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Council History – Part 2

The Council Expands

By Bennette D. Kramer

This second installment of the history of the Federal Bar Council looks at the Federal Bar Foundation, the charitable foundation affiliated with the Federal Bar Council. The Foundation has helped to shape and implement the relationship between the Council and the courts of the Second Circuit. This second installment also looks at strategic plan recommendations, which have guided the Council in its development and expansion. This installment finishes by looking at efforts by numerous Council presidents to maintain and grow membership – a continuing challenge for all professional organizations today.

The Foundation

The Federal Bar Foundation, a Section 501(c)(3) entity permitting tax deductible donations, was founded in 1964 to hold the money coming in from the Thanksgiving Luncheon and the Law Day Dinner and to provide a means to further encourage people to donate. Early Foundation activities were varied and almost entirely devoted to supporting the courts, according to Nathan Pulvermacher, the first president of the Foundation.

At the invitation of Chief Judge James Oakes, the Foundation funded historic exhibits at the courthouse, which the Council sponsored along with the court. The Foundation also sponsored lectures, paid for a booklet issued by the history committee of the U.S. Court of Appeals for the Second Circuit (the "History Committee"), and paid to publish a history of the Second Circuit. When he was president in 1982, Whitney North Seymour volunteered to have the Foundation publish a citizen's guide to the federal courts, which became a public service tool for the courts. Also, Seymour reported that when the judges asked for a piano for the court's Christmas party because one or two of them wanted to play, the Foundation found one.

Significantly, in 1987 the Foundation paid to produce Judge Richard Owen's opera "Abigail Adams" and made it profitable. A Second Circuit committee had total artistic control over the production of the opera, but the Foundation had fiscal control.

The Foundation sponsored a number of courthouse exhibits. There were exhibits on John Jay, slavery in the federal courts, and U.S. courthouses, among others. However, according to Pulvermacher, the courthouses decided not to continue the exhibits because they took up court personnel time, needed insurance and cost too much.

One of the biggest contributions the Foundation made to the courts was providing services to make jury rooms and, therefore, jury duty, more pleasant. The Foundation also contributed magazine subscriptions for jury rooms in the courthouses.

The Foundation paid to publish the Federal Bar Council Second Circuit Redbook each year but did not get involved in its production (about which more will be discussed in a future article). The Redbook lists each of the judges in the Second Circuit, including the four districts of New York and the districts of Connecticut and Vermont. It also lists members of the Council along with other information about the courts and the Council.

The Mentor Program, which is still ongoing, was first sponsored by the Council in 1988.

Tom Evans was approached by Claire Flom (the wife of Joe Flom), who was involved with the Alliance for the Public Schools, to encourage the Council to participate in a program for high school students. According to Pulvermacher, Evans came up with the idea of pairing New York City law firms with public high schools, which developed into the Mentor Program. From the first-year participation of five law firms, the Mentor Program has grown to include 70 law firms paired with high schools in lower socioeconomic areas.

According to Judge David Trager (president, 1986-1987), the Mentor Program was an important

achievement of the Council. Steve Edwards described the program as involving pairing up law firms with public schools to stage mock trials and oral arguments. Key events involved visits to the courts and to the law firms, including lunch around a conference table where lawyers and students could talk. Evans credited the program with transforming dropouts and disinterested students into regular school attendees and class leaders.

Surveys by the New York City Department of Education's Chancellor's office confirmed that the participating students improved their performance and attitude. The Mentor Program also included opportunities for students to participate in moot court and state bar trial competitions, which increased the interaction of the students and lawyers. Evans said the backing and financial support of the Council and Foundation were key to the Mentor Program's success. A New York City high school focusing on law and justice was a byproduct of the Mentor Program. According to Edwards, the program was so successful that New York City ended up hiring someone to work full-time on the mentoring program. The Foundation has contributed $17,000 to the program each year for the past several years through the Justice Resource Center for courthouse visits for school groups.

The Foundation also contributes to the U.S. Attorney's Office Summer Intern Scholarship Program, which provides funding for internships for law students in U.S. Attorneys' offices. Joan Wexler (president, 2004-2006) worked with David Denton to expand funding, and the program was able to increase the number of districts and number of law students participating.

According to Second Circuit Judge Reena Raggi, Denton was a former summer intern who applied while at the University of Colorado Law School, and his participation in the program had a big impact on his decision to pursue a legal career in New York. Denton became involved in administering the internship program when he took over responsibility for a fund named in honor of U.S. District Judge Lloyd F. MacMahon. When Edwards was president, he asked Denton to be in charge of administering the Judge J. Edward Lumbard U.S. Attorneys Fellowship Fund and the Firemen's Relief Fund as well. While he was administrating the funds, Denton expanded the internships beyond the Southern District of New York, in part by attracting matching support from law schools to cover the interns' costs during their summers. According to Judge Raggi, Fred Nathan, Bob Fiske and Bob Begleiter were involved in expanding the internship program.

The New York Community Trust holds several funds, including the Judge J. Edward Lumbard U.S. Attorneys Fellowship Fund and the Firemen's Relief Fund, that provide money to summer interns in the U.S. Attorney's offices for the Southern and Eastern Districts of New York. A committee determines who gets the money, and the New York Community Trust dispenses it. The Council, through the Foundation, financially supports the David W. Denton U.S. Attorneys' Fund, which provides money to summer interns in U.S. Attorney's offices outside the Southern and Eastern Districts of New York but still within the Second Circuit. In 2022, for the first time, the Foundation expanded its support of law student interns by establishing a scholarship fund to assist interns with the Federal Defenders of New York.

While Wexler was president, with Steve Edwards' assistance, the Council's approach to fundraising underwent a total change. Robert Giuffra was the Council treasurer, and he worked tirelessly and successfully to increase the amount raised. These efforts had begun under Gerald Walpin.

The Foundation is currently involved in a number of programs and projects. Justice for All: Courts in the Community is the civic education initiative of the Second Circuit federal courts, which was launched by then-Chief Judge Robert A. Katzmann in 2014 through the Second Circuit's Committee on Civic Education, now co-chaired by Circuit Judge Joseph F. Bianco. The Council has partnered with Justice for All to bring attorneys into classrooms for the "Day in the Life of an Attorney" program. The Justice for All Program also works with the Justice Resource Center to conduct an annual Teachers' Institute on civic education. The program was funded by various public and private grants over the past five years, but starting in 2022 it is being funded by the Foundation's newly established Robert A. Katzmann Civics Education Grant in honor of the late Judge Katzmann. In a recent article in the *Federal Bar Council Quarterly*, District Judge Mary

Kay Vyskocil, a former president of the Council, and Magistrate Judge Sarah Cave said the goal of the annual institute is to provide teachers from New York City and other areas of the Second Circuit "with a deeper understanding on constitutional issues that they can pass on to their students." During the summer of 2021, the subject of the institute was the balance between the First Amendment and national security issues.

The Foundation has joined with the When There Are Nine Scholarship Project, which was founded by a group of women attorneys who served together as Assistant U.S. Attorneys in the Southern District of New York. The project was established to honor the late Justice Ruth Bader Ginsburg by creating scholarships and related programming intended to advance equity and diversity within the legal profession and to continue Justice Ginsburg's efforts to expand career opportunities for women attorneys. Scholarship recipients receive financial support along with mentoring and career advice from alumnae from the Southern District of New York's U.S. Attorney's office. The initial class of four women scholars began receiving scholarships in the fall of 2021.

Since 2015, the Foundation has donated to the Immigrant Justice Corps established by Judge Katzmann. The Foundation also published Courthouses of the Second Circuit, which was compiled and edited by the Second Circuit Courts Committee.

As the above list of activities demonstrates, the Foundation has been a vibrant organization through the years, contributing to the close relationship between the Council and the courts of the Second Circuit. The Council and Foundation have stepped up when the courts have expressed a need for funds to carry out a plan or mission.

Long Range Planning Committees

Since 1985, three long-range planning committees – in 1985, 2013, and 2019 – have been formed and issued recommendations. There are common themes running through all of the reports and plans, but each has had its own focus.

The 1985 Report

The 1985 Long Range Planning Committee was headed by David Trager at the request of Council President Alan Hruska. In the April 1994 issue of the *Federal Bar Council News* (the original name of the *Federal Bar Council Quarterly*), Whitney North Seymour, Jr., summed up the guiding principles adopted by the 1985 committee: the Council "should not engage in 'me-too' committee proliferation in imitation of other bar associations" and the Council "should get out of the business of rating judicial candidates when it lacked the resources to do the job thoroughly."

