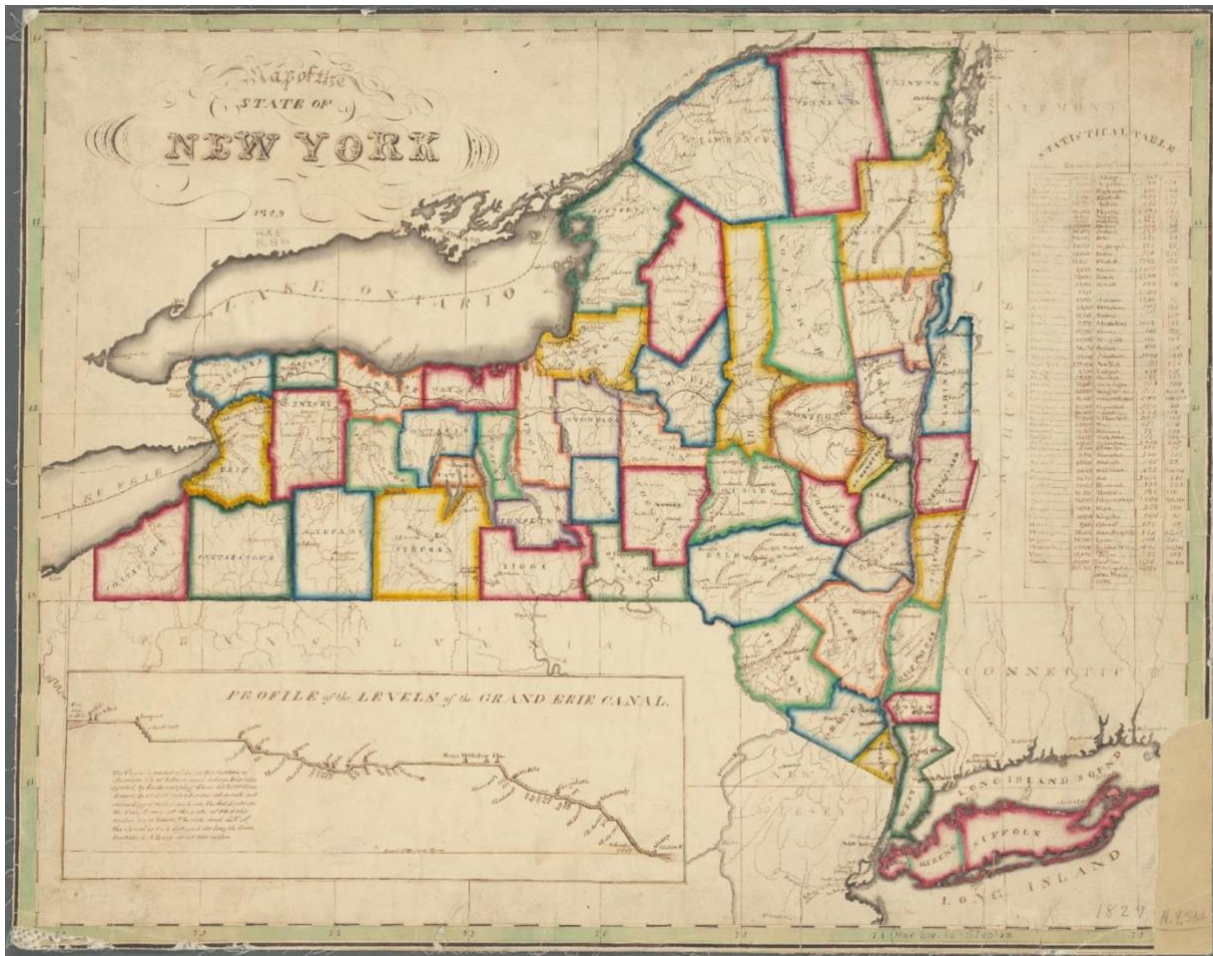


# HISTORICAL SOCIETY *of the* NEW YORK COURTS

## History of New York County Bench and Bar



**By Vincent Chang, Julie Gick, Amani Harris, Debra James,  
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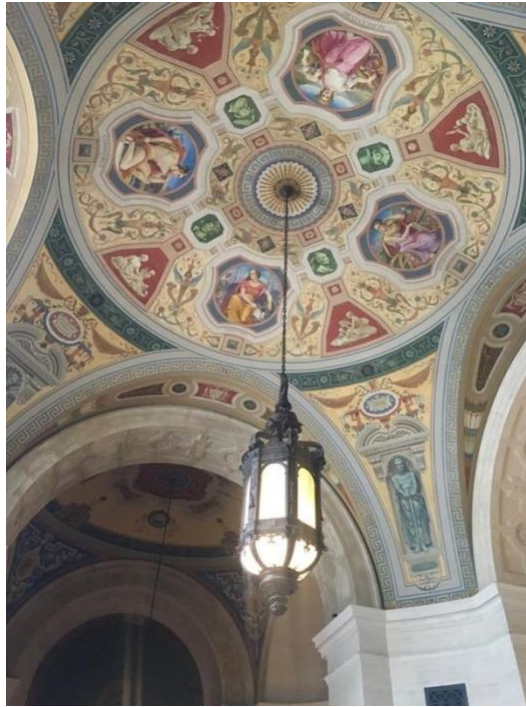
**The Historical Society of the New York Courts**  
**New York County Legal History**

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## I. Introduction<sup>1</sup>



**FIGURE 1:** *Intricate murals grace the ceilings within the New York County Courthouse at 60 Centre Street in Lower Manhattan and trace the court’s history back to the early days of the pre-Colonial period. (Adrian Untermeyer, 2019).*

From Hamilton and Cardozo to Sotomayor and Bolin, many of our nation’s most distinctive legal figures trace their roots back to Manhattan Island. New York County’s iconic courthouses define the look of American law in television, film, and literature. Our cases still shape the country’s legal doctrine, as they have for generations. And our law schools produce attorneys of the highest caliber, who fight for justice in government, the private sector, and everywhere in-between.

In short, Manhattan’s impact on the law is incalculable. No document could ever do full justice to the centuries-spanning legacy of this Island of Justice. As Justice Alden Chester put it nearly a century ago, attempting a complete review of the “incessant activity and

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<sup>1</sup> By Adrian Untermeyer, Esq.

noteworthy achievements of probably the most active public branch of a municipality larger than some nations would be impossible.”<sup>2</sup>

Instead, this document tells the story of New York County’s courts in what we hope is a rich, honest, and somewhat concise fashion. And this history is a complicated one. Manhattan’s courts left many stains on the fabric of justice over the course of over four-hundred years. Political bosses made some judgeships a commodity. Prosecutors tried the Central Park Five in our courtrooms. And far too many endured the cancer of Rikers Island in lieu of expedient and restorative justice.

We will not shy away from this checkered history in our tale, nor will we suggest that today’s courts are perfect. Yet we *will* showcase the many success stories – victories won *in spite of* the system’s shortcomings – that we hope will inspire all justice-minded New Yorkers working to meet the moment of this new century’s second decade.

Our story proceeds chronologically. We begin with the courts’ earliest years, which predate the Republic by well over a century, and which end in America’s Gilded Age. We then turn to the hundred years between 1900 and 2000, when Manhattan’s courts amassed sizable influence while also confronting the contradictions at the heart of the American experiment.

We complete our chronological journey by considering the time between 2000 and the present, when the court system matured against the backdrop of rapid social and technological change. And we conclude with a set of remarks considering the future of our courts, along with a set of resources and appendices for those eager to do further digging.

So, let us start at the beginning, in the “New York” of over four centuries ago, decades before Dutch and British capture, and under the peaceful rule of the Lenape, Manhattan’s earliest native inhabitants.

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<sup>2</sup> ALDEN CHESTER, 2 COURTS AND LAWYERS OF NEW YORK: A HISTORY, 1609–1925 927 (1925).



## II. County History

### A. Early Justice: 1600 – 1900<sup>3</sup>



**FIGURE 2:** *A Lenape village on Manhattan Island, as depicted in a nineteenth-century postcard. These earliest New Yorkers were known for their peaceful dispute-resolution skills. (Jim Griffin Collection).*

The Lenape People were the original Native New Yorkers.<sup>4</sup> Their Manhattan was a varied, verdant island of rolling hills at the head of a wide harbor and home to an impressive array of hunting, fishing, and farming activities.<sup>5</sup> The word “Manhattan” even translates to “hilly island” in the Lenape’s Munsee dialect.<sup>6</sup>

The Lenape peacefully resolved disputes.<sup>7</sup> With a well-earned reputation as early diplomats, Lenape leaders carved out a niche

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<sup>3</sup> By Adrian Untermyer, Esq.

<sup>4</sup> JOHN THORN, NEW YORK 400 19 (2009); *New York City*, HISTORY.COM (Mar. 15, 2019), <https://www.history.com/topics/us-states/new-york-city>.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> See generally The Nanticoke Lenni-Lenape: An American Indian Tribe, *Our Tribal History* (2007), <https://nanticoke-lenape.info/history.htm>; The Bowery Boys, #206 *The Lenape: The Real Native New*

mediating conflict with both other native peoples and with early European settlers.<sup>8</sup> Thus, Lenape dispute resolution was perhaps the earliest example of Manhattan's status as locus of the law.

Yet the Lenape's graceful brand of justice was not ultimately reciprocated. In 1626, new Dutch settlers "purchased" Manhattan Island from the Lenape using beads, shells, and other near-worthless notions as consideration.<sup>9</sup> The Lenape, who had "no concept of ownership of real estate,"<sup>10</sup> were thus also among the earliest victims of the Peppercorn Rule.<sup>11</sup>

The "sale" of Manhattan was a harbinger of things to come. Dutch settlers soon instituted a peculiar brand of rough justice in the colony that became known as New Amsterdam. To promote settlement, the Dutch offered their colonists perpetual title in land, allowing many settlers "to become at once a patroon with all the rights of lordship."<sup>12</sup> Each man "was the court," wrote historian and muckraker Gustavus Myers, "with summary powers of 'high, low, and middle jurisdiction,' which were harshly and capriciously exercised."<sup>13</sup>

The Dutch West India Company oversaw the entire operation. Dubbed "a cross between legalized piracy and a body of adroit colonization promoters," the Company held "well-nigh dictatorial powers" and often resorted to "[p]illage and butchery" to enforce its edicts.<sup>14</sup> The company's leader, Petrus Stuyvesant, dispensed justice by persecuting Lutherans and Jews, and even ordered the whipping of peaceful Quakers.<sup>15</sup>

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*Yorkers* (Jun. 9, 2016), <https://omny.fm/shows/the-bowery-boys-new-york-city-history/206-the-lenape-the-real-native-new-yorkers>.

<sup>8</sup> Nanticoke Lenni-Lenape, *supra* note 7.

<sup>9</sup> THORN, *supra* note 4; HISTORY.COM, *supra* note 4.

<sup>10</sup> THORN, *supra* note 4.

<sup>11</sup> For more on the Rule, see Edmund Polubinski Jr., *The Peppercorn Theory and the Restatement of Contracts*, 10 WM. & MARY L. REV. 201 (1968), <https://scholarship.law.wm.edu/wmlr/vol10/iss1/12>.

<sup>12</sup> GUSTAVUS MYERS, HISTORY OF THE GREAT AMERICAN FORTUNES 33 (Modern Library Ed. 1964).

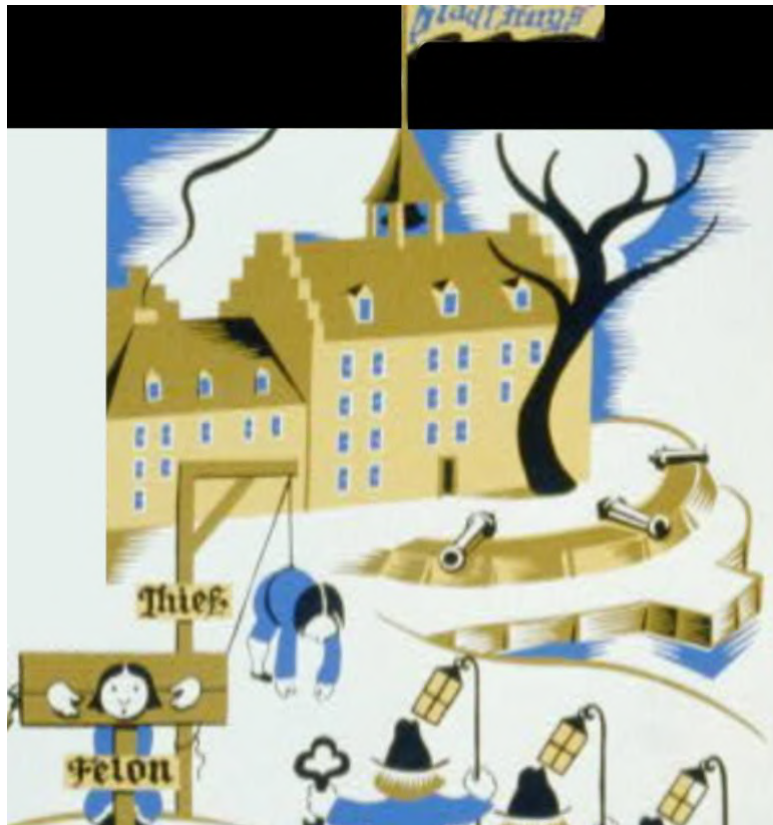
<sup>13</sup> MYERS, *supra* note 12, at 34.

<sup>14</sup> MYERS, *supra* note 12, at 33.

<sup>15</sup> Jaap Jacobs, *The Elusive Shifting Sand*, in THORN, *supra* note 4, at 13.

Thus, in early New Amsterdam, the law was swift, capricious, and unforgiving. If the little Dutch colony were to grow and prosper, it would need a system of justice befitting its grander aspirations.

i. Colonial Roots, Patchwork Jurisdiction<sup>16</sup>



**FIGURE 3:** *The Stadt Huys, New York’s early courthouse and town hall, is shown in this Works Progress Administration poster depicting Manhattan’s “rough justice” of the colonial period, complete with a “Felon” in the stocks and a “Thief” swinging from the gallows. (Library of Congress, 1936)*

Manhattan’s judicial skeleton eventually grew along with the young colony. New Amsterdam formally incorporated in 1653, and a rudimentary municipal court emerged.<sup>17</sup> “Burgomasters,” which were chief executives akin to today’s mayors,<sup>18</sup> generally presided over this Schepens’ Court of New Amsterdam.<sup>19</sup> Elements of Roman, Germanic,

<sup>16</sup> By Adrian Untermyer, Esq.

<sup>17</sup> CHESTER, *supra* note 2, at 892.

<sup>18</sup> *Burgomaster*, BLACK’S LAW DICTIONARY (6th ed. 1990).

<sup>19</sup> CHESTER, *supra* note 2, at 892.



and Catholic doctrine influenced the law.<sup>20</sup> And Stadt Huys, a charming former tavern abutting the waterfront, served both as the court's base of operations and as the town hall.<sup>21</sup>

Dutch rule would not last much longer. Britain seized New Amsterdam in 1664, and promptly began renaming forts and other relics of the prior Dutch regime – including the colony itself, which became “New York.”<sup>22</sup> The Schepens’ Court of New Amsterdam was unspared; in 1665, the British rechristened it the Mayors’ Court of the rebranded New York City.<sup>23</sup> Except for a brief period of Dutch recapture between 1673 and 1674, the old name “New Amsterdam” would be confined to the history books.<sup>24</sup>

It was at this point that Manhattan's courts first began trending toward today's jumbled structure. “Our court system has a Byzantine organizational chart that is not the result of any coherent analysis or business plan,” observed Chief Judge Kaye's Special Commission on the Future of the New York State Courts in 2007.<sup>25</sup> Instead, New York's courts are a vestige of a “patchwork in which a variety of idiosyncratic courts were allowed to proliferate despite overlapping and inconsistent jurisdictions.”<sup>26</sup>

New York's “patchwork” originated in this early period of British rule. Mayors’ Court sprouted a criminal branch known as the Court of Sessions in 1688.<sup>27</sup> These courts joined colorfully named newcomers like the Court of Assizes and the Court of Oyer and Terminer, whose jurisdictions enveloped the entire British colony.<sup>28</sup> And mayors,

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<sup>20</sup> New Netherland Institute, *Law and Jurisprudence* (2020), <https://www.newnetherlandinstitute.org/history-and-heritage/digital-exhibitions/new-netherland-legacy/law-and-jurisprudence/>.

<sup>21</sup> ROBERT PIGOTT, *NEW YORK'S LEGAL LANDMARKS* 8–9 (2d ed. 2018); *see also* NORVAL WHITE & ELLIOT WILLENSKY WITH FRAN LEADON, *AIA GUIDE TO NEW YORK CITY* 14 (5th ed. 2010).

<sup>22</sup> THORN, *supra* note 4, at 32.

<sup>23</sup> CHESTER, *supra* note 2, at 892.

<sup>24</sup> THORN, *supra* note 4, at 34.

<sup>25</sup> SPECIAL COMMISSION ON THE FUTURE OF THE NEW YORK STATE COURTS, *A COURT SYSTEM FOR THE FUTURE: THE PROMISE OF COURT RESTRUCTURING IN NEW YORK STATE* 15 (Feb. 2007).

<sup>26</sup> *Id.*

<sup>27</sup> CHESTER, *supra* note 2, at 894–95. Notwithstanding this redesignation, New York City and County “held jealously” to the former Mayors’ Court moniker. *Id.*

<sup>28</sup> CHESTER, *supra* note 2, at 893.

recorders, justices of the peace, and others all shared similar and overlapping magisterial duties.<sup>29</sup>

One notable flower bloomed in this unwieldy thicket. In 1691, a new Supreme Court of Judicature began operating in New York.<sup>30</sup> This court of general jurisdiction assumed criminal duties from the Court of Oyer and Terminer and coupled those duties with authority over both civil pleas and appeals from local courts.<sup>31</sup> Although its name is slightly shorter now, this Supreme Court of the State of New York remains our primary court of general jurisdiction to this day.<sup>32</sup>

Even with a new court on the scene, the old Stadt Huys building continued its tradition of hosting judicial proceedings. Stadt Huys accommodated the new Supreme Court of Judicature along with the old Mayors' Court dating from the Dutch period.<sup>33</sup> But a developing city required a better municipal building, and both courts moved to a new seat of government on the site of today's Federal Hall National Memorial in 1699.<sup>34</sup>

The new City Hall soon began hosting events befitting its auspicious stature. In 1735, the maturing Supreme Court of Judicature helped lay “the foundation for the freedom of the press” in the trial of John Peter Zenger.<sup>35</sup> Zenger's alleged offense – criticizing British colonial rule – captured the spirit of the era, as colonists began losing patience with their foreign overseers. “[I]t is evident,” wrote Thomas Paine in the decades to come, that England and the Colonies “belong to different systems . . . England to Europe: America to itself.”<sup>36</sup>

America's revolutionary cauldron finally boiled over in the 1770s, and City Hall became known for far more than its courtrooms. In addition to hosting routine cases, the building briefly served as the

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 893–94; New York State Unified Court System, *History: Supreme Court, Civil Branch, NY County* (2020), [ww2.nycourts.gov/courts/1jd/supetmanh/A\\_Brief\\_history\\_of\\_the\\_Court.shtml](http://ww2.nycourts.gov/courts/1jd/supetmanh/A_Brief_history_of_the_Court.shtml).

<sup>31</sup> New York State Unified Court System, *supra* note 30.

<sup>32</sup> New York State Unified Court System, *supra* note 30.

<sup>33</sup> CHESTER, *supra* note 2, at 894–95.

<sup>34</sup> PIGOTT, *supra* note 21, at 12, 14.

<sup>35</sup> New York State Unified Court System, *supra* note 30; PIGOTT, *supra* note 21, at 12.

<sup>36</sup> THOMAS PAINE, COMMON SENSE (1776).

fledgling nation's capitol.<sup>37</sup> George Washington took the first oath of office at City Hall in 1789, and Congress adopted the Bill of Rights inside.<sup>38</sup> The Supreme Court of the United States even held its first session down the street, at the Royal Exchange Building in 1790.<sup>39</sup>

All the while, Manhattan's patchwork of courts plodded along, resolving disputes both consequential and mundane under City Hall's venerable roof – with an esteemed attorney named Alexander Hamilton often at bar.<sup>40</sup>

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<sup>37</sup> PIGOTT, *supra* note 21, at 14; WHITE *et al*, *supra* note 21, at 15.

<sup>38</sup> PIGOTT, *supra* note 21, at 14; WHITE *et al*, *supra* note 21, at 18–19.

<sup>39</sup> Maxwell Bloomfield, *Supreme Court Buildings*, in THE OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES 99–100 (1992).

<sup>40</sup> PIGOTT, *supra* note 21, at 8–9, 12–14.

## ii. Alexander Hamilton: In the Courts, On the Cliffs<sup>41</sup>



**FIGURE 4:** *Alexander Hamilton and Aaron Burr were both pioneering Manhattan attorneys but resorted to the island’s customary rough justice when resolving a petty dispute over newspaper gossip. (Library of Congress, Undated).*

Alexander Hamilton was among the attorneys who practiced before Manhattan’s Supreme Court of Judicature at the heart of the fledgling United States.<sup>42</sup> After serving as America’s first Secretary of the Treasury, Hamilton admitted to being “poorer than when I went into office.”<sup>43</sup> The Founding Father returned to New York, where he “helped lay the foundations of New York commercial trial practice” by becoming what Chief Judge Kaye called “the real thing: a genuine New York commercial litigator.”<sup>44</sup>

Alexander Hamilton represented traders and other mercantile clients in an array of disputes that exemplified New York’s status as a

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<sup>41</sup> By Adrian Untermyer, Esq.

<sup>42</sup> New York State Unified Court System, *supra* note 30.

<sup>43</sup> Hon. Judith S. Kaye with Hon. Janet DiFiore, *The 18<sup>th</sup> Century New York Commercial Litigator*, in 2 N.Y. PRAC., COM. LITIG. IN NEW YORK STATE COURTS § 1:2 (Robert L. Haig ed., 4th ed. Sept. 2019).

<sup>44</sup> *Id.*

burgeoning commercial hub.<sup>45</sup> The litigation could be maddeningly complex, given the courts' jurisdictional patchwork. In one infamous case, a single transaction by Hamilton's client spawned eight different actions in four different courts with three separate jury trials.<sup>46</sup>

Eventually, Hamilton recruited legal rival Aaron Burr to serve as co-counsel in that tangled affair, which became known as *Le Guen v. Gouverneur and Kemble*.<sup>47</sup> Hamilton and Burr apparently cooperated without any evidence of tension,<sup>48</sup> and it was not the only time they joined forces.<sup>49</sup> For instance, the pair also successfully defended a young carpenter whose lover was discovered deep in the bottom of a well in an 1800 murder trial.<sup>50</sup>

The murder trial's macabre circumstances were fitting given the events that would envelop Hamilton and Burr just four years later.<sup>51</sup> By 1804, Manhattan had not yet abandoned the vestiges of its rough brand of colonial justice.<sup>52</sup> Dueling – a “murderous practice,” according to Benjamin Franklin – remained a means of honorably resolving disputes between elites notwithstanding its illegality under New York State law.<sup>53</sup>

Hamilton and Burr soon resorted to this bloody form of dispute resolution due to a series of petty circumstances. During the early months of 1804, Hamilton criticized Burr over an Albany dinner table.<sup>54</sup> Hamilton's insults ended up in New York's *Evening Post* thanks to a gossipy dinner guest.<sup>55</sup> And to redeem his honor, Burr challenged Hamilton to a duel in the wee hours of July 11, 1804.<sup>56</sup>

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<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at n.21.

<sup>49</sup> PIGOTT, *supra* note 21, at 12.

<sup>50</sup> *Id.*

<sup>51</sup> Charles F. Hobson, *Aaron Burr*, in THE OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES, *supra* note 39, at 106.

<sup>52</sup> See *supra* Section II.A.i.

<sup>53</sup> RON CHERNOW, ALEXANDER HAMILTON 683–84, 700 (2004).

<sup>54</sup> *Id.* at 680–81.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.* at 682.



The pair selected a site on New Jersey's Weehawken Cliffs, which overlooked Manhattan's wooded shoreline at the spot of today's Forty-Second Street.<sup>57</sup> Each man took aim, and Aaron Burr – a “superb marksman” who had claimed several enemy lives during the Revolutionary War<sup>58</sup> – took the fatal shot.<sup>59</sup>

Hamilton crumpled to the ground; the early lion of Manhattan litigation would roar no longer.<sup>60</sup> Yet Alexander Hamilton would not be the only legal icon felled by Aaron Burr. For in the years that followed, Burr would take indirect aim at New York's emerging court system itself, by helping found Tammany Hall, a group that proved to be an even more dastardly threat to justice than the scandalous litigator himself.

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<sup>57</sup> *Id.* at 700.

<sup>58</sup> *Id.* at 691.

<sup>59</sup> THE OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES, *supra* note 39, at 106.

<sup>60</sup> *Id.*

### iii. The Taint of Tammany Hall<sup>61</sup>



**FIGURE 5:** A cartoon illustrates courtroom dynamics in Manhattan’s Tammany Hall era, with the policeman’s club reading “TAMMANY” and the defendant’s handkerchief reading “REFORM.” (Library of Congress, 1898).

Aaron Burr may rightfully be blamed for everything from Alexander Hamilton’s death to the United States Senate’s infamous filibuster.<sup>62</sup> Yet Tammany Hall, the patronage machine that began corrupting Manhattan’s courts in the 1800s, also belongs on the list of Burr’s specious gifts to the American experiment.<sup>63</sup>

Burr served as an early Tammany booster and influencer at the group’s founding in 1789.<sup>64</sup> During that time, Tammany was little more

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<sup>61</sup> By Adrian Untermyer, Esq.

<sup>62</sup> BARACK OBAMA, A PROMISED LAND 243 (2020).

<sup>63</sup> THORN, *supra* note 4, at 116.

<sup>64</sup> *Id.*

than “a non-political club” featuring what political historian Arthur Mann called “the aims, mumbo-jumbo ritual, and hoopla common to service organizations that dot the American landscape today.”<sup>65</sup> What would become known as the “Tammany Tiger” was little more than a cub.

Manhattan’s courts slowly began to mature alongside the nascent Tammany machine. By 1821, the Mayors’ Court – which had “held jealousy to its more distinctive name” since the Dutch period – was finally renamed the Court of Common Pleas for the City and County of New York.<sup>66</sup> Twenty-five years thereafter, Manhattan’s “loose confederation of small courts and judges” were organized somewhat through the 1846 adoption of Article VI of the New York State Constitution.<sup>67</sup>

Under the newly adopted Article VI, New York’s colonial judicial hodgepodge was rejiggered under a deliberate framework for the first time. New York State found itself divided into eight judicial districts, and today’s Surrogate’s Courts and Court of Appeals took shape.<sup>68</sup> Elected judgeships followed by 1848, just before the so-called “Modern” Tammany emerged in 1854 as a political force that came to dominate Manhattan’s entire political apparatus;<sup>69</sup> previously, judges were simply “appointed by a central authority” in line with colonial practices.<sup>70</sup>

Those elected judgeships swiftly became the oil that greased Tammany Hall’s burgeoning political machine of the mid-1800s. “We didn’t go in [to government] for humbug civil service and all that rot,” explained Tammany’s George Washington Plunkitt.<sup>71</sup> Instead, local activists were encouraged to tend to the machine “till you have made your pile and landed a Supreme Court Justiceship with a fourteen-year

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<sup>65</sup> WILLIAM L. RIORDAN, *PLUNKITT OF TAMMANY HALL* xii–xiii (Paperback ed. 1963).

<sup>66</sup> CHESTER, *supra* note 2, at 895.

