. He was 12, 13 years old. I felt very comfortable with him going to the Hall of Fame."

"And as time went on, I used to take my granddaughter Shelby to the meetings when she was young. The first one we went to was at the Mohegan Sun in Connecticut. They had a CLE program there and they had Barbieland. She's 26 now, she was 5 then – and she still remembers Barbieland. I dragged her around to a number of meetings in Boston and New Jersey. We always had a great time. In fact, at the Equinox in Vermont, there is a school of falconry right next door. I got her a turn there for an hour, and she learned how to have a falcon on her arm. So, a lot of experiences were good for the family. And I enjoyed them too."

150 Years: Leading the Legal Profession in New York State

By David P. Miranda



NYSBA meets for its annual banquet at the Ten Eyck Hotel, Albany, in 1902.

As we celebrate the New York State Bar Association's 150th anniversary, we reflect on the issues the association addressed in its formative years and find many of those same challenges continue today. The matters of association membership, dues structure and whether to prioritize issues purely related to the practice of law and our courts, or broader social policy issues, remain constant. Today, NYSBA is the largest and most influential voluntary state bar association in the country. With members in every state and territory and 2,500 members in 100 countries worldwide, NYSBA is the most recognized and respected bar association in the world.¹

A Bar Is Born

The formation of the New York State Bar Association in 1876 was part of a trend toward organized bar associations, nestled between the formation of the Association of the Bar of the City of New York (1870) and the American Bar Association (1878).²

The state bar's creation was inspired by the Association of the Bar of the City of New York, which in 1876 surveyed lawyers throughout New York State to gauge support for a statewide bar association. There was virtual unanimity of those responding that a state bar was needed.³

The city bar held an organizing convention in Albany that met in the Assembly Chamber of the Old Capitol on Nov. 21, 1876.⁴ Elliot Shepard of Manhattan called the meeting to order and moved that William C. Ruger of Syracuse, the first president of the Onondaga County Bar Association, founded the previous year, serve as chair.⁵ There were 91 delegates in attendance, including representatives from all eight of the state's judicial districts.⁶ The delegates represented a broad array of politics, geography, and influence, and were described by The New York Times as representing "to an unusual degree, the learning and culture of the Bar of the State."⁷

At the 1876 convention, a committee was formed to draft the bylaws of the new statewide association. The bylaws have been subject to many changes over these 150 years, but the initial mandate "to cultivate the science of jurisprudence; to promote reform in the law; to facilitate the administration of justice; to elevate the standard of integrity, honor and courtesy in the legal profession" remains today.

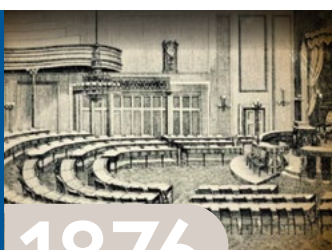
Upon approval of the bylaws, the newly formed Executive Committee took steps to incorporate, which took place on May 2, 1877, by act of the Legislature.⁸

Among the initial issues the new association addressed were membership dues and whether the association should focus on issues specific to attorneys and the practice of law or consider broader social and public policy issues.

These issues still resonate today. In 2024, the association launched a new subscription membership model with a dues structure that includes section membership, all-inclusive access to continuing legal education courses and programming, and full access to the association's ample publications and legal forms.⁹

Debate regarding the appropriateness of association policy beyond strictly "lawyer" issues has been present since the beginning. In its first year, the association had the Committee on Prizes, which gave its highest award to Walter Howe for his essay "Legal Relations of Capital and Labor." This topic was controversial, coming at a time of politicized labor disputes in our nation, and the association was criticized by some who cautioned the association to:

confine itself strictly to its legitimate object of reforming abuses, and elevating the professional standard, and refrain from interfering in matters foreign to them. If it will do this, it will be eminently successful; if not, dissension will be engendered, and it will likely fail.¹⁰



1876

Founding of NYSBA.



1884

Grover Cleveland chairs the NYSBA Annual Meeting months before his election as president of the United States.



1884

NYSBA recommends that Court of Appeals judges wear robes while on the bench.



1896

NYSBA members work with President Cleveland to establish an International Court of Arbitration, a precursor to the World Court.

Throughout its 150 years, the association has led on issues of importance beyond those directly impacting lawyers and the legal profession, harnessing the expertise of attorney members to provide thoughtful, well-researched, balanced, educational reports on issues that impact the public at large. Our reports examined such topics as international affairs,¹¹ gun violence,¹² preventing wrongful convictions and solitary confinement, marriage equality, the creation of Prisoners' Legal Services, the benefits of mandatory vaccines,¹³ artificial intelligence,¹⁴ and many others. The debate over the extent of the association's purview continues today.

Early Years

In its first decades, the association continued to balance addressing issues of specific concern to the legal profession and the courts with using its expertise and prestige to influence change nationally and internationally.

An early struggle among the bar was a movement toward codification of civil laws. Many lawyers were convinced that the common law, slowly developed over time by the courts, was best. Such a system also provided older, long-practicing lawyers with greater influence. They believed their advantage would be diluted if codification made the law more accessible.¹⁵

The state bar's Committee on Law Reform called the question of adopting a civil code and code of evidence among the most important legal questions facing the state.¹⁶ The committee's chair, David Dudley Field, contended that the law should be accessible, able to be found and written in one place, alleviating the need for lawyers and judges to search through volumes to find citations. The city bar opposed codification. Its leader called it "systems of despotic nations, a violation of natural law."¹⁷ Such parochial opposition slowed, but did not prevent, the proliferation of statutes and consolidated laws by the turn of the century.



The association opposed the continuation of diploma privilege, which allowed law school graduates to practice without taking a formal bar examination. In 1894, the association endorsed the concept of a uniform bar examination throughout the state, as opposed to separate exams in each judicial district. The association led the call for a statewide registry of lawyers by a central authority that became law in 1898.¹⁸

In 1909, NYSBA adopted the Canons of Ethics and called upon the newly formed Board of Law Examiners to test applicants concerning ethics, all measures that remain in practice today.

Today, the association continues its call for a vigorous New York-centric portion of the bar examination. When New York changed its licensing examination to the Uniform Bar Examination in 2017, it eliminated the full day New York examination, and replaced it with a shorter, online, open book, multiple-choice test of New York law. As New York State moves to what is known as the NextGen Exam, the state bar renews its call for a vigorous multi-hour essay test on New York law.¹⁹

The association's early leadership included many statewide and national leaders, including U.S. Presidents Grover Cleveland and Chester A. Arthur; Chauncey M. DePew, a U.S. senator from New York and president of the New York Central Railroad; and David B. Hill, the state bar's president from 1885 to 1887, who also served as New York's governor.²⁰

It is no surprise that such luminaries would find a role for the association in shaping world events. In 1897, a dispute between Great Britain and Venezuela over a boundary in British Guiana brought the two nations – and possibly the United States – to the brink of war. Concerned that similar conflicts could continue to draw the nation into international crises, NYSBA, through



1901

Vice President Theodore Roosevelt is sworn in as president of the United States at the home of NYSBA member Ansley Wilcox following the assassination of President McKinley in Buffalo.



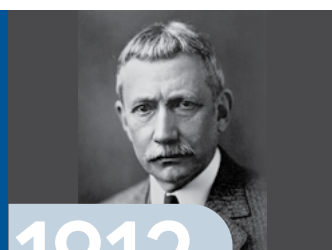
1901

NYSBA admits first female member, Kate K. Crennell.



1912

A report presented by NYSBA member Abram Elkus following the Triangle Shirtwaist Factory disaster leads to 35 new laws for workplace safety.



1912

Past President Elihu Root awarded the Nobel Peace Prize.



NYSBA holds its annual dinner at Hotel Astor in New York City, Jan. 12, 1918. Facing Page: Grover Cleveland chaired NYSBA's Annual Meeting in 1884, just months prior to being elected president of the United States.

the leadership of DePew, appointed a committee that recommended the creation of an international court of arbitration to peacefully resolve such matters. In a matter of weeks, the association produced a report and proposal for a permanent international tribunal of judges from nine nations. NYSBA leaders presented their proposal to the former association vice president and then-U.S. President Grover Cleveland at the White House.²¹ President Cleveland embraced the plan, which led to a permanent International Court of Arbitration in The Hague.

The association continues its influence in international arbitration with its 2011 task force report recommending that a permanent facility was needed to maintain New York's status as a leading world venue for international arbitration.²² The report's recommendations and NYSBA's

support were instrumental in the creation of the New York International Arbitration Center, which opened in Manhattan in 2013.

Membership

In its first year, the association gathered 356 members with dues of \$5. Membership more than doubled over the next 15 years to 800 by 1892. By 1930, membership increased to almost 5,000.²³ At its 100-year anniversary in 1976, membership was 26,000.²⁴ Membership continued to increase parallel to the increase in attorneys licensed in New York State, topping 70,000 members in 2001 and peaking at around 75,000 members.²⁵

After a decade of gradual, yearly declines, membership is currently around 55,000 members, making NYSBA



1920s

NYSBA Annual Meeting speeches are broadcast on radio for the public.



1927

NYSBA admits first Black member, Thomas Dyett, a native of Montserrat and assistant district attorney in Manhattan.



1928

NYSBA moves office out of the state Capitol to 112 State St. and begins publishing Bulletin of NYSBA.



1930

NYSBA debates if auto insurance should be compulsory and approves canons of judicial ethics.

the largest voluntary state bar association in the nation. Recognizing this gradual decline, in 2024 the House of Delegates approved a proposal from the Membership Committee to change association membership dues to be all-inclusive – free membership in two substantive sections, access to almost all of the association’s 400-plus yearly continuing legal education programs, and all of its digital content at no additional cost.²⁶ The new “subscription membership” model began in the fall of 2024 and is already showing a path to stabilization of membership and anticipated membership increases in the years ahead.

Famous Firsts

Although women had been permitted to practice law in New York since 1876, it wasn’t until 1901 that NYSBA became the first major bar association to have a woman member: Kate K. Crennell of Rochester, admitted to the bar in 1897.²⁷

In 1987, Maryann Saccomando Freedman of Buffalo took office as NYSBA’s first woman president.²⁸ In 2018, NYSBA created its Women in Law Section, which had previously been a committee. WILS has been active in preparing reports, creating association policy, and is one of the association’s fastest growing sections.²⁹

The association’s first Black member, Thomas B. Dyett, joined in 1927. Dyett, a native of the Caribbean island of Montserrat, a graduate of Howard University School of Law, was an assistant district attorney in Manhattan, and was later director of the New York County Lawyers Association.³⁰

In 1993, the association elected its first Black president, Archibald R. Murray of New York City, who was attorney in chief of the Legal Aid Society of New York.³¹

There have been several NYSBA presidents who also served as American Bar Association presidents. Two first served as ABA presidents, then NYSBA presidents. Joseph H. Choate served as ABA president from 1898 to 1899 and later as NYSBA president from 1906 to 1907. Alton B. Parker served as ABA president from 1906 to 1907 and later as NYSBA president from 1913 to 1914.

Elihu Root of New York City was NYSBA president from 1910 to 1911 and ABA president from 1915 to 1916. Root also served as a U.S. senator from 1909 to 1915 and as secretary of state under Presidents William McKinley and Theodore Roosevelt.³²

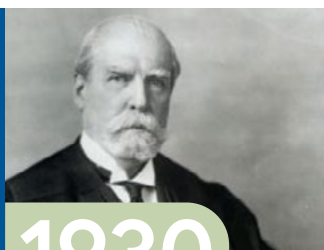


After serving as New York’s governor, associate justice (and later chief justice) of the U.S. Supreme Court, and running for U.S. president in 1916, Charles Evans Hughes was NYSBA’s president from 1917 to 1918 and ABA president from 1925 to 1926.³³

Orison S. Marden, NYSBA president from 1964 to 1965, also served as president of the New York City Bar Association in addition to the American Bar Association (1966-67).³⁴

Lawrence E. Walsh, NYSBA president from 1966 to 1967, was a former federal judge and future ABA president (1975-76). Walsh was later appointed as the independent counsel for the Iran-Contra investigation during the Reagan administration, issuing its final report and findings in 1993.³⁵

Robert MacCrate served as NYSBA president from 1972 to 1973 and later as ABA president (1987-88). He led the NYSBA Special Committee on the Law Governing Firm Structure and Operation, which in 2000 issued its Report on Multidisciplinary Practice (also known as the MacCrate Report). The report opposed non-lawyer ownership of law firms, which remains the policy of the association.³⁶



1930

Past President Charles Evans Hughes named chief justice of the U.S. Supreme Court.



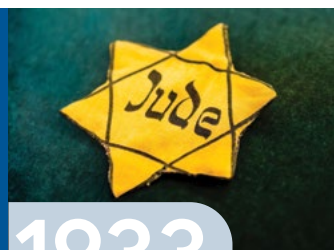
1932

NYSBA endorses concept of public defense attorneys.



1933

NYSBA moves to 90 State St., Albany’s first building with automatic elevators.



1933

NYSBA condemns Nazi attacks on Jewish lawyers and judges, the first public condemnation by an American organization.



NYSBA holds its annual dinner at Hotel Astor, New York City, Jan. 14, 1916. Facing page: Archibald Murray was elected as NYSBA's first Black president in 1993.

House of Delegates

Prior to 1972, the association's governing and policy-making body was the Executive Committee, sometimes called the Administrative Committee.³⁷ The old Executive Committee numbered between 65 and 75 members and, according to NYSBA president Henry J. Smith (1977-78), was considered "an elite, interesting, comfortable group to belong to."³⁸

Following the recommendation of the Committee on the Constitution and By-Laws, the House of Delegates was created as the association's governing and policymaking body. The new House of Delegates would be significantly larger than the Executive Committee.³⁹ Importantly, the new House of Delegates would include representation selected by bar associations from counties throughout the state proportional to the number of association members in each jurisdiction. Although the proposal passed, there was opposition on the theory that the larger body would be too unwieldy and some delegates representing other

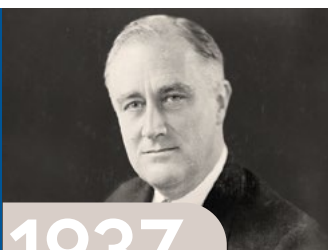
bar associations "might often be at cross-purposes with our enlightened view."⁴⁰

However, even those that initially opposed the change found the new House of Delegates brought the association to a heightened and more inclusive level. The new delegates were found to be "obviously proud to represent their bar associations" and to have their local bars participate in the work of NYSBA.⁴¹ In 1977, then-President Smith declared "the aura of a House of Delegates meeting is, almost palpably, that the entire bar of the state of New York is represented there."⁴²

Since that time the House of Delegates has expanded to include 12 diversity seat delegates and two out-of-state delegates.⁴³

Lawyers Litigating

As an association of lawyers, NYSBA has commenced litigation sparingly and only when there was a clear path



1937

Members vote to oppose FDR plan for court packing of U.S. Supreme Court.



1939

Members approve resolution condemning assault on free speech in Hitler's Germany.



1941-45

600 NYSBA members fight in World War II.



1945

NYSBA supports the creation of the United Nations.

to remedy substantial injustice. The decision to litigate is made by the association's Executive Committee.

The association commenced its first lawsuit in 1997 seeking to declare unconstitutional a federal act that criminalized advising elderly clients on how to lawfully dispose of assets to qualify for Medicaid.⁴⁴ The association challenged the act as violative of the First and Fifth Amendments to the Constitution. The U.S. District Court for the Northern District of New York granted NYSBA's motion for preliminary injunction, and that decision was not appealed by the government.⁴⁵

In 2002, the association filed a complaint against the Federal Trade Commission challenging application of the privacy provision of the Gramm-Leach-Bliley Act, intended to regulate access to consumers' personal information.⁴⁶ The association challenged the application of privacy provisions to attorneys upon the grounds that Congress never intended to cover lawyers under the law and the regulations of attorney-client confidences are reserved to the states under the 10th Amendment. Following the granting of the association's motion for summary judgment, the FTC appealed, and the appeal was consolidated with a similar case brought by the ABA. The U.S. Court of Appeals for the District of Columbia affirmed, holding the FTC's attempt to regulate the practice of law fell outside its statutory authority.⁴⁷

As early as 1932, the association advocated for publicly funded defenders for those unable to pay for counsel. In 2022, the association commenced a lawsuit to increase the rate of pay for assigned counsel in criminal and family courts throughout New York State.⁴⁸ NYSBA's statewide lawsuit followed the granting of preliminary injunction in a lawsuit filed by the New York County Lawyers Association and nine other metropolitan bars that granted an increase to assigned counsel rates, known as 18-B lawyers, in New York City.⁴⁹

Following the lawsuits and NYSBA's legislative advocacy, New York State in its 2023 budget increased the rates for assigned counsel throughout the state for the first time in almost 20 years.

Home of the Bar

Shortly after its incorporation by act of the Legislature in 1877, the association was provided with its first home at New York State's Old Capitol on State Street. In 1883, after the completion of the current "new" Capitol, the Legislature provided the association with space there, where it remained for the next 45 years.⁵⁰ A mural that includes the current Capitol while it was under construction is in the Peck Room of the association's current home, an homage to Albany's history when the association was formed.

In 1928, the association expanded and moved to 112 State Street, where it remained until 1933 when it moved to the 15th floor of Albany's newest office tower at 90 State Street, known as the National Savings Bank building.⁵¹

Twenty years later, in 1953, the association moved into the first building it owned, at 99 Washington Avenue. The building was purchased in 1951 in large part due to a \$300,000 bequest from member William Nelson Cromwell. One of the bar luminaries, Cromwell continues to be recognized for his contributions with the Bar Center's Cromwell Room.⁵²

In 1969, the bar association purchased its current home, now known as One Elk. It initially consisted of four adjoining townhouses at numbers 1, 2, 3, and 4 Elk Street. The Bar Center's namesake building number 1 could not be saved and now serves as green space. After historic preservation efforts were made to keep the buildings' 19th century façades, the architect James Stewart Polshek melded the old buildings with a modern, brutalist design, sufficient to house the association's more than



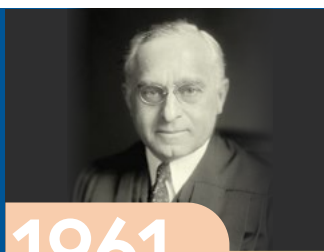
1950s

Red Scare: NYSBA stands against loyalty oaths and defends rights and protections of attorneys representing accused communists and war criminals.



1954

U.S. Supreme Court Justice Robert H. Jackson receives the Gold Medal, NYSBA's highest honor, at Annual Meeting.