The 1985 report recognized that the success of the Council lay in its unique role as a professional association for the federal litigating bar, which fostered communications between the bench and bar by providing social and collegial forums similar to the Inns of Court in England. Further, the 1985 committee believed that members would support an increase in the number of activities, particularly ones that provided additional opportunities for friendly, informal meetings of the membership. At this time, attendance at the Thanksgiving Luncheon and Law Day dinner were at full capacity and the courthouse exhibitions were well attended.

The 1985 report made a number of recommendations:

- The report encouraged membership recruitment, including recruitment of minorities, by sending letters of invitation to U.S. Attorneys' offices, other federal agencies and federal litigation sections of state agencies, along with encouraging new associates at large firms to join.
- The report recommended that the Law Day Dinner move from the Pierre Hotel to the Waldorf-Astoria for a one-year trial; otherwise, attendance would have to be limited. Apparently, some members of the committee favored limiting attendance to members of the Council, their spouses and guests and invited judges. It was decided that a search committee would continue to explore alternative sites that could accommodate over 800 people.
- The report made three recommendations for new Council activities: (1) Hold a reception in honor of new judges, the first of which was scheduled for January 8, 1986, to honor new district judges of the Second Circuit appointed since January 1, 1985; (2) Hold forums on issues of

interest to the federal bar and litigators after an informal social gathering, to be organized by a Standing Committee on Forums. This recommendation preceded any continuing legal education requirements; and (3) Make efforts to involve lawyers from outside New York City in programs and organize geographic sections.

- The report recommended that in connection with the review of candidates for judicial posts, the Judiciary Committee meet as early as possible to interview candidates before the Department of Justice forwarded the nomination to the American Bar Association and FBI, so that if the committee found a candidate unqualified it could report its findings immediately.
- The report recommended establishing an award to recognize public service by those in private practice, named in honor of Whitney North Seymour, Sr., and presenting the award at the Winter Meeting. The award would go to "a practitioner who exemplifies the highest professional standards of excellence and who has made an extraordinary contribution to public service, for example, by *pro bono* work, participating on commissions, bar associations or by service benefiting the general membership of the bar, but generally, not for work done as a public official."
- The report suggested establishing a Distinguished Federal Judicial Service Award to be presented each year to a judge of the Second Circuit "who has rendered long and devoted service on the Federal Bench and who personifies the ideal of judicial demeanor, ability and independence."
- The report suggested using the Second Circuit digest to inform members about forums and identify the existence, role and membership of standing committees of the Council.
- The report suggested that board members should seek to encourage other circuits to create organizations like the Council.

Miscellaneous recommendations included having the Historical Committee work with other groups to create commemorative programs around the 200th anniversary of the adoption of the U.S. Constitution in 1989 and continuing the mentor program with the New York City Board of Education.

To pay for the recommended activities, the committee suggested that the costs of special gatherings be paid by the attendees; the costs of refreshments during forums should also be paid by the attendees; and the recipient of the Whitney North Seymour Award would bear his or her own travel costs and the cost of the Winter Meeting.

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1985 Report Summary

The 1985 report and recommendations had a significant impact on the direction of the Council, and many of the recommendations of the 1985 report have become part of the Council's fabric. The Law Day Dinner was held at the Waldorf-Astoria for many years, to great social and economic success. The Council began receptions for judges in 1986 and has continued them since then, except for the pandemic period. Similarly, CLE programs are now a large part of what the Council does, although the recommendation in the 1985 report predated any CLE requirements. The Council has also established committees in Westchester, Connecticut and Long Island to involve Council members who do not live in New York City. The Whitney North Seymour Award recognizing public service by those in private practice has become the centerpiece of the final dinner at the Winter Meeting, where a barrister's wig box is presented to the recipient. Finally, the Council still supports the joint program with the New York City Board of Education, which pairs law firms of Council members with city high schools.

On the other hand, the Judiciary Committee has quit the business of interviewing judicial candidates due primarily to competition from the New York City Bar Association. Nor has the Council instituted the recommendation of a judicial service award apart from the Learned Hand Medal. Finally, the Council has not developed a program to encourage other circuits to create organizations like the Council.

2013 Long Range Planning Report

The 2013 Long Range Planning Committee was established by President Frank Wohl and chaired by Steve Edwards. The committee focused on four issues:

- Financial issues;
- The Council's relationship with the judiciary;
- Additional activities and events; and
- Attracting new members.

The financial goals set out by the 2013 report aimed to enhance revenues and reduce costs to eliminate deficits and provide financial resources for future expansion. The 2013 report set forth concrete recommendations to achieve the financial goals, including for the Council and Foundation to operate on a break-even basis; maintain at least $2 million in cash; reduce the cost of the Winter Meeting to under $13,000 per couple and $8,000 per single attendee; and make sure the Winter Meeting and Fall Retreat ran at a break-even level by reducing the cost of the Winter Meeting and raising the price of the Fall Retreat.

To solidify its relationship with the judiciary, the 2013 report recommended promoting activities with judges; offering to assist the judiciary in various ways; and sponsoring events for judges. The 2013 report noted that the judges like the Council programs in which they actively participate. The judges also like the varied profile of Council members – members of the bar just starting out and well established, lawyers from big and small firms, lawyers from plaintiff and defense firms, and people of all political persuasions. Further, the Council responds to the needs of the judges and steps up when the court needs support from the bar.

The 2013 report recommended several new activities, some of which have been adopted, including establishing an award for young attorneys for pro bono or public service to be given at a less formal social event that would provide networking opportunities for young attorneys. The 2013 report recommended establishing affinity groups to provide opportunities for members to meet with like-minded colleagues. The 2013 report also suggested establishing workshops to give young lawyers opportunities to hone their skills, and book-signing events for authors connected with the Council or who have written books of interest to the Council.

Finally, the 2013 report made several suggestions for attracting new members, starting with new Council activities and programs to provide additional benefits of membership. The 2013 report also set an overall goal of recruiting at least 250 new members in 12 months. The recommendations for creating an environment for the recruitment of new members included a stronger media presence, letters to members and prospective members, holding meetings at law firms, reaching out to people leaving clerkships and lawyers in the U.S. Attorney and

Federal Defenders offices, offering programs exclusively for sustaining members, and creating an event designed for younger attorneys including music and cocktails.

2013 Report Summary

In response to the 2013 report, the Council has made efforts to tighten its financial profile. Although the Thanksgiving Luncheon, the Law Day Dinner, and the Winter Meeting have been held on and off during the pandemic at a reduced scale, the Winter Meeting recently had to be postponed. Prior to the pandemic, the Council was making efforts to create a Winter Meeting that was affordable and shorter to attract younger members. The Council nurtured its relationship with the judiciary both before and after the issuance of the report. Council leadership has always been responsive to requests from the judges and recently worked with the late Chief Judge Katzmann on a number of projects that are still on-going. Finally, in 2014, the Council began awarding the Thurgood Marshall Award for Exceptional Pro Bono Service to both a young rising star and a more established veteran attorney deserving of recognition. The award has been given at a spring/early summer social event that has, unfortunately, been suspended during the pandemic. The Council has also established a wide variety of affinity groups.

2019 Long-Range Planning Report

Council President Mary Kay Vyskocyl asked Council President-Elect Jonathan Moses to chair a strategic planning committee to determine the future of the Council. Moses said that working on strategic planning enabled the members of the committee to review the nature of the Council, its strengths and its purpose. The pandemic further focused the Council leadership on what really matters.

The 2019 report developed several strategic goals:

- Membership has been a concern and focus of all the long-range planning committees. The 2019 report was no exception. The first of its strategic goals was to grow and diversify the membership base by expanding membership by 250 members over two years and 750 members over five years. Paths for achieving this goal included using committees and the board as points of entry, better defining and communicating the benefits of membership and focusing on membership retention.
- The second goal was to deepen the Council's connection with its members by emphasizing the value of membership and ensuring ongoing relevance to current legal practice. The 2019 report recommended improving communications with members by refreshing marketing materials, enhancing the Council's social media presence, leveraging external opportunities to promote the Council, facilitating internal communication between leadership and committee chairs, and communicating the wide array of the Council's substantive work, including unique CLE programming, 15 active committees, many of which are focused on key areas of federal practice, and a robust Inn of Court.
- The third goal was to continue to be the premier bar association focused on serving the courts in the Second Circuit and promoting excellence in federal practice. The 2019 report recommended reaching out to new generations of lawyers by developing programs aimed at early and mid-career attorneys, identifying future leadership among early-career members, ensuring relevance of core events and enhancing signature events such as the Thanksgiving Luncheon, Law Day Dinner, Fall Retreat and Winter Meeting to make them accessible and meaningful to a broader segment of the Second Circuit legal community.
- Next, the 2019 report recommended ensuring strong finances and governance by strengthening Foundation fundraising, clearly articulating board member expectations, increasing revenue through increasing membership, and putting leadership that represents the full diversity of the legal community into place.
- The 2019 report recommended maintaining the strong connection with the judiciary by proactively identifying projects meaningful to the court, encouraging committees to engage with the judiciary, and providing Foundation support for court initiatives by expanding its strong support of key programs that promote legal education and the rule of law and are of interest to the judiciary and the Second Circuit legal community.