<sup>67</sup> SPECIAL COMMISSION ON THE FUTURE OF THE NEW YORK STATE COURTS, *supra* note 25, at 16.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.* at 896; RIORDAN, *supra* note 65, at x.

<sup>70</sup> Marc Bloustein, *A Short History of the New York State Court System*, HISTORICAL SOCIETY OF THE NEW YORK COURTS (Sep. 1987), [http://www.nycourts.gov/history/legal-history-new-york/documents/History\\_Short-History-NY-Courts.pdf](http://www.nycourts.gov/history/legal-history-new-york/documents/History_Short-History-NY-Courts.pdf).

<sup>71</sup> RIORDAN, *supra* note 65, at 12.

term at \$17,500 a year, or some job of that kind. Then you've got about all you can get out of politics.”<sup>72</sup>

A spot on the bench was thus precious political currency in 19<sup>th</sup> Century Manhattan. Plunkitt recalled Tammany “givin’ this job” – a Supreme Court Justiceship, or what Plunkitt called a “big plum” – to the creator of a rival political faction in order to garner political support.<sup>73</sup> The value of the “plum,” Plunkitt hastened to add, amounted to nearly a quarter-million dollars in salary over a fourteen-year term.<sup>74</sup> Such dealings became the “whole secret of New York metropolitan politics,”<sup>75</sup> and still mark “the blackest [time] in the history of its bench and bar.”<sup>76</sup>

During this scandalous period, Tammany’s grip molded the judiciary in ways that sometimes bordered on the comical. One Tammany leader served in the courts as a police magistrate – all while “filling four public offices in one year and drawing salaries from three of them at the same time.”<sup>77</sup> “Drawin’ so many salaries is rather fatiguin’, you know,” Plunkitt wryly observed.<sup>78</sup>

Judgeships were not the only commodity on Tammany’s shelves. Indeed, the law itself was sometimes up for sale to Tammany loyalists. With each part of the machine “adjusted delicate to do its own particular work,”<sup>79</sup> dutiful foot soldiers benefitted from Lady Justice’s unbalanced scales when they were arrested on petty offenses. Fellow Tammany men would “go to the police courts to put in a good word for the ‘drunks and disorderlies’ or pay their fines, if a good word is not effective.”<sup>80</sup> On one morning, Plunkitt found six drunks at police court.

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<sup>72</sup> *Id.* at 50.

<sup>73</sup> *Id.* at 59.

<sup>74</sup> *Id.*

<sup>75</sup> RIORDAN, *supra* note 65 at ix.

<sup>76</sup> CHESTER, *supra* note 2, at 919.

<sup>77</sup> RIORDAN, *supra* note 65, at xxiii.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.* at 45.

<sup>80</sup> *Id.* at 91.

By way of a “timely word with the judge,” Plunkitt “[s]ecured the discharge of four.”<sup>81</sup>

These dynamics exhausted Manhattan’s fair-minded attorneys. Master biographer Robert Caro recalled the story of anti-Tammany crusader Samuel Seabury in the pages of his legendary tome, *The Power Broker*.<sup>82</sup> Seabury, who “stalked the [Tammany] Tiger” all his life, entered legal practice “in love with the law,” but eventually grew disillusioned by “the Tammany-controlled judges who turned New York’s courts into instruments of politics rather than justice.”<sup>83</sup>

Seabury ultimately represented one hundred men “unjustly accused by police who took orders from Tammany and unfairly tried before judges who took orders from Tammany.”<sup>84</sup> With justice so compromised, Caro wrote, Seabury’s one hundred clients thus “knew the bitterness of a hundred unjust defeats.”<sup>85</sup>

Seabury’s tale, along with countless others, left Caro bitter about the state of the law in Tammany-era Manhattan. “New York was a city in which the police, every day, sold the law in the streets,” he wrote.<sup>86</sup> But Caro saved his fieriest venom for Manhattan’s courts. As he saw it, the law “was sold in the very temples of justice,”<sup>87</sup> all courtesy of Tammany’s powerful political machine.<sup>88</sup>

Yet the Tammany Tiger did not fully shred justice with its claws.<sup>89</sup> Early judges were, by definition, a select and elite group. The majority had a level of education far beyond the average citizen of the time. Criminal courts and criminal court judges of the day dealt harshly with those convicted of crimes, and so many judges were presumably forewarned as to the implications of outright graft.

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<sup>81</sup> *Id.* at 92.

<sup>82</sup> ROBERT A. CARO, *THE POWER BROKER: ROBERT MOSES AND THE FALL OF NEW YORK* 351 (1974).

<sup>83</sup> *Id.* at 351.

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.* at 712.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> Special thanks to John Werner, Esq., with the assistance of Jordan Wappler and the encouragement of Jon Ritter, for suggesting and drafting the following three paragraphs.



Ordinary New Yorkers also benefited from the spoils system. Hardly any government social services were available to those in need during the Tammany era, and New York's needy included the then-burgeoning immigrant population. To fill this void, churches, synagogues, settlement houses – and political organizations such as Tammany Hall – extended lifelines to the destitute in exchange for political loyalty.<sup>90</sup>

The New York County courts were also beautified thanks to Tammany's efforts, as Manhattan received a handsome new County Courthouse because of Tammany – albeit at a steep price.<sup>91</sup> The so-called Tweed Courthouse, which still stands inside City Hall Park, is named for William “Boss” Tweed, a Tammany leader.<sup>92</sup> Tweed was so notoriously corrupt that the New York City Bar Association was founded in 1870 by 200 lawyers looking to put an end to Boss Tweed's stranglehold on the courts.<sup>93</sup>

Long associated with machine politics of the past, the Tweed Courthouse took decades to complete given the graft surrounding its construction. For example, installation of carpet valued at \$19,000 ultimately cost a whopping \$4,829,426.<sup>94</sup> Some witty New Yorkers observed this sum “could have covered the lower half of Manhattan with a high grade of Brussels weave.”<sup>95</sup>

But notwithstanding these flaws, Tweed remains an architecturally significant landmark – so much so that former Chief Judge Judith Kaye pushed for it to be adaptively reused as a

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<sup>90</sup> History.com Editors, *Tammany Hall*, HISTORY.COM (Aug. 21, 2018), <https://www.history.com/topics/us-politics/tammany-hall>.

<sup>91</sup> City of New York, Department of Citywide Administrative Services, *Tweed Courthouse* (2021), <https://www1.nyc.gov/site/dcas/business/dcasmanagedbuildings/tweed-courthouse.page>.

<sup>92</sup> *Id.*

<sup>93</sup> New York City Bar, *1870-1920: Corruption and Reform* (2021), <https://www.nycbar.org/150/corruption-and-reform/> (“By the end of January of 1870, some 200 lawyers in New York City sign what would become known as the “call for organization” of the city’s lawyers in response to rampant corruption and an inadequate justice system in the years following the Civil War.”)

<sup>94</sup> GEORGE WHITNEY MARTIN, *CAUSES AND CONFLICTS: THE CENTENNIAL HISTORY OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, 1870-1970* 63 (1997).

<sup>95</sup> *Id.*

courthouse.<sup>96</sup> Kaye's goal ultimately went unfulfilled, but the Tweed Courthouse today serves as a handsome home for New York City's Department of Education.<sup>97</sup>

So, in all, Tammany led to mixed outcomes: although the needy were assisted and the city was beautified to some extent, a corrupt enterprise simultaneously consolidated its power in the halls of justice. If Manhattan's courts were to break away from the Tammany Tiger's claws as the 19<sup>th</sup> Century gave way to the 20<sup>th</sup>, something would need to be done about those "black-robed priests, who presided" over court proceedings after having "purchased the right to do so."<sup>98</sup>

And a systematic broadening of bench and bar, coupled with a gleaming new Civic Center, would prove to be an ideal antidote.

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<sup>96</sup> THE HON. JUDITH S. KAYE, ORAL HISTORY 241 (2012), [https://history.nycourts.gov/wp-content/uploads/2018/10/OralHistory\\_Kaye.pdf](https://history.nycourts.gov/wp-content/uploads/2018/10/OralHistory_Kaye.pdf).

<sup>97</sup> *Id.*

<sup>98</sup> CARO, *supra* note 82, at 712. But other historians insist "the dreaded 'Tammany Tiger' was a paper one." As Professor Leo Hershkowitz wrote in a chapter of his Tammany history entitled *Myth*, New York was "a complex, competitive system of diverse interest" at the time. To Hershkowitz, this "heterogeneous" metropolis was simply too much for one person – or machine – to control with a stranglehold. LEO HERSHKOWITZ, *TWEED'S NEW YORK: ANOTHER LOOK* xvi (1977).

## B. Broadening Bench and Bar: 1900 – 2000<sup>99</sup>



**FIGURE 6:** *The New York County Courthouse on Foley Square’s construction symbolized somewhat of a break from the brutal and corrupt ways of the past, as it kicked off an era in which African Americans, women, and other underrepresented groups would fight for their rightful place in Manhattan’s system of justice. (Adrian Untermyer, 2018).*

By the time New Yorkers rang in the year 1900, the courts had evolved dramatically over the prior three centuries. After the Lenape’s peaceful beginnings, a system of colonial “rough justice” had emerged at the gallows and on the dueling grounds. A “patchwork” of judicial fora eventually sprouted, only to be corrupted by the money-hungry Tammany Hall machine in the decades that followed. All the while, thousands of migrants began flooding the Island of Justice, seeking new fortunes while fleeing the poverty and brutality of homelands near and far.

Amidst these changes, New York became America’s most populous city. Manhattanites comprised over half of Gotham’s 3.4 million

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<sup>99</sup> By Adrian Untermyer, Esq.

residents in 1900.<sup>100</sup> Hundreds of thousands toiled in factories, on the docks, or tending to the Gilded Age mansions that now cemented New York's status as the epicenter of America's "corporate industrial capitalism."<sup>101</sup>

A gleaming building at 18 Broad Street epitomized New York's turn-of-the-century transformation. In 1903, the New York Stock Exchange opened its new headquarters just steps from the original Stadt Huys in Lower Manhattan.<sup>102</sup> Industry derived its financial might from the Stock Exchange's marble trading floor,<sup>103</sup> and a swath of "large Wall Street 'law factor[ies]'" set up shop on Manhattan Island to service the entire operation.<sup>104</sup>

These new "law factories" triggered an avalanche of cases, necessitating creation of a new intermediate appellate court known as the "Appellate Division" just before the new century began.<sup>105</sup> In 1894, the New York State Constitution created the Appellate Division of the Supreme Court, First Judicial Department, as one of four intermediate appellate courts across New York State.<sup>106</sup>

The First Department opened its marble courthouse off Madison Square in 1900, with appellate argument devoid of street noise due to the architects' ingenious positioning of the building's monumental courtroom.<sup>107</sup> The First Department's ornate courthouse would also gain a cousin downtown. In 1907, workmen finished the Surrogate's

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<sup>100</sup> Campbell Gibson, *Population of the 100 Largest Cities and Other Urban Places In The United States: 1790 to 1990*, UNITED STATES CENSUS BUREAU (June 1998), <https://www.census.gov/library/working-papers/1998/demo/POP-twps0027.html>.

<sup>101</sup> JOHN OLLER, *WHITE SHOE: HOW A NEW BREED OF WALL STREET LAWYERS CHANGED BIG BUSINESS AND THE AMERICAN CENTURY* 7 (2019).

<sup>102</sup> History.com Editors, *Wall Street Timeline*, HISTORY.COM (Jan. 3, 2019), <https://www.history.com/topics/us-states/wall-street-timeline>.

<sup>103</sup> *Id.*

<sup>104</sup> OLLER, *supra* note 101, at 4.

<sup>105</sup> Bloustein, *supra* note 70.

<sup>106</sup> *Id.*

<sup>107</sup> Appellate Division, First Judicial Department, Supreme Court of the State of New York, *Architecture*, NYCOURTS.GOV (2021), <https://www.nycourts.gov/courts/AD1/centennial/architecture.shtml> ("Placing the entrance on 25th Street, rather than facin[g] the park, might at first seem surprising. However, the arrangement. . . situate[d] the courtroom so that it was both easily accessible by the public and located on the quietest side of the building, away from trafficked Madison Avenue.").

Courthouse and Hall of Records located at 31 Chambers Street across from City Hall Park.<sup>108</sup>

Although the Surrogate's Court itself dated back to the pre-colonial era and was formally established by statute in 1787, it would mature dramatically in its palatial new home.<sup>109</sup> Over the years, matters involving celebrities from abstract painter Mark Rothko<sup>110</sup> to billionaire heiress Doris Duke<sup>111</sup> would be adjudicated within the Surrogate's Courthouse's august, Beaux-Arts walls.

Other changes were afoot due to Manhattan's transformation into a business hub. Though Alexander Hamilton had left the scene a century earlier, a bumper crop of commercial litigators still carried on his torch. Around the turn of the century, their "White Shoe" law firms began helping Manhattan's courts shape cases of commercial importance against the backdrop of America's growing economy. Early matters often involved burgeoning local industries such as advertising, real estate, and railroads.

A number of these 20<sup>th</sup> Century commercial cases ultimately were decided by the New York State Court of Appeals and became landmark cases in United States legal history that are still studied in law school classes to this day. One early case helped introduce concepts of contract law to generations of aspiring attorneys. In *Wood v. Lucy, Lady Duff-Gordon*,<sup>112</sup> the New York Court of Appeals held a leading Manhattan advertising agent and Titanic survivor to a contract that assigned the sole right to market her name to her advertising agent.

Judge Benjamin N. Cardozo wrote the landmark opinion in *Lady Duff-Gordon's* case. Born to a tight-knit Jewish family dating back to New Amsterdam, Cardozo's legal journey began at Columbia Law

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<sup>108</sup> Surrogate's Court, New York County, *Historical Information*, NYCOURTS.GOV (2021), [ww2.nycourts.gov/courts/ljd/surrogates/historical.shtml](http://ww2.nycourts.gov/courts/ljd/surrogates/historical.shtml).

<sup>109</sup> Gregg Puff, THE ORIGIN, HISTORY AND JURISDICTION OF THE SURROGATE'S COURT IN NEW YORK 10 (1896),

[https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1051&context=historical\\_theses](https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1051&context=historical_theses).

<sup>110</sup> *Matter of Rothko*, 43 NY2d 305 (1977).

<sup>111</sup> *Matter of Duke*, 87 N.Y.2d 465 (1996).

<sup>112</sup> 222 N.Y. 88 (1917).



School in Manhattan and continued up to the Supreme Court of the United States.<sup>113</sup> However, the future Justice was still on New York's Court of Appeals when Lady Duff-Gordon's dispute found its way to Albany. In his opinion, Cardozo eloquently described arrangements where a "promise may be lacking, and yet the whole writing may be 'instinct with an obligation,' imperfectly expressed."<sup>114</sup> This judicial wordsmithing epitomized Cardozo's distinctive style and showcases the Manhattanite's lifelong impact on the common law.

But the Jewish Cardozo's ascent was not typical of the White Shoe era. During this period of exclusivity, most Jewish attorneys were confined to the so-called "lower bar" and precluded from handling more prestigious commercial matters.<sup>115</sup> Instead, Jews were expected to handle lowlier, "ambulance chas[ing]" duties.<sup>116</sup> Manhattan attorney and future cabinet secretary Elihu Root even referred to these practitioners as a "lower grade as to attainment and cultivation."<sup>117</sup>

Jews were not the only attorneys unwelcome in White Shoe echelons. At the turn of the century, Manhattan's only bar association "precluded some lawyers from membership by virtue of ethnicity, religion, gender and race," as was typical at the time.<sup>118</sup> Groups such as the New York County Lawyers Association ("NYCLA") formed in response and worked to ensure that "any attorney who had met the rigid standards set up by law for admission to the bar should, by virtue of that circumstance, be eligible for admission."<sup>119</sup>

Following NYCLA's founding in 1908, the group attracted many young attorneys of diverse backgrounds. One member was Myles A. Paige, the first African American magistrate in New York City

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<sup>113</sup> Andrew L. Kaufman, *Cardozo's Heritage: The Sphardim and Tammany Hall*, N.Y. TIMES ON THE WEB, <https://archive.nytimes.com/www.nytimes.com/books/first/k/kaufman-cardozo.html?height=80%25&iframe=true&width=80%25>.

<sup>114</sup> *Wood v. Lucy, Lady Duff-Gordon*, 222 N.Y. at 91.

<sup>115</sup> OLLER, *supra* note 101, at 106-07.

<sup>116</sup> *Id.* at 107.

<sup>117</sup> *Id.*

<sup>118</sup> New York County Lawyers Association, About NYCLA, NYCLA.org (March 2020), <https://www.nycla.org/NYCLA/About/AboutNYCLA.aspx>.

<sup>119</sup> *Id.*, quoting the Hon. Joseph H. Choate.

history.<sup>120</sup> Rather than selling justice in the typical Tammany fashion,<sup>121</sup> Paige left “all who observe[d] him, including the prisoners, with the impression that he desires only to help the offenders against the law.”<sup>122</sup> Paige would offer a proven path for other African Americans seeking to make their mark on Manhattan’s judiciary.<sup>123</sup>

Women also helped sand down the rougher edges of Manhattan’s judicial system. To aid prisoners enduring the “dank, overcrowded and smelly precincts” of Lower Manhattan’s jail, humanitarian volunteer Rebecca Salome Foster lent a “sympathetic ear, a zeal to investigate their cases and a willingness to plead their cause with judges.”<sup>124</sup> Up to the turn of the century, Foster “also offered food, money, clothing and job-training advice to the poor of lower Manhattan.”<sup>125</sup> For her efforts, a monument to Foster is now on permanent display in the lobby of the New York County Courthouse at 60 Centre Street.<sup>126</sup>

Paige and Foster’s legacy began catching up with New York’s brand of “rough justice” later in the 20<sup>th</sup> Century, after court consolidations, specialized “problem-solving” courts, centralized court administration, and a newly codified set of Civil Practice Law and Rules helped introduce a level of stability, rationality, and accessibility to the practice of law in Manhattan’s courts. A young Sonia Sotomayor showcased the system’s progression. In 1979, a young Sotomayor began her first legal position in Manhattan as an Assistant District Attorney – an appointment that would have been unfathomable a century before.<sup>127</sup> It was an early step on the future Justice’s path to being the first woman of color to serve on the Supreme Court of the United States.

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<sup>120</sup> Wesley Curtwright, *Short Biography of Magistrate Myles A. Paige* 1, 4 (Jan. 5, 1939), [https://blacknewyorkers-nypl.org/wp-content/uploads/2016/06/paige\\_a\\_myles.pdf](https://blacknewyorkers-nypl.org/wp-content/uploads/2016/06/paige_a_myles.pdf).

<sup>121</sup> CARO, *supra* note 82, at 712.

<sup>122</sup> Curtwright, *supra* note 120, at 4.

<sup>123</sup> See the following sections, *passim*.

<sup>124</sup> Peter Libbey, *New York’s Tribute to the ‘Tombs Angel’: Lost, Found, Now Restored*, N.Y. TIMES (June 16, 2019), <https://www.nytimes.com/2019/06/16/arts/design/new-york-monument-tombs-angel.html>. See also 16 JUDICIAL NOTICE (2021).

<sup>125</sup> *Id.*

<sup>126</sup> *Id.*

<sup>127</sup> *Current Members*, SUPREME COURT OF THE UNITED STATES (March 2020), <https://www.supremecourt.gov/about/biographies.aspx>.

Other advancements became apparent, particularly when a notable court formed in 1974 to focus on housing matters impacting Manhattanites.<sup>128</sup> Landlord-and-tenant proceedings, both residential and commercial, had long been a staple of the Civil Court and its predecessor courts – but the creation of a designated Housing Court resulted in a major reconfiguration of the Civil Court of the City of New York.

In the late 1970s and 1980s, the Housing Court became increasingly significant because landlord-and-tenant evolved quickly during that period. The warranty of habitability as a defense to non-payment proceedings was then a recent development, as was the right to sublet regulated apartments, as were “succession rights” to regulated apartments, including the broadening definition of “family” for the purpose of recognizing those rights. That expansion presaged what was soon to become the vast broadening of the rights of members of “non-traditional families” in other contexts across the state.<sup>129</sup> As a result, the Housing Court and the Appellate Term, to which Housing Court appeals are taken, were at the forefront of that dramatic social change in America.

The 1970s also marked a watershed moment for the organizational structure of the New York County Courts, as the State of New York created a “Unified Court System” under the aegis of a central administration.<sup>130</sup> An amendment to the New York State Constitution, blessed by the voters on November 8, 1977 and effective April 1, 1978, created the Office of Court Administration under the leadership of a Chief Administrator, and transferred New York County’s trial courts and the Appellate Term from the budget of the City of New York to the budget of the State of New York.<sup>131</sup> The principal architect of that court

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<sup>128</sup> Special thanks to John Werner, Esq., for suggesting and authoring the next two paragraphs with the assistance of Jordan Wappler. The observations and analysis contained therein are based on Werner’s personal recollections and reflections.

<sup>129</sup> *See, e.g.*, Brooke S.B. v. Elizabeth A.C.C., 28 N.Y.3d 1 (2016).

<sup>130</sup> Bloustein, *supra* note 70. Special thanks to John Werner, Esq. for repeatedly suggesting, and helping to draft, these two paragraphs by Adrian Untermyer, Esq.

<sup>131</sup> *Id.*

system reorganization was Chief Judge Charles Breitel of the New York State Court of Appeals.<sup>132</sup>

Administration of the trial courts, which had long been in the hands of the Appellate Division, First Department, was also transferred to this newly created central administration.<sup>133</sup> This was a radical departure from years past, when the First Department dictated matters large and small.

One colorful example endures in the form of a framed 1910 letter still on display at the First Department's courthouse off Madison Square Park.<sup>134</sup> The framed letter, captioned "Once upon a time..." is signed by a panel of five First Department justices, and "hereby authorizes the purchase of drinking water...to supply the private rooms of the Justices of the Supreme Court, at the County Court House and at the Criminal Branch."<sup>135</sup> Needless to say, such quotidian matters now reside in the Office of Court Administration's wheelhouse.

New York County also left a profound mark on the New York State Court of Appeals in the latter half of the 20<sup>th</sup> Century, with each of the Court's first two female members hailing from the borough. During these years, attorney Judith S. Kaye had flourished as an accomplished commercial litigator in New York County before becoming the first woman appointed to the New York Court of Appeals upon her designation by Governor Mario M. Cuomo in 1983.<sup>136</sup> Judge Kaye served as an Associate Judge of the Court of Appeals until 1993, when, effective March 23 of that year, Governor Cuomo appointed her Chief Judge of the Court of Appeals.<sup>137</sup>

As much as Judge Kaye admired her colleagues on that high court, it was no secret that she long wished to be joined by a second

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<sup>132</sup> *Id.*

<sup>133</sup> *Id.*

<sup>134</sup> Supreme Court, Appellate Division, First Department, *Untitled Letter* (Dec. 29, 1910) (Original on display in the basement of the First Department's courthouse; image on file with Adrian Untermyer, Esq.).

<sup>135</sup> *Id.*

<sup>136</sup> KAYE, *supra* note 96, at xi. Special thanks are due to John Werner, Esq., for suggesting and drafting the following four paragraphs, portions of which are based on his personal recollections.

<sup>137</sup> *Id.* at vii.

woman.<sup>138</sup> That wish was realized when Governor Cuomo, on December 1, 1993, announced the nomination of Justice Carmen Beauchamp Ciparick for appointment to the Court of Appeals.<sup>139</sup> Judge Ciparick's nomination was confirmed by the New York State Senate and Judge Ciparick assumed her important judicial responsibilities on New York State's highest court.<sup>140</sup>

On the day Judge Ciparick's induction ceremony was to take place at the Court of Appeals in Albany a snowstorm closed highways and delayed Amtrak service. Not to be deterred, the ceremony proceeded to much acclaim. Thus, Judge Ciparick became the second woman appointed to the Court of Appeals and the first Latina to sit on that high court.

Judge Kaye and Judge Ciparick shared many values in common, and the two were drawn closer together when they were the only women serving on the Court of Appeals. Indeed, they became the dearest of friends which was readily apparent to all privileged to spend time together with them. These female, Manhattan-based pioneers helped to pave the way for countless others, and their common experience contributed to their friendship as well.

So, in short, the twentieth century was a period of immense social, architectural, and administrative transformation in Manhattan's courts. And it all played out against a dramatic backdrop: a monumental Civic Center, capturing the aspirations of a new century, and which would define the aesthetic of justice in New York and the nation over the course of the centuries to come.

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<sup>138</sup> *Id.* at 137–140.

<sup>139</sup> James Dao, *Cuomo Choice For Top Court Is Woman*, 51, N.Y. TIMES (Dec. 2, 1993).

<sup>140</sup> Antonio E. Galvao, *Carmen Beauchamp Ciparick*, HISTORICAL SOCIETY OF THE N.Y. COURTS (2021), <https://history.nycourts.gov/biography/carmen-beauchamp-ciparick/>.

i. County Courthouses and the Civic Center<sup>141</sup>



**FIGURE 7:** *Manhattan’s Foley Square serves as an architectural symbol of justice in New York and the nation and was the result of numerous building campaigns that emerged from both the sanitary and City Beautiful movements of the early 20<sup>th</sup> Century. (Google Maps, 2021).*

Lower Manhattan’s courthouses frame the area now known as its Civic Center. The Manhattan Civic Center is centered around Foley Square, which was named for local saloonkeeper and Tammany Hall leader Thomas “Big Tom” Foley in 1926,<sup>142</sup> and arose in the early 20<sup>th</sup> Century due largely to growth and reforms to the court system. Indeed, the early planning and construction of the New York County Courthouse at 60 Centre Street laid the framework for development of a monumental plaza centered on that distinctive, hexagonal structure.

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<sup>141</sup> By Dr. Jon Ritter, Clinical Associate Professor of Architecture and Urbanism, New York University. For further information on the buildings that comprise Manhattan’s Civic Center district, including street addresses to enable easy visitation, *see* Appendix A.

<sup>142</sup> Christopher Moore, *Rename Foley Square The African Square*, N.Y. TIMES (July 4, 1992) <https://www.nytimes.com/1992/07/04/opinion/1-rename-foley-square-the-african-square-813092.html>. A 1939 effort to rename it “Court Square” was apparently unsuccessful.

Though the Civic Center looks cohesive today, it is the product of multiple disparate 20<sup>th</sup> Century building campaigns. Boston architect Guy Lowell planned and built the New York County Courthouse between 1913 and 1927 to present a timeless image of American justice, derived from contemporary emulation of Renaissance and Roman forms.

In 1935, the City and State of New York extended this classicizing governmental presence with the Department of Health Building<sup>143</sup> and the New York State Building, now known as the Louis J. Lefkowitz building.<sup>144</sup> That handsome, Egyptian-Deco structure at 80 Centre Street was renamed for the Lower East Side's Louis "Louie" J. Lefkowitz in 1984.<sup>145</sup> Lefkowitz was a "crack political campaigner" who rose from scrappy clubhouse roots to his legendary tenure as New York State's longest-serving Attorney General.<sup>146</sup> A beloved Republican politician in a decidedly Democratic city, Lefkowitz was dubbed "the ultimate public man" and was reportedly greeted with the expression "Hiya Louie" wherever he roamed.<sup>147</sup> Although the Lefkowitz Building originally boasted state offices and a Motor Vehicles bureau, it is now also home to a host of Supreme Court Parts in order to alleviate overcrowding at the New York County Courthouse and other facilities.<sup>148</sup>

The federal government added the colonnaded United States Courthouse and Federal office building to Foley Square in 1936, which was designed by architect Cass Gilbert – most famous for his 1913 Woolworth Building a few blocks away. And after World War II, the

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<sup>143</sup> Charles B. Myers, architect.