1961

U.S. Supreme Court Justice Felix Frankfurter receives the Gold Medal.



1966

U.S. Supreme Court Justice Marshall Harlan receives the Gold Medal.



NYSBA gathers for its President's Dinner at the Manhattan Club in New York City, Jan. 25, 1952. Facing page: William Nelson Cromwell donated \$300,000 when NYSBA purchased its headquarters at 99 Washington Ave., Albany. Next page: John K. Porter was elected NYSBA's first president in 1877.

90 employees and its over 250-member governing body, the House of Delegates, which meets in Albany three times a year and once in New York City.⁵³

The Bar Center is nestled perfectly between the New York Court of Appeals and the Capitol. The One Elk Street buildings are recognized for their creative integration of historic preservation with modern design. One Elk creatively combines a new building with 19th century townhouses to form a single, functional complex.⁵⁴ This unique combination of historic architecture and award-winning contemporary design led former design critic Ada Louise Huxtable of *The New York Times* to call the building “one of the neatest architectural achievements in the century ... it is a sophisticated triumph in the most delicate, complex and poorly understood art of the environment: urban design.”⁵⁵ In the words of Past President Scott M. Karson (2020-21), “When One Elk is full for a House of Delegates meeting or reception, it

has an energy that is electric and alive. Walking through its halls during moments of quiet contemplation, one can feel the comforting weight of its history and be inspired by the greatness of those who have passed through its doors. The building has become a proud symbol of the greatness of our association.”⁵⁶

A few years after its dedication on Sept. 24, 1971, the association expanded to add buildings at 5 and 6 Elk Street. One Elk underwent a substantial expansion in 1990 and less glamorous renovations in 2024.

The association continues to take great pride in preserving the historic nature of the property, which was the home of four New York governors – William Marcy (1832-34), Washington Hunt (1850-52), Horatio Seymour (1852-54), and Enos T. Throop (1930-31). In addition, during his time as a state Senator, Franklin Delano Roosevelt was a resident (1911-13).⁵⁷



1968-71

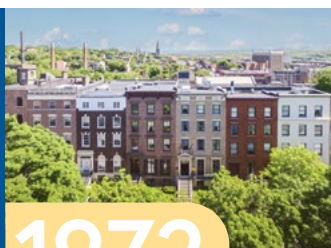
NYSBA purchases four townhouses on Elk St. and begins renovations. Gov. Nelson Rockefeller dedicates 1 Elk St., which opens in 1971.



1972

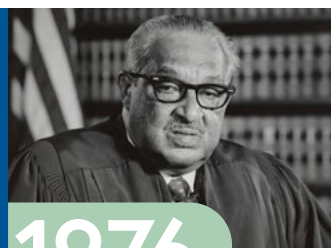
Following the Attica prison riots, NYSBA helps launch Prisoners' Legal Services of New York.

Buffalo News file photo



1972

NYSBA forms the House of Delegates, moving to a representative form of government.



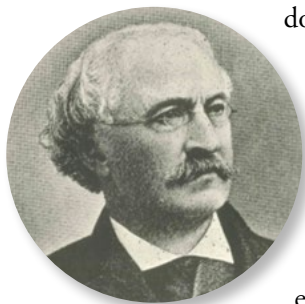
1976

U.S. Supreme Court Justice Thurgood Marshall receives the Gold Medal.

The Past Is Prologue

In 1877, as John K. Porter assumed office as the first president of the newly created New York State Bar Association, he held out hope that “this association may endure, and that it may exercise a collective and permanent influence.”⁵⁸ Today, the association has

done both – and far more – and maintains a strong presence in the legal and civic life of New York State.



Over its 150-year history, NYSBA has frequently adapted to meet the needs of its members, the legal profession, and the public. Time and again, it expanded operations and broadened its outlook, as dictated by the needs of the day.

In the past, change meant expanding the association’s brick-and-mortar presence either through relocation of its headquarters or overhauling its facilities space. Major moves and ambitious renovations of the Bar Center on Elk Street signaled new beginnings and an expansion of the association’s role as the leader for lawyers across the state and around the world.⁵⁹

NYSBA’s influence has been collective and permanent, as President Porter had hoped, not only in New York State but around the world. Our membership rolls have included U.S. presidents, New York governors, chief justices of the U.S. Supreme Court, chief judges of the U.S. Court of Appeals for the Second Circuit and chief judges of the New York Court of Appeals. From the UK-Venezuela border dispute to NYSBA’s outpouring of support after 9/11, our history is rich and remains faithful to its motto: “Do the Public Good.”

NYSBA remains a prominent voice providing analysis on the issues of the day, on the debates, the decisions, the actions of government, and the evolution of the law and our system of justice. Our trailblazing nature was

evident at our inception, when the very legislation creating our association also removed the barriers to women practicing law in the state. It was the beginning of a progressive tradition that continues to this day. Then, as now, NYSBA remains a positive force helping to shape a more just society.⁶⁰



David P. Miranda is general counsel of the New York State Bar Association. He was president of NYSBA from 2015 to 2016. He hosts the NYSBA podcast MIRANDA Warnings.

Endnotes

1. MCI Group, Report for New York State Bar Association – Developing Membership Growth and Engagement Strategy (Nov. 2018). On file.
2. The American Bar Association was formed in Saratoga, N.Y. in 1878. See also David Miranda, *The Birth of the New York State Bar Association* (with Hank Greenberg), Miranda Warnings NYSBA Podcast, Nov. 1, 2022, https://www.youtube.com/watch?v=Uxvk_GfV65s; Henry M. Greenberg, *The Birth of the New York State Bar Association*, 94(3) New York State Bar Association Journal (hereinafter N.Y. St. B.J.) 9 (May-June 2022).
3. Deborah S. Gardner and Christine G. McKay, Of Practical Benefit: New York State Bar Association, 1876–2001, at 9 (2003) (hereinafter Of Practical Benefit).
4. Francis Bergan, *History of the New York State Bar Association – A Century of Achievement* (hereinafter *A Century of Achievement*), 48(7) N.Y. St. B.J., 514, 516 (Nov. 1976).
5. Ruger would later serve as NYSBA’s fourth president (1883) and Chief Judge of the Court of Appeals (1883–1892). Shepard would serve as NYSBA’s fifth president (1884).
6. Of Practical Benefit, *supra* note 3.
7. *Id.*
8. Of Practical Benefit, *supra* note 3, at 10; 1877 N.Y. Laws, ch. 210.
9. New York State Bar Association (hereinafter N.Y. St. Bar Ass’n), Report and Recommendations of the New York State Bar Association Committee on Membership (January 2024), https://nysba.org/wp-content/uploads/2022/03/NYSBA_Comm-on-Membership_New-Membership-Model_January-Report-w-Cover_FINAL-VERSION.pdf.
10. Greenberg, *supra* note 2, at 15, citing 1 New York State Bar Association, Reports 2 (1878), note 14 at 82–83.
11. N.Y. St. Bar Ass’n, Final Report of the New York State Bar Association’s Task Force on New York Law in International Matters (June 25, 2011), <https://nysba.org/wp-content/uploads/2020/02/Task-Force-on-New-York-Law-in-International-Matters.pdf>; N.Y. St. Bar Ass’n, New York State Bar Association Ethics Best Practice Guidelines for Latin America and the Caribbean (April 2018), https://nysba.org/wp-content/uploads/2020/02/FINAL-Latin_American_Council_Ethics_Best_Practice_Guidelines-1.pdf; N.Y. St. Bar Ass’n, Resolution of the International Section (Nov. 2022).



1981

NYSBA establishes a statewide lawyer referral service.



1984

U.S. Supreme Court Justice Potter Stewart receives the Gold Medal.



1987

Maryann Saccomando Freedman becomes first woman president of NYSBA.



1988-89

New York State establishes the IOLA Fund for indigent legal services at the behest of NYSBA and other groups.

<https://nysba.org/wp-content/uploads/2022/11/new-business-resolution-of-International-Section-Ukraine.pdf>.

12. N.Y. St. Bar Ass'n, Report of the New York State Bar Association Task Force on Mass Shootings and Assault Weapons (Nov. 2020), <https://nysba.org/wp-content/uploads/2020/02/Final-Report-11.5.2020-Task-Force-on-Mass-Shootings-and-Assault-Weapons-With-cover-FINAL-HOD-approval-and-staff-memos-deleted.pdf>.

13. N.Y. St. Bar Ass'n, Report of the New York State Bar Association Emergency Task Force on Mandatory Vaccination and Safeguarding the Public's Health (Aug. 2021), <https://nysba.org/wp-content/uploads/2021/08/EC-Approved-Final-Report-on-Emergency-Task-Force-on-Mandatory-Vaccination-and-Safeguarding-the-Publics-Health-with-appendix-a.pdf>.

14. N.Y. St. Bar Ass'n, Report and Recommendations of the New York State Bar Association Task Force on Artificial Intelligence (April 2024), <https://nysba.org/wp-content/uploads/2022/03/2024-April-Report-and-Recommendations-of-the-Task-Force-on-Artificial-Intelligence.pdf>.

15. *A Century of Achievement*, *supra* note 4, at 516; Of Practical Benefit, *supra* note 3, at 18.

16. *Id.*

17. Of Practical Benefit, *supra* note 3, at 17-18.

18. Of Practical Benefit, *supra* note 3, at 22.

19. Domenick Napoletano, *Time for Change: Future Attorneys in New York Need a Rigorous Exam To Be Better Prepared* (President's Message), 97(2) N.Y. St. B.J. 12, 13 (Spring 2025).

20. Of Practical Benefit, *supra* note 3, at 19.

21. Henry M. Greenberg, *NYSBA's Noblest Act: Preventing War and Establishing a World Court*, 95(2) N.Y. St. B.J. 9-13 (March/April 2023). See also David Miranda, *History of NYSBA: Our Noblest Act: Preventing War and Establishing a World Court* with Hank Greenberg, Miranda Warnings NYSBA Podcast, March 7, 2023, <https://podcasts.apple.com/us/podcast/history-of-nysba-our-noblest-act-preventing-war/id1395349801?i=1000603016069>.

22. Final Report of the New York State Bar Association's Task Force on New York Law in International Matters, *supra* note 11.

23. Of Practical Benefit, *supra* note 3, at 37.

24. Joseph H. Murphy, *A Page of History* (The President's Page), 48(2) N.Y. St. B.J. 83 (Feb. 1976).

25. Paul Michael Hassett, *Ave atque Vale* (President's Message), 73(4) N.Y. St. B.J. 26 (May 2001).

26. Report and Recommendations of the New York State Bar Association Committee on Membership, *supra* note 9.

27. Of Practical Benefit, *supra* note 3, at 15; *A Century of Achievement*, *supra* note 4, at 528.

28. Jennifer Andrus, *NYSBA Trailblazer Maryann Saccomando Freedman Speaks Out*, NYSBA News Center (Dec. 5, 2022), <https://nysba.org/nysba-trailblazer-maryann-saccomando-freedman-speaks-out>; David Miranda, *NYSBA Trailblazer: Maryann Saccomando Freedman*, Miranda Warnings NYSBA Podcast, Dec. 5, 2022, https://www.youtube.com/watch?v=kvQD_4jwUAY.

29. For more information on the Women in Law Section's impact on the legal profession, see Susan Harper's story on page 30.

30. Of Practical Benefit, *supra* note 3, at 38.

31. *A Century of Achievement*, *supra* note 4, at 523; Of Practical Benefit, *supra* note 3, at 134-35.

32. *A Century of Achievement*, *supra* note 4, at 524; Of Practical Benefit, *supra* note 3, at 42-44.

33. Of Practical Benefit, *supra* note 3, at 34.

34. Of Practical Benefit, *supra* note 3, at 111.

35. Of Practical Benefit, *supra* note 3, at 114.

36. N.Y. St. Bar Ass'n, Report of the New York State Bar Association Special Committee on the Law Governing Firm Structure and Operation (April 2000), <https://nysba.org/wp-content/uploads/2020/01/MACRATEREPORTAccessible.pdf>.

37. Henry J. Smith, *The President's Page*, 49(7) N.Y. St. B.J. 547-48 (Nov. 1977).

38. *Id.* at 548.

39. Currently, the House of Delegates has between 250 and 270 members.

40. Smith, *supra* note 37, at 548.

41. *Id.*

42. Smith, *supra* note 37, at 586.

43. These delegates are appointed by the president and confirmed by the Executive Committee. Currently, the out of state delegates are from England and Brazil, emblematic of the association's international reach.

44. Robert Pear, *Repeal Urged for Law on Giving Away Assets To Get Medicaid*, New York Times (Feb. 18, 1997).

45. *N.Y. St. Bar Ass'n v. Reno*, 999 F. Supp. 710 (N.D.N.Y. 1998).

46. *N.Y. St. Bar Ass'n v. FTC*, 276 F. Supp. 2d 110 (D.D.C. 2003).

47. *ABA v. FTC*, 430 F.3d 457 (D.C. Cir. 2005).

48. N.Y. St. Bar Ass'n v. State of New York (Sup. Ct. N. Y. Co. 2022); Susan DeSantis, *New York State Bar Association Commences Lawsuit To Raise 18-B Rates*, NYSBA News Center (Nov. 30, 2022), <https://nysba.org/new-york-state-bar-association-sues-to-ensure-people-who-cannot-afford-counsel-have-constitutionally-mandated-representation/>.

49. *New York County Lawyers Ass'n v. State of New York*, 2022 N.Y. Slip Op. 32476(U) (Sup. Ct., N.Y. Co. 2022).

50. Of Practical Benefit, *supra* note 3, at 10.

51. Of Practical Benefit, *supra* note 3, at 56.

52. Of Practical Benefit, *supra* note 3, at 96.

53. Of Practical Benefit, *supra* note 3, at 127-28.

54. Scott M. Karson, *A Vision for the Future*, 93(3) N.Y. St. B.J. 9-10 (May-June 2021).

55. See N.Y. St. Bar Ass'n – Rededication, Nov. 10, 1990, at 6 (commemorative booklet). See also Ada Huxtable, *Goodbye History, Hello Hamburger: An Anthology of Architectural Delights and Disasters* (1986).

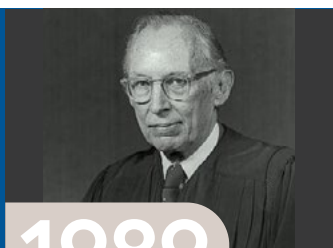
56. Karson, *supra* note 54, at 9-10.

57. Of Practical Benefit, *supra* note 3, at 127.

58. N.Y. St. Bar Ass'n, *NYSBA History Book* (2024). nysba.org/wp-content/uploads/2025/07/NYSBA-History-Book-2024_rev20250708.pdf.

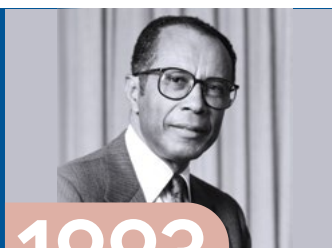
59. Karson, *supra* note 54, at 8.

60. N.Y. St. Bar Ass'n, *supra* note 57; N.Y. St. Bar Ass'n, *The Bylaws of the New York State Bar Association*, as Amended at the Annual Meeting of the New York State Bar Association Jan. 19, 2024, <https://nysba.org/wp-content/uploads/2024/02/Bylaws-January-2024-rev-mmw-2.6.24.pdf>.



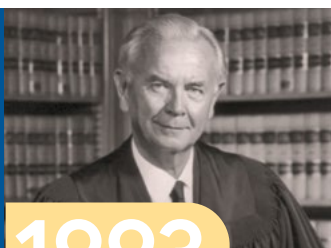
1989

U.S. Supreme Court Justice Lewis F. Powell receives the Gold Medal.



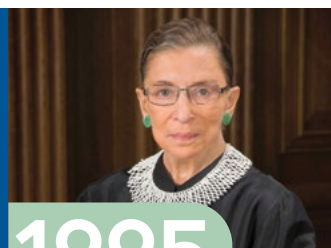
1993

Archibald Murray becomes the first Black president of NYSBA.



1993

U.S. Supreme Court Justice William Brennan Jr. receives the Gold Medal.



1995

U.S. Supreme Court Justice Ruth Bader Ginsburg receives the Gold Medal.

Domenick Napoletano Richard Lewis Glenn Lau-Kee David Miranda
Michael Miller Henry "Hank" Greenberg Claire Gutekunst

David Schrauer

Vincent Doyle III

Sharon Stern Gerstman Sherry Levin Wallach

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Mark Alcott

Kathryn "Kate" Madigan

Stephen Younger Bernice Leber A. Vincent Buzard Seymour James T. Andrew Brown Catherine Richardson Scott Karson

Resilience and Leadership: The New York State Bar Association's Impact and Legacy at 150

By Taa Grays

Resilience. As the New York State Bar Association celebrates its 150th anniversary, we can look back at its history as one of perseverance in the face of adversity. Through the Great Depression, two world wars, the Civil Rights Movement, the Watergate scandal, 9/11, the Great Recession and a global pandemic, we survived. We supported our members. We ensured access to justice. We protected the rule of law. We led – serving as an example to others in the legal community.

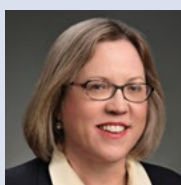
On our anniversary, we are examining the significant milestones of the association through the eyes of the past presidents, revealing how their leadership navigated challenges, responded to pivotal events, and launched initiatives that enabled the association to persevere and succeed.

The Nimble President

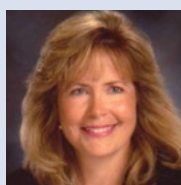
“Oftentimes you have to move into areas that you didn’t anticipate as part of your presidential priorities,” explains Past President Claire Gutekunst. “You have to be nimble.” Being nimble, as Past President Kathryn “Kate” Madigan observes, is “critical because the landscape is changing so quickly today.”

Past President Glenn Lau-Kee agrees. “[T]here’s always a balancing act ... between what ongoing initiatives have to be continuing and what resources have to go toward that, and the president has to keep the bar association current on what’s happening in the world at large and the legal world and really take a good bird’s eye view look at the profession to see what priorities should be established for the future.”

Yet, there will always be something that requires the association to respond.



Claire Gutekunst



Kathryn “Kate” Madigan



Glenn Lau-Kee

“You don’t always get the year that you plan,” Past President Mark Alcott notes. “You get the year that you get, and yes, you must plan.” The president must balance and prioritize these responsibilities in light of this ever-changing landscape.