- Finally, the 2019 report recommended a new mission statement to add promotion of the rule of law as follows: "The Federal Bar council is an organization of lawyers who practice in federal courts within the Second Circuit. It is dedicated to promoting excellence in federal practice and fellowship among federal practitioners. It is also committed to encouraging respectful, cordial relations between the bench and bar and to promoting the rule of law."

The 2019 report recommended several practical steps to put the plan into effect, including developing a webinar series, initially focused on trial practice skills development; establishing a mentorship program for members; making enhancements to the Council's website and increasing the Council's social media presence; establishing three new committees (Civil Rights Committee, Immigration Committee, and Mid-Career Committee); focusing on providing benefits for members; modifying the Winter Meeting on a trial basis to provide a shorter format in an easily accessible location; improving communications to members and the legal community about the extraordinary work that the Council and Foundation support; and expanding Foundation support of key projects within the Second Circuit legal community.

2019 Report Summary

The Council has already accomplished a number of the practical steps recommended by the 2019 report. The Council's board immediately adopted an enhanced mission statement to including promoting the rule of law. A mentorship program was established and continues. The Council's website has been completely overhauled and its social media presence has been enhanced. The Civil Rights Committee has been established. And the Foundation has expanded its support of key projects in the Second Circuit legal community, as noted in the discussion above on the Foundation. In order to enhance its presence during the pandemic, the Council has held virtual CLE programs, virtual meetings, virtual dinners, and "coffee with the court" on Zoom.

The Council was heading toward holding a modified Winter Meeting with a long-weekend format in an easily accessible location, but that was stymied by the pandemic. In addition, the celebratory Winter Meeting planned for early 2022 was cancelled following a surge in COVID-19 cases. Maybe next year will provide an opportunity for Council members to meet once again in-person at a Winter Meeting. On the other hand, the Council held an in-person Fall Retreat, Thanksgiving Luncheon, Law Day Dinner and Judicial Reception this past year.

Efforts to Grow and Enhance Membership

Over the years, presidents of the Council have undertaken efforts, made recommendations to increase membership or simply opined on the character of the membership. The current Council president, Jonathan Moses, explained that today people find more informal ways of connecting with people with similar interests. All professional groups have experienced a member decline. Moses' efforts to increase membership follows a long line of such efforts.

The early membership of the Council came from the U.S. Attorney's offices. The earliest growth efforts involved expanding membership to the U.S. Attorney's office in the Eastern District of New York by making Paul Windels president in 1965 and then David Trager president in 1986. Windels said that there were discussions as he left office whether to leave the Council a select group composed mostly of people in the U.S. Attorney's offices or to expand the membership. With the select group of present or former lawyers from the U. S. Attorney's offices, Windels described Council activities as "a gathering of the clan" where everyone knew everyone else.

The membership grew as the Thanksgiving Luncheon and Law Day Dinner brought in members, and the Winter Meeting drew in others. These social functions made money and created a huge growth in membership. Prominent people attended those events, so it became desirable and popular to join the Council. The membership expanded to individual practitioners and people from large firms.

During George Leisure's term as president (1976-1978), there was a membership drive and the Council recruited 145 new members. According to Whitney North Seymour, Jr. (president,

1982-1983), the concept of sustaining members was developed for people who contributed above the average dues. The Council gave them charcoal drawings of members of Learned Hand's court. The drawings were offered to each of the judges as well. Seymour saw past presidents as the most loyal and useful members. The Council also wrote to newly admitted lawyers to encourage them to join the Council. Wexler said that at least by 2001, federal judicial law clerks automatically became Council members.

Mark Zauderer explained that during his term as president (2006-2008), firms were withdrawing financial and other support for bar associations, and some cut back on paying for events. Zauderer said that as law firms placed more emphasis on billable hours, they would talk about participation in bar associations, but the implicit message was that billable hours were what counted. According to Zauderer, this phenomenon affected all bar associations, where membership numbers were down across the board. Additionally, at the time cultural changes with two wage earners sharing family responsibilities impacted bar association participation.

Zauderer said that in spite of these pressures the Council was relatively successful in recruiting new members, but it is very important for it to find the right balance for maintaining the activities that have been successful as generations and cultures change. Zauderer believed that the Council needed to continue to show that Council activities were consistent with the Council's purpose and mission. In Zauderer's opinion, the Council was blessed with good leadership regarding communicating its mission and needs to continue those efforts.

Vilia Hayes (president, 2014-2016), said that during her tenure the Council was pretty stable at a time most bar associations were losing members. She observed that there were fewer people at events at the time. David Schaefer (president, 2016-2018) said that the Council had made progress on understanding the key to membership. He noted that the way firms pay is changing. He took steps to ensure that the Council retained members and grew.

For Jonathan Moses, the current president, the most difficult issue was the decline of people becoming members. He grew up with parents who were both lawyers and very active in New Jersey legal communities. Moses said that he felt a professional obligation to become involved in legal community activities.

Moses said that all professional groups have experienced a membership decline. There is a powerful legal community in New York, but there is considerable competition among professional groups for members. The Council is working to maintain and communicate the value of a professional organization of like-minded people. The Council has hired a membership consultant to develop a plan to maintain and increase membership. President-Elect Sharon Nelles is heading that effort.

Developments

Council Holds Annual Law Day Dinner

By Magistrate Judge Sarah L. Cave

On May 10, 2022, the Federal Bar Council held its annual Law Day Dinner at Cipriani Wall Street. After a performance of the National Anthem by Garth Taylor, David B. Anders, chair of the Law Day Dinner Committee, welcomed the participants to the festivities.

U.S. District Judge Hector Gonzalez of the Eastern District of New York, as the most recently seated Article III judge, had the honor of reading President Biden's Law Day Proclamation, which described America as being "unique among the nations of the world because [it was] not built around any particular tribe, religion or ethnicity" but rather "around an idea: that all people are created equally and deserve to be

treated equally throughout their lives." President Biden observed that, "[t]hough we have never fully lived up to that idea, we have never walked away from it either."

This year's Law Day theme, "Toward a More Perfect Union: The Constitution in Times of Change," reflected the current "critical moment of reckoning for our democracy." With the COVID-19 pandemic having "put a spotlight on lingering inequities," President Biden called on all citizens to "build a better America, anchored by the rule of law, to ensure that every one of us can live [a life] of limitless possibility." President Biden cited "the resistance of the Ukrainian people" as a fight that "is part of a larger fight for essential democratic principles that unite all free people: the rule of law; free and fair elections; the freedom to speak, to write, and to assemble; the freedom to worship as one chooses; and the freedom of the press."

In conclusion, President Biden encouraged all "Americans to join [him] in pursuing the path of inclusion and equity over exclusion and hate, so that we may continue to perfect our Union and pass on a stronger democracy for generations to come."

The Access to Counsel Project

The Council's executive director, Anna Stowe DeNicola, introduced the Council's Access to Counsel Project ("A2C"). The A2C Project grew from three seeds.

First was a program at the 2020 Virtual Fall Retreat on diversity in the legal profession and access to justice – a program that engaged and spurred creative thinking in the attendees about more that could be done.

Second was a call arms from U.S. District Judge Lewis J. Liman of the Southern District of New York seeking the Council's assistance in helping to reduce the backlog of pro se cases on the court's docket.

Third, in his remarks at the 2021 Thanksgiving Luncheon, U.S. District Judge John G. Koeltl said that he looked forward to the day when the court would have "a backlog of lawyers waiting to take pro se cases, not a backlog of pro se cases waiting for attorneys to take them."

The A2C Project was then created to increase and enhance pro bono representation of civil pro se litigants in the courts of the Second Circuit by marshaling the Council's members, committees, and programming to support the Second Circuit courts' existing framework for promoting pro bono representation. DeNicola described the five cornerstones supporting the A2C Project.