<sup>144</sup> William E. Haugaard and Sullivan W. Jones, architects. *See also State Departments Want Building Here*, N.Y. TIMES (Dec. 30, 1912); *A State Building Needed*, N.Y. TIMES (Apr. 13, 1915); *Court House Plans Save \$14,000,000*, N.Y. TIMES (Dec. 14, 1919).

<sup>145</sup> *Louis J. Lefkowitz State Office Building*, N.Y.C. DEPT. OF CITYWIDE ADMIN. SERVICES (2021) <https://www1.nyc.gov/site/dcas/business/dcasmanagedbuildings/louis-lefkowitz-building.page>; Nick Ravo, *Louis J. Lefkowitz, 22-Year Attorney General, Dies at 91*, N.Y. TIMES (June 21, 1996), <https://www.nytimes.com/1996/06/21/nyregion/louis-j-lefkowitz-22-year-attorney-general-dies-at-91.html>.

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

<sup>148</sup> James Barron, *Would You Want the Place Where You Were Married to Become a Jail?*, N.Y. TIMES (Oct. 14, 2018), <https://www.nytimes.com/2018/10/14/nyregion/marriage-wedding-rikers-island-jail-nyc.html>.

Javits Federal Office Building and Court of International Trade opened in 1969, which expanded federal facilities in the area and filled in the lots opposite the County Courthouse.<sup>149</sup>

However, the area that became Foley Square occupies one of the oldest inhabited parts of New York City. Originally called “Werpoes” by the native Lenape and “Collect Pond” by colonial settlers, Foley Square is the approximate site of a pre-colonial wetland, which provided fresh water, hunting grounds, and productive farmland for generations of native residents. Dutch and English colonists also used the area for watering and recreation until it was polluted by breweries, tanneries, and slaughterhouses by the late 18<sup>th</sup> Century.<sup>150</sup>

Manhattanites had filled in the “Collect” by the early 1800s, after which its swampy ground formed the center of a tenement district known as Five Points, which primarily housed Irish immigrants. By the late 19<sup>th</sup> Century, newly arriving Italian and Chinese immigrants also began to move into the area, establishing themselves on the blocks now known as Little Italy and Chinatown.

The choice to initiate a Civic Center north of City Hall reflected a compromise between Progressives promoting a central presence for government buildings around City Hall and those seeking to build on less expensive land in the area. It thus originated as a way to both represent and accommodate government functions at the heart of the growing city and the civic center can be understood to be part of the national City Beautiful movement.<sup>151</sup>

City Beautiful proponents sought to unify and aggrandize American cities through initiatives like grouping government buildings into architecturally and spatially unified complexes, or civic centers.

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<sup>149</sup> Poor, Kahn and Jacobs, et al., architects.

<sup>150</sup> KENNETH T. JACKSON, *THE ENCYCLOPEDIA OF NEW YORK CITY* 277 (1995).

<sup>151</sup> For more about the City Beautiful and negotiations over site selection in New York, see Jon Ritter, *The Expression of Civic Life: Civic Centers and the City Beautiful in New York City*, CLASSICAL NEW YORK: DISCOVERING GREECE AND ROME IN GOTHAM (2018); JON RITTER, *THE AMERICAN CIVIC CENTER: URBAN IDEALS AND COMPROMISE ON THE GROUND* (Ph.D. New York University, 2007).



Classical models influenced the ideals of the era's civic leaders, professionals, and reformers, who were themselves inspired to represent civic identity through references to the architecture and public spaces of ancient cities.

These civic center advocates believed that Greek and Roman architectural forms held moral and political meaning, and some scholars have understood their City Beautiful programs to be allied with Progressive political reform. Leaders of the national Civic Center movement included Chicago architect Daniel Burnham and writer Charles Mulford Robinson, who promoted civic art, municipal planning, and civic centers in their lectures, publications, and plans.<sup>152</sup> Burnham introduced the most influential example for this planning concept as Director of Works for the 1893 Chicago's World's Columbian Exposition.<sup>153</sup>

Under Burnham's leadership, some of America's most prominent architects collaborated to build the Court of Honor in Chicago, an architecturally coordinated group of uniformly white buildings inspired by Renaissance-Roman examples. The Exposition's image exerted a strong influence on both the general public and on elites who would later develop civic center plans for American cities. This "White City," as it was called, suggested the possibility of planning an alternative to Chicago's "Black City," characterized by commercial development and slum housing.<sup>154</sup>

Burnham's Court of Honor also provided a model for municipal civic centers as architecturally coordinated, axially oriented complexes of administrative and cultural buildings surrounding public open spaces. Following on his success in Chicago, Burnham led Senator

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<sup>152</sup> JON A. PETERSON, *THE BIRTH OF CITY PLANNING IN THE UNITED STATES, 1840-1917* 40–41, 118–22 (2003); WILLIAM H. WILSON, *THE CITY BEAUTIFUL MOVEMENT* 45–47 (1989); JOAN E. DRAPER, PhD THESIS: *THE SAN FRANCISCO CIVIC CENTER: ARCHITECTURE, PLANNING, AND POLITICS* 6 (Univ. Cal., Berkeley 1979).

<sup>153</sup> PETERSON, *supra* note 152, at 61–73; WILSON, *supra* note 152, at ch. 3; SPIRO KOSTOF AND GREG CASTILLO, *A HISTORY OF ARCHITECTURE: SETTINGS AND RITUALS* 670 (1995); THOMAS S. HINES, *BURNHAM OF CHICAGO, ARCHITECT AND PLANNER* 119–24 (1974).

<sup>154</sup> Charles Zeublin, *The Civic Renaissance: 'The White City' and After*, 38 *CHAUTAUQUAN* 373–84 (1903).

James McMillan's Commission to recreate the original monumental plan of Washington D.C., and particularly its axial Mall.<sup>155</sup> This project provided another major example of coordinated spatial planning serving government representation for the incipient City Beautiful Movement.

In the early 20<sup>th</sup> Century, architects and planners routinely adapted the Court of Honor and National Mall into civic centers for public buildings and urban projects across the country. By the 1920s, more than seventy American cities had approved official plans for civic centers, although few completed them as intended.<sup>156</sup> Two of the most complete examples are the civic centers of Cleveland and San Francisco, both of which Burnham designed with other prominent architects.

In New York during those years, architects, politicians, and civic organizations proposed several sites for a government complex in the area around City Hall Park. Those proposals emerged from the both the need for more office space as city administration grew after consolidation of the five boroughs into Greater New York in 1898, and from Progressive Era initiatives to reform government corruption through the institution of professionalized civil service administration.<sup>157</sup>

In 1899, the city began constructing a new Hall of Records, on the north side of Chambers Street, and in 1902 the State of New York chartered a New York County Courthouse Commission to plan and build the courthouse that would eventually anchor the civic center at Foley Square.<sup>158</sup> The following year, the Municipal Art Society ("MAS") made the first proposal for a New York civic center. MAS proposed a group of municipal buildings conforming with the Northern Renaissance style of the Hall of Records on the north side of Chambers Street, axially related to City Hall.<sup>159</sup>

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<sup>155</sup> HINES, *supra* note 153, at 139–57; PETERSON, *supra* note 152, at ch. 4.

<sup>156</sup> DRAPER, *supra* note 152, at 354–98.

<sup>157</sup> DAVID C. HAMMACK, POWER AND SOCIETY: GREATER NEW YORK AT THE TURN OF THE CENTURY 15–18, 95, 188, 209 (1982).

<sup>158</sup> GREGORY F. GILMARTIN, SHAPING THE CITY: NEW YORK AND THE MUNICIPAL ART SOCIETY 69 (1995).

<sup>159</sup> *Id.* at 75–81.

MAS was not the only group to propose civic center plans, however. Some advocates suggested the city build cheaply on municipal property in City Hall Park, while others advocated other sites across the city.<sup>160</sup> In 1910, the Courthouse Commission recommended constructing a new structure in City Hall Park, but that plan sparked opposition from groups concerned with preserving the park, which forced the Courthouse Commission to consider building on the blocks to the north.

In response, Manhattan Borough President George McAneny led an effort to secure the site and build a grand civic center to embody a new image of government identity. McAneny was a Progressive who promoted a wide role for municipal government in areas such as civil service reform, zoning regulation, and historic preservation, and he championed the civic center to physically represent robust state power.<sup>161</sup> As Borough President, he also had the power to organize municipal acquisition of property in the area through eminent domain.

Between 1911 and 1912, McAneny thus worked to establish the Civic Center site in his role as President of the Board of Estimate, as support slowly coalesced around building on the site that would become Foley Square.<sup>162</sup> In January of 1912, the Board approved the site plan for a new courthouse on Centre Street, with sidewalks and trolleys running underneath.<sup>163</sup> The Courthouse Commission then initiated an architectural competition, while the Board of Estimate began acquiring land and preparing the ground. Although the Board's authority extended only to acquisition of the courthouse site, McAneny preserved the possibility for comprehensive development in the area through the

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<sup>160</sup> ROBERT A. M. STERN, GREGORY GILMARTIN, JOHN MASSENGALE, *NEW YORK 1900: METROPOLITAN ARCHITECTURE AND URBANISM 1890-1915* 81 (1995).

<sup>161</sup> KENNETH FINEGOLD, *EXPERTS AND POLITICIANS: REFORM CHALLENGES TO MACHINE POLITICS IN NEW YORK, CLEVELAND, AND CHICAGO* 51 (1995); *How the City Can Save Millions, Told by McAneny*, N.Y. TIMES SM8 (June 15, 1913); *Fusionists Grim over the Ticket*, N.Y. TIMES 1 (Aug. 2, 1913); *Medal for McAneny*, N.Y. TIMES 11 (May 28, 1913); RANDALL MASON, *ONCE AND FUTURE NEW YORK: HISTORIC PRESERVATION AND THE MODERN CITY* ch. 2 (2009).

<sup>162</sup> GILMARTIN, *supra* note 158, at 71, 181-202; JACKSON, *supra* note 150, at 703.

<sup>163</sup> *The New Law Courts*, N.Y. TIMES 10 (Jan. 19, 1912); *New Court House in Park of Its Own*, N.Y. TIMES 22 (Jan. 12, 1912).

practice of Excess Condemnation, reserving space for the other building he anticipated to rise in a future civic center.<sup>164</sup>

In April of 1913, the Courthouse Commission announced Lowell as the winner of its design competition, with a striking, circular design that the *New York Times* likened to the Roman Colosseum. Lowell proposed a massive building, 500 feet wide and 200 feet tall, with four Corinthian porticoes and eighty Doric pillars encircling the façade. The plan featured concentric rings of courtrooms, administrative offices, and public and private spaces, all sited atop the intersection of Centre and Worth Streets. Lowell's building, together with the site assembled by McAneny, promised to produce an impressive civic center. Lowell's design also extended the municipal image of Beaux Arts classicism evident in McKim, Mead, and White's earlier Municipal Building, harmonizing with the Court of Honor model from Chicago.

The project's design and location went through many changes during the years after 1913 due to site conditions, budget constraints, changes of political administration, and the entry of the United States into World War I. One change was to build on existing blocks, rather than over Centre Street, which limited disruption to traffic and subway lines, although sacrificing the monumentality of the original conception. Nevertheless, foundations on the new site would be more stable, avoiding both the marshy soil of the former Collect Pond and the underground infrastructure of the subway.

For many urban reformers, redevelopment of the blocks north of City Hall also promised to fulfill the aims of social and hygienic reform through slum clearance. Following upon the redevelopment of Mulberry Bend from a dense neighborhood of narrow alleys and tall buildings into a public park in the late 1890s, reformers hoped the new civic center might further open-up and ventilate the crowded tenement and

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<sup>164</sup> *The Court House Site*, N.Y. TIMES 10 (June 7, 1912); *Straighten Baxter Street*, N.Y. TIMES 4 (Jan. 26, 1912) On the land condemnation process, see *Building Boom Aimed at Civic Centre Plan*, N.Y. TIMES 7 (Feb. 17, 1912) (describing the Compensation Committee); *Court House Site Costs \$6,138,653*, N.Y. TIMES (May 10, 1913) (describing the committee report); *To Take Court House Site*, N.Y. TIMES 8 (July 18, 1913) (describing the city's acquisition of title).

commercial districts north of City Hall.<sup>165</sup> The erection of tall and imposing, classically inspired buildings also promised to promote a visible image of institutional authority within the tenement district.

Advocates hoped to expand their project to a wider urban scale from the inception of the County Courthouse plan in the early 1910s. By connecting the civic center to the city with a monumental boulevard linking the Brooklyn and Manhattan Bridges, McAneny and his supporters envisioned the courthouse as a focal point within a circulation system flowing between the boroughs.

McAneny promoted this plan to ease traffic congestion and to increase the value of commercial property in the area. By connecting the two bridges, the new boulevard would create a traffic loop through the area, dispersing and integrating traffic into the city. Proponents predicted this would also raise real estate prices and alter land use in adjacent areas. In 1914, McAneny summed up the goals of the project, stressing that the group of public buildings would invigorate a “neglected” area, connect the bridges, link the civic center to the wider city, and raise property values.<sup>166</sup>

But the civic center supporters were not motivated solely by these technical and economic goals; their underlying motivations were often shaded by elitism and racism. McAneny promised that the new boulevard would run through the “heart of Chinatown,”<sup>167</sup> a route welcomed by the *New York Times*, which anticipated the “wiping out of sordid Chinatown by the proposed civic centre.”<sup>168</sup> H.M. Petit’s image of the proposed boulevard suggested a viewing corridor over the ruins of Chinatown, the buildings of which appear to be razed to the ground on the empty blocks across from the monumental bridge approach. Under this vision, the imperial image of City Beautiful would dominate – and obliterate – the immigrant communities of Five Points and Chinatown.

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<sup>165</sup> MAX PAGE, *THE CREATIVE DESTRUCTION OF MANHATTAN, 1900-1940* ch. 3 (2001).

<sup>166</sup> *\$10,000,000 Limit for Court House*, N.Y. TIMES 6 (Feb. 27, 1914).

<sup>167</sup> *Changes in New Court House Plan*, N.Y. TIMES 18 (May 11, 1914); *McAneny Has Bigger Civic Centre Plan*, *Id.* at 22.

<sup>168</sup> *Calls Court House Mad Extravagance*, N.Y. TIMES 13 (June 14, 1915).

Others expanded upon these destructive impulses and hoped to combine creation of the civic center with destruction of the dense immigrant neighborhood to the north. In 1913, Alanson T. Briggs, Secretary of the Courthouse Commission, published a “new plan for a civic centre,” which the *New York Times* introduced under the title “Chinatown to be Wiped Out.”<sup>169</sup> Briggs’ plan was the most ambitious civic center proposal to that point, as it called for the development of nearly 30 blocks for a new county courthouse, criminal courthouse, federal building, state building, and open spaces, all surrounding a central mall. Much of it occupied the site of Chinatown, the “deletion” of which became a primary goal of the project, which the Times presented as “an ideal to which the city may work.”<sup>170</sup> Although the “reform” impulse to fully demolish Chinatown receded in the ensuing wartime years, these plans can be understood to anticipate New Deal and post-war strategies of slum clearance and urban renewal, which are now widely acknowledged to have displaced and disrupted immigrant and working-class communities across the nation.

When work resumed on the courthouse project after the First World War in 1919, the effects of time and new political administrations again changed the plan. Fiscally conservative Tammany Hall Mayor John F. Hylan, elected in 1917, changed the plan to reduce costs.<sup>171</sup> The revised plan offered a hexagonal building, preserving the classicism and horizontal unity of Lowell’s original design. The New York County Courthouse finally opened to great fanfare in February of 1927, where Chief Judge of the New York Court of Appeals Benjamin Cardozo attended the dedication ceremony.<sup>172</sup>

The city did sell much of the other land acquired under McAneny, but most buyers were other government agencies, whose projects completed the civic center as McAneny intended. The full Civic Center

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<sup>169</sup> *Briggs’s New Plan for a Civic Centre*, N.Y. TIMES 20 (March 3, 1913).

<sup>170</sup> *Id.*

<sup>171</sup> *Court House Plans Save \$14,000,000*, N.Y. TIMES (Dec. 14, 1919).

<sup>172</sup> *History and Architecture of New York County Supreme Courthouse*, HISTORICAL SOCIETY OF THE N.Y. COURTS (2021), <https://www.nycourts.gov/history/legal-history-new-york/history-new-york-courthouses-60-centre-street.html>.

officially opened in 1934 with the completion of the Department of Health Building and what is now the Louis J. Lefkowitz courthouse and office building.<sup>173</sup> A guide to the entire Civic Center complex appears in this document as Appendix A.

Foley Square – a distinctive public space, ringed with government buildings – had thus taken form by the new century’s third decade.<sup>174</sup> With this new public space came a sense of optimism. And it was that forward-thinking, progressive spirit that propelled a young New Yorker named Jane M. Bolin to a boundary-breaking new role.

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<sup>173</sup> LEWIS MUMFORD, *SIDEWALK CRITIC: LEWIS MUMFORD’S WRITINGS ON NEW YORK* 120 (1998).

<sup>174</sup> For a map of the completed Civic Center as of 2021, *see* Appendix A.

ii. Judge Jane Bolin “Takes Manhattan”<sup>175</sup>



**FIGURE 8:** When Mayor LaGuardia appointed Judge Jane Bolin to sit on Manhattan’s Domestic Relations Court in 1939, she became the first African American woman jurist in the United States. (Library of Congress, ca. 1942).

Jane Matilda Bolin was a descendant of “a long line of free Dutchess County free blacks who lived in around Poughkeepsie, New York, for nearly two hundred years.”<sup>176</sup> She grew up in a solidly middle-class family, under the comfort and care of her widowed and prominent father Gaius Bolin, the first African American lawyer of Dutchess County and president of the Dutchess County Bar Association. And young Jane would ultimately become America’s first African American woman to serve as a judge in the United States, all due to her post in the Borough of Manhattan.<sup>177</sup>

Like her father, Bolin had achieved several other African American “firsts.” The first African American woman to graduate from

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<sup>175</sup> By the Hon. Debra James, Justice of the Supreme Court, New York County.

<sup>176</sup> JACQUELINE A. MCLEOD, J., DAUGHTER OF THE EMPIRE STATE, THE LIFE OF JUDGE JANE BOLIN 1 (2011).

<sup>177</sup> *Id.* at 7–10, 28.



Yale Law School, Bolin left Poughkeepsie in 1932 to practice law in New York City. She then ran for the New York State Assembly in 1936; though the bid was unsuccessful, “the party’s nomination. . . had far-reaching political currency” in the years that followed.<sup>178</sup> Bolin leveraged that achievement to claim two more African American “firsts:” admission to the New York City Bar Association and appointment as an Assistant Corporation Counsel of the New York City Law Department.

The stars were thus beginning to align for Bolin. She entered the legal profession at a time where demand for an African American female jurist was beginning to rise. Female literacy had doubled between 1780 and 1840, and, as a result, significant numbers of women of every racial and ethnic stripe had involved themselves in movements to end slavery, support temperance and prison reform, improve almshouses and insane asylums, and secure rights to voting, property, and divorce for all persons, irrespective of gender.<sup>179</sup>

Many New Yorkers were ready for reform by that point. After the Civil War ended, disbanded armies flooded the cities searching for employment. As Howard Zinn described it, “[streets] were death traps of typhus, tuberculosis, hunger and fire,” with at least 100,000 New Yorkers living “in the cellars of slums.”<sup>180</sup> During this time, 12,000 women “worked in houses of prostitution to keep from starving” and “garbage, lying 2 feet deep, was alive with rats.”<sup>181</sup> America’s civic-minded women knew something had to change.

Around the same time, African Americans also found themselves beginning a new phase in their struggle for freedom. With the end of Reconstruction, the Great Migration of African Americans fleeing the terrorism of the Jim Crow South began apace.

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<sup>178</sup> *Id.* at 35.

<sup>179</sup> *Id.*

<sup>180</sup> *Id.* at 240.

<sup>181</sup> *Id.*

During this period, “no city felt the impact of the black migration from the South more than New York” save, perhaps, for Chicago.<sup>182</sup> New York City’s African American population numbered approximately 300,000 in the 1930s, and while one out of every seventy Manhattanites were Black in 1890, one in nine were Black by 1930.<sup>183</sup> This gave New York the highest number of African American residents in the nation by 1920.<sup>184</sup>

However, Manhattan’s unprecedented Black population suffered from “indecent overcrowding, exorbitant rentals, the sub-division of flats. . . and landlord neglect,” with an “invisible, but very real, wall” making it a “ghetto as well.”<sup>185</sup> As early as 1909, organized groups therefore began tackling the interwoven evils of racism, gender discrimination, and poverty that often-plagued African Americans and women alike.

By 1910, the New York City Women’s Suffrage Party began zeroing in on overcrowded classrooms, crime, prostitution, and child labor with a laser focus. The work of this party contributed directly to passage of women suffrage in New York State in 1917. The Women’s Suffrage Party’s activities also advanced the passage of the 19<sup>th</sup> Amendment to the United States Constitution three years later, which spurred the Party to push for more women to serve as associate justices in Manhattan.<sup>186</sup>

African American civil rights groups were making similar demands. In the 1920s, a group of Black progressives opposed the policies of accommodation of the city-wide United Colored Democracy organization, which was founded in 1917 under Tammany Hall’s absolute control. These progressives sought to transform United Colored Democracy from a civic improvement organization to a political

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<sup>182</sup> IRA KATZNELSON, *BLACK MEN, WHITE CITIES, RACE POLITICS, AND MIGRATION IN THE UNITED STATES 1900-1930 AND BRITAIN 1948-68* 62–63 (1973).

<sup>183</sup> *Id.*

<sup>184</sup> *Id.*

<sup>185</sup> *Id.*

<sup>186</sup> Ronald Schaffer, *The New York City Suffrage Party 1909-1919*, *NEW YORK HISTORY, QUARTERLY JOURNAL OF THE N.Y.S. HISTORICAL ASS’N* 269 (Jan. 1962).

pressure group, and a group of Black women began fighting particularly for a judgeship in Harlem.

Tammany Hall may have been “unprepared for a black judge,”<sup>187</sup> but the necessary influence was building. Soon, the United Colored Democracy and New York City Women’s Suffrage Party would play a pivotal role in elevating African American and female legal luminaries to a notable judicial home: the New York County Domestic Relations Court.

Though we know it as New York City’s Family Court today, the Domestic Relations Court was created on October 1, 1933.<sup>188</sup> It evolved from the Children’s Court of the City of New York and the previous children’s part of the New York City Court of Special Sessions created in 1915.<sup>189</sup> These specialized problem-solving courts opened “with much fanfare,” as they were geared toward helping the “unfortunate or slightly sinning little ones” obtain “a fresh start in life elsewhere than as part of the dregs and criminals of society.”<sup>190</sup> The Children’s Court’s custom-built courthouse – now repurposed for educational purposes – still stands on East 22<sup>nd</sup> Street, anchoring a district once known as “Charity Row.”<sup>191</sup>

With pressure for an African American female jurist rising, Bolin ascended to the Domestic Relations bench through an appointment by New York City Mayor Fiorello LaGuardia in 1939. During her two decades of service, Bolin transformed the court by advancing justice for juveniles, upending custom by appointing African American lawyers to represent indigent white defendants, and challenging “the race specific

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<sup>187</sup> *Id.* at 69-71.

<sup>188</sup> NEW YORK CITY CHILDREN’S COURT ACT (L. 1924, c. 254); NEW YORK CITY DOMESTIC RELATIONS COURT ACT (L. 1933, c. 482).

<sup>189</sup> *Id.*

<sup>190</sup> Robert Pigott, *NYC’s Lost Neighborhood Courthouses*, THE GOTHAM CENTER FOR NEW YORK CITY HISTORY (Sep. 9, 2014), <https://www.gothamcenter.org/blog/nycs-lost-neighborhood-courthouses> (quoting, in part, *New York’s New Children’s Court; First Institution of the Kind in the City to Open Next Week—A Curious Judicial Experiment—Where the Court Will Hold Its Sessions—To Save Juvenile Delinquents from Contact with Crime*, N.Y. TIMES (Aug. 24, 1902)).

<sup>191</sup> Sabina Mollot, *Gramercy Block is Co-named for Former Children’s Court Building*, TOWN & VILLAGE (Oct 5, 2017), <https://town-village.com/2017/10/05/gramercy-block-is-co-named-for-former-childrens-court-building/>.

assignments of probation officers and race-specific placement of children into childcare agencies that routinely accepted children based on racial and ethnic backgrounds.”

As the nation’s only African American woman judge until the 1950s, Jane Bolin served two ten-year judicial terms.<sup>192</sup> Bolin kept good company, including Judge Justine Wise Polier, New York’s first woman jurist and an ally in Jane Bolin’s “campaign[] to secure racial equity in the court and. . . its supporting institutions.”<sup>193</sup> And together, they forged a forward-looking culture that would soon be exemplified in a case that would become known nationwide.

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<sup>192</sup> MCLEOD, *supra* note 176, at 7–10, 28.

<sup>193</sup> *Id.* at 61.

iii. *In Re Skipwith: New York County's Brown v. Board*<sup>194</sup>



**FIGURE 9:** *Justine Wise Polier of New York County's Domestic Relations Court was New York State's first female judge and presided over a landmark case that called out the scourge of segregation in Manhattan's schools. (American Jewish Historical Society via Picryl, 1959).*

New York County's Domestic Relations Court was home to Jane Bolin, the nation's first African American woman to sit on the bench. Bolin's intellectual ally and colleague on the bench, Justine Wise Polier, was a fellow pathbreaker. Working as a team, the two helped improve conditions for children and families. And by virtue of the "assignment wheel," Polier would receive an opportunity to call out racial segregation in the heat of America's civil rights movement.

Judge Justine Polier became New York's first female jurist upon her appointment by Mayor LaGuardia in 1935.<sup>195</sup> Polier's general philosophy was to provide children with "love and permanent

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<sup>194</sup> By Craig Landy, Esq., Former President, New York County Lawyers Association. *In Re Skipwith*, 14 Misc. 2d 325 (N.Y. Dom. Rel. Ct., N.Y. Co. 1958), is summarized and analyzed throughout.

<sup>195</sup> Justine Wise Polier (1903-1987), The Adoption History Project (2021), <https://pages.uoregon.edu/adoption/people/polier.html>.

belonging.”<sup>196</sup> In her four decades on the bench, Judge Polier – a “child of privilege and elite education” – used her status and sensibilities to improve living conditions for countless children and families.<sup>197</sup> This outlook would come in handy when New York’s Domestic Relations Court found itself at the forefront of a new battle for civil rights in the wake of *Brown v. Board of Education*.<sup>198</sup>

The story began with a series of child neglect filings. In October of 1958, New York City’s Board of Education filed a petition against nine mothers and fathers, who had organized a boycott of public junior high schools in Harlem and the Bronx. The parents refused to send their children to substandard classrooms, as they alleged their children’s public schools offered inferior educational opportunities compared with those offered in city schools whose pupil population was largely white. The Board of Education’s petitions charged these uptown parents with child neglect by alleging the parents refused to send the children to the local junior high school or to private schools meeting the requirements of the Board of Education law

Judge Nathaniel Kaplan of the Domestic Relations Court of the City of New York, Children’s Court Division, New York County was assigned six of the cases; two were instead assigned to Judge Polier.<sup>199</sup> Both judges heard much the same evidence. The parents, who had been dubbed the Harlem Nine, testified about the poor education received in their junior high public schools. The principal of one of the schools corroborated their testimony by admitting that most teachers at his school lacked regular teaching licenses and that he had more substitute teachers than licensed teachers on staff.

In response, the Board of Education called an expert to the stand. Dr. Wayne B. Wrightstone, the Board of Education’s Director of the Bureau of Research, testified that environmental and biological factors in the pre-and post-natal periods were the real cause of the achievement

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<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

<sup>198</sup> *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

<sup>199</sup> The ninth case was dropped because the child was enrolled in Catholic School.

gap between the children in the Harlem schools and those schools serving white students. It was a shocking assertion, even by today's standards.

