

by Jack B. Weinstein

50th Anniversary of the Federal District Court of the Eastern District of New York

This speech was given on March 16, 2015, to commemorate the 150th anniversary of the U.S. District Court for the Eastern District of New York.

To quash any unfounded rumors: I was not present when Lincoln signed the bill establishing this court 150 years ago.

But I do remember in the 1920s—sitting on the shoulders of my father, born in Hungary, my mother, born in the Heights, beside us—watching Civil War veterans riding down Grand Central Parkway in open cars on Memorial Day. Ours is still a young country.

Today's anniversary provides an opportunity to ask what this court is, what its role is, and what its future holds.

Under the genius of the Madisonian conception of government, pursuant to Article III of the U.S. Constitution, we are the independent third branch of the federal government of the United States in the Eastern District of New York. The judges here assembled are charged with protecting the constitutional and other legal rights of some 8 million residents of this district and many others.

History Provides the Context for the Court's Work

This court is a rock in the stream of history.

Fixed to the walls of our judges' conference room are: 1215's Magna Carta; critical parts of our Constitution with its Bill of Rights, the elimination of slavery and the extension of the power to vote to all citizens, including women and 18-year-olds; and the U.N.'s Universal Declaration of Human Rights.

Our courthouse stands on the grounds where, in 1776, George Washington and a small band of patriots fought the bitter Battle of Brooklyn for freedom.

The court was established in the midst of our bloody Civil War to deal with admiralty problems arising from the North's blockade of the South, enforced by ships of war built in the Brooklyn Navy Yard.

The Spanish-American War thrust our nation and this court

into an imperial future abroad, and extensive federal intervention in our economy at home, through antitrust and other legislation. That watershed is memorialized by Theodore Roosevelt's name on our courthouse.

In World Wars I and II, this neighborhood—with its hundreds of small factories—was a major arsenal of democracy.

September 11 is marked by a plaque in our lobby commemorating firefighters from Brooklyn who were killed trying to save some of the thousands who died within our sight.

That event was the beginning of the court's heightened critical duty: maintaining our people's individual freedom and constitutional rights while meeting the challenges of a dangerous, new, continuing terrorism.

We Serve All the People in Our Community

Bringing the world to the courthouse, and the courthouse to the world, is our job.

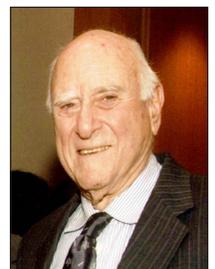
Through our doors each year come hundreds of thousands to be admitted as citizens, placing their faith in guarantees of legal equality and embracing a life of freedom. This grand courtroom is graced by murals once hung in Ellis Island showing immigrants building America.

Our judges are the eyes and ears of the judicial system, applying the law to the real world, its people, and problems.

One of the many remarkable cases in which one of our judges left the courthouse to engage with reality is *Willowbrook*. It was one of the first mass litigations to address the dehumanizing conditions of institutions housing persons with special needs. For over 18 years, Judge John Bartels worked to save thousands of Willowbrook residents from intolerable abuse in a huge, cruel, and soulless institution. He insisted that the state provide human-scaled, integrated, community-based living. Willowbrook has become a synonym for helping people with special needs.

Depending on us for justice and protection are: the rich, the poor, the middle class, the powerful, and the powerless. We provide *all* with a shield not only against law breakers but against overreaching government and its officials.

Hon. Jack B. Weinstein, born in 1921, has been on the bench of the Eastern District of New York for 48 years. Judge Weinstein's publications include leading treatises on evidence and New York practice. He has received a number of prestigious awards and honorary degrees and written a number of law review articles and several books.



We call on many outside the court to help.

- Our judges call on many outside the court to help us render justice.
- Our bar is well-trained and devoted to its clients.
- Our Civil Litigation Committee of practicing lawyers has helped create Local Rules that are landmarks of practicality and speed.
- A committee of lawyers runs our social help program for needy litigants through our privately funded Eastern District Litigation Fund.
- Our successful court-annexed mediation program is staffed by trained volunteers.
- Special masters assist in our most complex matters.
- Private and public institutions provide jobs, cure addictions, and meet physical and mental problems of defendants in our criminal cases.

We keep our courthouse doors open to protect the public.

During my lifetime, in an enormous surge towards equality, the nation enacted powerful protective laws.

- They protect against discrimination based on race, gender, national origin, and other forms of invidious partiality.
- They prevent deprivation of workers' rights.
- They provide equality of voting powers.
- They provide a strong welfare net.