First, the Council is leveraging its board, member networks, and committee chairs to recruit lawyers to join a "Pro Bono Corps" of attorneys who are ready, willing, and able to represent pro se litigants for whom the Second Circuit courts have recommended appointment of counsel.

Second, the A2C Pro Bono Advisory Panel is comprised of expert practitioners in the areas of civil rights, employment, trial skills, immigration, and other substantive areas of law that frequently arise for pro se litigants. The panel will provide mentorship, dialogue, and Q&A to A2C pro bono attorneys, as well as educational programming and outreach. The composition of the panel, chaired by retired U.S. Magistrate Judge Steve Gold and vice-chaired by Margie Berman, includes some of the best and most committed practitioners in the region.

Third, the Pro Bono Advisory Panel has developed the Second Circuit Pro Bono Manual, which is an online compilation of resources available only to A2C attorneys and which contains guidance on substantive case law, discovery, and strategic and logistical issues that arise in pro bono cases.

Fourth, the Pro Bono Advisory Panel has begun offering targeted, skills-based training to prepare A2C attorneys for pro bono service. The Council has partnered with NITA, a trial skills training program, and the downstate New York chapter of the American College of Trial Lawyers, to provide free deposition and trial skills training to lawyers who commit to participating in A2C.

Fifth and finally, the Council will host recognition events and engage in other public promotion of the pro bono contributions of A2C attorneys.

DeNicola encouraged Law Day Dinner attendees to consider participating in this ground-breaking project that will improve the fairness and efficiency of litigation for pro se litigants. DeNicola noted that, while "some of the cases on this docket are not the most compelling," call for only limited scope representation, or involve challenging litigants, these litigants "will gain confidence in the legal system knowing that their voice was heard, and the opportunity to be represented by the best this city has to offer."

The Learned Hand Medal

Council President Jonathan Moses introduced Denny Chin, a senior judge on the U.S. Court of Appeals for the Second Circuit and the recipient of the 2022 Learned Hand Medal. Judge Chin has served on the Second Circuit since April 26, 2010, and took senior status on June 1, 2021.

Prior to his elevation to the Second Circuit, Judge Chin was a district judge in the Southern District New York. Judge Chin has taught at Fordham Law School since 1986 and, after taking senior status, was appointed the Lawrence W. Pierce Distinguished Jurist-in-Residence.

His legal career before taking the bench included a clerkship for Judge Henry F. Werker of the Southern District of New York, serving as an associate at Davis Polk & Wardwell, serving as an Assistant U.S. Attorney for the Southern District of New York, and as a partner at the law firms of Campbell, Patrick & Chin and Vladeck, Waldman, Elias & Engelhard, P.C.

Judge Chin thanked the Council for selecting him to join a "dazzling" list of recipients of the Learned Hand Medal; his family, including his wife, son, and daughter-in-law; and his "family" of 27 years' worth of law clerks, who joined him for the event. Judge Chin focused his remarks on his love for Asian American legal history, which, with "very few exceptions, . . . has been largely ignored in law school education." Although, "[i]ronically, the recent rash of anti-Asian violence has drawn some attention to this history," he noted his partnership with Professor Thomas Lee to inaugurate the Center on Asian Americans and the Law at Fordham University School of Law. Judge Chin has focused on this aspect of American legal history because, "despite their small numbers and limited resources, Asian Americans did not hesitate to stand up for their rights, and many of their cases reached the Supreme Court." As a result, Judge Chin explained that "[t]here is much to be learned from the stories of these individuals," who include laborers, laundrymen, grocers, fishermen, women accused of being prostitutes, among others, and whose "challenges, struggles, [and] experiences with our judicial system teach us much about how the Constitution works, how it sometimes does not work, and how it is supposed to work."

In keeping with the namesake of the award he was receiving, Judge Chin investigated, with the help of his law clerk, whether Judge Hand had presided over cases involving Asian Americans. Judge Chin discovered that, while sitting on a Second Circuit panel in 1923, Judge Hand had decided a case involving a Chinese man, Yee Fook Sing, who had sought a writ of habeas corpus to secure his release from custody pending his exclusion proceedings. Judge Chin explained that Yee had argued that, as the son of a Chinese man born in the United States, he was entitled to an exception from exclusion, but the immigration agency and the district court had both upheld his exclusion. Judge Hand penned the Second Circuit's unanimous reversal, which ordered Yee's release from custody and admission into the United States based on the board of inquiry's finding of paternity as well as Judge Hand's own "sense of fairness and justice."

Discrimination and Persecution

To put this case in context, however, Judge Chin took the time to explain to the audience several milestones in Asian American legal history. Judge Chin noted that the initial curiosity at Chinese immigrants turned to "hostility in the general population" as more Chinese arrived during the 19th Century gold rush. In response, in 1882, Congress enacted the first Chinese Exclusion Law, the backdrop for which was anti-Chinese hysteria and fear of the "Yellow Peril" documented in political posters, cartoons, and advertisements. The 1882 law, and successive enactments, sadly, remained the law of this country until 1943.

Apart from legal discrimination, Judge Chin explained that Asian Americans suffered numerous examples of violent persecution, including an 1871 incident in which 15 Chinese men were tortured and executed by a mob in Los Angeles; an 1880 incident in which 3,000 people destroyed Chinese homes and businesses in Denver; an 1885 incident in which white coal minors attacked and killed their Chinese co-workers in Wyoming; and an 1887 incident in which horse thieves killed at least 31 Chinese gold miners in Oregon.

In addition, there were examples throughout the 1880s in which more than 168 communities in the Western United States "expelled all their Chinese residents, literally

driving them out of town." Judge Chin noted several state and local laws that sought to force individuals of Asian descent back to their native countries and dissuade others from entering the United States.

In the late 19th century, Judge Chin explained, the U.S. Supreme Court had the opportunity to intervene against some of this discrimination. In 1879, Supreme Court Justice Stephen Field, sitting as a circuit judge, agreed with Ho Ah Kow, a laborer arrested for violating California's Cubic Air Law, which required at least 500 cubic feet of space per person in residences, that "the ordinance, which was intended only for the Chinese, violated the Equal Protection Clause."

Seven years later, in *Yick Wo v. Hopkins*, the Supreme Court held that, even though an ordinance prohibiting laundries from operating in wooden buildings was "fair on its face, and impartial in appearance," it violated the Fourteenth Amendment "because it was applied only to the Chinese."

Judge Chin noted that, during the plague epidemic in San Francisco in the early 20th century, the Supreme Court also struck down under the Equal Protection Clause ordinances that quarantined "only Chinatown" (after white persons left) and that required only Chinese and "Asiatics" to be vaccinated to reenter the United States.

Discrimination continued through the 20th century, as the United States interned in concentration camps 120,000 Japanese Americans, two-thirds of whom were American citizens, based on, the Department of Justice admitted in 2011, information concealed from the Supreme Court in the *Korematsu* and *Hirabayashi* cases.

Lamenting the continuing hostility and discrimination against Asian Americans, exhibited in recent "senseless, brutal attacks" during the COVID-19 pandemic, Judge Chin turned to address the question, "How do we fix this?"

"Spirit of Liberty"

Judge Chin drew inspiration from Judge Hand, not only from his decision in the *Yee* case, but also from his famous "Spirit of Liberty" speech, which he delivered in Central Park on May 21, 1944, in celebration of "I Am An American Day." To the crowd of over one million people, including 150,000 newly-naturalized American citizens, Judge Hand spoke of the importance of tolerance, understanding others, and considering their interests. Judge Hand noted that, whether a person had chosen America as home or had descended from another who did, Americans are united in making that choice to seek "liberty – freedom from oppression, freedom from want, freedom to be ourselves."

In a poignant and heartfelt moment, Judge Chin explained the "special meaning" to him because of his family's own experience with the Chinese Exclusion laws. He shared that his grandfather had been born in China in 1896, and came to the United States in 1916, "illegally, because that was the only way he could enter the country, because of the Chinese Exclusion laws."

In 1947, his grandfather became an American citizen, as evidenced by a naturalization certificate that hangs in Judge Chin's chambers. Becoming an American citizen permitted Judge Chin's grandfather to bring his family, including a young Judge Chin, to the United States. After many years of hard work, Judge Chin and his parents became naturalized citizens in 1965.

Judge Chin concluded by describing how he honored the memory of his grandfather and the hard work of his parents when he conducted naturalization ceremonies as a district judge. At each ceremony, Judge Chin would tell his family's story and share his grandfather's naturalization certificate as an example of, in Judge Hand's words, one who "brave[d] the dangers and loneliness of a strange land," to pave the way for Judge Chin himself to become a federal judge.

