



The U.S. District Court for the Southern District of New York:

The First 100 Years and Beyond

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The U.S. District Court for the Southern District of New York recently celebrated its 225th anniversary, and much has been written of late about the court and its history.¹ This article will share some eclectic tidbits from the first 100 years of the court's existence. It also will highlight a few of the distinguished jurists to serve on the court in more modern times and some of the famous cases to have come before the court in its storied history.

The First 100 Years (1789-1889)

The District of New York² was formed pursuant to the Judiciary Act of 1789 and was "the first court ever organized under the sovereignty of the United States, preceding by a number of weeks the organization of the Supreme Court of the United States."³ Hence, the legend goes, the New York court was given the moniker the "Mother Court."⁴

The first session of the court was held on Nov. 3, 1789, in the Exchange Building near the foot of Broad Street.⁵ At the first session, the commission of the district's first judge, James Duane, was read and "such gentlemen as chose to attend" were admitted to and entered onto the "roll of attorneys."⁶ The roll of attorneys was an actual roll of parchment, which was used for about the next 40 years until books were substituted.⁷

Judge Duane, who received his commission from President George Washington, had been mayor of New York City.⁸ He served as a district judge until the spring of 1794, when he retired due to his health.⁹ The first clerk of court was Robert Troup, who would later become the third judge of the district of New York.¹⁰ Troup had been Alexander Hamilton's roommate at Kings College (now Columbia University).¹¹ One of the attorneys admitted to the bar by Judge Duane at the first court session was Aaron Burr, who infamously later killed Alexander Hamilton in a duel.¹²

Judge Duane initially presided over a court that had nothing to do except to continue to admit more attorneys.¹³ That changed in April 1790 when the court's first case was filed, *United States of America v. Three Boxes of Ironmongery Etc.*, an application by the government for a declaration that certain goods were subject to duty. Applications of this nature took up more than three-fourths of the docket of the district court under Judge Duane, with the remainder consisting of admiralty-related suits.¹⁴

Judge Duane was succeeded by Judge John Lawrence (May 1794 to December 1796),¹⁵ who was followed by Judge Troup (discussed *supra*) (December 1796 to April 1798) and Judge Sloss Hobart (April 1798 to February 1805).¹⁶ Judge Hobart was the "first judge who regarded his judicial position as the fitting end of a life consistently devoted to legal work," and "for him the court was a permanency, and with him began the line of judges who, once appointed,

found in their judicial work professional occupation and inspiration.”¹⁷ Judge Hobart was the first judge of the district of New York to die in office.¹⁸

In 1812, a second judgeship in the district of New York was created by Congress to fulfill a statutory requirement that the court hold proceedings upstate.¹⁹ Appointed to the new judgeship was Judge William P. Van Ness, perhaps now best known as Burr’s second in the duel with Hamilton, and who spent “much of his subsequent life ... devoted to explaining and justifying in print his relation to the affair.”²⁰ On April 9, 1814, Congress split the district of New York into two (north and south) and with that, the Southern District of New York was born.²¹ Judge Van Ness served in the Southern District of New York until his death in November 1826. During his tenure, “the court grew steadily, both in quantity and quality of business transacted.”²²

District Judge Samuel Rossiter Betts (who served from 1826 to 1867) entered service in the Southern District of New York at a time when New York City’s population had grown to 200,000 and there was an influx of litigation due to the new Erie Canal.²³ Judge Betts served for 41 years and made significant contributions to admiralty and maritime jurisprudence.²⁴ After the resignation of Judge Betts, the Southern District of New York remained the country’s “premier admiralty court” under Judges Samuel Blatchford (who eventually joined the U.S. Supreme Court in 1882), William Gardner Choate, and Addison Brown.²⁵ Judge Blatchford was the first judge in the United States to sit on the district court, circuit court, and Supreme Court benches during his career.

The SDNY in More Modern Times

After the first 100 years, the size of the Southern District of New York bench grew, as did the diversity and complexity of its caseload. Judge Edward Weinfeld (discussed *infra*), in an article written in 1981, described—in his view—the factors that contributed to the Southern District of New York’s strength, with the level of modesty to be expected from a New Yorker:

Four factors have ... combined to give the federal courts of the Southern District of New York a unique and preeminent standing among American trial courts. Two factors—the financial and commercial position of New York City and the extraordinary stature of its bar—gave the courts of the Southern District advantages possessed by no other federal trial courts, and indeed no courts in the nation other than the state of New York. The other two factors—the high quality of the federal judiciary and the different procedures of the federal courts that some litigants found beneficial—gave the courts in the Southern District advantages which even the state courts in New York City lacked. Taken together the four factors have fashioned the Southern District Court into one of the great judicial institutions in the common law’s long history.²⁶

Space does not permit a discussion of all of the judges in the Southern District of New York and their work in the last 125 years, but this article will highlight below some of the distinguished jurists who served during that period who are fine examples of the quality of judges who have served—and continue to serve—on the court’s bench and will highlight some of the famous cases heard.