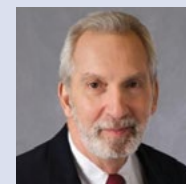
Mark Alcott

Being Steadfast: Keeping the Ultimate Goal in Sight

“Flexibility is the key to stability,” observed John Wooden, legendary coach of the UCLA men’s basketball team, and some of NYSBA’s presidents saw that concept play out during their own terms. The president’s primary objective is to advance the association’s mission – to be the leading bar association by advancing: (1) the professional success of our members, (2) access to justice and (3) the rule of law. The association’s history reflects being nimble but steadfast, keeping the mission in sight.

Professional Success of Our Members

NYSBA presidents have focused on listening to and serving their members as well as the broader legal profession. When asked, “What one word would describe the impact the association has had on the legal profession and the broader New York community throughout its 150-year history?” Past President Michael Getnick responded, “Sections.”



Michael Getnick

The association’s 28 sections provide a “legal home” for our members to drive their professional success. “It’s really a tremendous learning tool,” Getnick explains, “one where you not only are learning things, but you are connecting with people who are in the same fields. [T]he ability we have to put out the type of sections that we do



1996

Members rally to help the victims’ families in the crash of TWA Flight 800 off Long Island.



1998

NYSBA sues federal government to reverse act that criminalizes the transfer of Medicaid assets. The measure was derisively called the “Granny’s Counsel Goes to Jail Act.”



September 11
2001

NYSBA members rally to provide free legal help to survivors, displaced attorneys, and families of 9/11 victims.



2008

U.S. Supreme Court Justice Sandra Day O’Connor receives the Gold Medal.

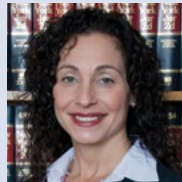
is a greater strength than many people realize for the bar.”

NYSBA’s sections are vital to ensuring members are provided with a voice. Through the sections, the association speaks authoritatively and credibly on various laws, regulations and policies. This voice, Past President Catherine Richardson says, “[has] made a huge difference in the regulations that actually govern our profession and that this voice is why the association has been impactful for the last 150 years.”



Catherine Richardson

NYSBA was also the voice for 18-B counsel. Past President Sherry Levin Wallach points to the 2022 matter of *NYSBA v. State of New York* on behalf of assigned counsel. The association successfully sued to increase the hourly rate for assigned counsel outside of New York City. The state raised the rate from \$60 per hour for misdemeanors and \$75 per hour for felonies (set in 2004), to the rate paid in federal courts of \$158 per hour for all matters. “That was significant for our history, the attorneys who do the assigned council work, [and] the community members who need that legal assistance.”



Sherry Levin Wallach

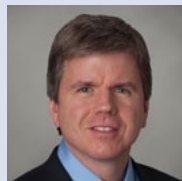
Not Business as Usual

NYSBA’s presidents have had to step up in extraordinary times.

The 9/11 attacks in 2001 upended the plans of Past President Stephen Crane. “I remember talking to Steve Crane about his plans for his presidency,” Past President Vincent Doyle III observes. “He was faced with ... the collapse of



Stephen Crane

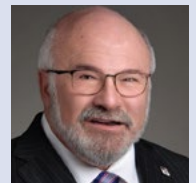


Vincent Doyle III

the legal system down in New York City. And he spent the better part of his presidency helping to organize lawyers [and the courts] to volunteer to help people and to help the legal system face the challenge.”

A global pandemic upended the plans of Past President Scott Karson. As he recalls, “there were all of these issues that came up involving the pandemic, which I had not anticipated, but yet, had to be called out to be addressed.”

The pandemic enabled an opportunity for the association to leverage virtual tools implemented just a few months before the pandemic. This “virtual bar association” was created by Past President Henry “Hank” Greenberg. “The system went up a few weeks before COVID,” Greenberg explains, “And the virtual bar center enabled us to do everything online that the bar association did in a bricks and mortar environment ... And we largely accomplished that.”

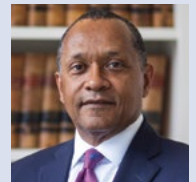


Scott Karson



Henry “Hank” Greenberg

Yes, the mission was accomplished. When association members were unable to go to the Bar Center in person, they were able to access it virtually. “We learned that we could use technology to advance our mission,” Past President T. Andrew Brown, who also was president during the pandemic, shares. “We learned that we could conduct business remotely. We learned that we could be more cost effective, more efficient and engage more members. And that has lasted.”



T. Andrew Brown

Being a lawyer had been considered a recession-proof profession. That changed in 2008. The Great Recession impacted lawyers at all experience levels, but most severely for law students and new lawyers. Getnick, seeing the fallout of the Great Recession on new lawyers during his term in 2009,

NEW YORK STATE OFFICE OF
Indigent Legal Services

2010

NYSBA celebrates wins with the creation of the State Office of Indigent Legal Services and the approval of no-fault divorce in New York.

June 24
2011

Approval of marriage equality in New York State is a victory for NYSBA and many other advocates.

2018

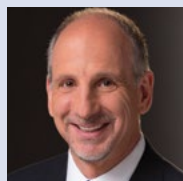
The Women in Law Committee becomes the Women in Law Section.

2020

U.S. Supreme Court Justice Elena Kagan receives the Gold Medal.

thought, “Who better than the New York State Bar Association to help other lawyers?” He reflects on the program he headed entitled “Lawyers Helping Lawyers.” “We started groups where we had no committees ... we had task forces where people who were experiencing difficulties could come and get advice and assistance.”

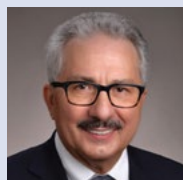
The association continued to find ways to aid law students a few years later under Past President David Miranda, who spearheaded the initiative to offer free membership to students at all accredited law schools in the U.S.



David Miranda

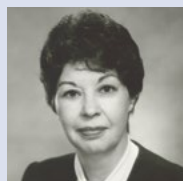
A Bar Association for Everyone

The legal profession has not always supported the professional success of all lawyers. The association “has gone through many changes [in its 150 years],” observes Immediate Past President Domenick Napoletano, “but in [making] those changes, it has been more inclusive by bringing in various groups.”



Domenick
Napoletano

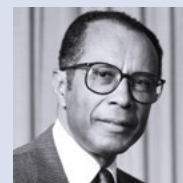
“In 1923, the New York State Bar Association was one of the very few in the nation that recognized women lawyers and set up a division for women lawyers on it,” says Richardson, the second elected female president. “I’m lucky enough to be alive and watch[ed] that policy come to fruition when we elected our first woman president, who was Maryann Saccomando Freedman.”



Maryann
Saccomando
Freedman

Greenberg further notes, “And you have to place that in context. She became president in 1986. ...The first woman to be a member of the New York State Bar Association would go back more than 80 years in 1901 with Kate Crennell.”

Doyle noted that the first member of color was Thomas Dyett, a prosecutor from New York City in the 1920s. Seventy years later, the association elected Archibald Murray, president of the Legal Aid Society of New York, as its first person of color president in 1992.



Archibald Murray

The election of Saccomando Freedman and Murray are noted by all past presidents as significant historical milestones bringing inclusiveness to the highest level of the association’s leadership.

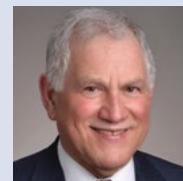
With the tone set at the top, the association then needed to reflect inclusiveness in the House of Delegates and membership. The change did not come quickly. “We talked a lot about this issue,” recalled Past President A. Thomas Levin, “We passed a lot of resolutions about things, and we devised programs that we thought would attract people to come to us and join. And none of those things worked.” Levin realized a new approach was needed:



A. Thomas Levin

If you really want to get people involved, you have to do outreach and you have to go where they are and talk to them and explain to them why you have mutual interests and can be of great assistance to each other. ... I made a point of that. I made sure that I went all around the state to local bars, preaching the same thing that they needed to become more diverse. ... And that program eventually worked.

The association has also proactively provided leadership on legal issues concerning diversity. “Before the [*Students for Fair Admissions*] Supreme Court decision came down,” explains Past President Richard Lewis, “[w]e anticipated that decision, we put together



Richard Lewis



2020

NYSBA holds first all-virtual House of Delegates, drawing largest attendance ever, chaired by President-Elect Scott Karson.



2020

The LGBTQ+ Law Section is formed.



2025

U.S. Supreme Court Justice Stephen Breyer receives the Gold Medal.



2025

Taa Grays becomes the first Black woman selected as president-elect of NYSBA. She takes over as president on June 1, 2026.

a task force, and we began to immediately attack the issues.” The resulting 2023 report completed in partnership with Paul, Weiss became a national handbook on how to comply with the court decisions.

Access to Justice

“Fairness,” famously observed Supreme Court Justice Potter Stewart, “is what justice really is.” The association has been a leader in advancing access to legal services so all litigants can have a fair chance in the legal system.

“People don’t remember the ‘80s and ‘90s,” Richardson notes. “We were a leader in establishing access to justice across the nation. ... I think people didn’t understand how little civil legal advice a great number of our citizens were able to gather and then not just the poor, [but also] the people of modest means.” The association created the standing President’s Committee to Access Justice in 1989. During Richardson’s term, the committee’s bylaws were amended to include the president-elect as the co-chair.

Another significant association milestone was the creation of the New York Bar Foundation in 1950. The foundation directs funding to organizations that provide access to justice to those in need.

“Historically, the New York State Bar Association has provided significant support to the Bar Foundation,” observes Past President David Schrauer. “I think the Bar Foundation has enhanced the reputation of the association.”



David Schrauer

Many past presidents in addition to Schrauer emphasized the importance of the foundation’s work and the association supporting access to justice initiatives generally and during their terms.

In 2008, NYSBA began partnering with the foundation to distribute funds from cy pres funding, which were settlements from class actions that were leftover or unclaimed. The funds were awarded to nonprofits with missions closely related to the interests of the class members in the settlements.

“Between 2009 and 2016,” notes Past President Bernice Leber, who initiated this effort during her presidency, “some \$4.5 million were brought into the Bar Foundation for administration of justice programs on various needy causes for the public.”



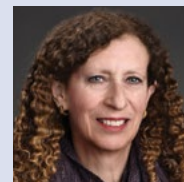
Bernice Leber

“I think by providing access to justice, you help people to understand and respect the rule of law,” observes Schrauer. “If people can’t access justice and the means to justice, they can neither understand and likely won’t have respect for the rule of law. ... I think the foundation is extremely important in those regards.”

Rule of Law

Access to justice is entwined with the rule of law. The legal system cannot be fair if everyone is not treated equally under the law.

When asked what one word would describe the impact the association has had on the legal profession as well on the broader New York community, Past President Sharon Stern Gerstman replied, “Conscience. ... [F]or many years, all of our stationery had a lot to do with do the public good. And it was not only an encouragement for our members to keep pro bono, but it also really set forth what we stood for ... we were more interested in changing the law when it was necessary to change, to protect the public, to better the public, to strengthen our institutions.”



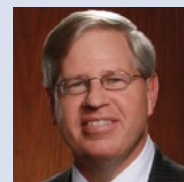
Sharon Stern Gerstman

The president is the voice of the association and as such can use it to advance the rule of law. “NYSBA has a special voice for the profession,” Past President Michael Miller points out. “It is the preeminent voice in this state and in the nation.” Getnick explains that these issues “just have to be addressed and lawyers are in some of the best positions to address them and speak out. And we owe that to the public.”



Michael Miller

One of those issues was marriage equality. “[I]n 2009, I was privileged to lead the House [of Delegates] when we passed a resolution saying civil union was not enough,” explains Past President Stephen Younger. “And we needed marriage to have equal status.”



Stephen Younger

The association was a leader in the effort. But the effort was not without pushback, Getnick explains:

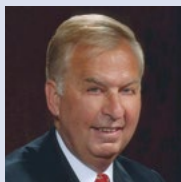
We were actually told. ... the bar association has to stop putting this before the Legislature. You’re just making them angry. It’s never going to pass. And if you keep on doing this, they’re not going to want to listen to your other initiatives. My reaction, the reaction of others was, well, if not us, who?

The association’s advocacy helped get the Marriage Equality Act passed and signed into law in 2011. “We had a real impact on our state, on our community,” Younger observes. “It was a really proud moment for the New York State Bar Association.”

The association has also represented its members by voicing concern whenever a proposed law might not ensure justice is administered fairly. In 2005, under the George W. Bush administration, the U.S. Department of Justice proposed requiring defendants to waive the attorney-client privilege as a condition for taking a plea.

"[The] attorney-client privilege is sacred," states Past President A. Vincent Buzard. "We depend on it," Buzard explains:

So, I appointed a task force to study that and to advocate for it. The task force included Loretta Lynch, who later was attorney general of the country. [W]e were the first in the country to have to take that position and eventually the Justice Department backed off.



A. Vincent
Buzard

Under the Clinton administration, the federal government proposed legislation that would criminalize attorneys giving advice to seniors about how to handle their finances to enable them to obtain Medicaid. The association acted in January 1998. Past President Seymour James recalls NYSBA's leadership on the issue:



Seymour James

I think it was the first lawsuit the association had filed. It filed a lawsuit against ... [Attorney General] Janet Reno ... to prohibit them from implementing a law that would penalize lawyers for giving advice to clients. And this would have interfered with the attorney-client relationship, and they were giving legal advice to their clients. And I think that eventually ... the government withdrew its proposal. [T]hat is an example of how the bar association can work for lawyers.

In January 2017, during the initial Trump administration, NYSBA actively advocated for the preservation of due process in immigration proceedings. In response to the administration's Executive Order 13769, titled "Protecting the Nation From Foreign Terrorists Entry Into the United States," which suspended entry for 90 days for nationals of seven Muslim-majority countries, Past President Claire Gutekunst partnered with New York State to provide pro bono legal representation to immigrants suddenly in limbo about their status.

The Next 150 Years – Being the Leading Voice

"The reputation of a professional association," observed John E. Berry, the New York State Bar Association's first executive director, in 1962, "is measured by its contributions to the well-being of the profession and the public." Over the course of its 150-year history, the association has made significant contributions to both the legal profession and society at large. Its resilience has enabled it to advance its mission and establish itself as the leading bar association.

Looking ahead, the question becomes: what must be done to ensure that the association continues to be the leading bar association for the next 150 years? Past presi-

dents have offered valuable guidance, and several themes emerge from their collective wisdom:

1. **Membership and Inclusiveness:** Strengthen member engagement, promote inclusiveness – particularly among younger lawyers – and continue to provide meaningful benefits and value to all members.
2. **Advocacy and Justice:** Uphold the rule of law in a balanced and non-partisan manner, stand firmly for what is right, and address disparities in access to justice to maintain societal relevance.
3. **Adaptability and Technology:** Remain current with rapid changes in the profession, leverage technology to support members, and adapt nimbly to evolving practices.
4. **Support for Small and Solo Firms:** Serve as a vital resource for small and solo practitioners, ensuring they receive the support and benefits necessary to thrive.
5. **Leadership in the Profession:** Continue to be the voice of the profession, collaborating with other bar associations and community stakeholders to advance justice and serve the public good.

These themes represent essential takeaways for future leaders, ensuring that the association remains resilient and impactful for generations to come.

Reflecting on the association's legacy, Past President Nathan L. Miller – also a former governor of New York – remarked in the December 1952 New York State Bar Bulletin: "It has not been possible to mention in a brief chronicle every important measure which it has successfully sponsored. Their number is legion. ... Suffice it to say that it has always been guided by what it believed to be in the public interest."

By building on past successes and lessons, future leaders are well positioned to continue the New York State Bar Association's vital work in advancing the profession and serving the public interest.



Taa Grays is the president-elect of the New York State Bar Association. She is chair of the association's Committee on Bar Leaders and co-chair of the President's Committee on Access to Justice.

Sharing Our Memories

By Rebecca Melnitsky



Anthony Enea

Anthony Enea, past chair of the Elder Law and Special Needs Section, remembered the successful fight against a law that criminalized advising clients on transfers of assets to qualify for Medicaid, otherwise known as "Granny's Lawyer Goes to Jail," in the late 1990s.

"That was a big seminal moment for the association and the section where there were assertions being made and possible statutes presented that would have made engaging in Medicaid planning a crime. Federal law criminalized transferring assets for Medicaid eligibility. It was repealed in 1997. And then they tried to propose 'Granny's Lawyer Goes to Jail,' which made it a crime to advise for a fee on asset transfers for Medicaid purposes.

"However, in 1998, it was deemed unconstitutional due to First Amendment free speech violations. So that was a very big moment for us.

"We fought back against it. We contacted our legislators. At the Elder Law Section, we've always been very proactive in working with lobbyists and the legislators involved in senior and special needs issues.

"There's been a lot of times that we've been very active, but this was the one that stood out. First, it was 'Granny Goes to Jail.' Then, they wanted to make the person doing the planning a criminal, and then it was 'Granny's Lawyer Goes to Jail.' So, it's that whole period. We rose up as a section and members of the state bar and actively fought it."



Jill Pilgrim

Jill Pilgrim, past chair of the Dispute Resolution Section, reflected on how far the state bar association and the legal profession have come in inclusivity and diversity.

"The fact that it's 150 years makes me feel honored to be part of something that's been that long established. That also does not make me forget that bar associations and the legal profession prevented people like me from being a part of them for many years. So being part of an organization that has this long tradition is great, to see where it is now – that it's inclusive – to see that the New York State Bar Association always wants to be best in class. It's very important. I see that it's an association that strives to be more inclusive."



John Feerick

John Feerick, dean emeritus at Fordham Law School, remembered when he learned he would be honored with the Gold Medal Award in 1996.

"I was stunned when I was asked to receive the Gold Medal of the New York State Bar Association. I remember the president at the time, Maxwell Pfeifer – from the Bronx – wanted me to know when he called to tell me about the Gold Medal that I was the first recipient from the Bronx, where I grew up. It's a moment that was very special to me in my life."

Feerick also reflected on how the New York State Bar Association amplifies issues of national importance, including his work drafting the 25th Amendment, which established the line of presidential succession.

"Early on in my life, I had a chance to be involved with constitutional amendments having to do with the 25th Amendment to the Constitution and an effort to change the Electoral College.

"I found an opportunity to write on those subjects for the New York State Bar Association Journal. I was very proud to write on the subjects I mentioned – and the president's pardoning power. It reflected public services that I was rendering at the time. Having an opportunity to communicate to the profession through the publications of the New York State Bar Association, I found very attractive."



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Looking Back in Search of a More Equitable Future

By Hon. Edwina G. Richardson

Over the course of writing this article, I had the honor of participating in a Sankofa ceremony commemorating a Black man who was lynched in the Adirondacks in 1932. His name is lost to history.¹ Rooted in cultural traditions from the Akan people of Ghana, Sankofa ceremonies emphasize the importance of reconnecting with the past to inform our future. The New York State Bar

Association's 150th anniversary provides an opportunity to engage in similar reflection.