The Harlem Nine decided to tackle Dr. Wrightstone's conclusions head-on. Counsel called Dr. Kenneth B. Clark to the stand, who was the eminent psychologist described by the Supreme Court of the United States in *Brown v. Board of Education* "as a modern authority" on the detrimental effect upon children of color from segregation of white and African American children in public school. Dr. Clark responded directly to Wrightstone's argument by testifying that any learning gap was caused by the poor quality of teachers, as well as separation of pupils into racially segregated schools.<sup>200</sup>

On December 3, 1958, Judge Kaplan nevertheless upheld the Board's petitions. Kaplan ordered the parents under his jurisdiction to return their children to school. Kaplan also threatened to remove the children from their parents if they did not return to school in twenty-five days.<sup>201</sup>

Judge Polier, of course, saw things differently. On December 15, 1958, the first woman appointed a judge in New York State ruled exactly the opposite. Polier dismissed the Board's petition, holding "[t]hese parents have the constitutionally guaranteed right to elect no education for their children rather than to subject them to discriminatorily inferior education."<sup>202</sup>

Before reaching the merits, Judge Polier first rejected the Board's argument that the court lacked jurisdiction to consider the constitutional issue raised by the parents, in that the Board's denial of standard educational opportunities in the junior high schools violated the equal protection clause of the 14<sup>th</sup> Amendment to the U.S. Constitution.

Judge Polier made that point quite eloquently:

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<sup>200</sup> MELISSA F. WEINER, POWER, PROTEST AND THE PUBLIC SCHOOLS; JEWISH AND AFRICAN AMERICAN STRUGGLES IN NEW YORK CITY 61–63 (Rutgers University Press, 2010).

<sup>201</sup> *4 Mothers Guilty in School Boycott*, N.Y. TIMES 29 (Dec. 4, 1958).

<sup>202</sup> *In Re Skipwith*, 14 Misc. 2d 325 (N.Y. Dom. Rel. Ct., N.Y. Co. 1958).

[T]he Board of Education contends that one arm of the State – this court – must blindly enforce the unconstitutional denial of constitutional rights by another arm of the State – the Board of Education. Such a proposition is abhorrent to the American doctrine by supremacy of the law. It is utterly shocking to the conscience of a Justice of a Children’s Court established to promote the health and welfare of children. Only the clearest of legislative mandates or the plainest of judicial precedents would compel this court to such a holding. None do so. The holdings of the courts of this State are to the exactly opposite effect, and the decisions of the Supreme Court of the United States are clear that any other holding would itself deny the due process of law also guaranteed by the Fourteenth Amendment.<sup>203</sup>

Using statistical evidence, Judge Polier then found that the students in the two junior high schools to which the children before her were assigned were the only junior high schools in the City of New York whose student population was 100% African American and Hispanic. She concluded from the Board’s own statistic evidence that de facto racial segregation existed in junior high schools across the City. Although there was no evidence that the de facto segregation was the consequence of gerrymandering of school districts by the Board of Education, discrimination instead existed as a result of adventitious residential patterns.

Judge Polier also found the Board guilty of discrimination in its long-standing system of teacher assignments based on the preferences of teachers and principals, rather than the needs of the schools. She observed that less qualified teachers were assigned to schools attended by predominantly minority children compared to the qualifications of teachers in junior high schools in the city, whose pupil population was

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<sup>203</sup> *Id.* at 329.



largely white. This resulted in unlawful discrimination and inferior education.

Judge Polier concluded her analysis in a paragraph that was as memorable as it was stinging:

The Constitution requires equality, not mere palliatives. Yet the fact remains that more than eight years after the Supreme Court ruling in *Sweatt v. Painter* [339 U.S. 629 (1950)] and more than four years after its ruling in *Brown v. Board of Educ.* [347 U.S. 483], the Board of Education of the City of New York has done substantially nothing to rectify a situation it should never have allowed to develop, for which it is legally responsible, and with which it has had ample time to come to grips, even in the last four years.<sup>204</sup>

Judge Polier continued to suggest potential measures the Board could take to mitigate the assignment of experienced teachers to minority schools for a fixed number of years. In her view, financial incentives to attract teachers to challenging schools and added services in those schools could induce more qualified teachers to teach there.<sup>205</sup>

Thus, until the Board of Education brought “the New York City school system into line with the constitutional guarantee of equal protection of the laws,” Judge Polier held “the Board of Education has no moral or legal right to ask that this court shall punish parents, or deprive them of custody of their children, for refusal to accept an unconstitutional condition which exists in the schools to which the board has assigned their children.”

The Board of Education initially appealed the *Skipwith* decision, but later declined to pursue it.<sup>206</sup> In February 1959, the parents and the

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<sup>204</sup> *Id.* at 343.

<sup>205</sup> *Id.* at 345.

<sup>206</sup> N.Y. TIMES 16, col. 4 (Feb. 2, 1959). Shortly after the *Skipwith* decision was issued, Thurgood Marshall, then Chief Counsel of the NAACP Legal Defense and Education Fund, offered the *Skipwith* parents legal and financial assistance should the Board seek to appeal the ruling. N.Y. AMSTERDAM NEWS 1, col. 6 (Dec. 20, 1958).

Board reached a compromise. The children in question were assigned to new schools and were promised more experienced teachers and greater parent participation.

Unfortunately, even with that compromise, *Skipwith* did not spark substantial reforms in New York City's schools. Widespread and systematic segregation continued in the decades that followed. As a result, in the late 1960s, parent groups shifted their focus from the New York County courts to advocating for school decentralization and community control.<sup>207</sup> In more recent years, litigants in *Campaign for Fiscal Equity, Inc. v. State of New York*<sup>208</sup> battled to allocate billions more in education funding to New York State's poorest schools.<sup>209</sup> These efforts continue to this day.

Despite the lack of attention *Skipwith* received as judicial precedent over the years, it has been cited as authority in establishing the right of judicial review over educational policies that concern discrimination in public schools<sup>210</sup> and in establishing that a violation of the equal protection clause of the 14<sup>th</sup> Amendment may exist even if the only disparity in schools is the relative number of qualified teachers.<sup>211</sup>

The story of “Manhattan’s *Brown v. Board*” mimicked that of its namesake. The path leading up to *Brown* was slow and arduous. That decision nevertheless marked a tipping point on school desegregation, as *Brown v. Board* forever changed behaviors, attitudes, and the soul of America.

So too did the *Skipwith* decision. Out of what has inaccurately been long labeled an “inferior” court of New York County arose a new

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<sup>207</sup> WEINER, *supra* note 200, at 51–63; Jennifer de Forest, *Tilting at Windmills? Judge Justine Wise Polier and a History of Justice and Education in New York City*, HISTORY OF EDUCATION QUARTERLY 68-88 (Vol. 49, No. 1, Feb. 2009).

<sup>208</sup> 100 N.Y.2d 893 (2003) (Kaye, C.J.). For additional background, see KAYE, *supra* note 96, at 121 and n.51.

<sup>209</sup> See Karen DeWitt, *New York Settles Long Running Battle Over School Funding*, WKSG (Oct. 14, 2021), <https://wskg.org/news/new-york-settles-long-running-battle-over-school-funding/>.

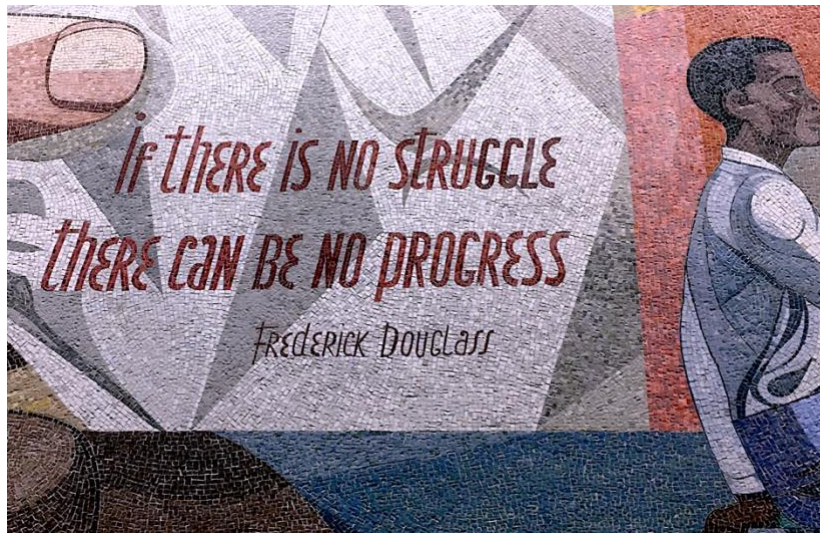
<sup>210</sup> *Application of Lombardo*, 37 Misc. 2d 436 (1962).

<sup>211</sup> *Caulfield v. Board of Ed.*, 486 F. Supp. 862 (E.D.N.Y., 1979) (Weinstein, J.), *aff'd*, 632 F. 2d 999 (2d Cir., 1980), *cert. denied*, 450 U.S. 1030 (1981); *Hobson v. Hansen*, 269 F. Supp. 401, 498 (D.D.C. 1967).

road on which new thinking replaced old and new expectations and hopes replaced the tired, unsuccessful ways of the past. For when society is unable to resolve an injustice threatening to tear asunder the fabric of peoples' lives, courts are often called on as a last resort to solve the unsolvable problems.

Therefore, the *Skipwith* decision reminds us of the central role the courts play in moving towards a just society and placed the New York County courts, for a time, at the forefront of social change. And that leadership role would continue throughout the 20<sup>th</sup> Century, as Manhattan's rich cultural mosaic came into sharper focus.

#### iv. African Americans, Women, and the Courts<sup>212</sup>



**FIGURE 10:** A mosaic outside Manhattan's former Martin Luther King Jr. Labor Center reminds passers-by that struggle tends to precede progress in New York and nationwide. (Mural by Anton Refregier, 1970; Photo by Adrian Untermyer, 2017).

Judge Polier's *Skipwith* decision marked a "new road" in Manhattan's judicial thinking,<sup>213</sup> and it was little surprise that this legal revolution began in New York County's Domestic Relations Court. That early problem-solving court, specializing in resolving "manifestations of the breakdown of family ties,"<sup>214</sup> was well-positioned to tackle societal ills. And through it, Manhattan gained a talented cohort of African Americans and women who broadened the borough's bench and bar in ways both immediate and indirect.

Judges Polier and Bolin underscored the Domestic Relations Court's problem-solving spirit, and the pair was not alone. Bolin and Polier's judicial peers included Florence Perlow Shientag, who Mayor LaGuardia appointed to the court in 1941. Sheintag's appointment was a reunion of sorts, as Shientag and Bolin were among only 12 women admitted to practice law in New York in the late 1930s. The role of

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<sup>212</sup> By the Hon. Debra James, Justice of the Supreme Court, New York County.

<sup>213</sup> See *supra* Section II.B.iii.

<sup>214</sup> Monrad G. Paulsen, *The New York Family Court Act*, 12 BUFF. L. REV. 420 (1963).

women in the New York State Bar Association was limited at that time, and women were not granted admission to most local bar associations. In response, Shientag helped form the New York Women's Bar Association ("NYWBA") in 1934, which eventually drove the New York City Bar Association to allow women to join.

Shientag later left the bench upon her appointment as an Assistant United States Attorney for the Southern District of New York, where she became the state's first female prosecutor.<sup>215</sup> But Judges Sheintag, Polier, and Bolin had made for a potent trio in the Domestic Relations court, where they fought to transform Manhattan's legacy of colonial "rough justice" into something more humane.

Thanks to Mayor LaGuardia, that potent trio expanded with the addition of Judge Hubert T. Delany, who LaGuardia appointed to the Domestic Relations Court in 1942 and who was among the first African American jurists in the United States.<sup>216</sup> Delany, born in 1901 and raised on the campus of St. Augustine's School [now University] in Raleigh, North Carolina, was the eighth of ten children whose parents were the Rev. Henry Beard Delany, a formerly enslaved person and the first Black man elected as Suffragan Bishop of the Episcopal Church in the United States, and Nanette James Logan Delany, who was involved in public service through her work as an educator.

After graduating from high school in North Carolina, Delany followed his older siblings to New York City, where he attended City College and supported himself by working as a red cap porter at New York's Pennsylvania Station. Delany then taught elementary school in Harlem while attending law school at New York University Law School.

From 1926 to 1933, Delany served as an Assistant United States Attorney for the Southern District of New York, where he won 493 of

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<sup>215</sup> New York State Bar Association, Committee on Women in the Law, *Women Attorney Trailblazers in New York State*, [https://nysba.org/NYSBA/Sections/Women%20in%20Law/Trailblazers/CWIL\\_Trailblazers\\_Brochure.pdf](https://nysba.org/NYSBA/Sections/Women%20in%20Law/Trailblazers/CWIL_Trailblazers_Brochure.pdf).

<sup>216</sup> McLeod, *supra* note 176, at 61.



admission of African American students to colleges in the South. Dudley's cases also sought equal pay for Black teachers and the end of discrimination in public transportation. Later, in 1947, Dudley would become the first African American to hold the rank of ambassador after being appointed by President Harry Truman to serve as the United States Ambassador to Liberia.

In 1955, Mayor Robert Wagner appointed Edward Dudley to the Domestic Relations Court. Dudley's success in that role led to his subsequent election as Manhattan Borough President, where he served from 1961 to 1964. Borough President Dudley was then elected to the New York State Supreme Court in 1965, where he remained for two decades and, beginning in 1967, became administrative judge of New York City's Criminal Court. In the early 1970s, Justice Dudley capped off his judicial career by becoming, among other things, the administrative judge for the New York County Supreme Court's civil branch, where he was tasked with overseeing a court with a legacy dating back to 1691.<sup>224</sup>

Justice Dudley had made a mark in both civil rights and judicial circles. But Dudley was by no means alone, as a crop of other talented African American attorneys began emerging during this period. Judge Francis E. Rivers was one notable example.<sup>225</sup> A member of the NAACP Legal Defense Fund Board, and its president from 1965-1970, Rivers served in several judicial roles within the Borough of Manhattan thanks to his pioneering predecessors from the Domestic Relations Court and an uncanny ability to persevere in the face of racial discrimination.

Born in Kansas City, Kansas, Rivers was the son of a Baptist minister. His father, who moved his family to Tennessee, was elected twice to that state's legislature but could not complete his last term because of racial terrorism that drove him out of office. Rivers' family then moved to Washington, D.C., where Francis attended Dunbar High

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<sup>224</sup> CHESTER, *supra* note 2, at 893.

<sup>225</sup> See generally Farnsworth Fowle, *Francis E. Rivers Dies; Black City Judge Was 82*, N.Y. TIMES (July 29, 1975), <https://www.nytimes.com/1975/07/29/archives/francis-e-rivers-dies-black-city-judge-was-82.html>.

School. He continued his education at Howard University and transferred to Yale, where he graduated Phi Beta Kappa.

The experience of Rivers' father repeated itself throughout the son's life. Rivers recounted Yale's college dean asking that Rivers move from a dormitory because other students objected to his presence. Undeterred, he later entered Harvard Law School but completed only a year because of lack of funds.

After proceeding to serve in the Army, Rivers hoped to find a career in business. He applied for jobs at 60 banks, advertising agencies, and other enterprises, but received no offers. He thus took a part time position in the Post Office, and with encouragement from a friend, applied and was awarded a scholarship from Columbia Law School.

Rivers graduated from Columbia Law in 1922 and proceeded to clerk in Judge Jonah Goldstein's chambers. He later was appointed as an Assistant District Attorney in New York County. In November of 1941, Rivers' old mentor, Judge Goldstein, sponsored his application to the American Bar Association ("ABA"), which initially refused to act because Rivers was barred from membership as an African American. Judge Goldstein resigned from the ABA in protest, and only rejoined and returned as sponsor after Rivers was made a member in 1944. Thanks to Rivers and others like him, the chastened ABA passed a membership policy barring racial discrimination.

As Francis Rivers learned more about the law, he found himself drawn back to his father's political path. Elected to the New York State Assembly in 1930, Rivers sponsored legislation that created the 10<sup>th</sup> Municipal Court District in Harlem along with a bill that barred landlords from collecting rent until building violations were corrected.

Both bills were enacted by the Legislature and signed by Governor Franklin D. Roosevelt.<sup>226</sup> Given this legacy, Judge Rivers was soon appointed to the New York City Court in September of 1943 and elected to that court in November. He served on the City Court, which

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<sup>226</sup> Farnsworth Fowle, *Francis E. Rivers Dies, Black City Judge Was 82*, N.Y. TIMES (July 29, 1975).



ultimately became the New York City Civil Court, until his retirement at the end of 1963.

Near the end of Rivers' judicial career in the early 1960s, frustrations with New York's jumble of idiosyncratic and vestigial courts had risen to a boil. It was all thanks to a "mid-century law explosion" resulting from population increases, rising crime, and "a better-educated public. . . far more aware of its rights."<sup>227</sup>

In response, the so-called "Tweed Commission," so named for chairman Harrison Tweed, issued four reports calling for the modernization, simplification, and consolidation of New York's courts into a tiered system reflecting the simplicity found in other states.<sup>228</sup> Though the Tweed Commission's proposals ultimately failed, legislative changes and amendments to the New York State Constitution did lead to some court reorganization in the 1960s and 1970s, including the formation of New York's Unified Court System and the transformation of Manhattan's fabled Domestic Relations Court into the Family Court.<sup>229</sup>

Thus, at the time that African Americans and women were beginning to ascend to New York County's trial courts, those pioneers became the face of a refreshed system striving to shed its "patchwork" of "idiosyncratic courts" with "overlapping and inconsistent jurisdictions."<sup>230</sup>

Around the same time, history was also being made in the United States District Court with the appointment of its first African American woman as federal judge. Constance Baker Motley, another civil rights leader, was well known due to her successful advocacy for the enrollment of James Meredith at the University of Mississippi. Like Justice Edward R. Dudley, Motley also maintained deep ties to the NAACP after serving as general counsel of its Legal Defense Fund.

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<sup>227</sup> Bloustein, *supra* note 70.

<sup>228</sup> SPECIAL COMMISSION ON THE FUTURE OF THE NEW YORK STATE COURTS, *supra* note 25, at 50.

<sup>229</sup> Bloustein, *supra* note 70; Paulsen, *supra* note 214, at 421, 422–23.

<sup>230</sup> SPECIAL COMMISSION ON THE FUTURE OF THE NEW YORK STATE COURTS, *supra* note 25, at 15.

When Edward Dudley left the office of Manhattan Borough President upon his election to the New York State Supreme Court in 1965, Constance Baker Motley became the first woman to hold that borough-wide position. The following year, President Lyndon Baines Johnson nominated Motley to the United States Court of the Southern District of New York, which would make her the first African American woman to be appointed to the federal judiciary.<sup>231</sup> Once on the bench, Motley “continued to protect constitutional rights,” including in a landmark 1978 case<sup>232</sup> upholding “the right of a woman sports reporter to enter the locker rooms of professional sport teams, as male reporters did.”<sup>233</sup>

Judge Motley passed away in 2005, with her persistence serving as a reminder of the advances made by her foremothers and fathers throughout the 20<sup>th</sup> Century.<sup>234</sup> Years earlier, Motley had hailed Judge Jane M. Bolin as her “role model,”<sup>235</sup> and Judges Polier, Sheintag, Delany, Dudley, and Rivers also had sown the seeds for Motley’s success. Countless others – including Judges Birdie Amsterdam, Harold S. Stevens, Charles E. Toney, and James S. Watson – helped show the way to broadening Manhattan’s courts far beyond their colonial beginnings.

Thus, with a new century on the horizon once again, the Island of Justice was well-poised for yet another positive transformation thanks to a gleaming – and growing – Manhattan mosaic.

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<sup>231</sup> *Id.* at 190-195.

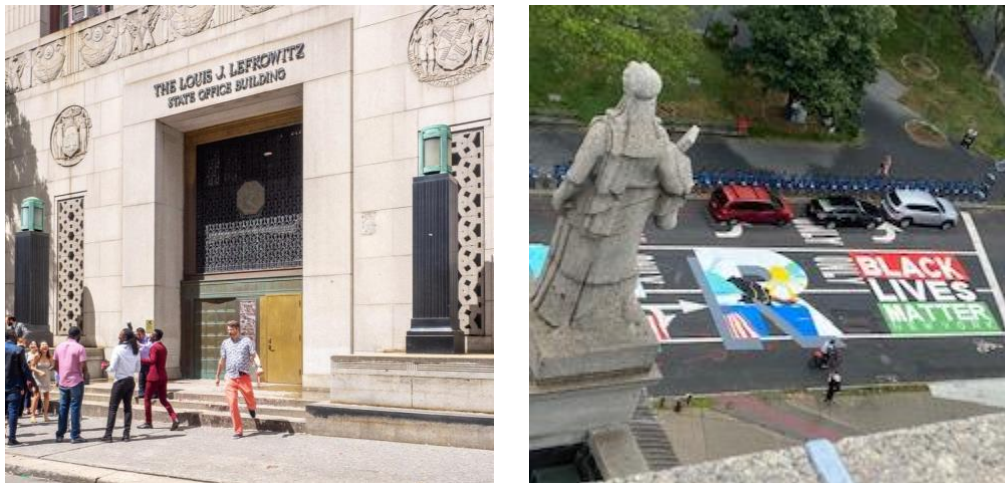
<sup>232</sup> *Ludtke v. Kuhn*, 461 F. Supp. 86 (S.D.N.Y. 1978).

<sup>233</sup> *Constance Baker Motley: Judiciary’s Unsung Rights Hero*, UNITED STATES COURTS (Feb. 20, 2020), <https://www.uscourts.gov/news/2020/02/20/constance-baker-motley-judiciarys-unsung-rights-hero>.

<sup>234</sup> *Id.*

<sup>235</sup> McLeod, *supra* note 176, at ix.

### C. Ever Upward: 2000 – Present<sup>236</sup>



**FIGURE 11:** *Manhattan’s courthouses served as a backdrop to social progress throughout the 21<sup>st</sup> Century. At left, a same-sex couple celebrates their nuptials outside the Louis J. Lefkowitz courthouse and office building on Foley Square. At right, Foley Square is painted with the words “BLACK LIVES MATTER” in the wake of global protests for social justice following the aftermath of George Floyd’s 2020 murder. (Ajay Suresh, 2019; the Hon. Andrea Masley, 2020).*

The scene would have been unrecognizable to a Burgomaster of the Schepens’ Court of New Amsterdam.<sup>237</sup> On Sunday, July 24, 2011, 293 couples flocked to the Louis J. Lefkowitz courthouse and office building on Foley Square to be among the first same-sex New Yorkers to legally marry at the Manhattan Marriage Bureau.<sup>238</sup>

Those 293 same-sex marriages were not the only history made inside the Lefkowitz Building that week. As the work week began the next day, matters small and large came before the Justices of the New York State Supreme Court assigned within – all of which held importance to the litigants and society at large. Self-represented individuals also used the Public Access Law Library that week with

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<sup>236</sup> By Adrian Untermyer, Esq.

<sup>237</sup> See *supra* Section II.A.i.

<sup>238</sup> Michael Barbaro, *After Long Wait, Same-Sex Couples Marry in New York*, N.Y. TIMES (Jul. 24, 2011), <https://www.nytimes.com/2011/07/25/nyregion/after-long-wait-same-sex-couples-marry-in-new-york.html>.

hopes of unraveling their legal problems. And counselors, Assistant District Attorneys, and staff from New York City's Family Justice Center all worked to resolve tangled legal problems within the Lefkowitz's thick walls.<sup>239</sup>

The Lefkowitz Building was not alone. In courthouses from Harlem to Madison Square to the Financial District, tens of thousands of cases were handled by judges and attorneys of all backgrounds that week. In short, 21<sup>st</sup> Century Manhattan was home to a bustling and complex justice system – however imperfect – that was far removed from those humble early sessions at Stadt Huys.<sup>240</sup>

During this vibrant new century, Manhattan's courts also elevated a rich complement of "Firsts." New York County's voters elected Judge Milton Tingling as Manhattan's first Black county clerk<sup>241</sup> – and likely the first county clerk in New York State history to first serve as a Justice of the Supreme Court. Judge Paul Feinman – the first openly gay judge to serve on the New York State Court of Appeals, cut his teeth as a law clerk to Justice Angela Mazzairelli in Manhattan and was elected to the Civil and Supreme Courts by the borough's voters.<sup>242</sup> And Harlem's own Judge Sheila Abdus-Salaam, whose life and legacy are considered in detail below, served as the state's first Black female judge on the New York State Court of Appeals.<sup>243</sup>

By the 2000s, New York County had also sprouted a distinctive and high-performing legal culture that would have equally surprised a Dutch Burgomaster. In 2010, President Barack Obama – himself an alumnus of Manhattan's Columbia University – nominated New York County's own Elena Kagan to the Supreme Court of the United States,

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<sup>239</sup> *NYC Family Justice Center, Manhattan*, MAYOR'S OFFICE TO COMBAT DOMESTIC VIOLENCE (2021), <https://www.nycservice.org/organizations/2295>.

<sup>240</sup> *See supra* Section II.A.i. For an explanation of the change from discrete municipal courts to the centralized system of today, *see* THE HON. NORMAN GOODMAN, ORAL HISTORY 9 (2009), [https://history.nycourts.gov/wp-content/uploads/2019/02/OralHistory\\_Goodman.pdf](https://history.nycourts.gov/wp-content/uploads/2019/02/OralHistory_Goodman.pdf).

<sup>241</sup> Cyril Josh Barker, *Here Comes the Judge: Milton Tingling*, N.Y. AMSTERDAM NEWS (June 11, 2015), <https://amsterdamnews.com/news/2015/06/11/here-comes-judge-milton-tingling/>.

<sup>242</sup> Sam Roberts, *Paul Feinman, First Openly Gay Judge on N.Y. High Court, Dies at 61*, N.Y. TIMES (April 1, 2021), <https://www.nytimes.com/2021/04/01/nyregion/paul-feinman-dead.html>.

<sup>243</sup> *See* Section II.C.iii.

where she became the fourth woman in American history to sit on that bench.<sup>244</sup>

After arriving at the Court, Kagan met a roster of colleagues with deep Manhattan roots. She joined Justice Ruth Bader Ginsburg, who had studied and taught at Columbia Law School, clerked in the Southern District of New York, and lived on East 69<sup>th</sup> Street in Manhattan.<sup>245</sup> Kagan's fellow Justices also included Sonia Sotomayor, who had worked as an Assistant District Attorney and both a federal trial and appellate judge in Manhattan.<sup>246</sup> This trio of esteemed female jurists exemplified the impact of Manhattan's bench and bar, and showcased the hard-earned progress made on the Island of Justice since the Dutch "purchase" of New York County from the Lenape centuries earlier.<sup>247</sup>

Regrettably, as with so many other institutions, New York County's courts weathered numerous disasters as the young 21<sup>st</sup> Century began to unfold. First came the tragic events of September 11, 2001, when attackers piloted two commercial airplanes into the World Trade Center's twin towers.<sup>248</sup> The New York State Court of Claims, located steps away at 5 World Trade Center, was completely obliterated; three New York State Court Officers perished while attempting to rescue people and property.<sup>249</sup> A memorial to Officers Captain William Harry Thompson, Sergeant Thomas Jurgens, and Sergeant Mitchel Wallace was erected at Manhattan's Civil Courthouse, and remains a powerful reminder of their heroism to this day.<sup>250</sup>

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<sup>244</sup> SUPREME COURT OF THE UNITED STATES, *supra* note 127.

<sup>245</sup> *An Unforgettable Day With Justice Ruth Bader Ginsburg '59*, COLUMBIA LAW SCHOOL (Sep. 24, 2019), <https://www.law.columbia.edu/news/archive/unforgettable-day-justice-ruth-bader-ginsburg-59>.