In conclusion, Judge Chin encouraged the audience to "continue to do our best to serve" this country, whether as our "land of adoption" or as one who "come[s] from those who did the same."

History

One Holocaust Survivor's Haunting Reminder for Government Officials

By Debbie Bornstein Holinstat

My father, Michael Bornstein, passed through three layers of barricades and security checkpoints to deliver a speech in downtown Manhattan in April 2022 – a speech

I have helped him to deliver more than 100 times. The guard gates, the officer who took our phones and our smart watches, the personal escort and surveillance cameras – they signaled that this speech to this crowd would be different.

My father is one of the youngest known survivors of the Auschwitz death camp. He has told his story to newspaper reporters, TV anchormen, radio interviewers, school students and teachers around the world. But on April 25, he was addressing agents and employees of the U.S. Federal Bureau of Investigation.

In that room, presumably, were some of the same men and women who responded when a gunman took hostages at a Texas synagogue on January 15. Perhaps some of the attendees were the same men and women who compiled 2020 data revealing that more than 54 percent of all religious bias crimes in America targeted Jews. Perhaps some of the attendees spend their workdays tracking Proud Boys activists, white supremacists and rising neo-fascist groups. April is a busy month for any Holocaust survivor willing to speak. Yom Hashoah, Holocaust Remembrance Day, falls in late April. But there was no hesitation when I told my father the FBI had requested an appearance.

For seven years, I have listened to my father speak publicly and privately about the suffering he and my grandmother endured at a Nazi ghetto and concentration camp. Born in Zarki, Poland, my father and his parents and brother Samuel were able to survive, at first, because of a brazen bribery scheme conceived by his father, who held sway with an otherwise brutal German officer.

Ultimately though, the family was moved to a labor camp in Pionki, Poland, then shipped by cattle car to Auschwitz in July 1944. When he arrived, my father was separated from the rest of his

Special Agent in Charge of the Criminal Division of the New York FBI Office Michael Brodack presents appreciation plaques to Debbie Bornstein Holinstat and Michael Bornstein, April 25, 2022. Photo courtesy FBI New York Office.

family. His older brother, Samuel, and his father, Israel, were taken to the men's side of camp. His mother Sophie and grandmother Dora were taken to a women's bunk at Auschwitz-Birkenau, and at four years old, my father was herded into a children's bunk – alone. We have asked historians around the world for an explanation. By late 1944, most child prisoners were taken almost immediately to the gas chambers at Auschwitz. They were of no use to the SS. In fact, researchers at Yad Vashem World Holocaust Remembrance Center in Israel told us that my father's tattoo number was among the last to be given out because the killing process became so expeditious late in the war.

Prisoner B-1148

Today, blue ink on my father's arm broadcasts details of his once secret past. My dad, Michael Bornstein, was prisoner B-1148. For roughly 70 years after liberation, he kept his sleeve rolled down whenever possible to hide the telltale tattoo. He said it was a reminder that he had suffered, that he was poor and different from everyone around him.

Decades later, the tattoo is now his tactile reminder to speak out against injustice. He tells schoolchildren as young as nine about how the older children in his bunk at Auschwitz would steal his meager food rations. They were starving, too.

With little chance for survival, it was his mother's brazen act that saved him in his early weeks at the camp. Sophie Bornstein smuggled food repeatedly into the children's bunk to keep her son from wasting away. Then, one night, she snuck him out of the children's bunk and into the women's quarters where he would hide under straw bedding during the day while the women went to work.

At four years old, my father was so hungry he would sneak into trashcans to root for rotten potato peels to eat. He was cold at night

Michael Bornstein, bottom right, photographed by Soviet liberators in 1945 inside the Auschwitz death camp.

and lonely during the day. Rats bit at his toes while he slept. One day while he was hiding, my grandmother Sophie learned that her husband and her older son had been murdered in the gas chambers at Auschwitz. She considered throwing herself against the electrified fence nearby. She had had enough. Fighting her most basic instincts, however, she returned to the women's bunk that evening where my dad, her only remaining child, was waiting. He had no father anymore, no older brother. And soon, he would have no mother to care for him either.

January 27, 1945

Dates and documents are hard to come by from Auschwitz. The SS burned much of the paperwork and evidence of their atrocities before they fled in early 1945. We know this much, though. My dad's mother, Sophie, was selected to be moved to an Austrian labor camp before liberation. She had no choice but to go. She left my father behind in hiding and said goodbye. She assumed she would never see him again in this lifetime.

On January 27, 1945, when the Soviets entered the gates at Auschwitz – my father was there. A series of miracles had secured his good fate. More than 70 years later, he would allow me to write them all down in a book, "Survivors Club," that shot to The New York Times bestseller list the week it was released in 2017. On the cover is a famous image captured by Soviet soldiers after liberation. A pack of small children found alive at Auschwitz, huddled together as cameras rolled. One small boy with hollow cheeks and wide eyes is seen pulling up his sleeve, showing his tattoo identification: B-1148.

Seventy-seven years later, that same little boy rolled up his sleeve in front of an audience inside the New York headquarters of the FBI. The crowd was never supposed to be large. Approximately 50 chairs were set up when we arrived. But as the assistant director in charge chatted with my father, we saw workers stream in until it was clear there would not be enough chairs. More seats were jammed into the room and workers stood around the edges as my father began.

He talked about the one memory that has never left him: the smell at Auschwitz. What he remembers most is the smell of burning flesh. I stood next to him, my father's "sidekick" and journalist daughter who fills in with historical research what his own memory can not. He talked of reuniting with his mother. She had survived the Austrian labor camp and was entirely stunned and overjoyed to see her son again in Zarki, alive although suffering from the effects of malnutrition. She was also stunned by something else. My grandmother Sophie was one of seven siblings. Each sibling took a different path during the Holocaust; three went into hiding, one trekked across Siberia with her husband and daughter, one was led on a death march out of Buchenwald. All seven siblings had survived. In a small, Polish town where roughly 3,400 Jews resided before the war, only 27 were known to have come home – according to one survivor and Holocaust remembrance advocate. Most of them were members of our family.

Remember

My father has always known his childhood was entwined with miracles. His adulthood was blessed too, thanks to hard work and education. He earned a Ph.D. in Pharmaceutics and Analytical Chemistry, enjoyed a long career in medical research at major pharmaceutical companies. He and my mother, his wife of 55 years, have raised four kids and welcomed 12 cherished grandchildren. He focuses on the present and the future, but as he spoke at New York's FBI field office, he urged the crowd to remember the past as well.

The Holocaust did not start with burning bodies. It began with unanswered "fake news" and disinformation campaigns about Jewish people. It started with eloquent speeches and papers from men who claimed moral authority, leaning on imagined facts to support bigoted theories.

In 1919, Adolf Hitler commented on the "Jewish Question" by defining Jews as members of a race, rather than a religion, and stated that Jews are a "race-tuberculosis of the peoples." Years later in his manifesto "Mein Kampf," Hitler depicted Jews as lying, manipulative parasites, bloated with greed and devoid of principles. The only way to restore confidence in German virtue, he said, was the elimination of Jews.

At that same time here in the United States, manufacturing and media mogul Henry Ford used his platform to publish articles claiming Jews conspired to dominate the world. There was no recourse for false claims, defamatory articles or incendiary rhetoric. Likewise, there was little international backlash in

1935 when Germany adopted the Nuremberg Laws, disenfranchising Jews and stripping them of their citizenship and rights. Popular publications like Der Sturmer magazine printed a steady stream of propaganda, including infamous cartoons of Jews with their hands filled with gold. Jews were steadily excluded from professions, their businesses boycotted, graffiti marked their stores. The world ignored every flashing warning sign.

An Echo of the Past

Today, those same "theories" espoused by Hitler, the anti-Semitic propaganda distributed by Ford, and the same mockery published in Der Sturmer magazine are being echoed in online alt-right forums. We have even seen shadows of those false representations being propagated by members of the U.S. Congress with virtually no consequence. For all of these reasons and more, it is critical that those who prosecute hate crimes and monitor extremist activity be ever mindful of the lowest depths to which intolerance can lead.

Five years before my father addressed the FBI, he spoke to judges and clerks at the U.S. District Court for the Southern District of New York. America's prosecutorial and investigative arms are what separates a nation of burgeoning extremism from becoming a nation of infernal catastrophe. It is the carefully measured legal system and a vulnerable but steadfast educational system my father relies on to feel confident that he did not escape one Holocaust to live in a country where another might ever be allowed.