This reflective spirit encouraged me to engage with NYSBA's early history. When NYSBA was in its nascent stages, its first president, Judge John K. Porter, envisioned the association to be "an undertaking by practical men ... to be of practical benefit to the profession and to the

community at large.”² Our society, in many ways, would be unrecognizable to NYSBA’s founding members and, inevitably, much of what is beneficial to contemporary society differs dramatically from 1870s America. Yet this objective is as relevant today as it was 150 years ago. The driving aspiration to be beneficial to communities and the profession has, I venture, equipped NYSBA with an elasticity that enables us to celebrate its sesquicentennial. To honor that past, I would like to reflect on some ways that the association has been practically beneficial and how it can continue in that spirit.

One example of how NYSBA has been of practical benefit to the legal profession and community has been by diversifying its membership. At its inception, NYSBA was literally an “undertaking by practical men.” Women could not practice law in New York until 1886, after then NYSBA President and Gov. David B. Hill signed legislation lifting the proscription on women being admitted to the New York bar.³ The New York State Bar Association did not admit its first female member, Kate Crennell, until 1901.⁴ NYSBA would not have a female president for another 86 years, when Maryann Saccomando Freedman was elected in 1987. Today, we can see how far we as a profession have come: The number of women in the legal profession and NYSBA has significantly increased, with women now practicing law in every sector, leading the legal profession, and serving as leaders in our courts (including myself). To my delight, NYSBA’s leadership is mostly women: President Kathleen Sweet, President-Elect Taa Grays, and Treasurer Susan Harper.

One hundred and fifty years since NYSBA’s founding, its membership more generally reflects the rich diversity of New York State. While the association gained its first female member in 1901, its first Black member, Thomas B. Dyett, did not join until 1927. It would be another 66 years before NYSBA elected its first Black president, Archibald R. Murray. Today, NYSBA’s membership includes people from all backgrounds, experiences and identities. The association also has multiple sections that focus on diversity, civil rights and equity within the profession. Many foster the next generation of diverse legal professionals through scholarship opportunities and/or mentorship programs, embodying the spirit of being of practical benefit to our profession and communities. That NYSBA’s membership is more diverse and inclusive than it was 150 years ago is a powerful practical benefit that has and will continue to have widespread ripple effects. Undoubtedly, including as many voices as possible enriches our profession and, by extension, society.

NYSBA’s history is replete with other examples of practically benefiting society and the legal profession. Some themes emerge. One is providing a forum to engage with pressing legal and social issues. The association “reflects society. Society often disagrees with itself.”⁵ Thus, an

important feature of NYSBA has been to encourage members of the legal community to grapple with and inform the public about these issues. NYSBA does this by providing educational programs that analyze our laws and encourage forward thinking. NYSBA also offers a forum for robust debates on prominent legal and societal issues. To this latter point, I recommend perusing section reports issued by the association’s sections; they are teeming with future-oriented and solutions-focused analyses of pressing issues.

Another theme is supporting causes that help our society progress. The association has historically supported causes that promote access to justice, such as right to defense in criminal cases (predating *Gideon v. Wainwright*) and access to legal services.⁶ Recently, NYSBA supported the Equal Rights Amendment to New York State’s Constitution, exemplifying its continued commitment to be practically beneficial.

Further, NYSBA supports access to justice for all, regardless of background, income or circumstance. The association has long advocated for increased access to quality legal services for low-income people across New York and a reputable legal profession to furnish these services. The association has also been an ardent supporter for pro bono work, including partnering with the Unified Court System for an annual celebration of Pro Bono Week in October. Steadfast support for access to justice through affordable legal services and information is, as the Deputy Chief Administrative Judge for Justice Initiatives, particularly dear to my heart.

Reviewing NYSBA’s history through a Sankofa-inspired lens that encourages connecting the past to the future illuminates a wonderful blueprint for the future, showing that reflection provides direction. As we move from the past 150 years to the next, our challenge will be to carry forward the lessons from our past to craft a legal profession that is ever more equitable and more attuned to the needs of society. The New York State Bar Association has indeed laid a foundation to do just that.

Deputy Chief Administrative Judge Edwina G. Richardson leads the New York State Unified Court System’s Office for Justice Initiatives, which is tasked with promoting meaningful access to justice in all New York state courts regardless of income.

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1. I am deeply grateful to Beck Zucker, my special counsel, for his help with researching and drafting this article.

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4. *Id.* at 8, 13 n. 115 (2022); Gardner & McKay, *supra* note 2, at 37.

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NYSBA Leads the Way: The Rise of Women in Law

Kate Stoneman

By Susan L. Harper

During the Gilded Age, New York witnessed the meteoric rise of organized membership associations. Women of that era established their own associations to unite, excite, and bring about changes to the law, their rights, and their roles in society as individuals, wives, mothers, and workers. At gatherings over tea and conventions, the activists of the day formed powerful associations to gain local, state, and federal voting rights, address racial justice, and seek economic and social reforms.¹

The end of the 19th century also saw the birth of the New York State Bar Association. Organized by the leading attorneys of the era, the new association brought lawyers together to strengthen the profession and tackle pressing legal issues. However, in keeping with the times, women were excluded from the new state bar. It would take until 1901 to admit Kate Crennell of Rochester as the first woman NYSBA member² and more than 110 years before Maryann Saccomando Freedman of Buffalo became the first woman NYSBA president.³ Yet the absence of women attorneys did not mean that influential 19th century advocates, ordinary citizens, and allies in the Legislature and the judiciary were not thinking about how the law could be used strategically to advance women's interests.⁴

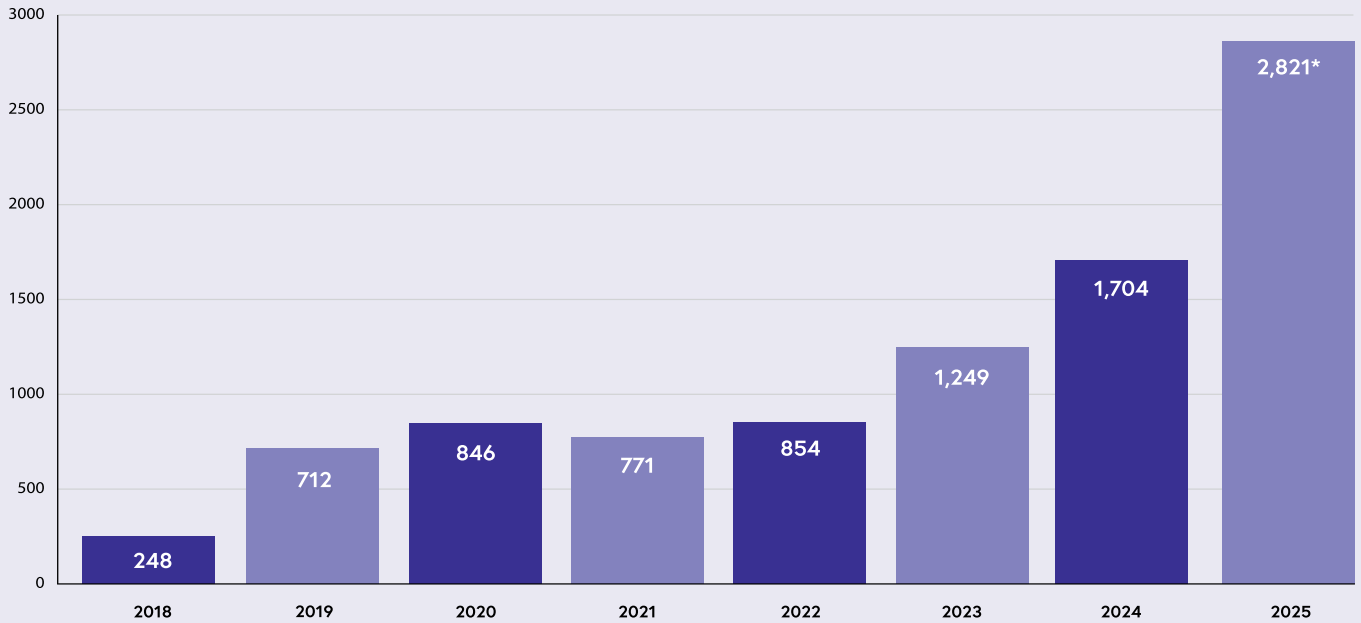
One such trailblazer was Kate Stoneman. In 1886, after being denied admission to the New York bar solely based on her sex, Stoneman and her fellow Albany suffragists mounted a successful lobbying campaign.⁵ Their efforts persuaded Gov. David B. Hill (then also president of NYSBA) to sign legislation permitting women to practice law in New York.⁶

Paving the Way for Women in Law and Reform

Today, women attorneys make up more than 41% of the legal profession nationwide.⁷ At the New York State Bar Association, women constitute 48% of the association membership and engage in all practices of law.

The association's growing Women in Law Section, building on the work of its predecessor, the Committee on Women in Law, continually pushes the boundaries for women in law and society, using strategies and tactics that closely mirror those of the 19th-century activists who paved the way: leading, educating, organizing, publishing, messaging, speaking, testifying, and lobbying.

While modern women in law now employ digital tools to connect, promote, and advocate, the mission to advance the law for women remains true to its 19th-century roots.



The Women in Law Section has grown to nearly 3,000 members since its inception eight years ago.

*as of Dec. 17, 2025.

Equally enduring are the platforms created through the association's committees and sections, which continue to elevate issues, frame reports, and bring recommendations before the Executive Committee, House of Delegates, and the state Legislature.

20th Century Women in Law and Society Advance

Women only made up 3% of all lawyers nationwide from 1950 to 1970, according to the American Bar Association, which has been tracking attorneys since 1878. Starting in the 1970s, during a decade that ushered in women's rights activism and landmark court rulings and legislation, 9% or around 6,682 of all U.S. law students were women and the "numbers doubled and doubled again" in the decade, reports the ABA.⁸

The landmark Supreme Court decisions of the 1970s reshaped women's rights, addressing issues such as workplace and pregnancy discrimination, reproductive rights, equal protection in estate administration, contraception, military spouse benefits, Social Security, and equal pay and economic opportunity. Bolstered by groundbreaking legislation such as Title IX, which prohibits discrimination based on sex in educational programs or activities

that receive federal support, and the 1974 Equal Credit Opportunity Act, which opened financial doors long closed to women, women forged new pathways to achieve equality at home, in schools, and in the workplace.⁹ Many of these cases were shaped and argued by famed New York attorney and later U.S. Supreme Court Justice Ruth Bader Ginsburg, founder of the ACLU's Women's Right's Project¹⁰ and a NYSBA Gold Medal



Ruth Bader Ginsburg sits for her confirmation hearings for the U.S. Supreme Court on July 21, 1993.



The Women in Law Section and NYSBA supported putting the Equal Rights Amendment before the voters.

honoree. Notably, while the wins achieved in the 1970s were very significant, they were also a reminder that women were still unequal in the law, in the workplace, and in the courts.

Women, however, were energized by the landmark and life changing victories of the 1970s and the new educational opportunities now opened to them because of Title IX, spurring more women to enter the legal profession.¹¹ By the start of the 1980s, there were more than 40,000 women in law school¹² and 8% of all U.S. attorneys were women.¹³

Women in Law Mobilize in New York State

With this new momentum, women in law mobilized in the 1980s to create their own new influential associations and committees, including the Women's Bar Association of New York. The Women's Bar Association brought

together regional women's bar associations and attracted well-known women attorneys and judges who focused on gender bias in the profession and the courts. They addressed the challenges women faced in becoming partners, securing judicial positions, and accessing health-care, while also developing legislation to support women in other key areas. One early notable win was advocating for the passage of the Private Clubs Anti-Discrimination Bill, which prohibited discrimination against women and minorities in private clubs with 100 or more members. The legislation passed in 1994 shortly after New York State Chief Judge Judith Kaye was denied entry to the dining room in an all-male New York City club.¹⁴

Women became a major focus within the court system in the 1980s. Then New York State Chief Judge Lawrence H. Cooke created the Task Force on Women in the Courts, which concluded that "gender bias against women litigants, lawyers, and court employees is a pervasive problem with grave consequence. Women are often denied equal treatment and equal opportunity."¹⁵

Responding to these developments, the New York State Bar Association launched its own Special Committee on Women in the Courts, chaired by Ruth G. Schapiro of New York City, along with Gail G. Wright of New York City, who was chair of Minorities in the Profession. The special committee found that "gender bias was still pervasive in the [legal] profession and that minorities continued to be denied full participation in the profession."¹⁶

Under the leadership of NYSBA's first elected woman president, Maryann Saccomando Freedman, "the Code of Professional Responsibility was amended to include antidiscrimination disciplinary rule and corresponding ethical consideration as part of the initiative approved by the NYSBA's House of Delegates to curb biased treatments and promote opportunity in the profession."¹⁷



Chief Judge Judith Kaye.

“With this new momentum, women in law mobilized in the 1980s to create their own new influential associations and committees, including the Women’s Bar Association of New York.”

During this decade, women attorneys were finally gaining ground at the highest levels of the judiciary, breaking the marble ceiling. The 1983 appointment of NYSBA member Judith Kaye as the first woman associate judge on the New York Court of Appeals was a watershed moment for women in the judiciary. Only two years earlier, Sandra Day O’Connor was nominated as the first woman to serve on the United States Supreme Court. A decade later, Kaye would be appointed chief judge of New York State, where she would identify methods to address gender discrimination in the legal system, improve the jury system and the civil justice process, and introduce problem-solving approaches to drug and domestic violence cases.¹⁸ One biographer said at the time, “Kaye’s performance as Chief Judge, ongoing as of the date of this writing, has been nothing short of ‘phenomenal’ (to use one of Kaye’s own favorite words). As a judge on the Court of Appeals, she continued to combine the highest level of judicial reasoning with a pellucid writing style, all under the umbrella of ‘what makes sense.’”¹⁹

Women in the New York State Bar Association

Building on the 1970s women’s rights movement, the mobilization of women lawyers in the 1980s, and women attaining major judiciary and bar leadership roles, NYSBA launched the Committee on Women in Law in 1986, which became a standing committee of the association. Also chaired by Schapiro, the committee was charged with identifying, studying and making recommendations to address gender bias and law-related issues affecting women. The 50-person committee was built through appointment by the NYSBA president. Appointments were strategic, with top women attorneys tapped to lead the influential committee and



NYSBA Past President Kate Madigan with U.S. Supreme Court Justice Sandra Day O’Connor. Madigan presented the Gold Medal to Justice O’Connor in Arizona in 2008.

its subcommittees. Committee leaders tackled issues of importance to women attorneys, as well as legislation and policy impacting women generally. The committee proposed actions to ensure the fair treatment of women under the law and the full participation of women in the administration of justice and as equal members of the legal profession.



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The 2018 Annual Meeting program featured Bronx DA Darcel Clark (third from the left) and Frettra de Silva (second from the right), past chair of the Women in Law Section.

Expanding the Committee to the Section

In the three decades from when the committee was established in 1986 to 2018, the national population of lawyers climbed to over 1.3 million— an over 100% increase in just 30 years.

Significantly, the proportion of women attorneys reached:

- 20% in 1991.
- 27% in 2000.
- 41% in 2024.²⁰

In response to this growth, in 2018 the then 50-person committee requested to be expanded into a section to support the growing body of women attorneys. Supported by then-NYSBA President Michael Miller, NYSBA President-Elect Hank Greenberg, and Secretary Sherry Levin Wallach (who became NYSBA president for 2022–23), the 30-year-old committee officially converted to the Women in Law Section in 2018. The change was enthusiastically and unanimously approved by the Executive Committee and House of Delegates during the June 2018 meetings in Cooperstown.

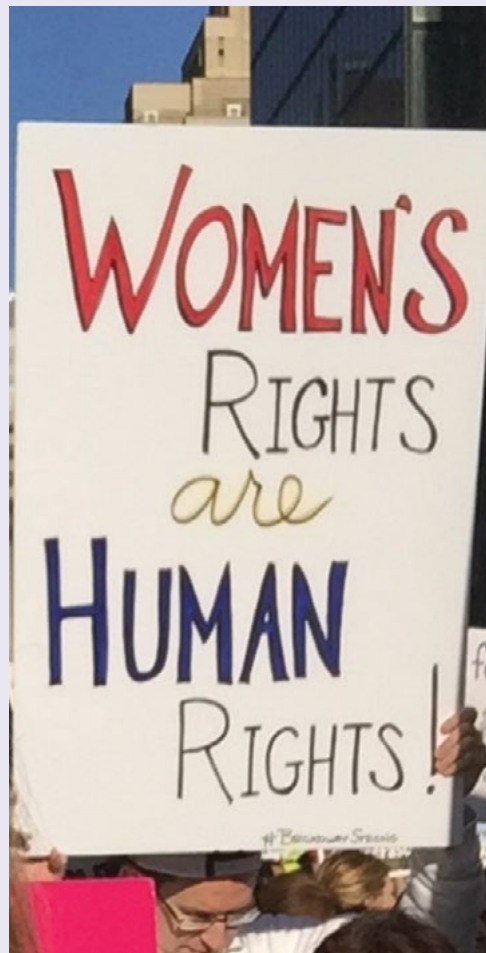
Upon the announcement of the new Women in Law Section new members instantly joined, growing the section from 50 to around 800 members, attracting women and men nationally and internationally. This expansion offered a larger platform for women attorneys to amplify their voices within the association and the state and to

engage with one another no matter where they are in their lives and careers. Over a dozen committees were established under the section's bylaws, with new committees introduced, including: Emerging Lawyers, Equity in the Legal Profession, Gender Issues, General Counsel, Partners' Champions (male allies), Reports, Surveys and Publications, and Women in the Association.

Seven years later, the Women in Law Section is one of the largest sections in NYSBA, ranking No. 7 out of 28 sections with over 2,800 members.

NYSBA Advances and Supports Women's Rights and Professional Responsibilities

Engagement, education, and policy advancement have long defined NYSBA's Women in Law Section (and previously the committee). Through networking programs and events, section members make valuable relationships, and gain insights and skills to support and advance their legal careers. Whether learning about rainmaking, negotiations, AI and technology, client development, general counsel skills, or turning obstacles into opportunities, the section works to continually support member needs. The section also regularly comments on legislation to combat discrimination and societal disparities. From creating model parental leave and sexual harassment policies to advocating for laws on equal pay, paid family leave, revenge porn, reproductive rights, domestic vio-





Legal pioneer Edith I. Spivack, for whom the Women In Law annual symposium is named.