Distinguished Jurists

Billings Learned Hand sat on the bench of the Mother Court from 1909 through 1924, when he was appointed to the Second Circuit.²⁷ When Judge Hand took the bench, there were three other judges who served with him, but a fourth one was added in the same year. “Every case, the many small ones as well as the few big ones, received Hand’s careful attention.”²⁸ Judge Hand “is numbered among a small group of truly great American judges of the 20th century, including Oliver Wendell Holmes Jr., Louis Brandeis, and Benjamin Cardozo. Yet among these judges, only Hand never sat on the Supreme Court.”²⁹

Edward Weinfeld served on the Southern District of New York bench from 1950 until his death in 1988. He had been president of the National Public Housing Conference and a New York City Public Housing commissioner.³⁰ Judge Weinfeld developed a “national reputation for rigorous fairness,” regardless of the size of the case or the litigants before him. U.S. Supreme Court Justice William Brennan said of Judge Weinfeld “that there is no better judge on any court.”³¹

The first woman to serve on the Southern District of New York bench was Constance Baker Motley in 1966.³² Judge Motley, who would later become chief judge (the first woman to hold the position), had worked at the NAACP Legal Defense and Education Fund Inc. from 1946 to 1964 arguing desegregation cases, including significant cases before the U.S. Supreme Court (winning 9 of 10 cases she argued in the Supreme Court).³³ It has been said that Judge Motley “tried to inform her judging with the blood, sweat, and tears of her life’s experience.”³⁴

Sonia Sotomayor served in the Southern District of New York from 1992 to 1997, before being elevated to the Second Circuit and later to the U.S. Supreme Court. At the time she entered service, she was the first Hispanic federal judge in New York State.³⁵ In 1995, Judge Sotomayor issued a ruling that effectively ended the 232-day baseball strike.³⁶ David Cone, who had served as a players’ union representative for several years, told the Senate Judiciary Committee in 2009 during Judge Sotomayor’s confirmation hearing that “because of her decision, baseball is in far better shape today than it was 15 years ago. I believe all of us who love the game—players, owners, and fans—are in her debt.”³⁷

Other judges to serve on the Mother Court include former Attorney General Michael B. Mukasey (1987 to 2006, and SDNY chief judge, 2000-2006)³⁸ and former FBI Director Louis J. Freeh (1992-1993).³⁹ In addition, current Second Circuit Judge Denny Chin served in the Southern District from 1994 to 2010 and was the first Asian-American to serve on a federal court in the Second Circuit, as well as the first Asian-American appointed as a U.S. district judge outside of the Ninth Circuit.⁴⁰ Deborah Batts, who was appointed to the Southern District bench in 1994, was the first openly gay person to serve on the federal bench.⁴¹

Famous Cases

The following are a few of the famous cases that have come before judges in the Southern District of New York in the past 125 years.

The Lusitania

The following is from the opening lines of the *Lusitania* decision⁴² of Judge Julius M. Mayer finding that the ship owner was not liable: “On May 1, 1915, the British passenger carrying merchantman *Lusitania* sailed from New York, bound for Liverpool, with 1,257 passengers

and a crew of 702, making a total of 1,959 souls on board, men, women, and children. At approximately 2:10 on the afternoon of May 7, 1915, weather clear and sea smooth, without warning, the vessel was torpedoed and went down by the head in about 18 minutes, with an ultimate tragic loss of life of 1,195. Numerous suits having been begun against the Cunard Steamship Company, Limited, the owner of the vessel, this proceeding was brought in familiar form, by the steamship company, as petitioner, to obtain an adjudication as to liability, and to limit petitioner's liability to its interest in the vessel and her pending freight, should the court find any liability."⁴³

United States v. New York Times Co. (the Pentagon Papers case)

In June 1971, *The New York Times* published a series of articles about a classified Department of Defense study of the origins and conduct of the war in Vietnam.⁴⁴ The government sought to enjoin *The Times* from further publication because it would cause irreparable injury to the defense interests of the United States. On June 19, 1971, Judge Murray Gurfein denied the government's request for a preliminary injunction. He held that the government had failed to show that the publication would "seriously breach the national security." He wrote, "Security also lies in the value of our free institutions. A cantankerous press, an obstinate press, a ubiquitous press must be suffered by those in authority in order to preserve the even greater values of freedom of expression and the right of the people to know."⁴⁵ On June 30, 1971, the Supreme Court upheld the right of *The New York Times* (and other newspapers) to publish the papers.⁴⁶