And so I watched my father, with his trademark optimism, hang a plaque in his apartment just a few weeks ago. It was gifted to him by high ranking officials at New York's FBI field office on that day when he spoke. Now it hangs in his Upper West Side apartment, his own reminder that he is doing the best he can to make a difference. We both fervently hope that officials in every branch of the judicial and prosecutorial system across this great, but delicately balanced country, are doing the same.

Editor's Note: Debbie Bornstein Holinstat, co-author of *Survivors Club: The True Story of a Very Young Prisoner of Auschwitz*, is founder of the media training company ClearSpeak Media.

Celebrating Greatness

Judge I. Leo Glasser Is Honored

By Larry Krantz

On May 18, 2022, the judges of the U.S. District Court for the Eastern District of New York held a special session of the court to honor Judge I. Leo Glasser's 41 years of service, and to dedicate a courtroom in his name.

At 98 years young, Judge Glasser amazes by continuing to hear cases and by issuing the same thoughtful and scholarly opinions that are the hallmark of his tenure. As Judge Glasser's first law clerk, I was honored to speak at the event on behalf of his more than 80 law clerks, and to thank him for the profound and ennobling experience we all had.

A Role Model

The program was introduced by Chief Judge Margo Brodie. She described Judge Glasser as a role model for his colleagues, always demanding but "humble, unassuming, thoughtful and a true scholar." The other speakers were Senior Judge Ray Dearie, Chief Magistrate Judge Cheryl Pollak, former Eastern District of New York Judge John Gleeson, Jim Glasser (Judge Glasser's son) and Judge Glasser himself.

The program was a lovefest for "Leo," as he is known to his more senior colleagues. He is a beloved figure among the bench and bar, and has lived an extraordinary life – as was detailed at the program. A video link to the program is available at https://img.nyed.uscourts.gov/video/Glasser/Special_Ceremony_for_Judge_Glasser.webm.

Those gathered learned from his son Jim that Judge Glasser was born on a kitchen table on the Lower East Side, to immigrant parents from

Judge Glasser as a young boy.

Belarus. Judge Glasser's mother could not read or write but was smart as a whip. Judge Glasser's father read and spoke Yiddish and owned a store that sold slaughtered chickens.

As many immigrant families of that time, education was emphasized and Judge Glasser was a stellar student, graduating from City College in two years and then attending Brooklyn Law School ("BLS") at night. His law school years were interrupted by the outbreak of World War II. Judge Glasser was drafted into the Army and was sent overseas, eventually landing at Normandy. He saw combat in Germany, where his knowledge of Yiddish was put to use (given its similarity to German) in communicating with German civilians in towns eventually taken by the Allied forces. Judge Glasser was present at the German concentration camp Dachau soon after its liberation. He was awarded the Bronze Star for bravery for his service in the European Theater.

While the Eastern District of New York once included five heroes from the "greatest generation" (Judges Weinstein, Platt, Spatt, Wexler and Glasser), Judge Glasser is the last surviving member.

After returning home from the war, Judge Glasser returned to BLS, this time as a day student. Once again he excelled, becoming the editor-in-chief of the Brooklyn Law Review, which he restarted after its dormancy during the war. He graduated at the top of his class in 1948 and was immediately appointed to the faculty of the law school.

What was initially a one year appointment lasted for decades, as he taught different courses and became a part of the law school's governing body. In 1969, he left the law school to serve as a judge on the New York State Family Court, but returned to BLS as the Dean in 1977. In 1981, he was nominated to the Eastern District of New York bench by President

Judge Glasser (right) in the army.

The five World War II veterans on the bench of the Eastern District of New York (circa 2016).

Taken at the author's swearing in as an Assistant U.S. Attorney in 1983, with Judges Glasser and Dearie (then an Assistant U.S. Attorney).

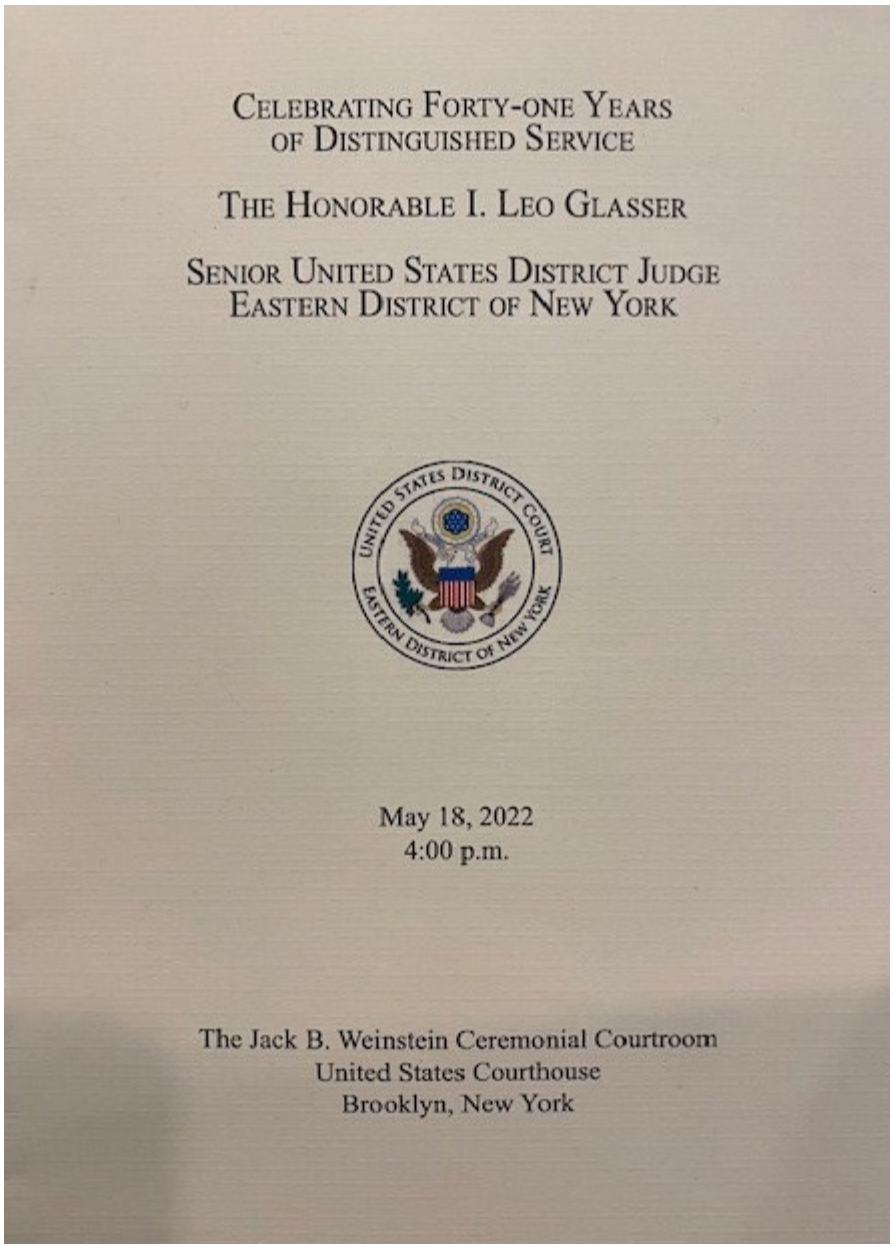
Reagan (having previously been nominated by President Carter).

Scholarship and Compassion

Judge Glasser's 41 years on the bench have been marked by his great scholarship and his even greater compassion for all who appear before him. Judge Dearie described him as the district's "resident shrink, rabbi, conscience and fan club." Judge Pollak spoke of his "overarching sense of compassion." Judge Gleeson spoke of his greatness as a trial judge – including his presiding over the trial of John Gotti, who was convicted of running the Gambino crime family (a case Judge Gleeson prosecuted).

On behalf of his clerks, I described some of the lessons that Judge Glasser taught us, including: the nobility of the profession and the duty of each lawyer to treat it as such; the paramount importance of the rule of law; and the crucial role of the immigrant experience in shaping this great country.

The event was a fitting tribute to a great man who has led a remarkable life and given so much to the Eastern District of New York. Many lighthearted moments were recounted as well, including the time that a blind juror's seeing eye dog relieved himself in the jury box. After calling a break for the General Services Administration to clean up the mess, Judge Glasser turned to his clerks and asked: "Should I instruct the jury to disregard the dog's view of the evidence?"