This court vigorously enforces protective and other laws.

We do *not* exclude litigants by narrow decisions on pleadings. We do *not* reduce the role of our jurors. We do *not* place unnecessary barriers to mass actions required to equalize the legal power of individuals and large institutions. We follow the principles of our Federal Rules of Civil and Criminal Procedure and Evidence: "Ascertain the truth"; secure a "just" and "speedy" determination in each case.

Adequate justice cannot be rendered unless both sides of a dispute have counsel. Pro se justice is often an oxymoron. We continue to struggle to fix this grave deficiency in our legal system: lack of counsel for those with limited finances.

Our electronic filing system now provides access to court records to anyone, everywhere. From their homes, litigants can be in court virtually, observing and participating in their cases. This is a new form of digital democracy.

We challenge conventional wisdom when necessary and pave the way for new laws.

Justice requires us to be skeptical. To doubt. To question. To test. And, as Judge Raymond Dearie puts it: "to think outside the box."

That a trial judge may be reversed on appeal does not inhibit us in rendering justice as we see it.

A famous example is "don't ask, don't tell." It was ruled unconstitutional by Judge Eugene Nickerson. He was reversed on appeal. Then, the people, the legislature, and the executive branch agreed that he was right—and they changed the law to read his way, the constitutional way.

We Remain the Human Face of the Law

The judges of this court are the human face of the law. To all who seek justice, this court's door is open. There are no columns or steps blocking our welcoming courthouse entrance.

Our guards, clerk's office, marshals, secretaries (law and clerical), and all others in the court treat anyone who enter with dignity.

Commemorating the 150th Anniversary of the Eastern District of New York

On March 16, 2015, the Eastern District of New York celebrated its 150th Anniversary with a special session at the Theodore Roosevelt Federal Courthouse in Brooklyn, New York. Eastern District Chief Judge Carol Bagley Amon presided over the event. Chief Judge Amon was joined on the bench by Supreme Court justices Ruth Bader Ginsburg and Sonia Sotomayor, in addition to all sitting district judges in the Eastern District. The event was attended by several hundred attendees, including many judges, dignitaries and bar leaders, including EDNY U.S. Attorney Loretta Lynch, former EDNY U.S. Attorney Alan Vinegrad, Second Circuit Court of Appeals Chief Judge Robert A. Katzmann, SDNY Chief Judge Loretta A. Preska, FBA Directors Raymond J. Dowd and Katherine González-Valentín, and FBA Second Circuit Vice Presidents Ernest T. Bartol and John G. McCarthy. The ceremony was followed by a cocktail reception.

The event kicked off a series of programs and gatherings commemorating the 150th anniversary of the Eastern District. On April 16, an exhibit, "EDNY in the Headlines," opened in the Brooklyn Courthouse. On June 4, the Eastern District's Central Islip Courthouse hosted its own ceremony and cocktail hour featuring judges and dignitaries with significant ties to the Central Islip Courthouse. Finally, on Oct. 19, the Eastern District will welcome Justice Sotomayor to be the featured speaker at an en banc naturalization ceremony.



The Eastern District of New York Chapter (left to right): Judge Joanna Seybert, Justice Ruth Bader Ginsberg, and EDNY Chapter President-Elect Dina Miller

Endnotes

¹See Pub. L. 104-191 (Aug. 21, 1996) and Pub. L. 106-102 (Nov. 12, 1999).

²Target Corp., *Form 8-K Filing* (Nov. 19, 2014), available at investors.target.com/phoenix.zhtml?c=65828&p=irolSECText&TEXT=aHR0cDovL2FwaS50ZW5rd216YXJkLmNvbS9maWxpbcmcueG1sP2lwYWdlPTk5MTE0NTMmRFNFUT0yJlNFUT04JlNRREVTQz1TRUNUSU9OX1BBR0UmZXhwPSZzdWJzaWQ9NTc%3D.

³Community Health Systems, *Form 8-K Filing* (Aug. 18, 2014), available at www.sec.gov/Archives/edgar/data/1108109/000119312514312504/d776541d8k.htm.

⁴Securities Exchange Act of 1934, Pub. L. 112-158 (Aug. 10, 2012).

⁵U.S. Securities and Exchange Commission, *Form 8-K*, available at www.sec.gov/answers/form8k.htm (last accessed June 5, 2015).

⁶*Ibid.*

⁷U.S. Securities and Exchange Commission, *SEC Guidance* (Oct. 13, 2011), available at www.sec.gov.