<sup>246</sup> SUPREME COURT OF THE UNITED STATES, *supra* note 127.

<sup>247</sup> *See supra* Section II.A.i.

<sup>248</sup> Thomas A. Birkland, Ph.D., *Emergency Planning and the Judiciary: Lessons from September 11*, CENTER FOR COURT INNOVATION (2004), <https://www.courtinnovation.org/sites/default/files/emergencyplanning.pdf>.

<sup>249</sup> *Id.* at 1, 2; New York State Unified Court System, Office of Public Affairs, *September 11th Remembrance*, NYCOURTS.GOV (2020), <https://ww2.nycourts.gov/september-11th-remembrance-public-affairs-24471>.

<sup>250</sup> Interior and exterior memorials are on permanent display at 111 Centre Street, with the exterior memorial facing Centre Street and the interior just inside the adjacent doors.

“9/11,” as it became to be known, was not the only tragedy that impacted the New York County Courts in the new century. On October 29, 2012, Hurricane Sandy pummeled Greater New York, and court facilities were emptied-out and reduced to darkness due to lingering power outages and staff unavailability.<sup>251</sup> And at the time of this writing, the COVID-19 pandemic continues to upend court proceedings and facilities, with familiar faces shrouded behind face masks and Plexiglas, and many aspects of court business now conducted over Microsoft Teams and other virtual technologies.<sup>252</sup>

Manhattan’s courts also continued to confront many of the same racial challenges that Judges Bolin and Polier fought tirelessly decades earlier – and that had unfortunately persisted in the 20<sup>th</sup> Century’s waning years. In 1989, Manhattan’s prosecutors and judges had handled the “wrongful arrest and conviction” of five Black and Latino teens “for the rape and assault of a female jogger in Central Park.”<sup>253</sup> Some of these men, who became known as the “Central Park Five,” faced the “painful experience of enduring solitary confinement and repeated assault by other prisoners” – all as punishment for a crime they did not commit.<sup>254</sup>

Many Manhattanites had hoped the racial injustices that led to the Central Park Five’s wrongful convictions would have remained in the 20<sup>th</sup> Century. But the need for systematic reform only intensified as the 2000s progressed. In the new century’s second decade, the Honorable Jonathan Lippman, former Chief Judge of the New York

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<sup>251</sup> See United States Courts, *After Hurricane Sandy, Courts in New York Struggle to Restore Operations* (Nov. 2, 2012) <https://www.uscourts.gov/news/2012/11/02/after-hurricane-sandy-courts-new-york-struggle-restore-operations> (detailing Sandy’s impacts on the federal courts located in the Civic Center area, which largely mirrored problems facing the New York State system as well).

<sup>252</sup> Although the COVID-19 crisis continues to unfold at the time of this writing, the Historical Society of the New York Courts expertly assembled a working history of the ways in which New York’s courts navigated the pandemic. For further details, see *Dispensing Justice from a Distance: Journal of the NYS Courts During the 2020-2021 Pandemic*, HISTORICAL SOCIETY OF THE NEW YORK COURTS (2021), <https://history.nycourts.gov/dispensing-justice/>.

<sup>253</sup> When They Seem Him, University of Colorado Law School Amicus 12 (Spring 2020), [https://www.colorado.edu/law/sites/default/files/attached-files/law-009\\_amicus\\_spring\\_2020\\_042820\\_web\\_size\\_6mb\\_small.pdf](https://www.colorado.edu/law/sites/default/files/attached-files/law-009_amicus_spring_2020_042820_web_size_6mb_small.pdf).

<sup>254</sup> *Id.*

State Court of Appeals, assembled a diverse group of “law enforcement officials, business leaders, judges, academics, and community activists alike” to examine the state of criminal justice and incarceration in New York City.<sup>255</sup> After conducting extensive research and holding a series of robust listening sessions, the so-called Lippman Commission concluded “our criminal justice system requires dramatic change” and set its sights on closing Rikers Island, the notorious jail where many of Manhattan’s accused await trial.<sup>256</sup>

Later investigations also found systemic racial bias within New York’s courthouses. Following the killing of George Floyd in the summer of 2020 at the hands of a Missouri police officer, three artists painted a 600-foot mural reading “BLACK LIVES MATTER” on Centre Street in the heart of Foley Square outside three Manhattan courthouses.<sup>257</sup> The murals emerged in the heat of a nationwide protest effort calibrated to raise awareness about America’s racialized justice system.<sup>258</sup>

In response to the mural and that summer’s protests, the Honorable Janet DiFiore, Chief Judge of the New York State Court of Appeals, commissioned Manhattan litigator and former United States Homeland Security Secretary Jeh Johnson to examine whether New York’s courts still engage in racially harmful practices. As set out in an extensively researched report, Secretary Johnson explained how New York City’s housing, family, civil, and criminal courts feature a

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<sup>255</sup> Independent Commission on New York City Criminal Justice and Incarceration Reform, *A More Just New York City* (Undated), <https://static1.squarespace.com/static/5b6de4731aef1de914f43628/t/5b96c6f81ae6cf5e9c5f186d/1536607993842/Lippman%2BCommission%2BReport%2BFINAL%2BSingles.pdf>.

<sup>256</sup> *Id.* New York City Mayor Bill de Blasio subsequently proposed transforming the Lefkowitz Building into a replacement for Rikers Island by either razing it or building a “jail tower” on top. *See, e.g.,* James Barron, *Would You Want the Place Where You Were Married to Become a Jail?*, N.Y. TIMES (Oct. 14, 2018), <https://www.nytimes.com/2018/10/14/nyregion/marriage-wedding-rikers-island-jail-nyc.html>.

<sup>257</sup> Matt Hickman, *It Takes a City*, THE ARCHITECT’S NEWSPAPER (July 22, 2020), <https://www.archpaper.com/2020/07/foley-squares-black-lives-matter-mural-designer-led-transformation-of-public-space/>.

<sup>258</sup> *Id.*

“dehumanizing and demeaning cattle call culture” that disparately impacts litigants of color.<sup>259</sup>

In his report, Secretary Johnson painted a picture of an “under-resourced, over-burdened court system” that evidenced a “systemic reluctance to devote resources to these high-volume courts.”<sup>260</sup> Johnson concluded that “[p]eople of color are underrepresented on the benches of all boroughs of New York City,” including Manhattan, and described interviewees who “went so far as to allege that deliberate choices have been made over the years not to address the persistent problems that have an undeniable racially disproportionate effect.”<sup>261</sup>

Neither Judges Jane Bolin nor Justine Wise Polier would have given any quarter to the situation described by Secretary Johnson, Judge Lippman, and so many others. But as Judge Polier demonstrated in *Skipwith*,<sup>262</sup> critiques alone are useless without commonsense solutions for future improvements.

Accordingly, the Island of Justice remains a crucible where legal perfection remains very much in progress in this new century’s second decade. Against this backdrop, reformers may wish to emulate those portions of Manhattan’s courts that work well today – with the Commercial Division of New York’s Supreme Court being a leading example.

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<sup>259</sup> Jeh Johnson, *Report from the Special Adviser on Equal Justice in the New York State Courts* (2020), [www.nycourts.gov/whatsnew/pdf/SpecialAdviserEqualJusticeReport.pdf](http://www.nycourts.gov/whatsnew/pdf/SpecialAdviserEqualJusticeReport.pdf) (internal quotation marks omitted).

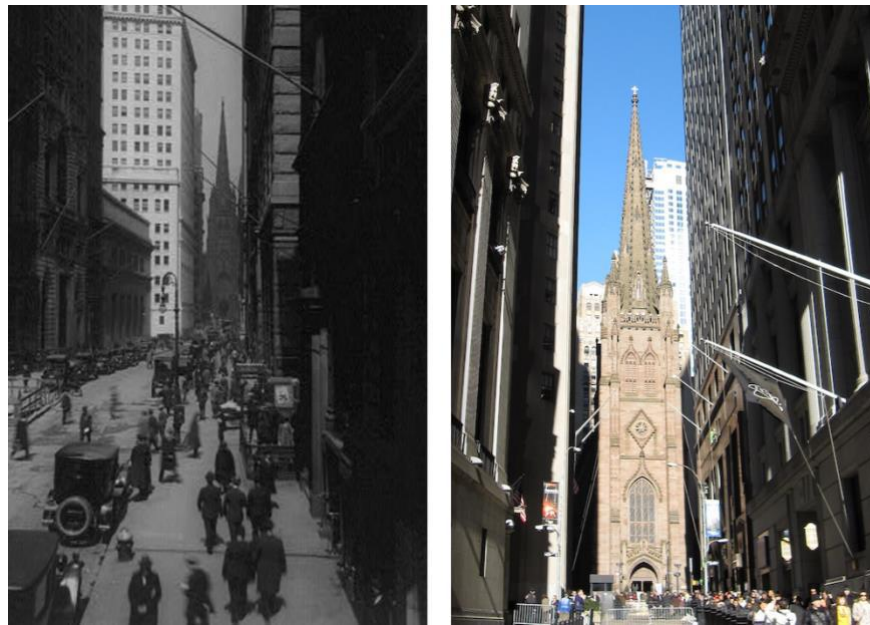
<sup>260</sup> *Id.* at 54.

<sup>261</sup> *Id.* at 38, 54–55.

<sup>262</sup> *See supra* Section II.B.iii.



i. **Crafting a Commercial Division**<sup>263</sup>



**FIGURE 12:** Lower Manhattan’s Wall Street as seen in 1924 (left) and 2009 (right). Since New York County has long been a global business center, it is little wonder that the Commercial Division of the Supreme Court emerged as a paragon of legal excellence. (Library of Congress, 1924; Wikimedia Commons, 2010).

Manhattan had been a center of domestic and international commerce since the days of the Lenape,<sup>264</sup> but it did not have a court devoted exclusively to resolving business disputes until the 1990s. Instead, cases were assigned to judges randomly, regardless of their

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<sup>263</sup> By Vincent Chang, Esq., President, New York County Lawyers Association, and the Hon. Andrea Masley, Justice of the Supreme Court, New York County. The authors wish to thank Miles Primason, Fordham Law School Class of 2022, for his research assistance.

<sup>264</sup> The Hon. John Jay Knox, *Address at the Annual Dinner of the New York Chamber of Commerce: New York as the Great Banking Center* (May 1882) (“[T]he City of New York maintains its position as a monetary center—as the great Clearing House of the western world.”); The Hon. Albert M. Rosenblatt, *The Foundations of the New York State Supreme Court (1691-1991): A Study in Sources*, N.Y.S. BAR J. 6 (May/June 1991) (“New York was founded not as a like-minded, theologically ordered community, but as a commercial enterprise.”); *Fort Howard Paper Co. v. William D. Witter, Inc.*, 787 F.2d 784, 790 (2d Cir. 1986) (recognizing “New York’s traditional role as a national and international center for the purchase and sale of businesses. . .and its position as an international clearing house and market place.”) (internal quotation marks omitted).

expertise.<sup>265</sup>

As early as the 1980s, New York lawyers and business leaders became concerned that litigants were favoring federal courts, the Delaware Chancery Court, and out-of-court arbitration over New York State's court system.<sup>266</sup> Meanwhile, in 1984, the New York State legislature invited parties with contract disputes to New York courts, even if they had no contact with New York other than having included a New York choice of law provision or a New York choice of forum provision in their contract, and the transaction exceeded one million dollars.<sup>267</sup> "[T]he prevailing attitude within the New York courts was that there were too many cases and not enough money and that nothing could be done,"<sup>268</sup> concluded Robert L. Haig, a co-founder of the Commercial Division.<sup>269</sup>

Reacting to those concerns, the Office of Court Administration ("OCA")<sup>270</sup> experimented with concentrating business cases with certain judges who had expertise in business matters. In 1993, New York County established four specialized "Commercial Parts" to hear complex commercial and business cases in Manhattan and to test whether

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<sup>265</sup> The individual assignment system ("IAS") was implemented on January 6, 1986. Uniform Rules for the Supreme Court and County Court §202.3.

<sup>266</sup> Mark H. Alcott, *The Formation of New York's Commercial Division: A History & Memoir*, 11 JUD. NOTICE 51, 51-52 (2016) (noting that commercial litigants' increased use of the federal system, among other alternatives, "troubled" members of the New York bar who felt that state courts "were largely being abandoned" and who wanted to reestablish state courts as "the paramount center for commercial litigation"); see also Mitchell L. Bach & Lee Applebaum, *A History of the Creation and Jurisdiction of Business Courts in the Last Decade*, 60 BUS. L. 147, 152 (2004) (discussing how New York's experimentation with business courts "arose at a time of failing confidence in the state trial courts' ability to address business litigation").

<sup>267</sup> N.Y. Gen. Oblig. Law § 5-1401-1402; see also C.P.L.R. 327(b).

<sup>268</sup> ROBERT L. HAIG, COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, PRELIMINARY MATERIALS (5th ed. Oct. 2020 Update).

<sup>269</sup> The State Bar Association's Commercial and Federal Litigation Section's 1995 report studying the experimental Commercial Parts is credited for the quick creation of the Commercial Division. *Report of the Office of Court Administration to the Chief Judge on the Commercial Division Focus Groups 4* (July 2006), <http://ww2.nycourts.gov/sites/default/files/document/files/2018-05/ComDivFocusGroupReport.pdf> ("*Focus Group Report*").

<sup>270</sup> The Chief Judge, Chief Administrative Judge, and Administrative Board composed of the four presiding Justices of the Appellate Division are responsible for court administration. NY Const. Art. VI § 28, (c); Jud. Law §§ 211, 212, 213, 214-a. The Office of Court Administration implements those policies and procedures. See Joseph W. Bellacosa, *Judicial Administration: Spell It OCA not ORCA*, 58 NYS BAR J, 6, 11 (1986).

specialized business judges could improve the efficiency and fairness of adjudicating business cases.<sup>271</sup> Four experienced judges, notably including two women,<sup>272</sup> were assigned to this Commercial Part.<sup>273</sup>

These pilots were immediately successful. A 35% increase in the number of disposed cases from 1992 and 1993 was attributed to the creation of the Commercial Part in New York County.<sup>274</sup> The reaction of commercial practitioners and the business community to the Parts was also very favorable.<sup>275</sup> In response to the Manhattan pilot, the Commercial and Federal Litigation section of the New York State Bar Association stated that there was an urgent need for “a modern, well-staffed, properly equipped forum for the swift, fair and expert resolution of significant commercial disputes.”<sup>276</sup> Chief Judge Judith Kaye,<sup>277</sup> a former commercial litigator herself, therefore appointed Robert L. Haig, Esq. and the Hon. Leo Milonas, then chief administrative judge, to lead a task force to create and implement a commercial court.<sup>278</sup>

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<sup>271</sup> New York State Courts, *History of the Commercial Division* (2021), <http://ww2.nycourts.gov/courts/comdiv/history.shtml>.

<sup>272</sup> *Id.* These initial appointments were notable in light of the historical absence of women in practice of commercial law. See New York State Bar Association, Commercial and Federal Litigation Section, *If Not Now, When* (2020), <https://nysba.org/app/uploads/2020/02/Com-Fed-Women-Initiatives-Report-Amended.pdf>; New York State Bar Association, Commercial and Federal Litigation Section, *The Time is Now: Achieving Equality for Women Attorneys in the Courtroom and ADR* (2020), [https://nysba.org/app/uploads/2020/05/ComFed\\_-WomensInitiatives\\_Report-Cover\\_5.28-merged.pdf](https://nysba.org/app/uploads/2020/05/ComFed_-WomensInitiatives_Report-Cover_5.28-merged.pdf).

<sup>273</sup> They were: Miriam J. Altman, Herman Cahn, Ira Gammernan and Bea Shainswit. Administrative Judge Stanley S. Ostrau is credited with making these historic appointments, “determining a suitable and reasonable number of cases,” and implementing “adequate operating procedures” so the Commercial Division “could cope with the volume of cases to come.” *Stanley Ostrau*, HISTORICAL SOCIETY OF THE NEW YORK COURTS (2022), <https://history.nycourts.gov/biography/stanley-ostrau/>. As the Commercial Division thrived, Ostrau also assigned Walter M. Schackman; Stephen G. Crane; Charles Edward Ramos; Lewis J. Freidman; and Richard B. Lowe III. Thereafter, the following judges were assigned to the Commercial Division in New York County, including: Helen E. Freedman; Barry A. Cozier; Karla Moskowitz; Bernard J. Fried; O. Peter Sherwood; Barbara R. Kapnick; James A. Yates; Melvin L. Schweitzer; Shirley Werner Kornreich; Marcy S. Friedman; Eileen Bransten; Lawrence K. Marks; Barry R. Ostrager; Jeffrey K. Oing; Saliann Scarpulla; Anil C. Singh; Andrea Masley; Joel M. Cohen; Andrew Borrok; Jennifer G. Schechter; Robert R. Reed; Melissa A. Crane; and Margaret A. Pui Yee Chan.

<sup>274</sup> Am. Bar Ass’n Ad Hoc Committee on Business Courts, *Business Courts: Towards a More Efficient Judiciary*, 52 Bus. L. 947, 957 (1997).

<sup>275</sup> Wise, *Commercial Parts Earn High Marks*, N.Y. LAW J. 34 (Jan. 9. 1995).

<sup>276</sup> N.Y. State Bar Ass’n, *A Commercial Court for New York* (Jan. 1995) (proposing the creation of the Commercial Division), reprinted in N.Y. LITIGATOR at 13 (May 1995).

<sup>277</sup> Appointed Chief Judge on March 23, 1993. *Judith S. Kaye in Her Own Words* (2019).

<sup>278</sup> ROBERT L. HAIG, COMMERCIAL LITIGATION IN NEW YORK STATE COURTS §1:5 (4th ed. 2015).

Thus, in November 1995, the Commercial Parts formally became known as the Commercial Division in both New York and Monroe Counties.<sup>279</sup> Judge Kaye’s goals were to (1) “provide litigants in commercial matters with a justice system commensurate with New York’s status as a world commercial and finance center and New York’s historical role as a leading innovator for business in our state;” (2) “improve the climate for business in our State;” and (3) “create a laboratory for new courtroom technologies and innovative practices that could be exported to the rest of the State court system.”<sup>280</sup> By 1997, commercial cases were more efficiently resolved as measured by the time between initiating a commercial case and its disposition which declined 32%.<sup>281</sup>

Apart from the Delaware Chancery Court, the New York Commercial Division was widely perceived as the first large scale experiment with specialized business courts in the country.<sup>282</sup> The success of the Commercial Division was influential in the development of business courts throughout the country, helping to usher in such courts in more than 20 states.<sup>283</sup> Judges, lawyers, and judicial administrators now visit from around the world to study the

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<sup>279</sup> *Id.* at § 7:3. In December 1998, Chief Judge Kaye announced the expansion of the Commercial Division to Nassau, Erie, and Westchester Counties. Mark Alcott, *The Formation of NY’s Commercial Division: A History and Memoir*, JUD. NOTICE (2016). In 2002, the Commercial Division expanded to Albany, Suffolk, and Kings Counties. *Id.* Today, there are 30 Commercial Division justices statewide and the Commercial Division spans ten different jurisdictions: Albany, Kings, Nassau, New York, Onondaga, Queens, Suffolk, and Westchester Counties as well as the Seventh and Eighth Judicial Districts. New York State Courts, *History of the Commercial Division* (2021), <http://ww2.nycourts.gov/courts/comdiv/history.shtml>.

<sup>280</sup> *The Commercial Division of the Supreme Court of the State of New York: Celebrating a Twenty-First Century Forum for the Resolution of Business Disputes* 4 (Jan. 25, 2006) (“21<sup>st</sup> Century”).

<sup>281</sup> STATE OF NEW YORK, CHIEF ADMINISTRATOR OF THE COURTS, 20TH ANNUAL REPORT 38 (1997).

<sup>282</sup> *Wall Street Journal*, quoted but not cited in *Focus Group Report*, *supra* note 269, at 4.

<sup>283</sup> See Bach & Applebaum, 60 BUS. L. at 152, 153 n.20, 177, 180 n.273, 185, 195 (recognizing “New York’s influence on creating business courts nationally” and pointing to New York’s influence on courts in Philadelphia, Massachusetts, Nevada, and Florida). After the inception of the Commercial Division, courts in North Carolina (1995), New Jersey (1996), Pennsylvania (2000), Massachusetts (2000), Nevada (2000), Rhode Island (2001), Maryland (2003), Florida (2004), Georgia (2005), Oregon (2006), Colorado (2006), South Carolina (2007), Maine (2008), New Hampshire (2008), Alabama (2009), Ohio (2009), and Delaware (2010) established specialized courts or divisions of courts to handle commercial matters. John F. Coyle, *Business Courts and Interstate Competition*, 53 WM. & MARY L. REV. 1915, 1918 (2012).

Commercial Division and “to share effective, efficient and creative methods for resolving commercial disputes.”<sup>284</sup>

The Commercial Division’s innovations and efficiencies have also benefitted other Parts of Manhattan’s courts. Complex and time-consuming matters have been removed from other courtrooms “allowing those other [P]arts to function,” with some innovations having even been exported to those courtrooms as well.<sup>285</sup> Such innovations include the New York County Commercial Division’s Alternative Dispute Resolution program established in 1996, which was credited with disposing of 56% of the cases referred thereto in its first year, and which served as a model for the entire Supreme Court.<sup>286</sup>

Though not strictly quantifiable, the Commercial Division’s resolution of complex and significant business disputes also contributes to the development of commercial law.<sup>287</sup> This growing jurisprudence is exemplified by Robert L. Haig’s Commercial Litigation in New York, which is now in its fifth edition as an eleven-volume set.<sup>288</sup> The jurisprudence of the Commercial Division is therefore recognized as “cutting edge” and influential worldwide.<sup>289</sup>

Today, the Commercial Division of the New York State Supreme Court<sup>290</sup> has the jurisdiction to hear a variety of business cases. These

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<sup>284</sup> THE HON. JANET DiFIORE AND THE HON. LAWRENCE MARKS, NEW YORK STATE UNIFIED COURT SYSTEM 2018 ANNUAL REPORT 29 (2018) (highlighting meeting of the Standing International Forum of Commercial Court in lower Manhattan where 100 judges from around the world met in September 2018).

<sup>285</sup> 21<sup>st</sup> Century, *supra* note 280, at 6.

<sup>286</sup> STATE OF NEW YORK, CHIEF ADMINISTRATOR OF THE COURTS, 20TH ANNUAL REPORT 38 (1997); Ari Davis, *Moving from Mandatory: Making ADR Voluntary in New York Commercial Division Cases*, 8 CARDOZO J. CONFLICT RESOL. 283, 284 (2006).

<sup>287</sup> Stephen P. Younger, then chair of the New York State Bar’s Commercial and Federal Litigation Section, noted that the Commercial Division was “helping to develop the fabric of our State’s commercial law.” 21<sup>st</sup> Century, *supra* note 280, at 2. *See also Id.* at 6-11 (listing Commercial Division cases of significance).

<sup>288</sup> CHIEF JUDGE JONATHAN LIPPMAN, COMMERCIAL LITIGATION IN NEW YORK STATE COURTS Ch. 1.6 (4th ed., Robert Haig ed.). From March 1998 to July 2013, the Commercial Division issued *The Commercial Division Law Report*, which digested and hyperlinked to recent Commercial Division cases.

<sup>289</sup> 21<sup>st</sup> Century, *supra* note 280, at 1.

<sup>290</sup> N.Y. CONST. art VI, §7. In addition to elected Supreme Court Justices, Court of Claims Judges appointed by the Governor are assigned to the Commercial Division. In 2006, it was recommended that more Court of Claims judges be assigned to the Commercial Division. New York State Office of

include matters involving “breach of contract or fiduciary duty, fraud, misrepresentation, business tort, or statutory and/or common law violation where the breach or violation is alleged to arise out of business dealings,” and several other business areas.<sup>291</sup> While the Supreme Court’s jurisdictional floor is \$25,000,<sup>292</sup> the Commercial Division’s minimum threshold for amount in controversy began at \$150,000 and grew to \$500,000 in New York County in 2014.<sup>293</sup>

This threshold is intended to ensure that only cases with substantial complexity reach the Commercial Division.<sup>294</sup> In 2018, a special docket was created for large complex cases where a minimum of \$50 million is at issue which is assigned to a designated judge.<sup>295</sup> Likewise, a commercial division judge is designated to hear international arbitration matters.<sup>296</sup>

The Commercial Division has benefited from and is responsible for countless procedural innovations. The court promulgated Commercial Division rules in 2006,<sup>297</sup> which were designed to align with those of the

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Court Administration, *Report of the Office of Court Administration to the Chief Judge on the Commercial Division Focus Groups* (July 2006).

<sup>291</sup> These cases include “transactions governed by the Uniform Commercial Code;” “transactions involving commercial real property;” “shareholder derivative actions;” “commercial class actions;” “business transactions involving . . . commercial banks;” “internal affairs of business organizations;” “malpractice [claims against] . . . accountants and actuaries;” “environmental insurance coverage;” “commercial insurance coverage;” “dissolution of corporations, partnerships, limited liability companies, limited liability partnerships and joint ventures;” and “applications to stay or compel arbitration and affirm or disaffirm arbitration.” N.Y. State Unified Court Sys., Uniform Civil Rules for the Supreme Court and the County Court § 202.70.

<sup>292</sup> N.Y. CONST. art. VI §15b.

<sup>293</sup> N.Y. State Unified Court Sys., Uniform Civil Rules for the Supreme Court and the County Court § 202.70(a).

<sup>294</sup> THE HON. JANET DiFIORE AND THE HON. LAWRENCE MARKS, NEW YORK STATE UNIFIED COURT SYSTEM 2018 ANNUAL REPORT 29 (2018).

<sup>295</sup> The pilot program for “large complex cases” gives additional procedural tools and resources to a docket of cases where a minimum of \$50 million is at stake (exclusive of punitive damages, interest, costs, disbursements and counsel fees) or the issues are sufficiently complex and important as to warrant augmented case management. *See* Chief Administrative Judge of the Courts, AO/203/17 (Oct. 23, 2017),

<https://www.nycourts.gov/LegacyPDFS/RULES/comments/orders/AO%20203.pdf>.<https://www.nycourts.gov/LegacyPDFS/RULES/comments/orders/AO%20203.pdf>.

<sup>296</sup> Chief Administrative Judge of the Courts, AO224/13 (Sep. 16, 2013).

<sup>297</sup> Court rules are promulgated by the Administrative Board, which consists of the Chief Judge of the Court of Appeals and the four presiding justices of the Appellate Divisions. N.Y. CONST. art. VI, 28(a).

federal courts more closely on such matters as early case conferences and case management, proportionality in discovery,<sup>298</sup> robust expert disclosure,<sup>299</sup> limits on depositions and interrogatories,<sup>300</sup> and rules concerning entity depositions.<sup>301</sup>

The Commercial Division Advisory Council, established in 2012,<sup>302</sup> regularly proposes changes to the rules. As a result, the Commercial Division adopted rules on streamlined privilege logs,<sup>303</sup> model forms to facilitate discovery,<sup>304</sup> expedited resolution of discovery disputes,<sup>305</sup> simplification of bench trials,<sup>306</sup> time limits on trials,<sup>307</sup> streamlined presentation of evidence at trials,<sup>308</sup> and early alternative dispute resolution programs.<sup>309</sup>

Yet the Advisory Council does far more than simply propose rule changes. This body promotes the Commercial Division outside of New York to business leaders and other decisionmakers across the nation and world. In addition, the Council advises New York's judicial leaders on the latest issues impacting business courts – all of which helps the Commercial Division maintain its reputation for innovation and efficiency.