United States v. Pirro

In 1999, Judge Barrington D. Parker Jr.⁴⁷ presided over a six-week jury trial of criminal charges brought against Albert J. Pirro Jr.⁴⁸ Pirro, a former lawyer, real estate developer, and husband of Westchester County District Attorney Jeanine F. Pirro, was indicted for filing false tax returns with the Internal Revenue Service for the years 1991 through 1993, understating his income by more than \$1 million. (Albert Pirro's brother, accountant, and co-defendant, Anthony Pirro, also was tried for his role in preparing these false documents.) The jury found both Pirro brothers guilty of conspiracy, tax evasion and filing false tax returns. On Nov. 1, 2000, Judge Parker sentenced Albert Pirro to 19 months in federal prison for his conviction on 34 counts of tax evasion.⁴⁹

United States v. Sattar, Stewart and Yousry

Lynne Stewart, a New York attorney known for representing controversial clients, was tried for conspiring to defraud the United States, providing and concealing material support to terrorist activity, and two counts of making false statements for her role as counsel for Sheikh Omar Abdel-Rahman, a radical Egyptian cleric imprisoned for his role in the 1993 World Trade Center bombing.⁵⁰ Stewart was accused by a grand jury of acting as a third-party messenger between Rahman and his Muslim terrorist cell group, regarding violence against the Egyptian government. After a nine-month trial and 13 days of jury deliberations, Stewart was convicted in 2005 on all counts and sentenced to 28 months in prison. Stewart appealed her conviction to the Second Circuit. A three-judge panel for the Second Circuit Court of Appeals not only upheld Stewart's conviction, but redirected her case back to Judge John G. Koeltl for resentencing after accusing Stewart of making false statements during her initial trial. Judge Koeltl resented Stewart, then 70 years old, to 10 years and

one month imprisonment. This sentence was four times what she originally faced.⁵¹

Windsor v. United States

Edith Windsor and Thea Spyer were a same-sex married couple living in New York.⁵² Spyer died in 2009 at age 77 and left her entire estate to Windsor. Windsor sought to claim a federal estate-tax exemption as the surviving spouse, but the IRS found that the exemption did not apply to same-sex marriages, citing § 3 of the Defense of Marriage Act (DOMA), which states that "spouse" only applies to a marriage between a man and a woman. Windsor sued in the Southern District for a refund of the federal estate tax on Spyer's estate, claiming that § 3 of DOMA deprived her of the equal protection of the laws under the Fifth Amendment. Judge Barbara Jones ruled that § 3 of DOMA was unconstitutional under the equal protection clause of the Fifth Amendment. The Second Circuit affirmed. The Supreme Court ruled that § 3 of DOMA is unconstitutional because it violates the right to equal protection of same sex couples who are legally married under state law.⁵³

Conclusion

The Mother Court has evolved from its single-judge admiralty roots to a court with more than 50 judges hearing some of the most significant cases in the country, and perhaps the world. Today, the U.S. District Court for the Southern District of New York encompasses the counties of New York, Bronx, Westchester, Rockland, Putnam, Orange, Dutchess, and Sullivan. The court hears cases in Manhattan, White Plains, and Poughkeepsie. There currently are 38 district judges (17 of whom have taken senior status) and 15 magistrate judges (one of whom is part-time) in the Southern District. The Southern District of New York is open for business and available to dispense justice to you and your clients. ☺

Hon. Stewart D. Aaron is a magistrate judge in the U.S. District Court for the Southern District of New York.

Endnotes

¹The Southern District of New York maintains an extensive website with links to voluminous materials about the Court, including histories and proceedings, judges, important documents, cases and sketch art. U.S. Dist. Ct. S.D.N.Y., <http://history.nysd.uscourts.gov/> (last visited July 10, 2018).

²The District of New York was a single district until a northern district was carved out in 1814. See text accompanying note 21. The District of New York and its successor, the Southern District of New York, have sat continuously in New York, N.Y., since 1789.

³See H. PAUL BURAK, HISTORY OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK 1 (1962), <http://history.nysd.uscourts.gov/docs/History1962.pdf>.

⁴See JAMES D. ZIRIN, THE MOTHER COURT 1 (2014).

⁵BURAK at 1.

⁶BURAK at 1; CHARLES M. HOUGH, THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK 8 (1934), <http://history.nysd.uscourts.gov/docs/Hough.pdf>.

⁷HOUGH at 8.

⁸BURAK at 1. As mayor, Judge Duane had sat on the Mayor's Court in New York City and in 1784 had issued a controversial decision

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in a case successfully argued by Alexander Hamilton, *Rutgers v. Waddington*, that was a significant case in the development of the concept of judicial review. See RICHARD BROOKHISER, ALEXANDER HAMILTON: AMERICAN 59 (1999); KATE ELIZABETH BROWN, ALEXANDER HAMILTON AND THE DEVELOPMENT OF AMERICAN LAW 182-83 (2017).

⁹HOUGH at 9.