Justice Tanya R. Kennedy, Appellate Division, First Department.

lence, and the ERA in New York State, the section ensures that the collective voices of female attorneys are heard.

The section also hosts popular Annual Meeting programs, luncheons, and awards that often draw on the who's who of the judiciary and prominent attorneys over the last four decades, including Presiding Justice of the Appellate Division, First Department, Betty Ellerin, former Chief Judge Janet DiFiore, former Chief Judge (now Senior Judge) of the U.S. District Court for the Southern District of New York Colleen McMahon, General Counsel of the Legal Aid Society Susan Lindenauer, Bronx District Attorney Darcel Clark, former Chief Judge Judith Kaye, Associate Justice of the Appellate Division, First Department Hon. Tanya R. Kennedy, and past bar presidents. Such luminaries have shared stories of their own challenges to inspire the current and next generation of attorneys and bar leaders to step up to the plate professionally, and mentor and support each other.

In one of her last visits to the committee before her passing, Judge Kaye spoke before the Annual Meeting audience and repeated the following: "Each one of you can be the chief judge." Planting these seeds sowed the idea, belief, and vision that, even against all odds, each attorney can rise to be a giant of the bar and the judiciary; associate attorneys can become partners; partners can become managing partners; managing partners can become firm chairs; in-house counsel can become general counsels, and any one of us could even rise to become the chief judge of the state of New York, as Kaye did.

Women in Law Section Continues To Respond

With the backsliding of women's rights following the *Dobbs* decision and the attacks on diversity, equity, and inclusion by the current administration and some states, the Women in Law Section is responding with groundbreaking reports brought to the attention of the House of Delegates, innovative publications and programming throughout the year, including at its 2026 22nd Edith I. Spivack Annual Meeting Symposium, "Knowing Our Rights: Protections Across Life in New York." Longtime NYSBA women in law leader Carol C. Villegas, partner at Labaton Keller Sucharow, who recently secured a landmark jury verdict holding Meta Platforms liable for the unauthorized recording and commercial use of women's menstrual health data, will deliver the 2026 keynote address. Attendees will also learn about navigating their rights from four panels focusing on pregnancy and workplace accommodations, LGBTQ+ and marriage equality, age and disability discrimination, and wellness and resiliency.

Progress: Women in the Majority

New York has one of the largest proportions of women attorneys of any state. By the end of 2024, the New York State Unified Court System Office of Court Administration Attorney Registration Unit reported that there were 190,015 resident New York attorneys and 170,152 attorneys outside of New York for a total of 360,167 licensed attorneys.²¹ The Office of Court Administration does not keep public statistics on the number of New York licensed women attorneys. However, NYSBA estimates

that women make up approximately 40% of the attorneys in New York State, mirroring the national numbers. The growth in women attorneys is fueled by student composition in law schools. Today, women are gaining parity and, in some cases, surpassing their male counterparts, with women making up 56.2% of law school students nationwide,²² and U.S. law schools awarding more juris doctor degrees to women than men, while senior lawyers – predominantly male – are retiring.²³

Women's progress does not end there. Women now account for 55% of summer associates and exceed the number of male associate attorneys as of 2024 at 51.6%.²⁴

Nationally, as of Jan. 1, 2024, women made up 41% of the legal profession, or around 542,286 attorneys out of the 1.35 million active lawyers in the United States, according to the ABA.²⁵

While women attorneys still lag their male counterparts in partnerships (women account for 28% of all law firm partners as of 2024²⁶ and women of color, 5% of all partners for the first time in 2024),²⁷ their continued growth in the legal profession and in other professional spheres cannot be denied. Women are chairs, CEOs, general counsels, state and federal judges, prosecutors, defense counsel, governors, legislators, law school deans and professors, law firm partners and owners, members of boards of directors, and public sector attorneys. At the New York State Bar Association, women hold positions at all levels: presidents, presidents-elect, secretaries, treasurers, section and committee chairs, and staff.

It is no coincidence that qualified and influential women sit in these leadership positions today.

With a stroke of New York Gov. Hill's pen in 1886, and through the determined lobbying of women and supportive allies, the course of women as attorneys, in society, and at the New York State Bar Association changed forever.

As we enter our 150th association year, let us pause to celebrate the progress women attorneys have achieved and the allies and institutions who stood beside us who have helped us break barriers, drive reform, and advance opportunities. Challenges remain, but united in purpose and strengthened by our shared legacy, our collective power will continue to propel us forward.



Susan L. Harper is the treasurer of NYSBA. Admitted to the New York and New Jersey bars, Harper is a financial services attorney whose work bridges law, finance, and advocacy. She is the founding chair of NYSBA's Women in Law Section and a past chair of the Committee on Women in the Law. She is a past president and board chair of the Financial Women's Association of New York, Inc. and its educational fund, as well as a board member of the New York County Lawyers Association.

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Sharing Our Memories

By Rebecca Melnitsky



Vincent Chang

Vincent Chang recalled serving on the Task Force on Combating Antisemitism and Anti-Asian Hate and the Task Force on Advancing Diversity.



"There was a lot of anguish in the Asian American community and the Jewish community about the hate crimes that were being perpetrated against both those groups. Being able to do something about it was really fulfilling. To be able to write reports and see some of it actually implemented by the Legislature – it was exciting. It was the state bar association at its best – advancing proposals for legal reform that addressed major problems in society. And we did it in a rapid time frame at the orders of then President Richard Lewis. It was one of the most fulfilling activities I've had here. At the same time, there was also the Task Force on Racism, Social Equity and the Law. That was something huge in society. When the Supreme Court handed down the decision (Students for Fair Admissions), nobody knew what to do about it. The state bar association – before almost any other entity in the country – issued a massive and very instructive report. Later, they adopted it at the American Bar Association because it was such a great piece of work. It was so timely, done so quickly and really addressed a huge issue."

Patricia Shevy

Patricia Shevy, past chair of the Trusts and Estates Law Section, remembered how the COVID-19 pandemic changed programming.



"Back in the beginning, we had CLE programs throughout the state. So, there would be speakers from Albany for the Albany presentation. There'd be speakers from Buffalo for the Buffalo presentation."

"When 2020 hit, everything moved to Zoom pretty quickly, and I think the bar association did a great job with the quick transition, so that people were getting good, timely information in an easy format. So now most of the CLEs are done through webinar on Zoom. It's a great way to provide information. The downside of it is that you don't get that collegiality. You don't go to the meeting just to spend time with your colleagues and spend time with your friends."

"If you want to have that one-on-one or group interaction, then you need to go to a fall meeting or a spring meeting. It used to be that even if I didn't need the CLE, I'd still go to the Albany meeting because my friends were going to be there."

"So now I think that we have to focus on ways to get us all back together face to face, not just screen to screen. So go to those fall and spring meetings."

David Goldfarb

David Goldfarb, past chair of the Elder Law and Special Needs Section, recalled the New York State Bar Association's victory in amending the power of attorney law five years ago.



"I was a member of the Elder Law Section's Legislation Committee. I drafted the proposal on the new power of attorney law. The original one. It was proposed then by the Elder Law Section, and the bar adopted it as their proposal. It took five years, but we got it through the Legislature. It was a lot of negotiating with the banking association, with different groups that were concerned about elder abuse. For that, we went up multiple times to Albany to meet with the Assembly members and state senators who were working on it."

"The bar has been very successful in legislation in different areas. It's prevented some catastrophic things from happening in the area of Medicaid. We've lobbied every year against changes that would make it more difficult for people to get benefits. Things that help attorneys, like the power of attorney and notarization. In that area, there's no other group that really has the contacts with the Legislature that the state bar has."

Clinics and Experiential Learning: The Past and Future of Legal Education

By Jenny Roberts

A third-year law student stood in front of the busy lower criminal court judge litigating a misdemeanor drug possession case. Next to her sat just two people: her teenage client and her clinic classmate. As their professor in a criminal defense clinic, I was also in court, but with a well-prepared team representing the client zealously, I was able to take a step back from counsel's table. As I'd always tell my clinic students, my goal as an educator was to stand as far away from them as possible when we appeared in court together – close enough to field a question if a curveball came their way, but at a sufficient distance that they could rely on their own thorough preparation and truly “be the lawyer.”

Law students have not always had the opportunity to apply their legal education while developing professionalism and ethical judgment in real-world settings. As the New York State Bar Association celebrates 150 years, it is worth remembering that around the same time of NYSBA's founding, legal education underwent a transformation. The casebook method first popularized by Christopher Columbus Langdell shifted focus away from learning through apprenticeships with practicing lawyers and toward developing the skills of inductive reasoning and critical thinking through Socratic questioning.¹ The goal, generations of aspiring attorneys were told, was to get them to “think like a lawyer.”

The casebook system undoubtedly helped professionalize the practice of law and standardize law school curricula. But since it was first introduced, we have learned a great

deal about the pedagogy of adult learning. Two findings in particular suggested that law schools could better serve their students – and the profession – by augmenting the casebook method with experiential opportunities: first, that adults learn best by doing and then reflecting; and second, that students have many different learning styles, and not all are suited to more passive learning.² Indeed, in the early 20th century, some lawyers – including a member of the New York Board of Bar Examiners – expressed concerns about how far law schools and the legal profession lagged behind other professions (including medicine and architecture) in providing practical training.

By the 1930s, clinical legal education pioneers were establishing the first in-house law school clinics. This movement gained momentum in the late 1950s after the Ford Foundation, with input from New York lawyers and educators, began to offer seed funding for clinics. This dovetailed with a budding social justice movement to expand access to legal services for people without the means to hire a private attorney. In 1969, the American Bar Association adopted a model rule allowing students, in certain circumstances, to practice under the supervision of a licensed attorney.³

Clinical and experiential legal education is now a standard component of the United States law school curriculum. A recent survey of almost all ABA-accredited law schools documented 1,512 distinct law school clinics, with a median of seven clinics per school. All but three of the schools surveyed offered at least one law clinic.



A clinic professor meets with students at the Maurice A. Deane School of Law at Hofstra University.

The earliest law school clinics were often essentially low-volume legal aid offices handling a variety of poverty law matters. While some still offer these critical services, there is now a wide array of clinics helping clients in diverse and often highly specialized areas of law – intellectual property, immigration, entrepreneurship, and tax, to name just a few.

What was once a small movement in legal education is now here to stay. Although funding for legal services for those who cannot afford it has sadly dwindled over the last few decades in many jurisdictions, clinical legal education has continued to gain traction in both law schools and the profession, where the benefits of practical experience have been evident.

These changes are reflected in the NextGen Uniform Bar Exam, which will be administered in New York starting in July 2028 and which all but 11 jurisdictions have said they plan to adopt. According to the National Conference of Bar Examiners, the updated test is specifically designed to “reflect many of the key changes that law schools are making today, building on the successes of clinical legal education programs, alternative dispute resolution programs, and legal writing and analysis programs.” The test will cover “a broad range of foundational lawyering skills” and “balance the skills and knowledge needed in litigation and transactional legal practice.”⁴ This skills-based focus underscores the value of experiential learning and may incentivize further pedagogical and curricular changes in legal education.

Some changes have already occurred. In 2014, the ABA updated its accreditation standards to require that all law students graduating in or after 2019 complete at least six credit hours of experiential education.⁵ Students can fulfill their experiential requirement several ways beyond clinic, including skills and simulation courses, practicums, and externships. All these experiential options allow students to move from the theory of law to its practice; many also give them the opportunity to make meaningful connections within their local legal community. In this way, experiential options help make students profession-ready, rounding out the traditional (and still essential) law school curriculum.

Like all experiential offerings, clinical legal education’s main mission is pedagogical: to provide students with practical experience handling real cases with real clients while still in law school. Clinic students learn firsthand the value of preparation. They engage with clients, manage caseloads, negotiate with other parties, and wrestle with the legal, strategic, and ethical judgment calls that attorneys face daily.

Clinics also have a second mission: to show students how they can incorporate a lawyer’s professional duty to serve the public and promote social justice into their own future practice, whether they are employed in public service or the private sector. For example, at the Maurice A. Deane School of Law at Hofstra University, where I am dean, three of our seven in-house clinics focus on core immigration representation, a much-needed service



Professors and students at the Election Law Clinic, Hofstra University, Election Day 2024.

for the Long Island community.⁶ After graduation, programs like the New York State Bar Association's Pro Bono Network help both newly admitted and experienced attorneys fulfill this duty.⁷

As a law school dean, I've come to appreciate a third role that our experiential offerings play in the evolving landscape of legal pedagogy: They help ensure that legal education keeps pace with changes in the legal profession, creating a feedback loop that informs not just our experiential offerings, but all our courses. This symbiosis can be seen in experiential offerings that focus on the intersection of law and technology, many of which invite students to use technology to help people access justice. For example, Hofstra Law's Deans' Legal-Tech Fellows⁸ are law and computer science students who together developed a guided interview AI application for another experiential offering – the Hofstra Law/Northwell Medical-Legal Partnership.⁹ The partnership will use the app to help determine whether a client's medical condition meets the Social Security Administration's definition of "disability," saving lawyers critical time in navigating 157 complicated definitions.

There is a fourth benefit to clinical and experiential education that shouldn't go unremarked: students love it. I'll leave the last word to Elizabeth Mauter, who graduated from Hofstra Law earlier this year: "Clinic experience is the best part of law school."



Jenny Roberts is dean and professor of law at the Maurice A. Deane School of Law at Hofstra University.

Endnotes

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Sharing Our Memories

By Rebecca Melnitsky and Jennifer Andrus



Sarah Gold

Sarah Gold recalled meeting U.S. Supreme Court Justices Sonia Sotomayor and Ruth Bader Ginsburg during a Supreme Court admission program in 2014.



"We knew Ruth Bader Ginsburg was coming by because we had set it up in advance. I had been involved in doing that setup. Sotomayor showed up first, and we weren't expecting her to show up. So, she walks into the room, and everybody's like 'holy crap.' There are all these pictures of me standing behind them.

"Sotomayor is talking, and then Ruth Bader Ginsburg shows up. This doesn't happen. You usually get one judge. And usually the rule is, if you get one judge, the other will leave if you happen to have somebody else stop by. Sotomayor was going to leave, and RBG turns to her, goes, 'We're all New Yorkers here. You can stay.'

"So now we've got two of them, and I'm literally standing behind both of them."

Gold explained that it was the week before the decision in *Burwell v. Hobby Lobby* was released.

"They were in the process of finalizing that, and somebody asked a question like 'How is the term going?' RBG kind of went off. Not in a bad way towards us. The writing was on the wall already, and she was very passionate about how things were going. And they weren't going well. She was like Yoda. She was getting taller as she talked. It was just strangest thing I've ever seen.

"That was really cool. Just from a lawyer's standpoint, when does this ever happen? When is that ever going to happen again?"

Oliver Young

Oliver Young helps develop the case that is presented to the 4,000 high school students who participate in the New York State Bar Association's Mock Trial Competition each year.

One of his fondest memories is from his days as a mock trial coach:

"In 1985, I was serving as an attorney adviser for a high school mock trial team in Erie County. We won the county and regional competitions and got the chance to go to the statewide competition in Albany. We came in second place in the state. It was the first time that school had gone that far, and it is something I will always remember. After that win, I joined the Law, Youth and Citizenship Committee and later became its chair. As the chair of the subcommittee that runs the Mock Trial Competition, it's great to interact with the students each year and see how they put the case together. I continue to enjoy every minute of it!"



Thomas Newman

Thomas Newman, chair of the Committee on Courts of Appellate Jurisdiction from 1981 to 1985, reflected on the longtime debate on the caseload of the Court of Appeals.

"Before 1985, the court was hearing and disposing over 700 cases a year – which was an enormous workload. So, there was a move to change the jurisdiction by eliminating two things – you no longer had an appeal as of right just because there was a dissent, or because there was a modification [to the award] of some sort. You had to seek leave to appeal. As chairman of the Committee on the Appellate Division at that time, I was authorized by members of the committee to oppose that. We took the position that there are many appeals, but a lot of those could be disposed of very quickly because they were appeals that didn't really require that much work by the justices. You could easily see what the right result would be.

"I debated that issue before the committee. I appeared in Albany before the state bar, and I set forth our views on that. We lost our argument – after 1986, it declined."

While the total caseload of the Court of Appeals declined over the next few decades, Chief Judge Rowan Wilson has directed the Court of Appeals to return to taking on more cases.





How Syracuse University College of Law Continues To Change Legal Education

By Terence J. Lau

From its founding in 1870, Syracuse University and prominent members of the local bar sought to establish a law school in Syracuse, a “large and enterprising city [where] exists a large amount of legal talent” that could be called upon to contribute to the work of legal education.¹ In 1895, Syracuse University College of Law opened its doors to 23 students, becoming one of seven operating law schools in the state.

With no initial requirements as to previous education, “any person of good moral character over eighteen years of age” was eligible for admission.² Syracuse Law quickly fulfilled that promise. The first woman student, Bessie Seeley, and the first Black student, William Herbert Johnson, each graduated in 1903, both among a very few women or African Americans to hold a law degree at that time.³

Members of the first graduating class included James J. Barrett, later judge of the Court of Claims; George H. Bond, later president of the New York State Bar Association and founder of Bond, Schoeneck & King; and T. Aaron Levy, later a professor himself at the College of Law.⁴

Besides its immediate local impact, Syracuse Law strove to recognize significant developments in the nation’s legal system, awarding attorney and social justice activist Belva Ann Lockwood an honorary doctor of laws degree in 1908.⁵ True to its emphasis on being welcoming to

everyone, Syracuse graduated its first students from China in 1914, Chi-lien Sun and John F. Tang, during the height of the Chinese Exclusion Act.⁶

As it introduced progressively stringent educational requirements for admission after its early years, Syracuse Law became a founding member of the Association of American Law Schools in 1901. It is now known globally for its innovative approach to legal education, demonstrating leadership in four distinct areas of law.

Advocacy

Recognizing the importance of effective advocacy as one of the core principles of lawyering, Syracuse Law added a moot court class to its curriculum in 1898. Expanding beyond in-house competitions, in the 1970s the college dominated many moot court events, bringing home both team victories and individual honors. Legal luminaries such as Supreme Court Justices Thurgood Marshall and John Paul Stevens and former U.S. Solicitor General Archibald Cox judged competitions in Syracuse.⁷

The Advocacy Program has since introduced several unique moot court competitions to its roster, including a virtual weekly competition, National Trial League, and the National Military Trial Competition. Syracuse also created the first JD/LLM in advocacy and litigation for students who want to specialize in trial practice.



The Melanie Gray Ceremonial Courtroom at Syracuse University hosts several critical events each year, including appeals courts, advocacy competitions, naturalization ceremonies, and noted guest speakers.