In support of the legislature's prescient 1984 enactment of New

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<sup>298</sup> Commercial Division Rule 11; ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, JOINT COMMITTEE ON ELECTRONIC DISCOVERY, EXPLOSION OF ELECTRONIC DISCOVERY IN ALL AREAS OF LITIGATION NECESSITATES CHANGES IN THE CPLR 34 (Feb. 18, 2009), <https://www.nycbar.org/pdf/report/uploads/20071732-ExplosionofElectronicDiscovery.pdf>.

<sup>299</sup> Commercial Division Rule 13-c.

<sup>300</sup> Commercial Division Rule 11-a(a), 11-d.

<sup>301</sup> Commercial Division Website Publications, *Part 1: Rules Effective 1/17/2006* vii; Steve Younger *Eligibility of cases for the Commercial Division*.

<sup>302</sup> The Advisory Council, formed in 2012, is a group of practitioners and Commercial Division judges, chaired by Robert Haig, to provide advice, particularly on proposed rule and procedure changes, to the Commercial Division. See The Chief Judge's Task Force on Commercial Litigation in the 21<sup>st</sup> Century, *Report and Recommendations to the Chief Judge of the State of New York* (June 2012) (recommending the creation of a statewide advisory council).

<sup>303</sup> Commercial Division Rule 11-b.

<sup>304</sup> Commercial Division Rule 13.

<sup>305</sup> Commercial Division Rule 11-a and 11-d.

<sup>306</sup> Commercial Division Rule 25.

<sup>307</sup> Commercial Division Rule 26.

<sup>308</sup> Commercial Division Rules 28, 29, 30, 32-a, 34.

<sup>309</sup> Commercial Division, *Report to the Chief Judge on the Commercial Division Focus Groups* (July 2006).

York forum selection and choice of law provisions, the Commercial Division also offers model provisions which have found their way into complex transactions around the world.<sup>310</sup> Likewise, since 2005, the Division has offered a form confidentiality agreement<sup>311</sup> including a claw back provision.<sup>312</sup>

All these advancements resulted in a highly well-regarded court. Within ten years of its inception, the number of Commercial Division judges in New York County doubled.<sup>313</sup> In 2012, the Task Force on Commercial Litigation in the 21st Century created by Chief Judge Jonathan Lippman reported that “the Bar and the business community are immensely proud of the Commercial Division.”<sup>314</sup> In 2000, the American Bar Association’s Business Law Section described the Division as “a model of a specialized court devoted to the resolution of business disputes.”<sup>315</sup> And the New York City Council even recognized the Commercial Division’s contribution to the City and national economy.<sup>316</sup>

Through these testaments and others, a consensus arose that the Commercial Division enhanced the business climate in New York.<sup>317</sup> It is credited with “help[ing] to stem the flight of commercial litigants

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<sup>310</sup> Court Rules, Appendix C, Choice of Forum Provision; Appendix D Choice of Law Provision.

<sup>311</sup> Commercial Division Rule 11-g.

<sup>312</sup> *Id.*

<sup>313</sup> Justice of the Commercial Division, *The Commercial Division of the Supreme Court of the State of New York: Celebrating a Twenty-first Century Forum for the Resolution of Business Disputes* (Jan. 25, 2006), <https://www.nycourts.gov/LegacyPDFS/courts/comdiv/pdfs/ComDiv-Jan06.pdf>.

<sup>314</sup> *Tribute: Chief Judge Kaye: Improving the Face and Integrity of Litigation*, 92 N.Y.U. L. REV. 11, 17 (Apr. 2017).

<sup>315</sup> BLAIR C. FENSTERSTOCK, COMMERCIAL LITIGATION IN NEW YORK STATE COURTS, § 7:3 (Robert L. Haig ed., 4th ed. 2015) (quoted in *Note, Moving from Mandatory: Making ADR Voluntary in New York Commercial Division Cases*, 8 CARDOZO J. CONFLICT RESOL. 283, 285 (Fall 2006)).

<sup>316</sup> New York City Council, *Proclamation Honoring the Commercial Division for its “Extraordinary Service”* (Dec. 20, 2018) (“The Commercial Division is uniquely qualified to increase taxable revenue...while stipulating job growth. It strengthens New York City’s ability to attract and retain businesses which add jobs, fuels demand for real property, and increases tax revenue. The tax revenues from local businesses also provide financial support for the New York State judicial system.”).

<sup>317</sup> Commercial Division Advisory Council Report, Benefits of the Commercial Division to the State of New York, July 18, 2019. See also Commercial Division video, <https://www.youtube.com/watch?v=22094jkzXg0&t=00s>; transcript, <https://www.nycourts.gov/LegacyPDFS/courts/comdiv/PDFs/CommercialDivision2016Transcript.pdf>.



from New York’s courts, and to maintain New York’s status as the premier state for the conduct of business.”<sup>318</sup> Indeed, empirical research shows that business courts are associated with increased performance by companies within their jurisdiction.<sup>319</sup>

Business leaders agree with this research.<sup>320</sup> The Business Council of New York State applauded the work of the Division, describing the court as “the envy of businesses in other states.”<sup>321</sup> The American Corporate Counsel Association has also expressed its appreciation and support for the Division and urged other states to follow New York’s lead.<sup>322</sup>

While the Commercial Division has realized Judge’s Kaye’s goals of (1) providing a justice system consistent with New York’s role as a business center of the world; (2) improving the business climate in New York; and (3) creating a laboratory for technology and innovation, exported to other New York courts and the world, the Commercial Division’s mission continues. As business conditions and the world shift, the Commercial Division is poised to respond and quickly adapt to ensure that New York continues to provide experienced and technically proficient judges in a well-resourced forum.<sup>323</sup>

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<sup>318</sup> See Eisenberg & Miller, *The Flight to New York: An Empirical Study of Choice of Law and Choice of Forum Clauses in Publicly Held Company Contracts*, 30 CARDOZO L. REV. 1475, 1478, 1485–86 (2009) (finding that 46% of contracts used New York law clauses, that New York law is “overwhelmingly favored” in financing contracts, and stating that “courts that are positively perceived by the commercial community obviously enhance a state’s effort to be a contractually designated choice of law,” and noting that the Commercial Division is perceived to be attaining “some success”).

<sup>319</sup> Jens Dammann, *Business Courts and Firm Performance*, U. OF TEX. L. PUBLIC RESEARCH PAPER NO. 660 (Sept. 17, 2017), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2889898](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2889898) (finding that the creation of state business courts is associated with approximately a three-percentage point increase in company performance, as measured by return on assets and that companies incorporated in states with access to business courts seem more likely to become the target of a merger with positive cumulative abnormal returns).

<sup>320</sup> New York State Courts, *The Commercial Division: A 21st Century Forum for Commercial Litigation*, YOUTUBE (Feb. 2, 2016), <https://www.youtube.com/watch?v=vTCPmOIPXcc>.

<sup>321</sup> N.Y. State Unified Court Sys., *Commercial Division – NY Supreme Court History* (July 2020), <http://ww2.nycourts.gov/courts/comdiv/history.shtml>.

<sup>322</sup> *Id.*

<sup>323</sup> Commercial Division Advisory Council, *The Benefits of the Commercial Division to the State of New York*, <https://www.nycourts.gov/LegacyPDFS/courts/comdiv/PDFs/TheBenefitsoftheCommercialDivisiontotheStateofNewYork.pdf>.

Thus, Manhattan's Commercial Division exemplifies the spirit of change afoot in New York County's Courts in the 21<sup>st</sup> Century. Throughout this transformation, the Division employed advanced technology to ensure efficient proceedings. Rules addressing electronic discovery are monitored and timely updated to keep up with technology.<sup>324</sup> The electronic filing of court documents enables access to all for free.<sup>325</sup> And electronic equipment in some courtrooms allows jurors to see documents close-up on handheld devices and witnesses to testify from around the world.<sup>326</sup>

These technological advances enabled the Commercial Division to continue to operate during the COVID-19 pandemic in 2020. In fact, its judges never stopped working as the remainder of the world shut down. And it was the Commercial Division's decades-long spirit of public service that was to thank – along with a host of new technologies that helped Manhattan's courts innovate as the 2000s unfolded.

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<sup>324</sup> THE HON. JANET DiFIORE AND THE HON. LAWRENCE MARKS, NEW YORK STATE UNIFIED COURT SYSTEM 2019 ANNUAL REPORT 24-25 (2019), <http://ww2.nycourts.gov/sites/default/files/document/files/2018-05/ar21-ch3.pdf>.[https://www.nycourts.gov/legacypdfs/19\\_UCS-Annual\\_Report.pdf](https://www.nycourts.gov/legacypdfs/19_UCS-Annual_Report.pdf) (showcasing initiatives training lawyers to use the court's state of the art courtroom including large screen displays and interactive, web-based technology that is fully ADA compliant; *see also* Commercial Division Rule 11-c, 202.70, *Appendix A: Guidelines for Discovery of ESI from Non-parties*).

<sup>325</sup> *See* New York State Courts Electronic Filing, <https://iapps.courts.state.ny.us/nyscef/HomePage>.

<sup>326</sup> *Courtroom for the New Millennium*, NEW YORK COURTS (2021), [http://ww2.nycourts.gov/courts/comdiv/ny/newyork\\_millennium.shtml](http://ww2.nycourts.gov/courts/comdiv/ny/newyork_millennium.shtml).

ii. Libraries and Tech: From Scrolls to “SCROLL”<sup>327</sup>



**FIGURE 13:** *The Lexis SUPERUBIQ computer terminal was a far cry from the typewriter and dry copier technologies that were the norm in New York County’s courts and foreshadowed the technological revolution that transformed the system in the 2000s. (eBay, 2021).*

In today’s Manhattan courthouses, technology helps judges and staff serve the public and streamline court operations. Although these systems have their share of imperfections, they represent a marked departure from the days of clunky machinery and tiresome manual databases.

Things were not always this way. In the 1960s, New York County’s courts had abandoned the scrolls and quills of centuries earlier. Yet judges and other court employees still relied primarily on typewriters and liquid process copy machines to complete their duties.

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<sup>327</sup> By Julie Gick, Former Law Librarian, Supreme Court, New York County. For further information on the libraries of the New York County Supreme Court, see the author’s prior work, *History of the New York County Supreme Court Libraries*, CRIMINAL LAW LIBRARY BLOG (Oct. 27, 2008), [https://www.criminallawlibraryblog.com/history\\_of\\_the\\_new\\_york\\_county\\_1/](https://www.criminallawlibraryblog.com/history_of_the_new_york_county_1/).

The typewriters were used by court stenographers and other back-office employees to produce judicial opinions, purchase orders, budget requests, vouchers, personnel records, and the like; the copiers produced wet, gray sheets which took several minutes to dry. Copiers' wet sheets faded over time but can still be seen in archived office files.

The New York County Supreme Court maintained records for both New York and Bronx Counties until the Bronx split off with the creation of the 12<sup>th</sup> Judicial District in August of 1981. Before then, large books and medieval-looking keys were used. Oversized ledgers contained information on the operations of both counties' courts. The books were opened and locked with a large silver skate key.

Court staff used card catalogs and other hard-copy systems as well. The New York County Clerk record indexes could be found on cards and bound volumes.<sup>328</sup> Surrogate's Court maintained a card index of probate cases reported in the New York Law Journal as well as a court index. Local bar association and law school libraries maintained impressive collections of state, national, and international laws, historical treatises and current practice-oriented materials in print and microform. In addition, the New York Public Library also maintained a law collection at its Main Branch, which was one of the few resources that was available to the public.

There were occasional technological advances in New York County during the mid-20<sup>th</sup> Century. Early fax machines used specially treated heat sensitive rolls of paper to receive documents. Telephone booths were located in the courthouses for the convenience of attorneys and clients. But rudimentary technology remained the norm in New York County, as it was across the state and nation.

Things began to change in the late 1970s as computing power began to revolutionize American life. As New York County's court records became more and more accessible, computer terminals were among the first rays of sunlight. In 1979, Mead Data Central

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<sup>328</sup> New York State Unified Court System, *1st JD - Supreme Court, Civil Branch, NY County: County Clerk Records* (2020), [ww2.nycourts.gov/courts/ljd/supctmanh/county\\_clerk\\_records.shtml](http://ww2.nycourts.gov/courts/ljd/supctmanh/county_clerk_records.shtml).

introduced the UBIQ computer terminal. The UBIQ, which was short for “ubiquitous,” was soon trumped by its successor, the SUPERUBIQ, in 1983. These dedicated computer terminals provided access to all fifty states’ caselaw and Shepard’s citation services through Lexis, the world’s first commercial online legal research service.<sup>329</sup>

By 1983, Westlaw, Lexis’ chief competitor, had launched its West Automatic Law Terminal or WALT and shortly thereafter, the WALT II. New York County Supreme Court participated in a pilot project in which the Supreme Court received WALTs and the Appellate Division, First Department got SUPERUBIQs. Once the Supreme Court started buying personal computers, West and Lexis offered dial-up services and expanded their range of databases to include forms, international codes, caselaw, treatises, law reviews and more sophisticated cite checking systems.

In the mid and late 1980s, the courts began hiring computer technology specialists and purchasing word processors and personal computers that used large floppy diskettes. These machines surpassed typewriters because of their ability to make easier corrections, maintain a memory, and store large amounts of information. The era of technological innovation was officially afoot.

Interim technologies still abounded in this transition period. One piecemeal solution was the compact disc tower at New York County Supreme Court. The tower looked like a telephone booth and was kept in a hall closet. Discs were uploaded into compartments, and a researcher could retrieve cases and statutes without incurring online costs. The tower was a far cry from today’s flash drives, but it represented the spirit of technology in the air at 60 Centre Street.

By the 1990s, the state’s court system secured limited access to the internet and email, and New York County was no exception. New York’s courts also had gained improved fax machines and additional online legal research services such as HeinOnline, Pacer, and

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<sup>329</sup> LexisNexis, *The LexisNexis Timeline* (2003), [www.lexisnexis.com/anniversary/30th\\_timeline\\_fulltxt.pdf](http://www.lexisnexis.com/anniversary/30th_timeline_fulltxt.pdf).

Loislaw.<sup>330</sup> Mercifully, new dry toner copiers also meant that the days of drying wet, gray photocopies were in the past. Therefore, in the last decade of the 20<sup>th</sup> Century, the days of bound volumes and skate keys appeared to be numbered.

Public access advanced shoulder-to-shoulder with these technological advances. In August of 1993, New York amended the judiciary and executive laws to overhaul the court system's libraries.<sup>331</sup> In response, the New York County Supreme Court opened a library facility that would be accessible to everyone. This Public Access Law Library,<sup>332</sup> located in Room 242 of Lower Manhattan's Lefkowitz Building, serves the community to this day.

The Public Access Library was unique in that its primary mission was to serve the public's legal information needs. In a fitting tribute to information lovers, the library opened on Valentine's Day of 1995. During that first year, over 2,500 people availed themselves of the library's services, with 804 of those visitors being pro se litigants. At the outset, the library had a basic collection of New York materials; Federal reports and statutes on compact disk; and a microform reader and printer. The collection also kept some bar association publications on file.

Librarians at the Public Access site fielded a rich array of questions running the gamut from how to "divorce" your parents to obtaining the tape of a program by sex therapist Dr. Ruth Westheimer. A Scottish Television camera crew once came to the library to film part of a documentary about a researcher who was the sister of a Lockerbie plane crash victim. It was truly a lively public place.

Today, the library still provides a host of vital services. All law library patrons can make copies from books for twenty-five cents a page and can print from the computer terminals for the same price. The legal

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<sup>330</sup> HEINONLINE (2020), <https://home.heinonline.org/>; Administrative Office of the U.S. Courts, *PACER* (2020), <https://www.pacer.gov/>; Fastcase.com, *Loislaw* (2020), <http://www.fastcase.com/loislaw/>.

<sup>331</sup> 1993 N.Y. Sess. Laws Ch. 662 (McKinney).

<sup>332</sup> New York State Unified Court System, *NY County, Public Access Law Library* (2020), [ww2.nycourts.gov/library/nyc\\_criminal/index.shtml](http://ww2.nycourts.gov/library/nyc_criminal/index.shtml).

platforms, Lexis and Westlaw, allow patrons to email their research. Users also have access to internet resources, including the court website, for purposes of legal research, along with a host of other tools. The library has a scanner which allows users to scan documents and email them. Users may access their personal email accounts at no charge. In addition, the library provides free Wi-Fi services and patrons are allowed to bring their laptops and connect. Users may also use their cell phones to read or send text messages but cannot speak on the phones while in the library.

New York County's courts maintained other libraries as well, particularly the ones dedicated to judges and their clerks.<sup>333</sup> The law library of the Tweed Courthouse moved to the new County Courthouse at 60 Centre Street in 1927, where it was expanded and preserved over the years before making a transition to digital technology. The judges of the Tweed Courthouse and 60 Centre Street assembled an impressive collection of English Law Reports extending back to the late 18th Century and up to the mid 1930s; with digital research now the norm, those resources are now largely unavailable.

Libraries were, of course, not the only resources found inside Manhattan's courthouses. In the 1990s, new Help Centers began to complement the Public Access library.<sup>334</sup> In 1997, the New York County Supreme Court opened the first Office for the Self-Represented – which is believed to be the first ever in a New York State Supreme Court – and the New York City Civil Court started operating Resource Centers as well.<sup>335</sup> Unrepresented people seeking information about legal processes were thus able to contact a help center.

The staff of these centers still do their best to answer questions about court operations and procedures and make certain forms available so that people can take legal action on their own if so inclined.

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<sup>333</sup> Special thanks to John Werner, Esq. for suggesting and drafting this paragraph, with the able assistance of Jordan Wappler.

<sup>334</sup> New York State Unified Court System, *COURTHelp* (2020), [www.nycourts.gov/courthelp/goingtocourt/helpcenters.shtml](http://www.nycourts.gov/courthelp/goingtocourt/helpcenters.shtml).

<sup>335</sup> NEW YORK STATE UNIFIED COURT SYSTEM, BEST PRACTICES FOR COURT HELP CENTERS 4 (April 2015), [www.nycourts.gov/LegacyPDFS/ip/nya2j/pdfs/NYSA2J\\_BestPracticesHelpCenter.pdf](http://www.nycourts.gov/LegacyPDFS/ip/nya2j/pdfs/NYSA2J_BestPracticesHelpCenter.pdf).

In addition to furnishing information and forms, help center staff may examine papers for formal sufficiency. This work by the Center thus increases the chances that, when unrepresented people appear in a back office of the court, the papers will be in proper form.

However, help center staff are not permitted to offer legal advice, as legal advice is the proper province of the attorney, who, upon assuming a representation, undertakes specific duties and professional responsibilities toward the client. Nevertheless, the New York County Courts still maintain this tradition of helping those with limited knowledge of the law. For instance, the New York City Family Court's Petition Room staff regularly assist unrepresented litigants in completing their petitions. Over the years, other courts similarly expanded their services, and now offer document assembly terminals, assistance from community-based organizations, and a volunteer attorney program in Petition Rooms and Help Centers.<sup>336</sup>

Those with greater litigation experience also benefit from New York County's spirit of innovation. By 1997, New York County instituted separate telephonic motion calendars in the Commercial Division to improve case processing. Commercial practitioners who encountered disputes over requests for adjournments of motions were thus able to obtain a resolution of their disputes by phone, without the need to go to court.

New York County built on those successes in 1998, when it put "Courtroom 2000," the first fully automated courtroom in the State, into regular use. The courtroom featured real-time court reporting, devices for the electronic presentation of evidence, high tech monitors, an electronic blackboard, and a touch screen monitor at the witness stand.<sup>337</sup>

The late 1990s also brought forth other technological innovations across the court system, which impacted the tenor of Manhattan court

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<sup>336</sup> NEW YORK STATE UNIFIED COURT SYSTEM, *supra* note 30, at 5.

<sup>337</sup> THE HON. JONATHAN LIPPMAN, 21ST ANNUAL REPORT OF THE CHIEF ADMINISTRATOR OF THE COURTS 40 (1998), <http://ww2.nycourts.gov/sites/default/files/document/files/2018-05/ar21-ch3.pdf>.



life immensely. Most dramatic of these was the New York State Unified Court System's website, which launched in 1997.<sup>338</sup> Although it may seem like a small step today, the website provided a new platform for information about the courts, including calendars, forms, rules, career opportunities, self-help resources, courthouse accessibility data, and other topics of interest to attorneys, litigants, jurors, and the public.

In July of 2006, the Civil Branch of the New York County Supreme Court also launched a website featuring access to its court records. This was a pilot project to make more of New York Supreme Civil Term's court records available online according to an announcement made by the Honorable Judith S. Kaye, who was Chief Judge at the time.<sup>339</sup>

Developed in partnership with the Honorable Norman Goodman, who served as New York County Clerk, the software program was called "Supreme Court Records Online Library" or "SCROLL." It was available to a user from the convenience of his or her office, desktop, or laptop and offered access to key case data in a simple, integrated format. The SCROLL program complemented the court system's electronic filing program by providing additional capabilities, such as the ability to commence cases online, pay filing fees online and serve consenting parties with interlocutory papers by means of the system.

The internet revolutionized New York County's court libraries as well. In the past, patrons had accessed court library holdings through a card catalog or book – but never with a system-wide catalog across all libraries. Once the internet arrived, inventories and uniform catalog entries were possible. The court system's Library and Information Network was dubbed "Symphony," and listed the various collections and online catalogs for the first time in history.

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<sup>338</sup> THE HON. JONATHAN LIPPMAN, 20TH ANNUAL REPORT OF THE CHIEF ADMINISTRATOR OF THE COURTS 38 (1997), <http://ww2.nycourts.gov/sites/default/files/document/files/2018-05/ar20-3fin.pdf>.

<sup>339</sup> Supreme Court, Civil Branch, New York County, *Supreme Court, Civil Branch, New York County Launches Website Featuring Public Access to Court Records* (2006), [https://www.nycla.org/siteFiles/Publications/Publications272\\_0.pdf](https://www.nycla.org/siteFiles/Publications/Publications272_0.pdf).

A different “symphony” reached a crescendo in the 2000s, in the form of Manhattan’s first courtroom to be outfitted with state-of-the-art technology.<sup>340</sup> Located within the New York County Courthouse at 60 Centre Street, Room 208 features a novel 86-inch screen. By touching or using a stylus on the screen, an attorney or witness could highlight information, add additional data, or mark up the evidence without affecting the integrity of the original. The marked-up version of the evidence could then be saved as a separate document or discarded after the witness finishes testifying.

The 86-inch screen could also play back previously recorded testimony and is equipped with Skype. Documents and previously recorded testimony are uploaded to the display monitor via a flash drive, a CD-ROM, or a laptop. And if an attorney forgets to include a document on the flash drive, CD-ROM or laptop, they may still display the document by placing it under a document viewer, which projects the document onto the 86-inch screen.

60 Centre Street’s technological revolution was in full swing with the innovations in Room 208, and the pace would only quicken.<sup>341</sup> In 2019, the court system greatly expanded e-filing, which originated in large part in Manhattan. In 1985, the Civil Case Information System (CCIS), a mainframe computer application, was introduced in the Supreme Courts for the 13 largest counties of the State, therefore including New York County. In 1999, e-filing was first authorized on a limited basis by the New York State Legislature in two counties of the State, New York County and Monroe County, in Commercial Division cases only and on a consensual basis only.

Since 1999 and throughout, a team at 60 Centre Street has managed NYSCEF (the New York State Courts Electronic Filing System), continually refining the application and expanding its

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<sup>340</sup> The Hon. Saliann Scarpulla, *Supreme Court, New York County: The Technology-Outfitted Place to Be* (Sep. 1, 2019), <https://nysba.org/supreme-court-new-york-county-the-technology-outfitted-place-to-be/>.

<sup>341</sup> Special thanks to John Werner, Esq. for introducing this discussion of e-filing. The following paragraphs on that topic were written by him, with the assistance of Jordan Wappler, and are based on his personal recollections.

capabilities, promoting the program throughout the court system and the Bar, and offering training to Justices, court staff, attorneys, and others. The 60 Centre Street e-filing team ultimately evolved into the E-Filing Division of the entire state's Office of Court Administration (OCA), having only in late 2019 relocated from 60 Centre Street to the offices of OCA at 25 Beaver Street.

So by the time 2020 came around, New York County's courts thus had a healthy level of familiarity with technology, notwithstanding the courts' centuries-long legal history. When the COVID-19 pandemic began ravaging the City of New York, Manhattan's courts were primed to pivot to a virtual format. And as of this writing, trials, hearings, conferences, and many other matters are held via videoconference, in keeping with America's move to "virtual work" in the era of social distancing.

Thus, New York County's evolution from "scrolls" to "SCROLL" immensely benefitted litigants of all stripes. All of Manhattan's courts and users gain from these advances in technology, particularly in New York County, because of its historical importance, diversity, complexity, and caseload. Though none of these technologies are perfect by any means, they have enabled many legal-minded Manhattanites to adapt and succeed.

And future refinements will undoubtedly continue to create a framework for excellence, where talented attorneys and judges can continue to rise in the decades to come – just like Sheila Abdus-Salaam, a product of Manhattan's judiciary and the first African American woman to serve on New York's highest court.

### iii. Sheila Abdus-Salaam: On Shoulders of Giants<sup>342</sup>



**FIGURE 14:** Applause broke out after the New York State Senate confirmed Judge Sheila Abdus-Salaam as the first African American woman to serve on the state's highest court in 2013. (Associated Press, 2013).

Manhattan's own Judge Sheila Abdus-Saalam became the first African American woman to serve on the New York State Court of Appeals in 2013. To reach that achievement, Judge Abdus-Saalam stood on the shoulders of trailblazing New York County Judges Polier, Bolin, Delany, Shientag, and so many others.<sup>343</sup>

Abdus-Saalam's ascent was the culmination of four decades of activism on the part of African American and female New Yorkers after the end of the Civil War. About one dozen years after Judge Polier dismissed the neglect petition against the Harlem Nine public school parents, Sheila Abdus-Saalam (née Turner) was attending Eastern Senior High, a District of Columbia public school.

A native of Washington, D.C., Abdus-Saalam was one of seven children born to working class parents. At Eastern Senior High, the teenager met Frankie Muse Freeman, a civil rights activist and lawyer

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<sup>342</sup> By the Hon. Debra James, Justice of the Supreme Court, New York County.

<sup>343</sup> See Section II.B, *passim*.

who visited her class. Attorney Freeman had served as lead counsel on *State ex rel. Brewton v Board of Education of City of St. Louis*,<sup>344</sup> in which the Missouri Supreme Court held that a substantial inequality in course offerings at a high school attended by white children as compared to that by Black children constituted a violation of the 14<sup>th</sup> Amendment to the U.S. Constitution.

A young Abdus-Saalam was inspired to pursue a career in the law by Freeman's stories about her work as a civil rights lawyer. Years later, Judge Abdus-Saalam said of Attorney Freeman "She was riveting. She was doing what I wanted to do. . .using the law to help people."<sup>345</sup> After graduating from Eastern High in June 1970 as salutatorian of her class, Abdus-Saalam moved to New York City, where she received a scholarship to attend Barnard College. She then earned her Juris Doctorate from Columbia Law School, where she was a Charles Evans Hughes Fellow.<sup>346</sup>

In the late 1970s Abdus-Saalam moved to Central Harlem. Staying true to her goal to help people, she began her career as a lawyer at Brooklyn Legal Services. There, she handled landlord tenant and immigration cases for clients in the neighborhoods of the Bushwick, East New York, and Brownsville neighborhoods. Abdus-Saalam then went on to the New York State Attorney General's Civil Rights and Real Estate Division, and later served as General Counsel to New York City's Division of Labor where she enforced employment laws.<sup>347</sup>

In 1991, Judge Abdus-Saalam began her distinguished judicial career with her election to the New York City Civil Court. Two years later, she was elected to the Supreme Court of the State of New York for New York County. After twelve years of judicial service spanning into the new 21<sup>st</sup> Century, with two on criminal term and ten assigned to

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<sup>344</sup> *State ex rel. Brewton v Board of Education of the City of St. Louis*, 361 Mo. 86 (Mo. Sup. Ct. 1950).