¹⁰*Id.* at 8, 11.

¹¹BROOKHISER at 25.

¹²BURAK at 1.

¹³HOUGH at 8.

¹⁴See *id.* at 9.

¹⁵Judge Laurence left the bench to take a seat in the U.S. Senate. *Id.* at 9-10.

¹⁶*Id.* at 10-12.

¹⁷*Id.* at 11-12.

¹⁸*Id.* at 12.

¹⁹BURAK at 3.

²⁰*Id.*; HOUGH at 18.

²¹NEW YORK COUNTY LAWYERS' ASSOCIATION, THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK: A RETROSPECTIVE (1990-2000) 2 (Dec. 2002) [hereinafter 1990-2000 RETROSPECTIVE], https://www.nycla.org/siteFiles/Publications/Publications134_0.pdf.

²²BURAK at 4, 27.

²³HOUGH at 23-24.

²⁴BURAK at 5.

²⁵John D. Winter & Richard H. Maidman, *Retelling the History of the United States District Court for the Southern District of New York*, 17 N.Y. LITIGATOR (Summer 2012), http://history.nysd.uscourts.gov/docs/Winter_Maidman_History_of_SDNY.pdf

²⁶Hon. Edward Weinfeld, *United States District Court for the Southern District of New York: Its Impact on the Law*, SECOND CIR. HIST. LECTURES 19 (Apr. 6, 1981), http://history.nysd.uscourts.gov/docs/FBC_SDNY.pdf.

²⁷BURAK at 12.

²⁸GERALD GUNTHER, LEARNED HAND: THE MAN AND THE JUDGE 122 (2011).

²⁹*Id.*, preface, at i.

³⁰1990-2000 RETROSPECTIVE at 5.

³¹ZIRIN at 230-31.

³²At the time of her appointment, Judge Motley was the first black woman to be appointed as a federal district judge in the entire country. GARY L. FORD JR., CONSTANCE BAKER MOTLEY: ONE WOMAN'S FIGHT FOR CIVIL RIGHTS AND EQUAL JUSTICE UNDER LAW 99-103 (2017).

³³*Id.* at 27-95, 110; ZIRIN at 278.

³⁴ZIRIN at 279.

³⁵Wayne King, *Hispanic Nominee for U.S. Bench*, N.Y. TIMES (Mar. 2, 1991), <https://www.nytimes.com/1991/03/02/nyregion/hispanic-nominee-for-us-bench.html>.

³⁶*Silverman v. Major League Baseball Player Relations Comm. Inc.*, 880 F. Supp. 246 (S.D.N.Y. 1995). Her ruling was affirmed by the Second Circuit. 67 F.3d 1054 (1995).

³⁷ANTONIA FELIX, SONIA SOTOMAYOR: THE TRUE AMERICAN DREAM 179 (2005).

³⁸NEW YORK COUNTY LAWYERS' ASSOCIATION, THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK: A RETROSPECTIVE (2000-2010) 6, 58 (May 2012) [hereinafter 2000-2010 RETROSPECTIVE], http://www.nycla.org/siteFiles/Publications/Publications1552_0.pdf.

³⁹1990-2000 RETROSPECTIVE at 49.

⁴⁰1990-2000 RETROSPECTIVE at 10; 2000-2010 RETROSPECTIVE at 6, 73.

⁴¹1990-2000 RETROSPECTIVE at 9, 32.

⁴²*The Lusitania*, 251 F. 715 (S.D.N.Y. 1918).

⁴³*Id.* at 717.

⁴⁴*United States v. New York Times Co.*, 328 F. Supp. 324 (S.D.N.Y. 1971).

⁴⁵*Id.* at 331.

⁴⁶*Pentagon Papers (Ellsberg) Trial (1973)*, FAMOUS TRIALS, <http://www.famous-trials.com/ellsberg> (last visited July 10, 2018).

⁴⁷Judge Parker served in the Southern District from 1994 to 2001, and then was elevated to the Second Circuit, where he currently serves. 1990-2000 RETROSPECTIVE at 50.

⁴⁸*United States v. Pirro*, 76 F. Supp. 2d 478 (S.D.N.Y. 1999).

⁴⁹1990-2000 RETROSPECTIVE at 14-15.

⁵⁰*United States v. Sattar, Stewart and Yousry*, 395 F. Supp. 2d 66 (S.D.N.Y. 2005), *aff'd*, 590 F.3d 93 (2d Cir. 2009).

⁵¹2000-2010 RETROSPECTIVE at 47.

⁵²*Windsor v. United States*, 833 F. Supp. 2d 394 (S.D.N.Y. 2012).

⁵³U.S. DIST. CT. S.D.N.Y., CASES OF HISTORICAL INTEREST IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK 16-17 (2014), <http://history.nysd.uscourts.gov/docs/CasesHistoricalInterest.pdf>.