Technology Commercialization and Innovation Law

Syracuse Law has always made integration of traditional lawyering with other professions and disciplines a core tenet of its programs and classes. This philosophy led to the creation of the Technology Commercialization program in 1990, which brought together law students and students from engineering, computer science, management, and other disciplines to assist entrepreneurs in transitioning new technologies from idea to market.

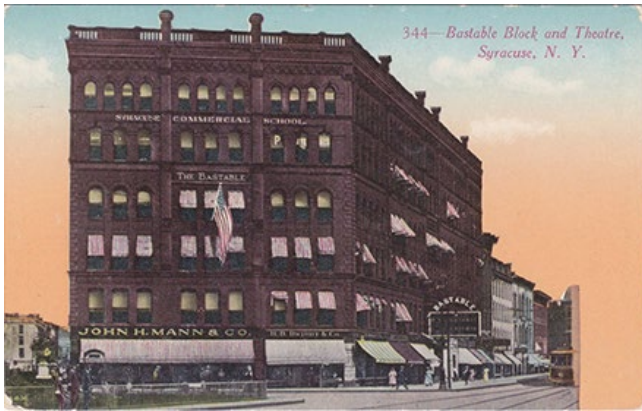
Now named the Innovation Law Center, students apply the same principles of integration to provide real clients with expert guidance on regulatory issues, intellectual property, patents, and product marketing. In recognition of this unique approach to tech commercialization, for more than 25 years Syracuse Law has been the only designated New York State Science and Technology Law Center for the Empire State Development's Division of Science, Technology, and Innovation. Entrepreneurs from around the state come to Syracuse for legal research services and advice to help them progress from the lab to the marketplace. The Innovation Law Center helps students develop legal skills that are in high demand while they make a direct impact on the New York economy.

National Security Law

The national security law landscape changed dramatically after the events of 9/11, resulting in the need to train lawyers in the fields of national security and counterterrorism law and policy. In 2003, Syracuse Law launched the Institute for National Security and Counterterrorism, becoming one of the first law schools to teach and conduct research in this area. In partnership with the Maxwell School of Citizenship and Public Affairs, the program is now known as the Syracuse University Institute for Security Policy and Law, whose graduates go on to provide legal and policy development and analysis services throughout government, in the private sector, and in think tanks devoted to national security issues.

Disability Law and Policy

Syracuse University has a long history of being welcoming to all students, with innovative programs and curricula that meet evolving societal needs. Recognizing the need for advocates versed in the Americans with Disabilities Act and related legislation, Syracuse Law created the Disability Law and Policy Program in 2005. The program has grown into one of the most comprehensive disability law programs in the country, graduating advocates who work in federal and state government agencies, or who practice in private law firms or in public interest organizations.



Syracuse University College of Law opened its doors in 1895 at the Bastable Block in downtown Syracuse.

that focus on disability law, education, employment, civil rights, and international human rights.

JDinteractive: Hybrid Online JD

Building on the success of innovative programs developed over the course of its first 100 years and recognizing that the traditional three-year, on-campus model of legal education precluded many qualified potential law students from attending, Syracuse Law's newest and most profound change to legal education is JDinteractive (JDi), a hybrid online program launched in 2019. Syracuse was among the first in legal education to leverage technological advances to bring the law classroom to where students work and live without sacrificing pedagogy or academic rigor.

Serving a Different Kind of Student

Syracuse Law's JDi program serves a different kind of law student. JDi students are often seasoned career professionals, who, with an average matriculation age of 37, bring valuable real-world experience into the classroom. Many are seeking to advance established careers or pivot into law practice or a related field. They often have one or more advanced degrees and come from a wide range of professional backgrounds. Class cohorts include medical doctors and other health care professionals, C-suite executives at international companies, members of the military, professionals at all levels of government, budding and established entrepreneurs, and more.

The Impact of JDi

The JDi program makes earning a law degree possible for aspiring attorneys who might otherwise lack access to a physical law school. By allowing students to study remotely from their own communities, JDi expands access to legal education across the world. One JDi graduate who stayed in Alaska throughout her studies is now an assistant public advocate in Anchorage. Another student, a military spouse, started the JDi program while her husband was stationed in Japan and concluded her

degree in Germany when he was transferred, demonstrating the program's unique ability to move with students wherever life takes them.

JDi Students Excel

JDi students have excelled on the bar exam with pass rates that meet or exceed those of our residential program. Although JDi students cannot automatically sit for the New York bar exam, 100% of students who petitioned have been granted a waiver to do so.

Continuing To Support the New York State Economy

As envisioned by its founders, Syracuse University College of Law continues to serve, as its founders stated, "a large and enterprising city" that is poised for renewed growth with Micron Technology's plans to bring leading-edge chip manufacturing to upstate New York. Over the next two decades, Micron's four "fabs" are anticipated to generate more than 50,000 New York jobs, including 9,000 jobs at the fabrication facility, and tens of thousands of construction jobs over the next 20 years.⁸

This expansion of the New York state economy will fuel demand for skilled advocates who can support a rapidly growing workforce and related population growth in the industries that surround it. That means a need for lawyers versed in corporate law, intellectual property and technology commercialization. Syracuse Law graduates are uniquely prepared to meet this demand with a thorough understanding of the impacts of technology on law and society and are prepared to advocate for clients in the state, across the country and around the world. It's a mission that Syracuse University College of Law has long embraced, and one it is ready to advance in this new era of opportunity.



Terence J. Lau is Syracuse University College of Law's 13th dean and the first alum to be dean (class of 1998.)

Endnotes

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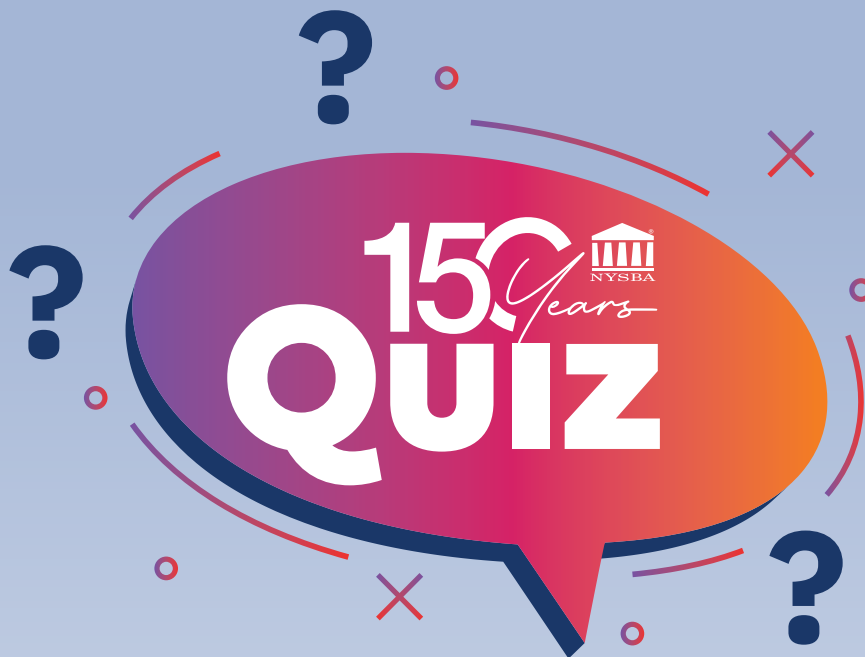
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How Well Do You Know Your NYSBA?

By Kathy Baxter

(Hint: Most of these answers can be found somewhere in this issue.)

1. Which bar association was formed last of the following?
 - a. Onondaga County Bar Association
 - b. New York State Bar Association
 - c. Bar Association of the City of New York
 - d. American Bar Association
2. How many sections does NYSBA have?
 - a. 28
 - b. 32
 - c. 26
 - d. 52
3. Who was the NYSBA president who also served as governor of New York, secretary of state, and chief justice of the Supreme Court?
 - a. David Dudley Field
 - b. Grover Cleveland
 - c. Charles Evans Hughes
 - d. David B. Hill
4. NYSBA's headquarters is at One Elk Street, Albany. Where was NYSBA location immediately previous to this one?
 - a. The Old Capitol
 - b. Wall Street
 - c. 6 Broadway
 - d. 99 Washington Avenue
5. Who was NYSBA's first woman president?
 - a. Maryann Saccomando Freedman
 - b. Kathryn Madigan
 - c. Judith Kaye
 - d. Kate K. Crennell
6. Which body of NYSBA is charged with proposing and reviewing amendments to the Rules of Professional Conduct?
 - a. House of Delegates
 - b. Committee on Attorney Professionalism
 - c. Committee on Professional Conduct
 - d. Committee on Standards of Attorney Conduct

7. Who was the NYSBA president who served as secretary of state, secretary of war, U.S. senator, and also received the Nobel Peace Prize?

- a. Grover Cleveland
- b. Elihu Root
- c. Mario Cuomo
- d. Thomas B. Dyett

8. What was the name of the publication that predates the NYSBA Journal?

- a. NYSBA Record
- b. Bar News
- c. Bar Bulletin
- d. New York Law Journal

9. Which president subsequently served as president of the American Bar Association and led efforts, both in New York and nationally, to limit nonlawyer governance of law firms?

- a. Robert MacCrate
- b. Elihu Root
- c. Maryann Saccomondo Freedman
- d. Charles Evan Hughes

10. Which is NYSBA's oldest section?

- a. Trusts and Estates
- b. General Practice
- c. Tax
- d. Judicial

11. Which is NYSBA's newest section?

- a. Women in Law
- b. LGBTQ+
- c. Technology
- d. Cannabis

12. Who was NYSBA's first executive director?

- a. Elliot Shepard
- b. John Berry
- c. John K. Porter
- d. Robert MacCrate

Kathy Baxter, the former general counsel of the New York State Bar Association, retired in 2022. She was with NYSBA for 35 years.

Answers to quiz can be found at the bottom of page 54.

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BREACH OF CONTRACT CLAIMS
CONSUMER PROTECTION SERVICES
DEALERSHIP OUT OF BUSINESS ISSUES
CERTIFIED MEDIATOR & ARBITRATOR

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A Yankee Lawyer in Albany's Courts: How the Law and NYSBA Have Flourished Over the Years

The Attorney Professionalism Committee invites our readers to send in comments or alternate views to the responses printed below, as well as additional hypothetical fact patterns or scenarios to be considered for future columns. **Send your comments or questions to: NYSBA, One Elk Street, Albany, NY 12207, Attn: Attorney Professionalism Forum, or by email to journal@nysba.org.**

This column is made possible through the efforts of NYSBA's Committee on Attorney Professionalism. Fact patterns, names, characters and locations presented in this column are fictitious, and any resemblance to actual events or to actual persons, living or dead, is entirely coincidental. These columns are intended to stimulate thought and discussion on the subject of attorney professionalism. The views expressed are those of the authors, and not those of the Attorney Professionalism Committee or NYSBA. They are not official opinions on ethical or professional matters, nor should they be cited as such.

For this issue, in which we celebrate NYSBA's 150th anniversary, the authors take on the question of what has evolved in the area of professionalism and ethics over the last 150 years.

To the Forum:

I have found myself in a strange and amazing predicament.¹ Let me explain. I am an American. I was born and reared in Albany, in the State of New York – anyway, just over the river, in the country. So, I am a Yankee of the Yankees and practical; yes, and nearly barren of sentiment. My father was a blacksmith, my uncle was a horse doctor, and I was both, at first. Then I went over to Albany and studied law under Amos Dean, and after a few years' practice joined, at the time, the fledgling New York State Bar Association in 1876. Although a fine lawyer, I was raised rough, and a man like that is a man who is full of fight – which goes without saying. During an argument conducted with crowbars with a fellow attorney we used to call Hercules, I was laid out with a crusher alongside the head that made everything crack. Then the world went out in darkness, and I didn't feel anything more, and didn't know anything at all – at least for a while.

When I came to again, I was sitting under a maple tree, on the grass, in a most familiar place to me on the corner of Eagle and Pine Streets. Not entirely familiar, for although there was the gleaming white marble Court of Appeals right in my line of sight, next door was another

building, a courthouse, of which I have never known. There were wheeled carriages of the kind I have never seen, not a horse or draught animal around, and two very smartly attired officials, both in a dark suit of clothing, each with a shiny badge, a small caliber sidearm neatly holstered, and finely polished black boots.

"Are you OK, buddy?" said the fellow.

"Are you hurt, sir?" added the madam.

Well, after gathering my composure and figuring that these officials were checking on my well-being, I thanked them for their concern and got myself up to figure out what was what.

I made myself across the street and into the familiar courthouse, and although it was the building I knew, nothing was familiar to me. There were women judges and lawyers, and all of every race. I took the decision to explore what I now knew to be the "new" courthouse next door. I watched a trial and, while familiar in some respects, the lawyers behaved in a most cordial and polite way, with the judge setting them straight if they were otherwise. I heard the judge admonish one and remind him of the Standards



Courtroom, Court of Appeals, New York State Capitol, 1878. Photo provided by Hank Greenberg.

of Civility – what are they? I saw lawyers examining a witness with no officer present. And yet, while advocating for their clients, they displayed a fine degree of cordiality and respect for each other. Even so, things did flare, and one reminded the other of the Rules of Professional Conduct. Are there such rules? In another room I saw lawyers debating before a judge through a most peculiar picture frame on her bench. What kind of magic was that!

By now, I had realized that by some strange action I had been projected into the future. As a member of the highest esteem in the New York State Bar Association, I found my way to our library and found you through the Journal. From the date on the masthead, I, quite perplexed, know that the year 2026 is soon to be here.

Since you seem to be an expert in most things related to the practice, while I work to understand my unique predicament, would you be so kind as to provide me with a brief primer on my observations to help bring me up to speed on our practice over the last 150 years?

*Sincerely yours,
Josiah Perplexatus*

Dear Josiah:

We welcome you to the 21st century. The year 2026 promises to be a great one and you are just in time to join in the once-in-a-lifetime, year-long, and avidly anticipated festivities in which lawyers from Montauk to Buffalo will celebrate with effusive joy the 150th anniversary of our noble and revered New York State Bar Association.

Much indeed has changed since your time – more than can be recounted to you in these pages. Still, much has remained the same. We do indeed still have a Court of Appeals, and New York, unquestionably, has not lost its place as the most important state in the nation. Why, since Samuel Tilden,² we have had a New York citizen come in first or second place for the presidency 19 times (10 times winning), plus twice ascended from the vice presidency. Now the congress of the entire world resides in Manhattan, the tallest buildings are still in Manhattan, and New York still retains its old charms. New York has continued to play host to immigrants from all over the world. We have lawyers of all races and creeds practicing law in New York. What you missed, but might have foreseen, was the growth of women in the profession, and not in small numbers.^{3,4} While there is much work

ATTORNEY PROFESSIONALISM FORUM

to be done, we are happy to report that the professions of lawyer and judge are truly diverse.

But much has changed in our profession. The screen that you saw is indeed, in brief, a form of magic. It works upon the principle of electricity, which is nowadays called “technology.” For present purposes, the only thing that you must understand about technology is that you should never try to file a sheet of paper with a court. You must file it only through the “technology.” Think of it as a telephone that transmits pictures. All you have to do is watch an episode of “Star Trek” and you will get the idea.

As for the Albany County Courthouse, it is indeed true that the courthouse that you saw is new. It was built in the 1910s to house the Albany County Supreme Court, which moved thither from – well, you had better tell us. 100 State Street? But not enough has changed in the past 150 years to make this topic interesting.

Now then to your point about civility. You have noticed how kind, cordial, civil, and polite lawyers are to each other nowadays, and not only in the Court of Appeals, but in other appellate courts and in trial court as well, which counts for much more. You have noticed how civil the judges are as well, and how a regime of Standards of Civility and Rules of Professional Conduct governs even in the absence of any judge or bailiff. You have asked what these are. Our profession was perhaps not always so nice and ethical as it is today, as you know. But if we are to bring you up to speed, we had better start in the past: what you knew, and what you missed.