<sup>345</sup> *Sheila Abdus-Salaam '77: Strong Foundations*, COLUMBIA L. SCH. MAG. 63 (Spring 2012), [https://web.law.columbia.edu/sites/default/files/microsites/magazine/files/i\\_spring\\_2012.pdf](https://web.law.columbia.edu/sites/default/files/microsites/magazine/files/i_spring_2012.pdf).

<sup>346</sup> *Sheila Abdus-Salaam*, HISTORICAL SOCIETY OF THE NEW YORK Courts (2021), <https://history.nycourts.gov/biography/sheila-abdus-salaam-2/>.

<sup>347</sup> *Id.*

civil term, Governor David A. Patterson appointed Abdus-Saalam to the Appellate Division, First Department.

Then, in April 2013, Judge Abdus-Saalam became the first African American woman to serve on New York State’s court of last resort, with her appointment by Governor Andrew Cuomo to the Court of Appeals. Sheila Abdus-Salaam tragically passed away in April of 2017 but left an enduring legacy through a quarter-century of trailblazing achievements and stellar jurisprudence.

One example of Abdus-Salaam’s outstanding legal research, clear writing, brilliant judicial reasoning, and uncompromising sense of fairness is the opinion she authored back as a trial judge in *Aliessa v. Novello*.<sup>348</sup> In *Aliessa*, Judge Abdus-Salaam held that under the Equal Protection Clause of the New York State Constitution, all persons residing in New York State – including noncitizens – were entitled to medical care under Medicaid on a non-discriminatory basis. It was a decision that would ultimately be affirmed by the New State York Court of Appeals a decade before Abdus-Salaam joined that bench.

While Manhattan’s transition away from its original brand of “rough justice” continues, Judge Abdus-Salaam’s legacy serves as a reminder of how far the New York County Courts have come in their over four centuries of operation. The extraordinary history making accomplishments of Sheila Abdus-Saalam, New York County jurist, are tied to the previous century of activism on the part of African Americans, women, and so many others to gain community power and influence in New York County’s judicial branch.

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<sup>348</sup> 181 Misc.2d 334 (Sup. Ct., N.Y. Co. 1999), *aff’d* 96 NY2d 418 (2001), *reversing in part* 274 AD2d 347 (1st Dept. 2000).

## D. Conclusion<sup>349</sup>



**FIGURE 15:** “Tombs Angel” Rebecca Salome Foster’s permanent memorial in the lobby of the New York County Courthouse at 60 Centre Street. By leveraging the lessons contained within this document, justice-minded New Yorkers can improve Manhattan’s courts in Foster’s tradition. (Adrian Untermyer, 2019).

Courts reflect the social dynamics of their communities and their times. The history of Manhattan’s courts is therefore a continuum, and the parsing of that long history will always be a rather arbitrary undertaking. Nevertheless, the document you just finished reading is rife with some clear inflection points which tell us where we have been and where we are headed.

All our New York State courts, including our appellate courts, evolved from the courts of the Dutch colony of New Amsterdam and the courts of the successor English colony of New York. From the courts of

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<sup>349</sup> By John F. Werner, Esq., former Chief Clerk of the Supreme Court’s Civil Branch, as told to Adrian Untermyer, Esq.

what were these minor colonial outposts evolved over the centuries today's New York State Unified Court System ("UCS"). The importance and centrality from the earliest days of the courts of New York County to the history of New York State's entire court system speaks for itself. That importance is of course is an extension of this venue having long since become one of the great financial centers of our country and of the world.

The ascendancy of various ethnic, racial, and religious groups in our county and the advance in gender equity are such an important part of our history. And the struggles of these groups have made a lasting imprint on our laws. In 1970 there were only two female justices in New York County, the Hon. Birdie Amsterdam and the Hon. Margaret Mary Amsterdam, and they were then the only female Supreme Court Justices in the entire state. Our legal community, which not so long ago was an almost all-male province is fortunately no longer that. Legal history cannot be and should not be separated from social developments.

Just as social trends influence our jurisprudence so too does the law influence our social trends. The Commercial Division, as you read, started as a pilot project in New York County in the 1990s. The importance of the Division, which now exists in venues across the state, speaks for itself. New York County Commercial Division Justice Andrea Masley has been an important part of the team writing this history.

While we have been working on this history, our courts have also been struggling amidst the COVID-19 pandemic. Technological advances, including New York State Courts Electric Filing ("NYSCEF"), have been critically important to maintaining court operations. The UCS E-Filing Department evolved from the E-Filing Resource Center which had long been based in the New York County Courthouse at 60 Centre Street. We are all enormously proud of the work of this team so devoted to expanding e-filing in courts throughout the state, as we are of the UCS Department of Technology which has from the inception been an integral partner in this transformative project. Sometimes



timing is, as they say, “everything,” and we cannot imagine the court have functioned as it has throughout the pandemic without e-filing.

Therefore, by tracing the earliest days of our trial and appellate courts, along with the larger state court system that sprang from the courts in New York County, this history amplifies the tale of an important judicial apparatus, and one that will continue to echo over time, with no fixed end date on the horizon.

Earlier in this new century, Chief Judge Kaye’s court reform commission quoted observers of our courts in a comprehensive report. Within those pages, some opined on how New York’s “hodge-podge” of courts “may have made sense at some point during its evolution from colonial times, but not now.”<sup>350</sup> And yes, Manhattan’s courts, in their present incarnation, are overly complex.

So, how best to explain the history of our weedy system without ending up tangled in those weeds? It is doubtlessly a challenge. But by tracing the physical presence over the centuries of our local courts and offering descriptions of at least some of the more significant legal and personal stories that unfolded therein, the tale you have just completed tracks Manhattan’s evolving legal history through the present day and beyond.

Your newfound knowledge is a tool, and one that can improve Manhattan’s courts in the years to come. As “Tombs Angel” Rebecca Salome Foster taught us years ago, constant and vigilant attendance can offer comfort even in the darkest of hours.

It is therefore our hope that you use the history above to achieve those noblest of ends: a march toward progress, informed by the past, and inspired by all who came before us.

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<sup>350</sup> SPECIAL COMMISSION ON THE FUTURE OF THE NEW YORK STATE COURTS, *supra* note 25, at 19 (quoting *Order in the Courts*, NEWSDAY (Mar. 26, 1997)).

### III. County Timeline



**FIGURE 16:** *Murals in the Jury Assembly Room within the New York County Courthouse remind jurors of the long sweep of Manhattan’s legal history. (Adrian Untermyer, 2018).*

The following timeline depicts the narrative you just completed in the form of a consolidated reference. Although no timeline can be all-encompassing, the following reference sets forth a selection of significant events from across Manhattan’s legal history:<sup>351</sup>

**Pre-1600** The Lenape – the original Native New Yorkers – earn a reputation for peacefully resolving disputes.

**1626** Dutch settlers “purchase” Manhattan Island from the Lenape.

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<sup>351</sup> Special thanks are due to Jordan Wappler, along with Amani Harris, the Hon. Andrea Masley, and Zoe Petiteau, for their efforts in helping to assemble this timeline.

- 1653** New Amsterdam formally incorporates, and a rudimentary municipal court emerges.
- 1664** Britain seizes New Amsterdam and renames the colony “New York.”
- 1665** The Schepens’ Court of New Amsterdam is reestablished as the anglicized Mayors’ Court of New York.
- 1688** Mayors’ Court sprouts a criminal branch known as the Court of Sessions.
- 1691** A new Supreme Court of Judicature begins operating in New York.
- 1735** The Supreme Court of Judicature helps lay “the foundation for the freedom of the press” in the trial of John Peter Zenger.
- 1789** George Washington takes the first oath of office and Congress adopts the Bill of Rights – all in Manhattan, which serves as the United States’ first capital.
- 1789** The political group Tammany Hall is founded, with Aaron Burr as an early booster.
- 1790** The Supreme Court of the United States holds its first session at the Royal Exchange Building.
- 1797** Alexander Hamilton recruits Aaron Burr to serve as co-counsel in *Le Guen v. Gouverneur and Kemble*.
- 1804** Hamilton criticizes Burr over an Albany dinner table, and Burr challenges him to a duel, where Hamilton is fatally shot on New Jersey’s Weehawken Cliffs
- 1821** The Mayors’ Court is finally renamed the Court of Common Pleas for the City and County of New York.

- 1854** Tammany Hall calcifies as a force that comes to dominate Manhattan's entire legal and political apparatus.
- 1870** The New York City Bar Association is founded by 200 lawyers in response to William "Boss" Tweed's corruption of the courts.
- 1894** The New York State Constitution of 1894 creates the Appellate Division of the Supreme Court, First Judicial Department, as one of four intermediate appellate courts across New York State.
- 1899** The city begins constructing a new Hall of Records on the north side of Chambers Street, which will also house the Surrogate's Court.
- 1900** The Appellate Division, First Department opens its marble courthouse off Madison Square. Appellate arguments are devoid of street noise due to the ingenious positioning of the monumental courtroom.
- 1902** The State charts a New York County Courthouse Commission to plan and build a courthouse on Foley Square.
- 1903** The New York Stock Exchange opens its new headquarters in Lower Manhattan, cementing Manhattan's role as a locus of commerce.
- 1908** The New York County Lawyers Association ("NYCLA") is formed to combat racial discrimination in the legal profession and its institutions.
- 1910** Manhattan's Courthouse Commission recommends constructing a new courthouse in City Hall Park.

- 1911-12** George F. McAneny serves as President of the Board of Estimate and works to establish Manhattan's Civic Center, which eventually becomes Foley Square.
- 1913-27** Boston architect Guy Lowell plans and builds the monumental New York County Courthouse at 60 Centre Street.
- 1917** The New York State Court of Appeals decides *Wood v. Lucy, Lady Duff-Gordon*, a legendary Manhattan contracts case still found in casebooks.
- 1926-33** African American leader Hubert T. Delany serves as an Assistant United States Attorney for the Southern District of New York before wending his way up Manhattan's court system as a judge.
- 1933** The Domestic Relations Court, now known as Family Court, is created.
- 1934** The New York Women's Bar Association is formed.
- 1935** Judge Justine Polier becomes New York's first female jurist upon her appointment by Mayor LaGuardia.
- 1936** The federal government adds Cass Gilbert's colonnaded United States Courthouse and Federal Building to Foley Square.
- 1939** Jane Matilda Bolin becomes the first African American woman to serve as a judge in the United States upon joining the bench of the New York City Domestic Relations Court.
- 1941-45** America's involvement in World War II dominates everyday life in New York and the nation, with many attorneys aiding in the war effort.

- 1958** New York City's Board of Education files a petition against nine sets of parents who had organized a boycott of public junior high schools in Harlem and the Bronx. The case becomes known as Manhattan's *Brown v. Board of Education*.
- 1963** New York State's Civil Practice Law and Rules ("CPLR") introduce a level of stability and rationality to the practice of law in Manhattan's courts.
- 1969** The Javits Federal Office Building and United States Court of International Trade open, adding a modernist flare to Foley Square.
- 1978** New York creates a "Unified Court System under the aegis of a central administration.
- Ludtke v. Kuhn* upholds the right of a woman sports reporter to enter the locker rooms of professional sports teams, as male reporters did.
- 1979** Sonia Sotomayor begins her first legal position in Manhattan, which eventually leads to her becoming the first woman of color to serve as Justice of the Supreme Court of the United States.
- 1981** The Bronx splits off from Manhattan's courts with the creation of the 12th Judicial District in August.
- 1989** Manhattan's prosecutors and judges oversee the "Central Park Five" case, which involved the wrongful arrest and conviction of five Black and Latino teens for the sexual assault of a female jogger in Central Park.
- 1993** New York County establishes four specialized "Commercial Parts" to hear complex commercials and

business cases in Manhattan and to test whether specialized business judges could improve the efficiency and fairness of adjudicating business cases.

- 1993-94** New York County leaves a profound mark on the New York State Court of Appeals, with each of the Court's first two female members – Judith S. Kaye and Carmen B. Ciparick – being appointed from the borough.
- 1995** The Commercial Parts formally become known as the Commercial Division in both New York and Monroe Counties.
- 1996** New York County Commercial Division's Alternative Dispute Resolution program is established.
- 1997** The New York County Supreme Court opens the first Office for the Self-Represented and the New York City Civil Court started operating Resource Centers as well.
- 2010** President Barack Obama, an alumnus of Manhattan's Columbia University, nominates New York County's own Elena Kagan to Supreme Court of the United States, where she became the fourth woman in American history to sit on that bench.
- 2011** 293 couples flock to the Louis J. Lefkowitz courthouse and office building on Foley Square to be among the first same-sex New Yorkers to legally marry at the Manhattan Marriage Bureau.
- 2013** Manhattan's Sheila Abdus-Saalam becomes the first Black woman to serve on the New York State Court of Appeals.

- 2019** The Independent Commission on New York City Criminal Justice and Incarceration Reform proposes reimagining Manhattan's jails, along with the infamous Rikers Island.
- 2020-21** Technological advances enable Manhattan's courts to continue operating during the global COVID-19 pandemic.



## IV. County Resources



**FIGURE 17:** *New York County’s Surrogate’s Courthouse and Hall of Records is one of many monumental structures that house Manhattan’s legal history. (Adrian Untermyer, 2018).*

Readers may wish to dig deeper into the history of New York County’s bench and bar. Although the footnotes to each section of our manuscript serve as handy “jumping-off-points” for the intrepid researcher, the following general resources will also aid in further investigation and analysis:

- **The New York State Archives**

*Albany, New York | [www.archives.nysed.gov](http://www.archives.nysed.gov)*

The earliest records of New York’s Supreme Court of Judicature (now the Supreme Court) and the defunct Court of Chancery are held by the New York State Archives in Albany. The Archives also maintain special web pages for legal researchers on a broad range of general and legal history topics involving Manhattan.

- **New York City Records and Information Services**

*New York, New York | [www1.nyc.gov/site/records/index.page](http://www1.nyc.gov/site/records/index.page)*

This municipal department preserves a cornucopia of records involving Old New York and its judiciary, including the early municipal courts. Records involving city courthouses also abound. In addition to using its online resources, researchers may visit the Municipal Archives, the Municipal Library, and the Records Center – all located inside the historic Surrogate’s Courthouse off City Hall Park.

- **The Historical Society of the New York Courts**

*White Plains, New York | [www.history.nycourts.gov](http://www.history.nycourts.gov)*

Established in 2002 by then-New York State Chief Judge Judith S. Kaye, the Society’s mission is to preserve, protect, and promote the legal history of New York. Online resources include oral histories featuring New York County jurists and other leaders, particularly the Hon. Judith Kaye, the Hon. Jonathan Lippman, and the Hon. Norman Goodman, New York County’s longest-serving clerk. These resources are complemented by an able staff with deep connections in the legal and academic communities.

- **The New York City Bar Association and New York County Lawyers Association Libraries**

*New York, New York | [www.nycbar.org](http://www.nycbar.org) | [www.nycla.org](http://www.nycla.org)*

New York City’s two bar associations each maintain extensive law libraries at their headquarters, where researchers will find general legal resources and secondary sources. Librarians are also on hand to direct researchers to more detailed resources and collections housed at university libraries and elsewhere.

## V. Acknowledgments

This document would not exist without the unstinting efforts of a host of Manhattanites, both actual and honorary. First and foremost, Albert M. Rosenblatt, Associate Judge Emeritus of the New York State Court of Appeals, deserves immense credit for his relentless spearheading of this initiative. Attorneys Vincent Chang and Steven Shapiro are also worthy of the highest accolades for guiding the project through its earliest stages.

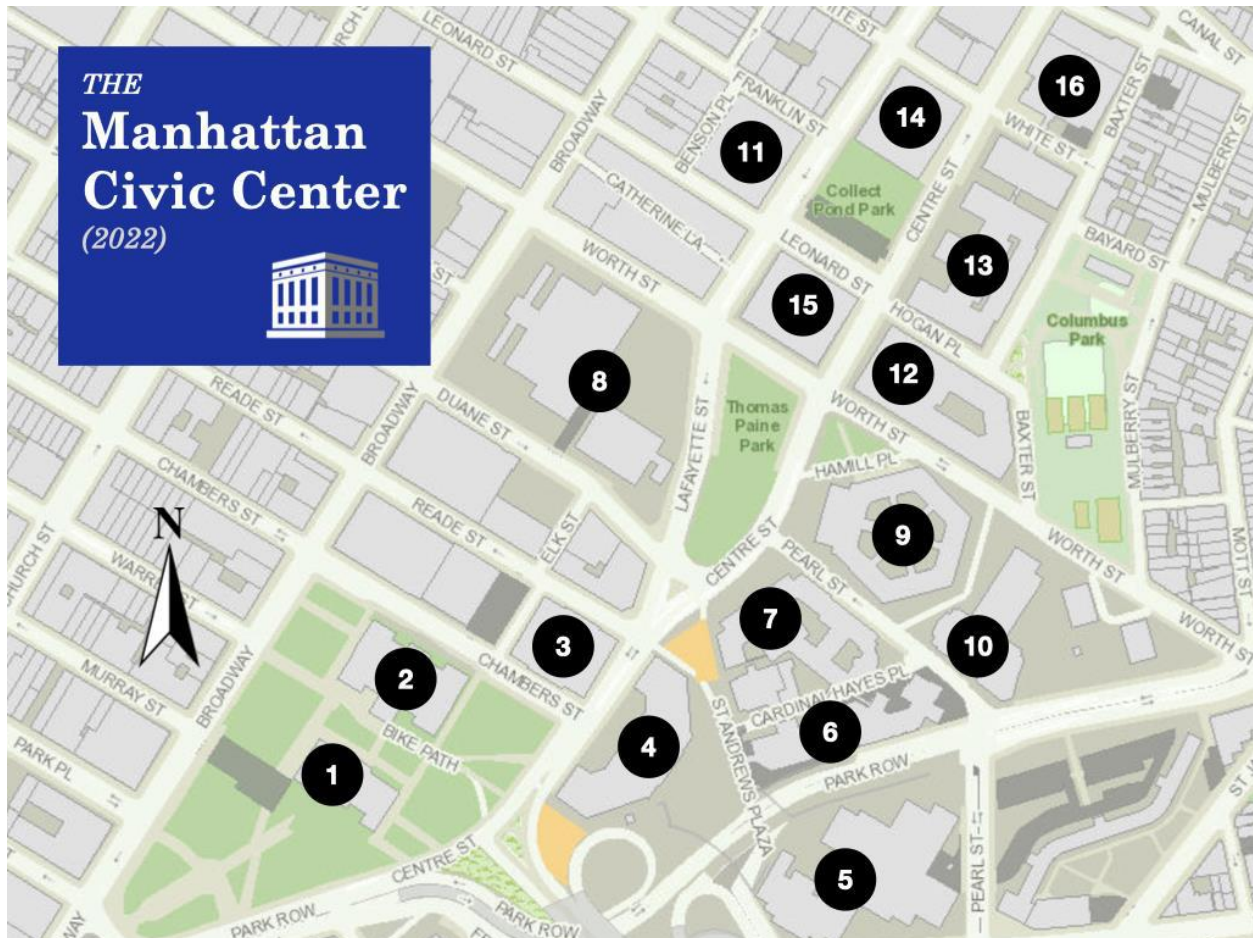
Our gratitude also extends to the dedicated authorial team, which included Vincent Chang, Esq., Julie Gick, Amani Harris, Justice Debra James, Craig Landy, Esq., Justice Andrea Masley, Zoe Petiteau, Dr. Jon Ritter, Adrian Untermeyer, Esq., Jordan Wappler, and John Werner, Esq. The broader editorial and advisory team also proved invaluable throughout every stage of this process and was comprised of the authors above, along with Geof Huth and Robert Pigott, Esq.

It goes without saying that the sage insights of John F. Werner, Esq., former Chief Clerk of the Supreme Court's Civil Branch, were instrumental with respect to assembling both our history and our team. John's dedication to New York County and its rich past will never be forgotten by anyone who passes through 60 Centre Street's hallowed doors.

Finally, we dedicate our efforts to the memories of two giants whose passion for Manhattan's legal history was legendary: the late Judith Kaye, former Chief Judge of the New York State Court of Appeals, and the late Norman Goodman, former New York County Clerk. Each worked tirelessly to ensure that New York's future would include its past, and we have no doubt that their spirits will continue to inspire generations of civic-minded young people in the centuries to come.

## VI. Appendices

### A. The Buildings of New York County's Civic Center<sup>352</sup>



**FIGURE 18:** Notable Civic Center buildings are identified by the numbers printed on the map above, which correspond to their descriptions in the section below. These buildings are also often described elsewhere in the body of this legal history. (Map by Adrian Untermeyer; Basemap by the City of New York; Logo by Maya Kagan, Adapted from her “Show the Lefkowitz Some Love” Design).

<sup>352</sup> By Adrian Untermeyer, Esq., with all images taken by the author unless otherwise noted. Sources utilized in this section include: WHITE *et al*, *supra* note 21 (5th ed. 2010); PIGOTT, *supra* note 21; City of New York, Department of Citywide Administrative Services (2021), <http://www.nyc.gov/html/dcas/>. Portions of this section are adapted from Untermeyer’s 2019 Request for Evaluation submitted to the New York City Landmarks Preservation Commission; in that document, Untermeyer proposed designation of a new historic “Courthouse District” to preserve unprotected properties threatened by Mayor Bill de Blasio’s proposal to train the wrecker’s ball on the Lefkowitz Building and turn it into a jail. For further information about that land use battle, see James Barron, *Would You Want the Place Where You Were Married to Become a Jail?*, N.Y. TIMES (Oct. 14, 2018).



## **1. New York City Hall**

Joseph François Mangin and John McComb Jr., 1812 | City Hall Park

Although not a courthouse, New York City Hall is the seat of government for New York County and the five boroughs. Within this historic structure are the Mayoral and City Council chambers, with additional offices for individual City Councilors and their staffs located across Broadway.

City Hall Park ensconces the structure and is a frequent site of protest and other free expression. During the 1990s and early 2000s, the Giuliani and Bloomberg mayoral administrations restricted access to the City Hall steps; accordingly, today's demonstrators must arrange for permits and pass through security screenings rather than engage in the impromptu protests of days past.





## 2. Tweed Courthouse<sup>353</sup>

John Kellum and Leopold Eidlitz, 1881 | 52 Chambers Street

The Tweed Courthouse currently serves as headquarters to New York City’s Department of Education but began its days as a gold-plated monument to municipal graft. Named for the notorious Tammany Hall leader William “Boss” Tweed, this august classical structure was built to serve as the New York County Courthouse and ultimately relinquished those duties to the newer building at 60 Centre Street due to overcrowding.

The structure is best remembered for its exorbitant construction costs, which helped to line Tammany Hall pockets; in one instance, carpeting was billed at over 250 times its actual value. Over the years, former Chief Judge Judith Kaye attempted in vain to restore the Tweed Courthouse to its judicial duties.

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<sup>353</sup> Image via New York City Department of Citywide and Administrative Services.



### **3. Surrogate's Courthouse and Hall of Records**

John R. Thomas, 1907 | 31 Chambers Street

Modeled off the Paris Opera House, Manhattan's palatial Surrogate's Courthouse also houses the Municipal Archives and city agencies such as the Department of Cultural Affairs. Its monumental internal lobby often serves as a venue for society functions and has been featured repeatedly in film and television.

Due to a quirk of state law, original physical copies of numerous celebrities' wills are lodged within the Surrogate's Courthouse's thick walls. To this day, the Surrogate's Court staff display the original wills of Marilyn Monroe, Anthony Bourdain, Herman Melville, Babe Ruth, and many others to curious Supreme Court interns.



#### **4. David Dinkins Municipal Building**

William M. Kendall of McKim Mead & White, 1914 | 1 Centre Street

The architectural firm McKim, Mead & White is the stuff of legend, with its former Pennsylvania Station occupying a unique perch in the preservation history of New York City. But not all its railroad designs came to fruition – including the Municipal Building, which originated as a rejected sketch for the firm’s original proposal for Grand Central Terminal.

The Municipal Building is now named for David Dinkins, who served as New York City’s first Black mayor in the early 1990s. Today, the ornate Beaux-Arts Municipal Building houses numerous city offices, including the Manhattan Borough President and, quite fittingly, the Landmarks Preservation Commission. It also assumed court-related functions in recent years, as it has been home to the city’s Desk Appearance Ticket Summons Parts ever since those moved from the Clocktower Building at 346 Broadway in the mid-2010s.





## **5. New York City Police Department Headquarters** Gruzen & Partners, 1973 | One Police Plaza

The imposing, Brutalist Police Department Headquarters occupies a vast, brick-and-concrete plaza sandwiched between the Municipal Building and the Brooklyn Bridge approaches. It occupies a special place in New York County's legal history, as most criminal matters in Manhattan's courts are initiated by the police department headquartered within.

As with many structures within the Civic Center, One Police Plaza is known to television audiences the world over. During the introduction to the popular series "Law & Order," investigators and District Attorneys are seen walking through the building's eponymous plaza.



## 6. Silvio J. Mollo Federal Building<sup>354</sup>

Architect Unknown, 1974 | 1 Saint Andrew's Plaza

Home to the United States Attorney's offices and the United States Marshals Service, this austere, Brutalist structure was constructed concurrently with the attached Metropolitan Correctional Center, where billionaire financier Jeffrey Epstein committed suicide in 2019.

The Mollo Building is named for Silvio J. Mollo, a former adviser to longtime Manhattan District Attorney Robert Morgenthau when Morgenthau was serving as United States Attorney for the Southern District of New York. In 2019, the United States General Services Administration initiated a comprehensive restoration effort intended to remedy structural and public safety issues inside.

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<sup>354</sup> Image via Wikimapia (2011).



## **7. Thurgood Marshall United States Courthouse**

Cass Gilbert, 1936 | 40 Foley Square

Designed by Cass Gilbert, who is also responsible for the Supreme Court Building in Washington, this neoclassical skyscraper-courthouse serves as an auspicious addition to the Foley Square complex. Now home to the United States Court of Appeals for the Second Circuit and the Southern District’s Ceremonial Courtroom, the Thurgood Marshall Courthouse is named for the first Black Justice of the Supreme Court of the United States.

After nearly a century of service, the United States General Services Administration and the Second Circuit coordinated a tip-to-tail restoration in the 2000s. Now, visitors may behold breathtakingly-restored lobbies, courtrooms, and elevators – including narrow “Judges’ Elevators” which lead directly up to the courthouse’s judicial chambers and only accommodate two passengers, namely, a judge and their law clerk.



**8. United States Federal Building and Court of Int'l Trade**  
Poor, Kahn & Jacobs, Eggers & Higgins, 1969-77 | 26 Federal Plaza

The Federal Government's presence in Lower Manhattan manifests itself through a pair of interconnected, multifaceted skyscrapers paired with an International Style pavilion at their base. The entire complex is known as 26 Federal Plaza, and houses an array of federal offices, including the Federal Bureau of Investigation and various immigration tribunals. The pavilion is reserved for the United States Court of International Trade exclusively.

This complex also includes a raised, open plaza facing Foley Square, which became infamous following the installation of a controversial sculpture by Richard Serra entitled "Tilted Arc." The sculpture, which consisted of a lengthy, slightly twisted expanse of weathered steel, was ultimately removed after a prolonged public outcry; its perceived ugliness apparently added insult to injury given the adjacent building's status as what the *AIA Guide to New York City* dubbed "an ungainly checkerboard of granite and glass."