Of course, Judge Glasser's innate modesty led him to describe the remarks of the day as "shamelessly exaggerated," noting that in making them the speakers were "torn between the competing demands of truth and friendship." After the program, Judge Glasser whispered to me about my remarks in praise of him: "It's a good thing you weren't under oath." But such modesty is typical of Judge Glasser. It is a part of his greatness.

Judge Glasser is a treasure who at 98 continues to amaze and inspire. He once joked with me: "At my age I don't even buy green bananas." But he keeps going strong – year after year. The program showcased the love and respect that the entire legal community feels for him, and always will.

Focus On:

Judge Sarala V. Nagala

By Joseph Marutollo

Judge Sarala V. Nagala was sworn in as a U.S. District Judge for the District of Connecticut on November 3, 2021. Judge Nagala recently spoke with the *Federal Bar Council Quarterly* about her career and her path to serving as a federal judge.

Service to Her Community

Judge Nagala is the first judge of South Asian descent to serve as a district judge in the District of Connecticut. Her physician parents immigrated from India and completed their medical residencies in North Dakota, where Judge Nagala was born. Judge Nagala credits her parents with instilling in her a passion for hard work and for service to her community. She noted that her parents tirelessly cared for patients in rural, underserved areas

Judge Sarala V. Nagala

in North Dakota. Indeed, Judge Nagala noted that her hometown did not even have a stoplight until after she had left the area.

Although Judge Nagala did not pursue a career in medicine (a class visit to a cadaver lab confirmed her decision not to become a doctor), she found her calling as a lawyer, a position in which she, like her parents, could dedicate her work to serving others. She graduated from Stanford University with a B.A. in public policy in 2005 and from the University of California, Berkeley, School of Law in 2008.

Upon completion of law school, Judge Nagala clerked for U.S. Circuit Judge Susan P. Graber on the U.S. Court of Appeals for the Ninth Circuit in Portland, Oregon. Judge Nagala described her experience with Judge Graber as "very formative," as she observed how Judge Graber treated "every person before her with dignity and fairness." Further, Judge Graber was "truly objective in her legal analysis." Judge Nagala now applies these important traits in her own courtroom.

After her clerkship, Judge Nagala joined the law firm of Munger, Tolles, & Olson LLP as an associate in San Francisco. While at the firm, she engaged in commercial civil litigation at the state and federal level. She found the work, particularly the pro bono work, to be fulfilling.

An AUSA

In 2012, after her spouse needed to move to New England, Judge Nagala sought new work opportunities in Connecticut. After previously interning at a U.S. Attorney's office while in law school, she applied to serve as an Assistant U.S. Attorney at the U.S. Attorney's Office for the District of Connecticut. She was subsequently offered a position as an Assistant U.S. Attorney in Connecticut and immediately became enthralled with the work. She prosecuted a wide range of cases, including child exploitation, human trafficking, hate crimes, government fraud, and identity theft. When asked to describe her proudest moments as an AUSA, she

mentioned her work on hate crime initiatives, as the victims in these cases are often targeted by criminals precisely because of who they are, and on human trafficking matters.

While at the U.S. Attorney's Office for the District of Connecticut, Judge Nagala served as deputy chief of the Major Crimes Unit from November 2016 until her elevation to the bench. In that role, she managed her own caseload while training new Assistant U.S. Attorneys joining the office. She enjoyed her work as an Assistant U.S. Attorney immensely.

Judge Nagala, who sits in Hartford, noted that her new colleagues on the bench have been very welcoming. She pointed out how much she enjoys being exposed to a host of different subject areas as a federal judge. When asked how it felt to be the first federal district judge appointed in Connecticut of South Asian background, she said that it is flattering to be a role model for children, who might be inspired to pursue careers in the law because the bench reflects diversity.

When not in the courtroom, Judge Nagala enjoys spending time with her family, including her two dogs, who are, fittingly, named Marbury and Madison.

In the Courts

Council Welcomes New Judges to the Second Circuit

By Sam Bieler

On June 2, the Federal Bar Council celebrated the first Judges Reception since 2019. More than 100 Council members and 20 judges gathered at the Union League Club to honor the judges who have been sworn in as Second Circuit judges since 2019. Attendees also feted Vilia Hayes, the recipient of the Whitney North Seymour Award, for Outstanding Public Service by a Private Practitioner.

It was a triumphal return for the Judges Reception. This was one of the first events canceled in 2020 during the early days of the COVID-19 pandemic. Co-reception chairs Julian Brod of Shapiro Arato Bach LLP and Theresa Trzaskoma of Sher Tremonte ensured the success of this Council favorite. Over cocktails and the Union League Club's expertly crafted hors d'oeuvres, members of the Council were finally able to reconnect and celebrate the achievements of

At the Judges Reception. Photo courtesy of Bret Josephs.

their peers and the elevation of the circuit's newest jurists.

The Ceremony

In his opening remarks, Council President Jonathan Moses thanked the Union League Club for graciously keeping the Council's reservation open for two years. He then turned the podium over to Brod and Trzaskoma, who recognized the evening's judicial honorees.

Judge Michael Park of the U.S. Court of Appeals for the Second Circuit accepted the Council's recognition on behalf of the newest judges in the circuit. Since the last reception, 40 new judges have taken the bench. Some are veteran jurists of the state and federal courts who will now serve in the court of appeals or district court. Others are taking the bench for the first time. In total, eight new judges joined the court of appeals and 14 new judges from across New York and Connecticut became district judges.

The circuit also welcomed 13 new magistrate judges and five new bankruptcy judges.

After two years of pandemic-enforced social distancing, this reception was the first time some of these jurists met each other in person.

Hayes Honored

The Council also celebrated the achievements of Vilia Hayes, who was honored with the Whitney North Seymour Award. Whitney North Seymour was a tireless advocate for the legal profession and served as the president of the Council, the American Bar Association, the Association of the Bar of the City of New York, and the Legal Aid Society. These and many other achievements reflected a passionate commitment to advancing the public good while in private practice and the award honors those who follow this ideal. Past recipients of the award included Kenneth Feinberg, Bernard Nussbaum, Patricia Hynes, Steve Edwards and Bettina Plevan. Normally, the award is presented at the Federal Bar Council's Winter Bench and Bar Conference, but since that event has been on pause as well, Moses was determined not to let another year pass without recognizing the incredible work private practitioners like Hayes are doing in the public sector.

Like Whitney North Seymour, Hayes has been a dedicated champion of the public good. After graduating from Fordham Law School, she began her career as a law clerk to

Council President Jonathan Moses with Vilia Hayes. Photo courtesy of Bret Josephs.

District Judge Charles L. Brieant of the Southern District of New York. Over the next 35 years of her career, she devoted herself to advancing the public good while in private practice.

Today, she is senior pro bono counsel at Hughes Hubbard & Reed, where she continues to protect the rule of law by taking on a broad range of pro bono cases in the fields of voting rights, prisoner's rights, family law, immigration, and housing rights. Hayes has taken on numerous pro bono appeals in the Second Circuit and is currently counsel for the plaintiffs in a voting rights case in Georgia challenging recently passed changes to that state's voting rights procedures. She also serves as an adjunct professor at St. John's University.

Hayes is an active supporter of numerous legal service organizations and currently sits on the board of trustees for both Legal Momentum and the Lawyers' Committee for Civil Rights Under Law. She has also served on the board of directors for Legal Services NYC, Volunteers of Legal Service, and the New York County Lawyers Association. Like Whitney North Seymour, Hayes is a past president of the Council, as well as a past president of the New York American Inn of Court.

Awardees are normally presented with a barrister's wig box to commemorate the achievement. Thanks to supply chain challenges, the box for Hayes had not arrived, though Moses assured attendees that she would receive her box very soon.

Legal History

The Supreme Court Tackles (and Fumbles) the Sherman Antitrust Act

By C. Evan Stewart

After the Civil War (and its aftermath, the Reconstruction of the Union, which remains one of the least understood periods in American History, *see* E. Foner's "Reconstruction: America's Unfinished Revolution, 1863 - 1877" (Harper 1988)), America entered the Gilded Age. One of that period's most notable aspects was the rise of industrial trusts, whereby entire product lines (e.g., sugar, steel, oil, etc.) were controlled by national conglomerates that enforced vertical integration of their products (i.e., control over raw materials, production, and distribution).