The professional quality of lawyers is controlled by the rules regarding admission and discipline. The rules on

admission to the bar have changed considerably over the centuries. In the 1600s and 1700s in England, barristers were admitted into the profession by organizations called Inns of Court, something akin to bar associations, without the input of courts. After the American Revolution, in New York lawyers were admitted to practice instead by the courts, with the role of bar organizations deemphasized.⁵ Especially in the earlier years of our country, admission came after having read law in a law office, not by going to law school. Disbarment occurred only by action initiated by a court. There were practically no regular bodies that specifically oversaw the conduct of lawyers and judges. A person could provide evidence to a court of a lawyer’s wrongdoing, but only the court could decide to open a disciplinary proceeding against a lawyer.^{6,7} Though this system produced many very fine lawyers, it inherently lacked oversight of lawyers’ professionalism. As U.S. Supreme Court Justice Samuel Miller said in a speech to NYSBA in 1882:

The Inns of Court have no existence in this country. They have the supervision of members of the bar; they discipline them and punish them. We have no such institution as that in this country. Here, when a man is once admitted to the bar, there is no control over him except such as the court desires to exercise, and that is only brought into operation in cases of criminality.⁸

A Mr. Delafield spoke the following words to NYSBA in 1882, summarizing the problem of lack of oversight:

The sufferer generally hesitates about making complaint; the Court reluctantly gives an order to show cause; generally, there is no prosecuting attorney; if there is such a prosecutor, he often represents



someone who has a personal grievance and is not impartial; there are no funds to pay counsel, and no funds to pay referees. The Courts are embarrassed when charges of this kind are brought before them, because they have no means of investigating themselves, and they do not know upon whom to call or who will defray the expenses of an investigation; and the result is, that none but the most flagrant cases are investigated at all; and I think it is the experience of the judges in all the departments, that there are lawyers at the Bar against whom complaints are made which should be investigated, but they have no power to investigate. The duty of prosecuting questions of this kind, it seems to me, should be assumed by this Association.⁹

These problems were well known in 1876 and led to NYSBA's creation on Nov. 21, 1876. It was modeled after several local New York bar associations and other similar associations for other professions. The Medical Society of the State of New York had been formed in 1806,^{10,11} to aid in execution of legislation keeping "ignorant and unskilful Persons" out of "the Practice of Physick and Surgery."^{12,13,14} The New York State Bar Association allowed lawyers, by organizing into a single mass, to influence the state government's legislation of the legal profession, and to weigh in on the admission and disbarment of lawyers in order to exclude persons of low quality from the legal profession. NYSBA utilized its legislative influence for ethical ends, for example, to seek legislation to "suppress" the "monstrous evil" of the "outrageous frauds practiced by a class of lawyers in this State, who make a specialty in procuring divorces."¹⁵ The original constitution of the association provided for a Committee on Grievances, the purpose of which was to allow members to assert wrongdoing against other members.¹⁶ Evicting a member from the association did not prevent the evictee from practicing law in court,¹⁷ but the Committee on Grievances could also request disbarment to the court when merited, "purifying the profession of unworthy members who are a disgrace to it."¹⁸ By the end of the 1800s, the Committee on Grievances had a solidified role in helping courts decide whether to initiate disciplinary proceedings against attorneys, as a perusal of its annual reports shows, through members' advancing sufferers' grievances against other members.¹⁹

At that time, ethical principles existed, of course, in the legal profession, and were taught in law schools. But there was lacking a short, pithy compendium of these principles, and there were concerns that the waves of new lawyers entering the profession were not sufficiently familiar with the traditional proper conduct. If the Committee on Grievances and the courts were to truly hold lawyers to account for non-criminal offenses against professionalism, they would need to use an objective and universal set of rules that all lawyers were expected to know. As such, in 1909, the New York State Bar Association,

through its Committee on Legal Ethics,²⁰ adopted the Canons of Ethics,²¹ a slightly altered version of the American Bar Association's 1908 Canons of Professional Ethics, and not long afterwards distributed these Canons of Ethics to all newly admitted lawyers.²² The association also recommended to the Court of Appeals that all new lawyers be required to submit themselves to these canons, for admission to the bar.²³

The Canons of Ethics were used for many decades but were repeatedly criticized for being too vague and aspirational in their language.²⁴ For example, New York's Canon 14, entitled "Suing a Client for a Fee," said:

Controversies with clients concerning compensation are to be avoided by the lawyer so far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

To overcome this vagueness, in 1970, the Canons of Ethics were replaced by the Code of Professional Responsibility, which contained more specific rules for conduct subject to discipline, and segregated aspirational language out to its own sections. In 2009, this code was replaced by the Rules of Professional Conduct, which retained the previous code's disciplinary rules largely unchanged, but reorganized them, included official commentary, and dropped aspirational material. For example: "Where applicable, a lawyer shall resolve fee disputes by arbitration at the election of the client pursuant to a fee arbitration program established by the Chief Administrator of the Courts and approved by the Administrative Board of the Courts."²⁵

Today, all lawyers in New York are subject to these disciplinary rules, which are required to be taught in law schools, and lawyers must pass a test on these rules (the Multistate Professional Responsibility Examination) in order to be admitted.²⁶ The rules govern a lawyer's interactions with his or her client, with a tribunal, with other lawyers, and with the public. Though no rule (and no canon) specifically bars a lawyer's engaging in physical violence against another lawyer, Rule 8.4(b) provides that "A lawyer or law firm shall not ... engage in illegal conduct that adversely reflects on the lawyer's honesty, trustworthiness or fitness as a lawyer," and Comment 2 to this rule states that such illegal conduct includes "violence."²⁷

Instead of retaining aspirational language in the Rules of Professional Conduct, in 1997, at the urging of NYSBA's Commercial and Federal Litigation Section, the New York State court system adopted and made effective in 1998 a set of Standards of Civility applied to lawyers, judges, and court personnel,²⁸ which are not enforced through disciplinary proceedings, but which are expected to be obeyed as part of the decorum of the legal profession. For example, "Upon request coupled with the sim-

ple representation by counsel that more time is required, the first request for an extension to respond to pleadings ordinarily should be granted as a matter of courtesy,”²⁹ and “papers should not be served in a manner designed to take advantage of an opponent’s known absence from the office.”³⁰ As for arguments conducted with crowbars, the standards say that:

lawyers can disagree without being disagreeable. Effective representation does not require antagonistic or acrimonious behavior. Whether orally or in writing, lawyers should avoid vulgar language, disparaging personal remarks or acrimony toward other counsel, parties or witnesses.³¹

It is probably true that the written standards are less familiar to lawyers than are the Rules of Professional Conduct, because they are not formally taught,³² but they are uniformly intuitive, and express principles that no doubt were widely followed in the 1800s.

The codification of the rules of professionalism has not been limited to the rules for attorneys. There are notable differences between the behavior of judges in the 1800s and now. For one thing, judges were less restrained then in some ways: it was vastly more common in those days for former or even current judges to run for legislative or executive political office. We remember the presidential aspirations of former Judge Stephen Douglas, and of Chief Justice Salmon Chase, Associate Justice Stephen Field, and, in the 1900s in New York, Chief Judge Alton Parker. For another thing, we remember how in the 1800s, New York judges associated with Tammany Hall sometimes were found to have violated ethical principles or committed crimes, as, for example, in the case of Judge Albert Cardozo, who resigned from the bench in 1872 after having been accused of gross corruption. Such corruption was an impetus for the formation of the bar association of New York City in 1870, and the investigation into the wrongdoing of Cardozo and other like figures was some of the earliest work of that association.³³ Albert’s son Benjamin eventually made the name Cardozo shine in the judicial universe, but that, as they say, is another story!

Going back to physical violence, Josiah, you may remember David S. Terry, chief justice of the California Supreme Court, who used to carry around with him a Bowie knife, and how he resigned from that court in 1859³⁴ in order to duel and kill a United States senator from his own state (not even the first time he had tried to kill someone in his four years on the court), after which he fought for the Confederate States of America. After returning to the profession of an attorney, in 1889 he assaulted Justice Field and was shot dead by Field’s federally employed bodyguard David Neagle, whom the state of California tried to prosecute for Terry’s murder. The question of whether a state could so prosecute a

federal employee went up to the U.S. Supreme Court itself, which, in a 6-2 decision, held for Neagle. (Field abstained.) This is the sort of personality that simply does not exist and cannot arise in today’s judiciary.³⁵

Judges today are more restrained for several reasons, but one reason in New York is that the state has codified rules governing judicial conduct. In 1909, at the same time that the New York State Bar Association adopted the Canons of Ethics for lawyers, it also adopted Canons of Judicial Ethics for judges, which predated the American Bar Association’s analogous judicial canons.³⁶ New York’s rules for judges evolved similarly to New York’s rules for lawyers. Today, the Rules of Professional Conduct have a judicial analogue in New York’s Rules Governing Judicial Conduct,³⁷ besides New York’s Code of Judicial Conduct,³⁸ which are tested in a multistate form on New York’s Multistate Professional Responsibility Examination. These rules essentially require judges to strictly maintain impartiality and the appearance of impartiality in cases before them. The rules extensively and specifically govern a judges’ extrajudicial activities, including their ability to even privately support political organizations, such as making a campaign contribution to a political candidate.³⁹ Now, judges are required to be polite to lawyers, and to maintain politeness between lawyers – no fisticuffs.⁴⁰ Today, no judges in New York want to be publicly perceived as carrying a knife or a gun under their robes, and only one Yankee judge is still known to wield even a bat.

In sum, though in earlier centuries the members of our profession had the instinct to act properly, perhaps obviating the need for a formal written code,⁴¹ the practice of ethics has still been bolstered in visible ways by the codification of professional ethical rules, and their being taught to law students and being submitted to by newly admitted lawyers, and their being enforced by courts with the assistance of the highly active roles of the ethics committees of the modern New York State Bar Association and the attorney grievance committees now administered by the Appellate Division.⁴² Now, lawyers intuitively follow these rules, and behave cordially to one another, in the total absence of judge or bailiff. At long last, the standards of professionalism have developed to the point where if you want a physical altercation with another member of the legal profession, the only sure way of finding one is to start it yourself. That may have been true 150 years ago, but we like to think that doing so is at least less common today.

Sincerely,

The Forum, by

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QUESTION FOR THE NEXT FORUM

To the Forum:

I am a recently admitted New York lawyer. I was involved in a case in which parties were disputing over ownership of a historical artifact from a foreign country that had mysteriously disappeared from a museum. I was taking a remote online deposition of an opposing witness, a curator of the museum in which the artifact was last known to have been situated. He was represented by counsel. The witness's counsel was in the room with him, but was off camera; only the witness was on camera. The witness was in a foreign country, and English was not his first language. He spoke English well enough that a translator was not used, but I could tell that he was uncomfortable speaking English. His counsel spoke fluent English. I began the questioning with elementary questions about the witness's name, location, background, and so on, questions that did not directly pertain to the dispute in the case. From a very early time in the questioning, the witness began to do something curious. After I would ask him a question, he would remain silent for a short term staring in the general direction of the camera, then he would answer and then would clearly look to his side, in the direction in which I knew his counsel to be. I was not sure what to make of this. I had heard in my learning experience that it was illegal for counsel to coach his client witness during deposition, but I had never seen it done before, and so did not know quite what it looked like in practice. I was willing to chalk the oddity up to the witness's lack of proficiency in English. But then when I got into my questions pertaining to the substance of the dispute, and the disappearance of the artifact, the peculiarities escalated. The witness started to take noticeably longer to answer my questions, and, upon finishing his answers, immediately turned to stare in his counsel's direction. A handful of times he stared toward his counsel before or during his answer. Much worse, his counsel started to aggressively interfere in his answering. I would ask an appropriate and relevant question about the witness's knowledge of the museum's treatment of the artifact, and before the witness could answer, his lawyer would jump in, object that his client had no way of knowing the answer, and instruct his client either not to answer, or to answer with "I don't know." This happened multiple times, with varying reasons given for the objection: that his client was too high up to know the specific details of the artifact's treatment by other employees, or that his client had not been at the museum long enough to know. There were even a few times where the witness, after beginning an evasive answer to a question, would stumble over his English and pause, and then his lawyer would jump in and make the same objection, explaining that his client's hesitation in answering was due to lack of

personal knowledge, and he would then direct his client not to answer further.

Opposing counsel also made a slew of objections based on lack of foundation and the form of my questioning. At first, I tried to reformulate my questions to somehow satisfy opposing counsel, but as he kept objecting, I got tougher and told the witness that I demanded that he answer my question as asked. Opposing counsel objected again, and the witness told me that he would not answer on advice of his counsel, parroting his counsel's reason: lack of personal knowledge, or lack of foundation, or bad form. There was even an instance where, after a break in which the witness's camera and microphone were off, the witness came back and immediately gave an unprompted short speech about how he was not going to answer questions about how museum employees other than himself treated the artifact.

The result of the deposition was that the witness dodged many important substantive questions that he simply refused to answer. I knew that I could, if necessary, take the case to the judge and use the judge's authority to compel the witness to answer. But what troubled me was the matter of whether and to what extent the witness's counsel had improperly coached him. When the witness was staring to the side, or while his camera was off during break, was opposing counsel signaling to him as to how to answer? Was there any way for me to prove it? And considering that the witness repeated his counsel's objections to me, were those objections meritorious, or were they just subtle means of suggesting an answer to the witness? What tricks should I be on the lookout for in the future?

*Sincerely,
N. Ept*



Vincent J. Syracuse is a founding partner of Tannenbaum Helpen's litigation and dispute resolution practice and has 50 years of experience in litigation. He received NYSBA's Sanford D. Levy Professional Ethics Award and has chaired NYSBA's program on ethics and civility for over 20 years. He co-chairs the Ethics Committee of the Commercial and Federal Litigation Section. He has been a co-author of the Attorney Professionalism Forum since 2012, which was published in a collection in 2021.



Jean-Claude Mazzola is founding partner of Mazzola Lindstrom LLP with over 25 years of experience as a commercial litigator. He is chair of NYSBA's Committee on Attorney Professionalism.



Adam Wiener is an associate attorney at Mazzola Lindstrom LLP, where he focuses on contract law, bankruptcy, real estate finance, defamation, and constitutional law.

Endnotes

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2. Tilden served as N.Y. governor from 1875 to 1877.
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7. See, e.g., *Matter of Loew*, 50 How. Pr. 373 (Gen. T., 1875) (lawyer disbarred who framed opposing counsel for lawyer's own mistake).
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32. See N.Y. Standards of Civility, Lawyers' Duties to Other Lawyers, Litigants and Witnesses, X: "lawyers should bring the New York State Standards of Civility to the attention of other lawyers when appropriate."
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Quiz Answers:

1. d 2. a 3. c 4. d 5. a 6. d 7. b 8. c 9. a 10. d 11. b 12. b

Sharing Our Memories

By Rebecca Melnitsky



Angélique Moreno

Angélique Moreno, past chair of the Trial Lawyers Section, remembered what inspired her to create the Ruth Bader Ginsburg Vanguard Award.



"I'm very proud of creating the RBG Vanguard Award for the Trial Lawyers Section. Back in 2020, when COVID-19 happened, we were isolated in our homes. It was like nothing we have ever known before. Also, at this time, we lost Justice Ginsburg. [Past Chair Betty Lugo and I] were brainstorming, and she said, 'Come up with ideas, you're the diversity chair. Let me know how you think we should move forward so that we can create a buzz.'"

"At that moment, it occurred to me: why not create an award in honor of Justice Ginsburg? But also, it locks in with diversity, equity, and inclusion, and the importance of it, because of what she stood for. We are the Trial Lawyers Section. We should be recognizing someone who's an amazing trial attorney, as well as someone who promotes diversity, equity, and inclusion on a day-to-day basis. It just seemed like an amazing thing to start at a time in which everyone was in a lockdown, harboring at home."

Harriet Newman Cohen

Harriet Newman Cohen, who serves on the Executive Committee of the Family Law Section, recalled when her fellow bar members helped her husband during a medical emergency.



"My husband fainted during a section meeting. There was another one of my colleagues – she was usually an adversary. Her husband was a doctor, too. They came running over, and they helped my husband. They came along with us in the ambulance, and we went to the local hospital. We bonded over that."

She also spoke of the bonds stemming from her first Family Law Section meeting in Saratoga.

"I was a brand-new lawyer. I went with them to the ballet. I went with them to Trotters, and I went with them to a concert, and I just fell in love with the meetings."

"I was at the bottom of the totem pole at that point. These people were luminaries that I had the opportunity to socialize with, to meet, to develop relationships. We had a camaraderie, and I realized that there was nothing like being part of a bar association, particularly this bar association. They were all very, very good to me. They introduced me to the New York State Bar Association, and I have never missed a meeting since 1980. I have gone every single summer."

"I always bring my firm – including my youngest people whom I mentor – and we always sit in the first row at the CLE. So, everybody in the Family Law Section knows that Harriet Cohen's firm is in the first row."

Peter Faber

Peter Faber, past chair of the Tax Section, recollected using the Gettysburg Address to make a point about brevity and effectiveness while testifying before Congress in 1976.



"Congress was considering some major tax legislation that had millions of provisions in it. The Executive Committee and the Tax Section were invited to testify at a hearing before the Senate Finance Committee in Washington. The members of the Executive Committee felt very strongly that I should not testify about particular provisions of this proposed bill, but rather to testify about the need to simplify the tax law. Interestingly, we all made our living based on the complexity of the tax law, but we were advocating to simplify the law."

"I was preparing my testimony, and there was one sentence in the Internal Revenue Code that was incredibly long. I was trying to think of how I could illustrate how awful it is to have a sentence that's several hundred words long. I was a history major in college, and I began to think, well, what in history is an example of something that's concise and simple and eloquent? The Gettysburg Address."

"So, I counted the words in the Gettysburg Address, and this single sentence in the Internal Revenue code was twice as long as the Gettysburg Address. It made quite an impact, testifying in that way."

Not Quite Our Sesquicentennial

By David Paul Horowitz and Katryna L. Kristoferson



A 150th anniversary is a rare milestone – so rare, in fact, that not even wedding anniversaries stretch that far. Unless you’re flipping through the Old Testament, chances are you won’t find many couples celebrating a sesquicentennial together. Even our traditional wedding gift list tops out at just 60 years (with diamonds, in case you’re wondering).¹

This column is a mere 20 years old (emerald, in case you are so inclined).² Looking back, the changes in practice in the New York State courts during that period often seem dramatic (think NYSCEF filings, remote conferences, and ChatGPT).

On the other hand, legal strategies, effective advocacy, and ethical responsibility remain much the same. Not to mention printed and bound appellate briefs.³

Reviewing a sampling of past Burden of Proof columns we are happy to report that while the topics have varied, and they often responded and reported on changes in practice, the core warnings, strategic recommendations, and overall advice, we believe, hold up well (but feel free to tell us otherwise). Along the way, columns celebrated both the 50th and 60th anniversaries of the CPLR.

Countries can, and some do, reach their 150th anniversary. If you trust AI, and what judge doesn’t, here are two search results from the same query:

There are over 70 countries established before or during 1875 (150 years ago), but the exact number depends on how “country” is defined and the criteria for “establishment” or “sovereignty.” Countries like San Marino (301 A.D.), Portugal (1143), Spain (1139), and Sweden (c. 9th-10th century) are among the oldest, with some others like the United States (1776) also being well over 150 years old.⁴

Or:

There are at least 16 countries with official founding dates from 1875 or earlier, meaning they are over 150 years old, including Tonga (1875), Canada (1867), Luxembourg (1868), Australia (1901 – though older with British colonization), and others like San Mari-

no, the United States, and Norway, which are much older. The exact number can vary depending on the criteria used to define a country’s “age,” such as when a modern state or constitution was established versus the age of its civilization.⁵

We don’t understand what all this talk of AI hallucinations is about.

NYSBA’s sesquicentennial is worthy of celebration. So too is the long and storied history of our New York state courts.