⁸*SEC Bars, Fines Advisory Owner for Misrepresenting GIPS Compliance*, blogs.reuters.com/financial-regulatory-forum/2014/06/03/sec-bars-fines-advisory-owner-for-misrepresenting-gips-compliance (last accessed June 5, 2015).

⁹13 FR 8183, Dec. 22, 1948, as amended at 16 FR 7928 (Aug. 11, 1951).

¹⁰*Supra*, n. 3.

¹¹See www.ssa-16.com.

¹²*Ibid.*

¹³Rachel V. Rose, *HIPAA/HITECH Risk Assessments: Are the Standards Being Met?*, *BECKER'S HOSPITAL REVIEW* (Aug. 15, 2012), available at www.beckershospitalreview.com/healthcare-information-technology/hipaahitech-risk-assessments-are-the-standards-being-met.html.

IN THE LEGAL COMMUNITY: NORTH FLORIDA continued from page 34

tendees' concrete, specific suggestions for change related to mentoring, including the creation of a program to mentor and provide scholarships to at-risk minority high-school students, the provision of free or reduced-price memberships to local bar associations for young and government lawyers, and the development of a diversity mentoring event for minority law students, local lawyers, and judges.

Attorney wellness was another focus during the panel and table discussions. During the judicial panelist discussion, Judge Scriven urged lawyers to take care of themselves and their physical health, to commit to jobs they love and know that the wealth will follow. She also advised the women lawyers in the room to invest in a good pair of flats to promote their happiness, as well as encouraged lawyers to never say yes right away when someone asks them to commit to something (unless it's the president, of course—then they should say yes!).

Judges and attorneys present at the event were also interested in balancing a demanding career with their family commitments. In fact, many of the participants suggested that family-friendly workplace and bar association policies were critical to happiness and diversity. They suggested hosting family-friendly bar meetings and

socials, limiting work demands during family times, allowing attorneys more flexibility by working remotely, creating more generous maternity- and paternity-leave policies, and developing child-friendly spaces in offices and courthouses.

Finally, the panelists and small groups discussed happiness for minorities and diverse communities within the legal profession. Women and people of color are entering the legal profession at higher rates than ever before, yet too few seem to stay. To this end, participants emphasized the importance of giving young minority lawyers client control on legal matters, thus increasing their professional autonomy, and continuing work on bridging the female leadership gap in the legal profession by appointing more women to leadership positions in law firms.

However individualized the definitions of happiness and success might be, the 2015 Leadership Roundtable discussion demonstrated that most lawyers are not that different. As a group, we want to feel like our decisions matter, that our opinions have been heard, and that we have support from those closest to us—an experience created and shared during the roundtable itself. ☺

IN THE LEGAL COMMUNITY: 50TH ANNIVERSARY continued from page 37

We continue to work together as respected colleagues.

More than any court I know of, our judges work together as friends and colleagues.

I hope you will excuse a brief personal reference. In this neighborhood, I worked on the docks, in the freight yards, and in an office for a small trucking firm while going to free Brooklyn College at night. Aspiring to be a federal judge would have been absurd. I argued my first motion before this court in a Post Office courtroom across the street more than 60 years ago. Almost half a century ago, when a half dozen judges did its work, I joined it, turning to them for guidance. Chief Judge Joseph Zavatt, Judge Jacob Mishler, and Judge John Dooling set the court's tone of practicality and compassion that still marks our work.

Over the years, our judges and magistrate judges, despite a huge increase in number, have continued to share a deep affection—and an unwavering desire to provide the rule of law to all our people in this district.

New York's senators and our presidents have ensured the high quali-

ty of our bench—women and men, representative of our district's ethnic diversity, many of us lifted to this high office from humble beginnings.

The decisions of our individual trial judges, our magistrate judges, and our bankruptcy judges depend in important part on each of our diverse backgrounds. The luck of the draw is a necessary aspect of judicial independence.

Each of us respects each judge's view of the judge's role. For example, a number of our judges and magistrate judges work closely with pretrial and probation services and outside agencies in criminal diversion and treatment programs that are admired throughout the nation. Other judges take a more traditional view.

We know our community. We have been around the block.

What a joyful and humbling experience it has been for each of us to participate in the work of this great court. Paraphrasing the poet Elizabeth Barrett Browning, "We love this court with the breath, smiles, tears of all our lives! and . . . we shall love it and the law ever better in the years ahead." ☺