## 9. New York County Courthouse

Guy Lowell, 1927 | 60 Centre Street

The New York County Courthouse, pictured at left, forms a colonnaded row together with the Thurgood Marshall United States Courthouse, pictured at right. Together, these complementary neoclassical structures define the easternmost edge of Foley Square and the Civic Center.

Home to the New York County Supreme Court since the building opened in 1927, the New York County Courthouse also boasts quarters for the New York County Clerk. Among its numerous film and television credits is the film *Miracle on 34<sup>th</sup> Street*, where a team of postal workers memorably deposit letters to Santa Claus in the current Motion Room on the first floor.

The County Courthouse's interior is of particular note, with extensive murals detailing the first-floor public spaces, multi-story Rotunda, and fourth-floor Jury Assembly Room. Custom-made doorknobs and other fixtures can also be found throughout.



**10. Daniel Patrick Moynihan United States Courthouse<sup>355</sup>**  
Kohn Pedersen Fox, 1995 | 500 Pearl Street

This understated, postmodern addition to the Civic Center appears on the outer Foley Square skyline without dominating the space. This is due to a series of setbacks and surrounding public spaces designed to avoid shadows over streets, parks, and sidewalks.

Home to the courtrooms and chambers of United States District Judges and Magistrates, this courthouse is named for Daniel Patrick Moynihan, a towering figure in New York politics who served in the United States Senate and hatched a plan to adaptively reuse Manhattan's post office as an annex to Penn Station. That new and revered transit hub now bears Moynihan's name, and an exhibit featuring Moynihan's life and legacy is on permanent display in the courthouse that is similarly named for him.

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<sup>355</sup> Image via Americasroof (2009).



### 11. Manhattan Family Courthouse<sup>356</sup>

Haines, Lundberg & Waehler, 1975; Reclad by Mitchell Giurgola, 2006  
60 Lafayette Street

This courthouse metamorphosed from an austere polished black granite cube to a bright, off-white gathering place following an early-2000s renovation and recladding effort. “Death Star has been reborn,” remarked the *AIA Guide to New York City*, adding the changes “provided a relief so great that we can forgive the heavy handed forms inherited.”

Today, children, parents, and other litigants navigating the Family Court system are treated to an airy, glassy entrance and ample pedestrian plaza out front. Across the street sits Collect Pond Park – also recently restored – which serves as a traditional gathering place for litigants with business in the area (and, these days, a quiet place to eat one’s lunch).

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<sup>356</sup> Image via Jim.henderson (2008).



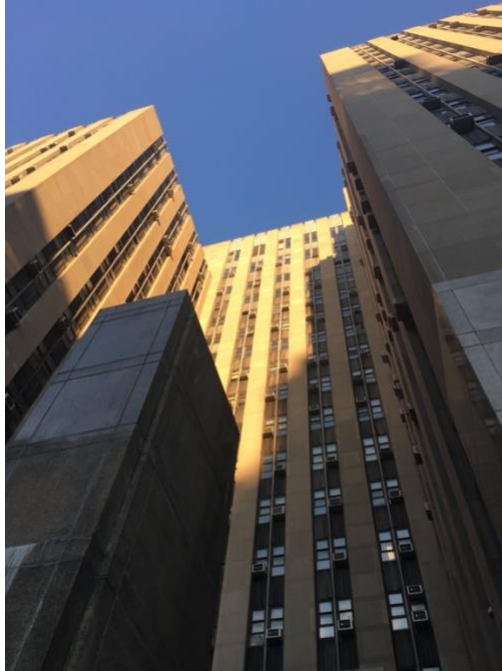
## 12. Louis J. Lefkowitz Building

William Haugaard, 1930 | 80 Centre Street

With its block-long footprint and Neoclassical, Art Deco, and Egyptian influences, the Lefkowitz Building is an unmistakable presence bridging the divide between the Civic Center and historic Foley Square. Designed to complement and complete – but not overwhelm – Manhattan’s Civic Center, the Lefkowitz has splendidly and harmoniously served the public for almost a century. Originally known as the New York State Office Building, it is now named for Louis J. Lefkowitz, the beloved former New York State Attorney General.

When Governor Al Smith laid the cornerstone for the Lefkowitz in 1928, he “pray[ed] to God it may stand here through the ages as a testimonial to the people of this great commonwealth.” Still in civic use to this day, the magnificent Lefkowitz undoubtedly lived up to Smith’s prayer. Among other things, the handsome Lefkowitz is now home to the Manhattan Marriage Bureau. Each year, thousands of couples climb its distinctive stone stairs, pass under its carved eagle friezes, and enter its ornate inner lobbies to make their affection official.





### **13. Criminal Courts Building**

Wiley Corbett and Charles B. Meyers, 1941 | 100 Centre Street

The Criminal Courts Building's signature Art Deco ziggurat pops over neighborhood rooflines. For generations, residents of Chinatown, TriBeCa, and other nearby communities have used this local landmark to find their way to the Civic Center.

Known colloquially as “The Tombs,” the Criminal Courts Building is home to courtrooms, Manhattan’s “Central Booking” facility, and various support centers. With two entrance halls, an adjacent jail, a skybridge, and floors upon floors of offices, it casts a monumental presence. Inside, a curvaceous information desk and intricate decorative metalwork greet visitors curious enough to look.



#### **14. Manhattan Civil Courthouse**

William Lescaze and M. W. Del Gaudio, 1960 | 111 Centre Street

The Civil Courthouse is a commanding International Style cube occupying the Civic Center’s northernmost edge. It is known for its distinctive limestone bas-reliefs by cubist icon William Zorach.

In addition to those modernist details, the Civil Courthouse boasts a prominent pedigree. Pioneering Swiss-born architect William Lescaze – of PSFS Building fame – designed this “sleek” mid-century structure in the 1950s. It is but one of a handful of Lescaze buildings in New York City, and both its interior and exterior remain remarkably intact.

Today, the Civil Courthouse is home to an array of court-related facilities along with the New York State Court Officers’ 9/11 Memorial. The Civil Courthouse also earned a place in infamy when it hosted two of the Central Park Jogger trials in the 1990s.



## **15. Health Building**

Charles B. Meyers, 1935 | 125 Worth Street

The Health Building is a splendid example of the Art Deco style. Described as “luscious” by the AIA Guide, it marks the northernmost edge of Foley Square. This ornate structure is replete with medallions, grilles, and other health-themed ornament designed by Oscar Bach, whose studios produced the Woolworth, Chrysler, and Empire State Buildings' custom metalwork. Its cornice line is also inscribed with the names of famous doctors and scientists from across the ages.

Now home to multiple city agencies, the Health Building originally housed the Department of Health and still bears indicia of a former subterranean medical clinic. Although no courtrooms are located inside, the Health Building nevertheless offers an unmistakable contribution to Manhattan's civic center.



## 16. Manhattan Detention Complex<sup>357</sup>

*North Building:* Urbahn and Litchfield-Grosfeld Associates, 1989

*South Building:* Wiley Corbett and Charles B. Meyers, 1939

125 White Street

When New Yorkers are incarcerated pending trial or are sentenced to a term of one year or less, they are remanded to the custody of the New York City Department of Correction. That agency controls the Manhattan Detention Complex, a two-tower facility directly connected to the Criminal Courthouse by a pair of “Bridges of Sighs” spanning White Street and the facility’s “Sally Port,” a term-of-art used to describe areas where vehicles containing inmates are securely loaded and unloaded.

Until recently, the complex was named for a former inmate of a different correctional system. That inmate was Bernard B. Kerik, who served as Commissioner of both New York City’s Department of Correction and Police Department before serving a federal prison term.

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<sup>357</sup> Image via Google Earth (2021).





**Honorable Mention:**  
**Appellate Division, First Department Courthouse**  
James Brown Lord, 1899 | 27 Madison Avenue

This distinctive courthouse resides outside of the Civic Center, as decisionmakers at the time of construction deemed co-location with lower courts to be unseemly. Both an interior and exterior New York City Landmark, the courthouse features extensive interior and exterior artwork, including a Holocaust memorial located on a modern addition.



**Honorable Mention:**  
**Harlem Community Courthouse<sup>358</sup>**  
Arthur M. Thom and James W. Wilson, 1893 | 170 East 121st Street

The Civic Center's Romanesque Revival cousin sits in East Harlem and serves as the Community Justice Center for the entire neighborhood. It originally hosted the Municipal and Magistrate's Courts; today, a host of civil matters are adjudicated within the distinctive courthouse's granite and masonry walls.

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<sup>358</sup> Image via the New York City Department of Citywide Administrative Services.

## B. New York County's U.S. Supreme Court Justices

Name	Role	President	From	To	Manhattan Ties
Jay, John	Chief Justice	Washington	October 19, 1789	June 29, 1795	America's first Chief Justice helped write New York's constitution and called the Court into order at the old Stock Exchange.
Livingston, Brockholst	Assoc. Justice	Jefferson	January 20, 1807	March 18, 1823	This justice delivered the first Independence Day speech at St. Paul's Chapel before Congress and President Washington in 1789, but also killed James Jones in a duel overlooking Manhattan.
Blatchford, Samuel	Assoc. Justice	Arthur	April 3, 1882	July 7, 1893	Justice Blatchford helped establish what is now Cravath, Swaine & Moore and served on the Southern District bench.

Stone, Harlan Fiske	Chief Justice  Assoc. Justice	Coolidge	March 2, 1925	April 22, 1946	By working as a high school teacher, Justice Stone financed his education at Columbia Law School, where he later served as Dean.
Hughes, Charles Evans	Chief Justice  Assoc. Justice	Taft & Hoover	October 10, 1910	June 30, 1941	This former New York Governor served two separate terms on the Court, returning in 1930 after losing a presidential race.
Cardozo, Benjamin Nathan	Assoc. Justice	Hoover	March 14, 1932	July 9, 1938	Born to a tight-knit Jewish family dating back to New Amsterdam, Justice Cardozo's legal journey began at Columbia Law.
Frankfurter, Felix	Assoc. Justice	Roosevelt (Franklin)	January 30, 1939	August 28, 1962	Stints studying at City College and working for the U.S. Attorney in the Southern District defined

					the arc of Justice Frankfurter's life.
Harlan II, John Marshall	Assoc. Justice	Eisenhower	March 28, 1955	September 23, 1971	Justice Harlan II completed a two-year program at New York Law School, practiced in Manhattan, and sat on the Second Circuit.
Marshall, Thurgood	Assoc. Justice	Johnson	October 2, 1967	October 1, 1991	The first of only two African Americans to sit on the Court, Justice Marshall's initial judicial post was on the Second Circuit bench.
Scalia, Antonin	Assoc. Justice	Reagan	Sept. 26, 1986	February 13, 2016	A product of Manhattan's Xavier High School, Justice Scalia graduated as valedictorian and savored the subway ride in from Queens.
Ginsburg, Ruth Bader	Assoc. Justice	Clinton	August 10, 1993	Sept. 18, 2020	Justice Ginsburg studied and



					taught at Columbia Law School, clerked in the Southern District, and once lived on East 69th Street.
Sotomayor, Sonia	Assoc. Justice	Obama	August 8, 2009	Present	The Court's first Latina justice worked as an Assistant District Attorney and both a federal trial and appellate judge in Manhattan.
Kagan, Elena	Assoc. Justice	Obama	August 7, 2010	Present	Born and raised in New York City, Justice Kagan grew up as the middle child of an intellectually dynamic Manhattan family.

### C. Justices of the Appellate Division, First Department

Name	Service	Position
George C. Barrett	1896 – 1900	Associate Justice
Charles H. Van Brunt	1896 – 1905	Presiding Justice: 1896 – 1905
William Rumsey	1896 – 1901	Associate Justice
Pardon C. Williams	1896 – 1898	Associate Justice
Morgan J. O'Brien	1896 – 1906	Presiding Justice: 1905 – 1906
Edward Patterson	1896 – 1910	Presiding Justice: 1906 – 1910
George L. Ingraham	1896 – 1915	Presiding Justice: 1910 – 1915
Alton B. Parker	1897	Associate Justice
Chester B. McLaughlin	1898 – 1917	Associate Justice
Edward W. Hatch	1900 – 1905	Associate Justice
Frank C. Laughlin	1901 – 1922	Associate Justice
James W. Houghton	1905 – 1910	Associate Justice
John P. Clarke	1905 – 1926	Presiding Justice: 1916 – 1926
John S. Lambert	1906 – 1908	Associate Justice
Francis M. Scott	1906 – 1918	Associate Justice
Nathan L. Miller	1910 – 1913	Associate Justice
Victor J. Dowling	1911 – 1931	Presiding Justice: 1927 – 1931
Henry D. Hotchkiss	1913 – 1915	Associate Justice
Walter L. Smith	1915 – 1924	Associate Justice
Alfred R. Page	1916 – 1923	Associate Justice
Vernon M. Davis	1916 – 1918	Associate Justice
Clarence J. Shearn	1916 – 1919	Associate Justice
Edgar S.K. Merrell	1918 – 1935	Associate Justice
Eugene A. Philbin	1920	Associate Justice
Samuel Greenbaum	1920 – 1922	Associate Justice
Edward R. Finch	1922 – 1935	Presiding Justice: 1931 – 1935
John V. McAvoy	1923 – 1937	Associate Justice
Francis Martin	1923 – 1947	Presiding Justice: 1935 – 1947
William P. Burr	1924 – 1926	Associate Justice
Robert F. Wagner	1926	Associate Justice
James O'Malley	1927 – 1942	Associate Justice
Joseph M. Proskauer	1927 – 1930	Associate Justice
Henry L. Sherman	1930 – 1933	Associate Justice
Alfred H. Townley	1931 – 1946	Associate Justice

Edward J. Glennon	1933 – 1954	Associate Justice
Irwin Untermyer	1933 – 1945	Associate Justice
Edward S. Dore	1936 – 1954	Associate Justice
Albert Cohn	1936 – 1955	Associate Justice
Joseph M. Callahan	1937 – 1955	Associate Justice
David W. Peck	1945 – 1957	Presiding Justice: 1947 – 1957
Isidor Wasservogel	1945	Associate Justice
John Van Voorhis	1947 – 1953	Associate Justice
Bernard L. Shientag	1947 – 1952	Associate Justice
Francis D. McCurn	1951	Associate Justice
Christopher J. Heffernan	1951 – 1952	Associate Justice
Charles D. Breitell	1952 – 1966	Associate Justice
Francis Bergan	1952 – 1963	Associate Justice
Sydney F. Foster	1952 – 1953	Associate Justice
Earle C. Bastow	1953 – 1970	Associate Justice
Bernard Botein	1953 – 1968	Presiding Justice: 1958 – 1968
Benjamin J. Rabin	1955 – 1968	Associate Justice
Joseph A. Cox	1955 – 1956	Associate Justice
Martin M. Frank	1956 – 1960	Associate Justice
Francis L. Valente	1956 – 1966	Associate Justice
James B.M. McNally	1957 – 1972	Associate Justice
Harold A. Stevens	1958 – 1977	Presiding Justice: 1969 – 1974, 1975 – 1977
Robert E. Noonan	1960 – 1964	Associate Justice
Samuel W. Eager	1960 – 1972	Associate Justice
Aron Steuer	1961 – 1974	Associate Justice
G. Robert Witmer	1963 – 1971	Associate Justice
Ellis J. Staley, Jr.	1964 – 1968	Associate Justice
Louis J. Capozzoli	1966 – 1977	Associate Justice
George Tilzer	1967 – 1975	Associate Justice
Owen McGivern	1967 – 1975	Presiding Justice: 1974 – 1975
Daniel E. Macken	1968 – 1974	Associate Justice
Arthur Markewich	1969 – 1982	Associate Justice
Emilio Nunez	1969 – 1977	Associate Justice
Francis T. Murphy	1971 – 1997	Presiding Justice: 1977 – 1997
Theodore R. Kupferman	1971 – 1996	Associate Justice
Myles J. Lane	1973 – 1979	Associate Justice

Vincent A. Lupiano	1974 – 1982	Associate Justice
J. Robert Lynch	1974 – 1987	Associate Justice
Paul J. Yesawich, Jr.	1974 – 1981	Associate Justice
Harold Birns	1975 – 1982	Associate Justice
Samuel J. Silverman	1975 – 1984	Associate Justice
Herbert B. Evans	1977 – 1979	Associate Justice
Arnold L. Fein	1977 – 1986	Associate Justice
Leonard H. Sandler	1977 – 1988	Associate Justice
Joseph P. Sullivan	1978 – 2007	Presiding Justice: 2000 – 2001
Max Bloom	1979 – 1986	Associate Justice
David Ross	1979 – 1997	Associate Justice
John Carro	1979 – 1994	Associate Justice
Sidney H. Asch	1982 – 1995	Associate Justice
E. Leo Milonas	1982 – 1993, 1996 – 1998	Associate Justice
Bentley Kassal	1982 – 1993	Associate Justice
Fritz W. Alexander II	1982 – 1985	Associate Justice
Ernst H. Rosenberger	1985 – 2003	Associate Justice
Betty Weinberg Ellerin	1985 – 1998, 2000 – 2005	Presiding Justice: 1999
Richard W. Wallach	1986 – 2003	Associate Justice
George Bundy Smith	1987 – 1992	Associate Justice
Israel Rubin	1989 – 2002	Associate Justice
Eugene L. Nardelli	1993 – 2010	Associate Justice
Milton L. Williams	1993 – 2008	Presiding Justice: 2002
Peter Tom	1994 – 2019	Acting Presiding Justice: 2007, 2009, 2016
Angela M. Mazzarelli	1994 – Present	Associate Justice
Richard T. Andrias	1996 – 2018	Associate Justice
Nicholas Colabella	1997 – 1998	Associate Justice
David B. Saxe	1998 – 2017	Associate Justice
Alfred D. Lerner	1998 – 2004	Presiding Justice: 1998
David Friedman	1999 – Present	Associate Justice
John T. Buckley	1999 – 2010	Presiding Justice: 2003 – 2006
George D. Marlow	2001 – 2008	Associate Justice
Luis A. Gonzalez	2002 – 2015	Presiding Justice: 2009 – 2015
John W. Sweeny, Jr.	2004 – 2019	Associate Justice

James M. Catterson	2004 – 2012	Associate Justice
James M. McGuire	2005 – 2011	Associate Justice
Bernard J. Malone, Jr.	2005 – 2008	Associate Justice
E. Michael Kavanagh	2006 – 2008	Associate Justice
Jonathan Lippman	2007 – 2009	Presiding Justice: 2007 – 2009
Karla Moskowitz	2008 – 2017	Associate Justice
Rolando T. Acosta	2008 – Present	Presiding Justice: 2017 – Present
Dianne T. Renwick	2008 – Present	Associate Justice
Leland G. DeGrasse	2008 – 2015	Associate Justice
Helen E. Freedman	2008 – 2014	Associate Justice
Rosalyn H. Richter	2009 – 2020	Associate Justice
Sheila Abdus – Salaam	2009 – 2013	Associate Justice
Sallie Manzanet–Daniels	2009 – Present	Associate Justice
Nelson S. Roman	2009 – 2013	Associate Justice
Paul G. Feinman	2012 – 2017	Associate Justice
Judith J. Gische	2012 – Present	Associate Justice
Darcel D. Clark	2012 – 2015	Associate Justice
Barbara R. Kapnick	2014 – Present	Associate Justice
Troy K. Webber	2016 – Present	Associate Justice
Marcy L. Kahn	2016 – 2019	Associate Justice
Ellen Gesmer	2016 – Present	Associate Justice
Cynthia S. Kern	2017 – Present	Associate Justice
Jeffrey K. Oing	2017 – Present	Associate Justice
Anil C. Singh	2017 – Present	Associate Justice
Peter H. Moulton	2017 – Present	Associate Justice
Lizbeth González	2019 – Present	Associate Justice
Tanya R. Kennedy	2020 – Present	Associate Justice
Saliann Scarpulla	2020 – Present	Associate Justice
Manuel J. Mendez	2020 – Present	Associate Justice
Martin Shulman	2020 – Present	Associate Justice

## D. District Attorneys of New York County

District Attorney	Years of Service
Cyrus R. Vance, Jr.	2010 – Present
Robert M. Morgenthau	1975 – 2009
Richard H. Kuh	1974 – 1974
Frank S. Hogan	1942 – 1974
Thomas E. Dewey	1938 – 1941
William C. Dodge	1934 – 1937
Thomas C.T. Crain	1930 – 1933
Joab H. Banton	1922 – 1929
Edward Swann	1916 – 1921
Charles Albert Perkins	1915 – 1915
Charles Seymour Whitman	1910 – 1914
William Travers Jerome	1902 – 1909
Eugene A. Philbin	1900 – 1901
Asa Bird Gardiner	1898 – 1900
William Marvin K. Olcott	1896 – 1897
Vernon M. Davis	1896 – 1896
John R. Fellows	1894 – 1896
De Lancey Nicoll	1891 – 1893
John R. Fellows	1888 – 1890
Randolph B. Martine	1885 – 1887
Peter B. Olney	1883 – 1884
Wheeler H. Peckham	1883 – 1883
John McKeon	1882 – 1883
Daniel G. Rollins	1881 – 1881
Benjamin K. Phelps	1873 – 1880
Samuel B. Garvin	1869 – 1872
Abraham Oakey Hall	1862 – 1868
Nelson J. Waterbury	1859 – 1861
Joseph Blunt	1858 – 1859
Peter B. Sweeney	1858 – 1858
Abraham Oakey Hall	1855 – 1858
Lorenzo B. Shepard	1854 – 1855
Nathaniel Bowditch Blunt	1851 – 1854
Matthew C. Paterson	1844 – 1846

James R. Whiting	1838 – 1844
Thomas Phoenix	1835 – 1838
Ogden Hoffman	1829 – 1835
Hugh Maxwell	1821 – 1829
Pierre C. VanWyck	1818 – 1821
Hugh Maxwell	1817 – 1818
John Rodman	1815 – 1817

## E. Prior Leaders of the New York County Lawyers Association

<b>President</b>	<b>Years of Service</b>
John F. Dillon	1908 – 1909
Alton B. Parker	1909 – 1912
Joseph H. Choate	1912 – 1914
Thomas H. Hubbard	1914 – 1915
Edgar M. Cullen	1915 – 1916
Henry A. Gildersleeve	1916 – 1917
Morgan J. O'Brien	1917 – 1919
Charles E. Hughes	1919 – 1921
Charles Strauss	1921 – 1923
James A. O'Gorman	1923 – 1925
Samuel Seabury	1925 – 1927
William Nelson Cromwell	1927 – 1930
Henry W. Taft	1930 – 1932
Charles A. Boston	1932 – 1934
Robert C. Morris	1934 – 1936
Charles E. Hughes Jr.	1936 – 1938
George Z. Medalie	1938 – 1940
Robert McC. Marsh	1940 – 1942
William Dean Embree	1942 – 1944
Ignatius M. Wilkinson	1944 – 1946
Joseph M. Proskauer	1946 – 1948
I. Howard Lehman	1948 – 1950
John F. Brosnan	1950 – 1952
Edwin M. Otterbourg	1952 – 1954
William J. O'Shea	1954 – 1956
Ben A. Matthews	1956 – 1958
Arthur H. Schwartz	1958 – 1960
Francis S. Bensel	1960 – 1962
Eugene A. Sherpick	1962 – 1963
Leo Gottlieb	1963 – 1965
Mark F. Hughes	1965 – 1967
James V. Hayes	1967 – 1969
Boris Kostelanetz	1969 – 1971



Thomas Kiernan	1971 – 1973
Henry N. Ess III	1973 – 1975
Wilbur H. Friedman	1975 – 1977
Lawrence X. Cusack	1977 – 1979
Hon. Harold Baer Jr.	1979 – 1981
James W. Lamberton	1981 – 1982
Denis McInerney	1982 – 1984
Daniel C. Draper	1984 – 1986
Kenneth J. Bialkin	1986 – 1988
Eugene P. Souther	1988 – 1990
Arthur Norman Field	1990 – 1992
Robert L. Haig	1992 – 1994
Casimir C. Patrick II	1994 – 1995
Klaus Eppler	1995 – 1996
John J. Kenney	1996 – 1997
Rosalind S. Fink	1997 – 1998
Stephen D. Hoffman	1998 – 2000
Craig A. Landy	2000 – 2002
Michael Miller	2002 – 2004
Norman L. Reimer	2004 – 2006
Edwin David Robertson	2006 – 2007
Catherine A. Christian	2007 – 2008
Ann B. Lesk	2008 – 2010
James B. Kobak Jr	2010 – 2011
Stewart D. Aaron	2011 – 2013
Barbara Moses	2013 – 2014
Lewis F. Tesser	2014 – 2015
Carol A. Sigmond	2015 – 2017
Michael J. McNamara	2017 – 2019
Stephen C. Lessard	2019 – 2021
Vincent T. Chang	2021 – Present

## F. Prior Leaders of the New York City Bar Association

President	Years of Service
Sheila S. Boston	2020 – Present
Roger J. Maldonado	2018 – 2020
John S. Kiernan	2016 – 2018
Debra L. Raskin	2014 – 2016
Carey R. Dunne	2012 – 2014
Samuel W. Seymour	2010 – 2012
Patricia M. Hynes	2008 – 2010
Barry M. Kamins	2006 – 2008
Bettina B. Plevan	2004 – 2006
E. Leo Milonas	2002 – 2004
Evan A. Davis	2000 – 2002
Michael A. Cooper	1998 – 2000
Michael A. Cardozo	1996 – 1998
Barbara Paul Robinson	1994 – 1996
John D. Feerick	1992 – 1994
Conrad K. Harper	1990 – 1992
Sheldon Oliensis	1988 – 1990
Robert M. Kaufman	1986 – 1988
Robert B. McKay	1984 – 1986
Louis A. Craco	1982 – 1984
Oscar M. Ruebhausen	1980 – 1982
Merrell E. Clark, Jr.	1978 – 1980
Adrian W. Dewind	1976 – 1978
Cyrus R. Vance	1974 – 1976
Orville H. Schell, Jr.	1972 – 1974
Bernard Botein	1970 – 1972
Francis T.P. Plimpton	1968 – 1970
Russell D. Niles	1966 – 1968
Samuel I. Rosenman	1964 – 1966
Herbert Brownell	1962 – 1964
Orison S. Marden	1960 – 1962
Dudley B. Bonsal	1958 – 1960
Louis M. Loeb	1956 – 1958
Allen T. Klots	1954 – 1956

Bethuel M. Webster	1952 – 1954
Whitney North Seymour	1950 – 1952
Robert P. Patterson	1948 – 1950
Harrison Tweed	1945 – 1948
Allen Wardell	1943 – 1945
William D. Mitchell	1941 – 1943
Samuel Seabury	1939 – 1941
Henry L. Stimson	1937 – 1939
Clarence J. Shearn	1935 – 1937
Thomas D. Thacher	1933 – 1935
John W. Davis	1931 – 1933
Charles C. Burlingham	1929 – 1931
Charles Evans Hughes	1927 – 1929
William D. Guthrie	1925 – 1927
Henry W. Taft	1923 – 1925
James Byrne	1921 – 1923
John G. Milburn	1919 – 1920
George L. Ingraham	1917 – 1918
George W. Wickersham	1914 – 1916
William B. Hornblower	1913 – 1914
Lewis Cass Ledyard	1912
Francis Lynde Stetson	1910 – 1911
Edmund Wetmore	1908 – 1909
John L. Cadwalader	1906 – 1907
Elihu Root	1904 – 1905
William G. Choate	1902 – 1903
John E. Parsons	1900 – 1901
James C. Carter	1897 – 1899
Joseph Larocque	1895 – 1896
Wheeler H. Peckham	1892 – 1894
Frederic R. Coudert	1890 – 1891
Joseph H. Choate	1888 – 1889
William Allen Butler	1886 – 1887
James C. Carter	1884 – 1885
Francis N. Bangs	1882 – 1883
Stephen P. Nash	1880 – 1881
William M. Evarts	1870 – 1879