Did you know:

The New York State Supreme Court was established in 1691, making it one of the oldest continuing courts of general jurisdiction in the United States. Pursuant to legislation adopted by the New York Assembly, the court, originally known as the Supreme Court of Judicature, was given jurisdiction over criminal and civil pleas. The court was also empowered to hear appeals from local courts. The bench consisted of a Chief Justice and two, later three, Associate Justices. Appeals were taken to the royal governor and his council and from there to the Privy Council in London. During the remainder of the colonial period, the New York Assembly and the royal governors were in conflict over the authority to regulate the jurisdiction and procedure of the court, with many New Yorkers claiming that the acts of the Assembly and English common law defined that jurisdiction and procedure. In fact, basic notions of English common law were transplanted to the State, and in part to the country generally, through the workings of the Supreme Court.⁶

The “modern” incarnation of New York’s civil courts dates to 1986:

In 1986, this court and the rest of the State court system underwent a dramatic change with the introduction of the Individual Assignment System. Prior to that time, the Justices of this court and their colleagues throughout the State did not concern themselves with the pace at which lawsuits moved and did not supervise cases until the eve of trial. Different Justices, sometimes many, handled pretrial applications or motions in each case. The IAS system changed this. In most instances, a case is assigned to a single Justice for all or most of its life. That Justice is now charged with the task of assur-

ing that the case comes to a resolution quickly and with as little expense as possible. This represents a great challenge for the Justices of the court, one that was unknown to their predecessors even a few decades ago, let alone the Justices of the Supreme Court of Judicature.⁷

Concomitant with the change and growth of our courts were changes in the bar. “The population of New York City was small at the time of the creation of the court and the number of attorneys tiny (perhaps no more than 20). The city did not reach a population of 25,000 until 1774.”⁸

Fast forward to today. At the end of 2024 there were 190,015 resident lawyers admitted to practice in New York State.⁹ Add to that another 170,152 non-resident lawyers admitted to practice yields a grand total of 360,167 lawyers eligible to practice in the state. And yet, while there seems to be enough work to go around for all of us, NYSBA reported in 2019:

[O]nly three percent of [New York State lawyers] live and work in the rural areas that spread across thousands of square miles. This has caused a scarcity of attorneys in the state’s small-town communities and a mounting access to justice crisis that up until now had largely gone unaddressed.¹⁰

As the courts and bar have changed, the bench has changed, and grown, accordingly:

The Supreme Court was the first in the country to record its opinions officially. The caseload and the production of opinions have changed radically from the early days. In 2018, the Supreme Court, Civil Branch, New York County issued 33,475 decisions on motions, which does not include dispositions at trial.¹¹

Just in case you were wondering why it often takes so long for your motion to be decided.

And likely first in New York’s judicial pantheon:

Benjamin N. Cardozo, a graduate of Columbia Law School who practiced law at Cardozo Brothers at 96 Broadway and later 52 Broadway, was elected a Justice of this court in 1913. His outstanding ability was such that he was promptly made a Judge of the Court of Appeals, the State’s highest court, by designation until his election to that court shortly thereafter. He went on to become Chief Judge of the Court of Appeals and to grace the Supreme Court of the United States. Cardozo is generally recognized as among the handful of the greatest Judges in the history of this country.¹²

The remaining stakeholder in our court system? The public it serves:

On the front of the 60 Centre courthouse is this inscription, taken from a letter of George Washington to the

Attorney General in 1789: “The true administration of justice is the firmest pillar of good government.”¹³

As true today as it was then.

So, while statistically only one of us will be writing this column when it celebrates its 40th anniversary (ruby)¹⁴ in 2045,¹⁵ we hope you will continue to join us in each issue and find useful information, strategic tips, and perhaps all too frequent legal and non-legal digressions.



David Paul Horowitz, of the Law Offices of David Paul Horowitz, has represented parties in personal injury, professional negligence, and commercial litigation for over 30 years. He also acts as a private arbitrator and mediator and a discovery referee overseeing pre-trial proceedings and has been a member of the Eastern District of New York’s mediation panel since its inception. He drafts legal ethics opinions, represents judges in proceedings before the New York State Commission on Judicial Conduct and attorneys in disciplinary matters, and serves as a private law practice mentor. He teaches classes in New York practice, professional responsibility, and electronic evidence and discovery at Columbia Law School.



Katryna L. Kristoferson is a partner at the Law Offices of David Paul Horowitz and has litigation experience across many practice areas. She has lectured on CPLR updates, motion practice, and implicit bias, and teaches a course on bias and the law at the Elizabeth Haub School of Law at Pace University.

Endnotes

1. Ellie Nan Storek and Sarah Schreiber, *Anniversary Gifts by Year: Our Traditional and Modern Guide*, Brides (Dec. 11, 2024), <https://www.brides.com/gallery/wedding-anniversary-gifts-by-year-for-him-her-and-them>.
2. *Id.*
3. N.B. Even appellate practice is changing. The First and Second Department do not require hard copies in e-filed matters but reserve the right to request one. The Third and Fourth departments still require hard copies, regardless of whether the matter is e-filed.
4. Thank you, Google AI Assist: “How many countries in the world are 150 years old?” (Sept. 29, 2025). (On file with NYSBA).
5. Google AI Assist, “How many countries in the world are 150 years old” (Sept. 29, 2025). (On file with NYSBA).
6. *History*, NYCourts.gov (accessed Sept. 29, 2025), https://ww2.nycourts.gov/courts/1jd/supctmanh/A_Brief_history_of_the_Court.shtml.
7. *Id.*
8. *History*, NYCourts, *supra* n. 6. Another source records New York City’s population in 1774 as under 23,000. *1700-1775 Metropolitan Progress: Setting the Stage for American Independence*, History101.nyc. history101.nyc/new-york-city-in-the-1700s.
9. See Office of Court Administration, Location of Registered NY Attorneys at the End of Calendar Year 2024, NYS Unified Court System (2024), https://iappscontent.courts.state.ny.us/aronline/population_report/attorney/2024.pdf.
10. Christian Nolan, *Lawyer Shortage in Small-Town, NY*, New York State Bar Association (Oct. 23, 2019), <https://nysba.org/lawyer-shortage-in-small-town-ny-nysba-takes-lead-to-address-growing-rural-justice-crisis>.
11. *Id.*
12. *Id.*
13. *Id.*
14. Ruby, in case you are wondering, *Supra* n. 1.
15. Per Table 1. Life table for males: United States, 1997 (NYPJI Civil), David’s run will end in 15.9 years.

New York State Bar Association Denounces Attack on the Judiciary and Bar Associations

By Susan DeSantis

New York State Bar Association President Kathleen Sweet issued the following statement concerning an attack on bar associations:

“The New York State Bar Association denounces Deputy Attorney General Todd Blanche’s declaration of war on the judiciary and bar association disciplinary bodies.

“At a recent conference of the Federalist Society, Mr. Blanche characterized the Department of Justice’s resistance to ethical oversight of its lawyers by courts and bar associations as war. The New York State Bar Association will always stand up for the rule of law and for the judiciary. We stand with our fellow bar associations, including the D.C. Bar.

“Any lawyer who abandons their oath to the constitution and who intentionally misrepresents facts or law in court is properly subject to discipline, even if they work for the Department of Justice. The judiciary is a coequal branch of our government. It is not an inferior entity to be treated with disdain as an irksome impediment to the will of the executive branch.”

Constitutional Experts To Discuss the State of the Constitution at NYSBA Summit

By Rebecca Melnitsky

Is the Constitution failing? Have the three branches of government abdicated their fundamental responsibilities? The New York State Bar Association will tackle these questions and more at its upcoming Presidential Summit.

“As lawyers, we have a responsibility to sound the alarm when the rule of law is under attack,” said Kathleen Sweet, president of the New York State Bar Association. “Our esteemed panelists and moderator will review recent events and guide a discussion on how to strengthen and protect our democracy.”

The Presidential Summit, the marquee event of the New York State Bar Association’s Annual Meeting, is on Wednesday, Jan. 14, from 2 p.m. to 4 p.m. at the Grand Ballroom West in the New York Hilton Midtown in New York City. The panel will discuss “The Case for Constitutional Failure,”

focusing on whether the three branches of government have abdicated their constitutional responsibilities.

The panelists are:

- Sonia Mittal, former Assistant United States Attorney and January 6 prosecutor, Associate Research Scholar in Law and Co-Director of the Peter Gruber Rule of Law Clinic at Yale Law School.
- Jack Rakove, Pulitzer Prize-winning historian, William Robertson Coe Professor of History and American Studies and professor of political science, emeritus, at Stanford University.
- Lawrence O’Donnell, MSNOW television anchor, producer and commentator, will moderate.



New York State Bar Association To Honor Gov. Kathy Hochul as Part of 150th Anniversary Celebration

By Susan DeSantis

The New York State Bar Association has selected Gov. Kathy Hochul, New York's first female governor, to receive the Gold Medal, the association's highest honor. She is the first governor to receive the award since Gov. Nathan L. Miller was awarded the inaugural Gold Medal in 1952.

"Gov. Hochul has been instrumental in protecting reproductive health care, championing New York's Equal Rights Amendment, enacting prudent gun control laws and standing up to racial injustice," said Kathleen Sweet, president of the New York State Bar Association. "I am pleased that we will be honoring the governor and all our past presidents at the Gala. Our past presidents built the association, which is now the largest

and most respected voluntary state bar association in the nation."

Honoring attorneys who render extraordinary service to the public and the profession is part of NYSBA's Annual Meeting tradition. This year's event features a wide range of programs and activities tailored to the diverse interests and needs of New York lawyers. The Annual Meeting takes place from Tuesday, Jan. 13, to Friday, Jan. 16, at the New York Hilton Midtown.

The Gala dinner, the social highlight of the association's Annual Meeting, will be Thursday, Jan. 15, at The Plaza Hotel. The dinner kicks off a year of 150th Anniversary celebrations. A commemorative edition of the Bar Journal will be issued and videos, photos and stories tracing the



Gov. Kathy Hochul

association's history will be memorialized on the NYSBA website. The annual President's Reception on Wednesday, Jan. 14, will be our official birthday party.

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To Get to the Truth, Go to the Primary Source, Says NYSBA Media Literacy Panel

By Rebecca Melnitsky

As Americans are bombarded with information, they need tools and resources to sort fact from fiction. To that end, the New York State Bar Association hosted an all-day convocation on the necessity of media literacy, and how the legal profession can help the public understand and participate in civic life in order to protect the rule of law.

“Today’s convocation could not be more necessary in an era where digital manipulation can shape public opinion,” President Kathleen Sweet said in her opening remarks. “Misinformation, disinformation and misrepresentation spread with an unprecedented ease and speed. There’s deceiving social media posts and AI hallucinations. As members of the legal community, we share responsibility to help the public evaluate information, pursue and amplify the truth, think critically, and participate meaningfully in our democracy.”

Chief Judge Rowan Wilson of the New York State Court of Appeals spoke about the importance of education to build up media literacy. “We’ve reached the point where some are using the internet to destroy the truth,” he said. “But we’re not yet at the point where those expressing the truth will always be disbelieved in favor of those who accommodate comfortable lies.”

The convocation kicked off with a panel to examine the state of media literacy.

“In addition to being an advocate, you need to be a role model,” said Howard Schneider, executive director of SUNY Stony Brook University’s Center for News Literacy. “I don’t care who you are. You need to go back to your family and your friends,

and you have to stand up for facts. You have to stand up and make sure that you are not inadvertently spreading false and fake information. ... One of the great underlying principles of media literacy is that we are not victims. We are in control of our information life if we want to be.”

Digging Deeper Into Supreme Court Decisions

Noel Francisco, partner-in-charge of Jones Day in Washington, D.C., and the solicitor general of the United States from 2017 to 2020, spoke with Christopher Riano, a constitutional scholar on media literacy, of counsel at Holland & Knight, and past chair of the LGBTQ+ Law Section. Francisco discussed how media coverage of the U.S. Supreme Court affects the public’s perception of court cases.

For example, Francisco said *National Labor Relations Board v. Noel Canning*, which he argued in front of the Supreme Court, was framed as a political issue when it was really about the president’s power to appoint officials when the Senate is in recess – when otherwise such appointments would have required a Senate vote. However, sometimes during recess, the Senate meets in one-minute, pro forma sessions.

“It happened to be that President Obama was the first person to challenge that process when he made recess appointments to the National Labor Relations Board during these one-minute sessions,” said Francisco. “He claimed that they were not legitimate sessions and therefore he could make



(L-R): Christopher Riano and Noel Francisco speak at NYSBA's Media Literacy Convocation.

the recess appointments, because the Senate was in fact in recess.”

Francisco represented Noel Canning, a Pepsi bottling company that was regulated by the National Labor Relations Board and decided to challenge the recess appointments.

“At the time, this became this huge political issue ... Republican versus Democrat issue,” said Francisco. “All the Republicans lined up for us, all the Democrats lined up against us because it was President Obama who made the appointments. I can guarantee that if in the Bush administration, they had done what President Obama did, the politics would have lined up in the exact opposite direction. I never viewed this case as one having a Democrat-Republican political lens because both parties have been subjected to this process, and Congress said both parties abused this process. It just happened to be the time that this case brought into the courts happened to be a Democrat president and a Republican Congress. So, I think it’s a really good example of where you do need to step back and ask yourself – ‘is this really the partisan issue that people are portraying it to be, or is it something that has a lot more layers?’”

Commercial and Federal Litigation Section Celebrates Female Attorneys With Scheindlin Award and Kaye Scholarships

By Rebecca Melnitsky

The New York State Bar Association recently honored several distinguished woman attorneys at the Commercial and Federal Litigation Section's Taking the Lead program.

The program started with a showcase of women commercial litigators as they reenacted an actual civil business dispute in a mock trial. Prominent members of the judiciary critiqued the trial performances.

Carolyn Pokorny, former first assistant U.S. attorney for the Eastern District of New York, received the Hon. Shira A. Scheindlin Award for Excellence in the Courtroom. The award is named in honor of retired Judge Shira Scheindlin and recognizes distinguished female litigators who have shown a commitment to men-

toring young attorneys. Seth Levine, partner at Levine Lee, praised her as "gifted ... credible beyond challenge ... tough as nails without arrogance ... always scrupulously prepared ... simply devastatingly effective."

The Judith Kaye Commercial and Federal Litigation Scholarship was presented to the following honorees:

- Mary Serene Carino, associate at Farrell Fritz.
- Kelly Geary, associate at Adams Leclair.
- Alyssa C. Goldrich, associate at Tannenbaum Helpert.
- Morgan V. Manley, partner at Smith, Gambrell & Russell.

- Michaela J. Mancini, associate at Bond, Schoeneck & King.

The scholarship is named in honor of the late Chief Judge Judith Kaye and covers the registration fee for each recipient to attend the Commercial and Federal Litigation Section's Commercial Litigation Academy. The goal of the scholarship is to increase the number of women prepared to serve as first chair in large commercial cases.

The program and awards ceremony took place at the New York County Court House in New York City.



The panel of judges for the civil trial reenactment were (L-R): Justice Linda Jamieson, Judge Jeannette Vargas, Judge Shira Scheindlin, Judge Mae D'Agostino, and Justice Robert Reed.

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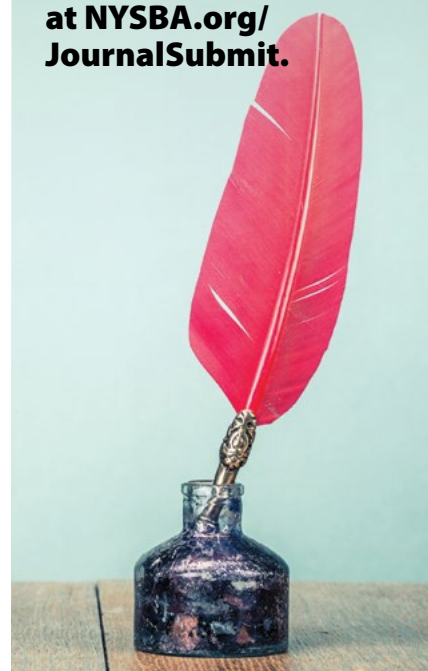
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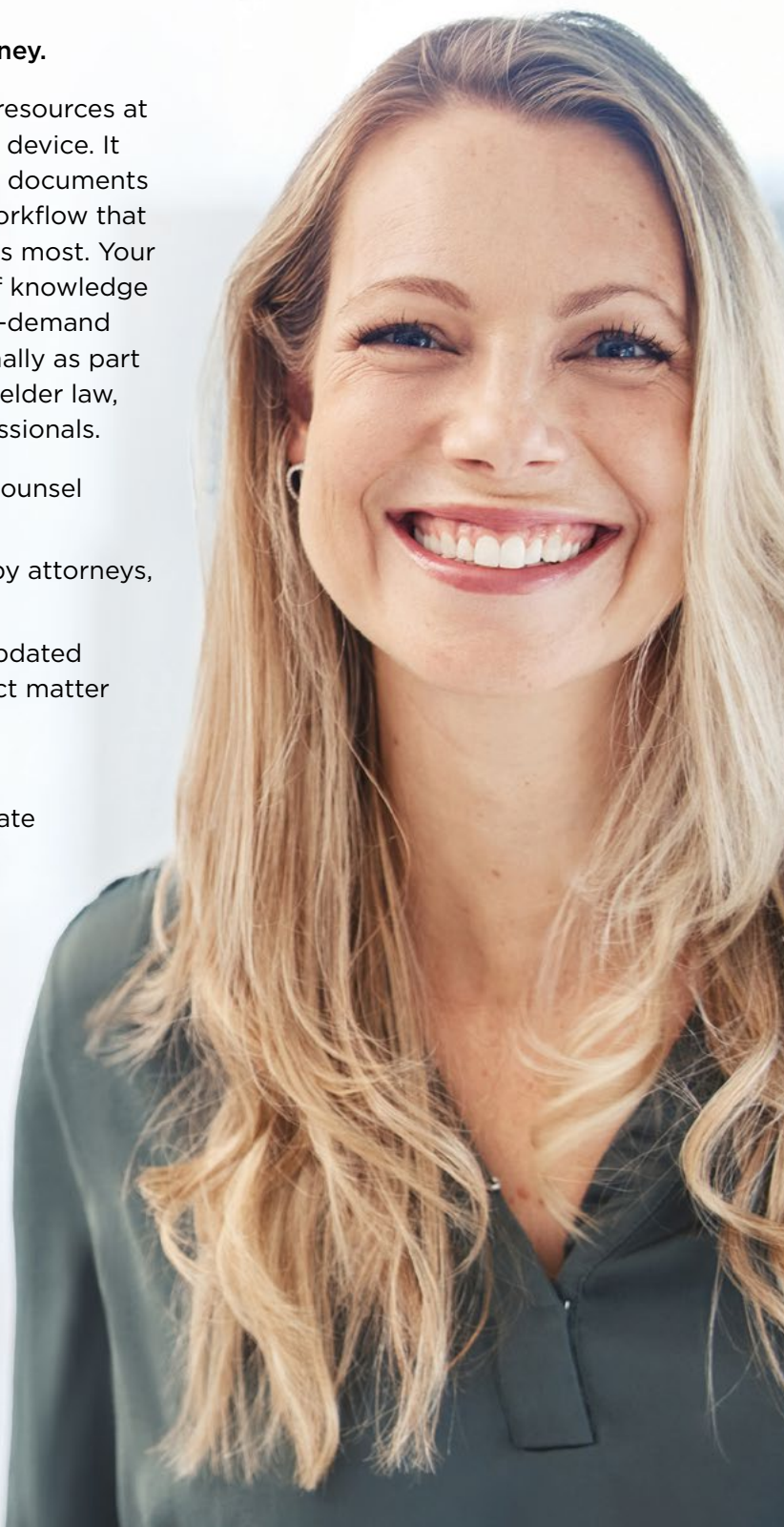
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