Because the states seemed unable (or unwilling) to deal with the consequences of the trusts, pressure grew on the national government to do something. Ultimately, in 1890, Congress passed the Sherman Antitrust Act, sponsored by the powerful senator from Ohio, John Sherman.With virtually no debate in either house, the bill passed the House of Representatives 242 to 0, and the Senate 51 to 1. The language of the statute was both sweeping and undefined: "Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal." Although signed into law by President Benjamin Harrison, his administration did nothing to enforce it. Enforcement fell to his successor (and also his predecessor) President Grover Cleveland.

More specifically, it fell to Cleveland's Attorney General, Richard Olney, who had previously been a Boston-based railroad attorney. Olney was not a fan of the new law, and publicly opined (as Attorney General) that the statute's scope was limited. Nonetheless, he did file an action against the American Sugar Refining Company, challenging the 1892 acquisition of E. C. Knight Company and three other Philadelphia sugar manufacturers (which gave American Sugar 98 percent of the country's sugar refining capacity); the goal of the suit was to reduce American Sugar's market share to approximately 65 percent.

The U.S. Court of Appeals for the Third Circuit dismissed the action, in large part because the government had done a poor job of providing definitive record evidence of monopoly pricing. In its petition to the Supreme Court, the government relied more on what was ineluctably obvious: the trust

refined virtually all of the sugar in the country and thus it controlled the price of sugar sold in every state. With the Court agreeing to take the case on certiorari, it would for the first time interpret what Congress had in mind in barring "every contract . . . in restraint of trade."

Arguing the case for American Sugar was John G. Johnson, a lawyer best known for representing J. P. Morgan. Johnson conceded the obvious – that the trust was a monopoly. His argument was that its monopoly was only in the manufacture of sugar; as to the pricing of the product in interstate commerce, the trust exercised no monopoly power because the hidden hand of the market set sugar price(s). (The market was not influenced by sugar produced off-shore because of the tariff barriers effected by the McKinley Tariff of 1890.)

Chief Justice Melville Fuller, on behalf of seven of his colleagues, bought into the architectural dichotomy constructed by Johnson, writing that the question before the Court was whether "the act of Congress of July 2, 1890 . . . [could] suppress a monopoly in the manufacture of a good, as well as its distribution?" In an opinion that principally focused on protecting the "police power" prerogative of the states against encroachment by the federal government (*United States v. E. C. Knight Co.*, 156 U.S. 1 (1895)), Fuller determined that:

> Congress did not attempt . . . to limit and restrict the rights of corporations created by the States or the citizens of the States in the acquisition, control, or disposition of property. . . . [W]hat the law struck out was combinations, contracts, and conspiracies to monopolize trade and commerce among the several States or with foreign nations.

Because the only activity was the acquisition of sugar refineries in Pennsylvania, there was no connection to commerce between the states or with foreign countries (the "object was manifestly private gain in the manufacture of the commodity, but not through control of interstate or foreign commerce"). In truly tortured logic, Fuller went on to concede that "the products of these refineries were sold and distributed among the several States, and that all the companies were engaged in trade or commerce with the several States and with foreign nations; but that was no more than to say that trade and commerce served manufacture to fulfil its function." Thus, while there was a monopoly in the manufacturing of sugar, it did not follow that that meant there was an attempt ("whether executory or consummated") to monopolize commerce – "even though, in order to dispose of the product, the instrumentality of commerce was necessarily invoked."

John Marshall Harlan (already famous for his dissents – *see Federal Bar Council Quarterly* (May 2021); *Federal Bar Council Quarterly* (Sept. 2020); *Federal Bar Council Quarterly* (February 2017); *Federal Bar Council Quarterly* (June 2016)) filed the sole dissent. Harlan began his dissent by emphasizing that American Sugar's corporate charter set forth that itwas organized "for the purpose of buying, manufacturing, refining, and *selling sugar in different parts of the country*," and that the stated purpose of the 1892 acquisitions was to obtain "*more perfect control* over *the business* of refining *and selling sugar in the country.*" (Harlan's italics) He then gave a realistic assessment of what, in fact, constituted commerce among the states (as opposed to Fuller's tortured construct) and opined that the majority's decision unduly limited Congress' authority to address an important societal/economic issue ("[T]he general government is not placed by the Constitution in such a condition of helplessness that it must fold its arms andremain inactive while capital combines, under the name of a corporation, to destroy competition,not in one State only, but throughout the entire country, in the buying and selling of articles – especially the necessities of life – that go into commerce among the States."). (This latter point was a consistent theme in Harlan's jurisprudence.) Harlan next reviewed a lengthy set of state court decisions that had found precisely such corporate combinations to be illegal restraints of trade.

Noting that, while the Court had not declared the Sherman Antitrust Act to be unconstitutional, Harlan observed that the majority opinion "defeats the main object for which itwas passed." He then turned to the evidentiary record:

> It is said there are no proofs in the record which indicated an *intention* upon the part of the American Sugar Refining Company and its associates to put a restraint upon trade or commerce. Was it necessary that formal proof be made that the persons engaged in

this combination admitted in words, that they intended to restrain trade or commerce? Did anyone expect to find in written agreements . . . a distinct expression of a purpose to restrain trade of commerce? . . . Why, it is conceded that the object of the business of making and selling refined sugar throughout the entire country. . . . And now it is proved – indeed, is conceded – that the object has been accomplished to the extent that the American Sugar Refining Company now controls ninety-eight per cent of all the sugar refining business in the country, and therefore controls the price of that article everywhere. Now, the *mere existence* of a combination having such an object and possessing such extraordinary power is itself, under settled principles of law – there being no adjudged case to the contrary in this country – a direct restraint of trade in the article for the control of the sales of which in this country that combination was organized. And that restraint is felt in all the States, for the reason, known to all, that the article in question goes, was intended to go, and must always go, into commerce among the several States, and into the homes of people in every condition of life.

Notwithstanding the logic and common sense of the foregoing, Harlan's voice was a lonely one.

Public protests followed the *Knight* decision (particularly in agricultural communities).

But this defeat caused the Cleveland administration to throw in the towel on the Sherman Antitrust Act. Attorney General Olney declared: "The government has been defeated on the trust question. I always supposed it would be and have taken the responsibility of not prosecuting under a law to be no good."

A decade later, Harlan's lonely dissent became the law in *Swift and Company v. United States*, 196 U.S. 375 (1905). In *Swift*, Justice Oliver Wendell Holmes, writing for a unanimous Court (that included Fuller and Harlan), upheld the Roosevelt administration's attack on the "Beef Trust." Key to that ruling was the Court's adoption of a "stream of commerce" concept that allowed Congress to regulate the Chicago-based slaughterhouse industry under the Commerce Clause. (Rather than expressly overruling *Knight*, Holmes merely waived it aside: *Swift* simply was "not like" *Knight*.)

Postscripts

- The Supreme Court had signaled a new, emboldened view of the Sherman Antitrust Act in 1904 in *Northern Securities Co. v. United States*, 193 U.S. 197 (1904). In a five to four decision, the Court struck down a merger effected by Northern Securities to dominate the railroad industry. Harlan wrote the plurality opinion. Holmes' dissent included the memorable phrase: "Great cases like hard cases make bad law." Robert Bork, in his seminal "The Antitrust Paradox" (Free Press 1978), was critical of both Harlan's "ineptitude in doctrinal disputation," as well as Holmes' "famous, though very uneven dissent, [which has] misled generations of lawyers into thinking the case a precedent for the illegality of all horizontal elimination of rivalry."
- For readers wanting a comprehensive biography of Justice Harlan, *see* P. Canellos, "The Great Dissenter: The Story of John Marshall Harlan, America's Judicial Hero" (Simon & Schuster 2021).

On My Wall . . .

Brass Rubbings

By Magistrate Judge Lisa Margaret Smith (Ret.)

In the early 1960s, when I was just seven years old, my family traveled from our home in upstate New York to Oxford, England, where my college professor father had a grant to study at Mansfield College, part of Oxford University. While we were in Oxford, my sister, brother, and I attended local

Brass rubbing style tapestry.

Brass rubbing by author's mother.

Brass rubbing by author's mother.

Lady Margaret Peyton, a/k/a the Lace Lady (brass rubbing by the author).

Lady Jane Bradburye.

Brass rubbing by the author.

Brass rubbing by the author.

Close-up of face of Lady Jane Bradburye.

schools, and our mother learned about brass rubbings, among many other things.

Brass rubbings are created by placing paper on memorial or monumental brasses, sometimes found in Europe but most commonly in Great Britain. The paper is then rubbed with a type of crayon called heelball, a mixture of wax and a soot-based pigment used by cobblers. (Traditionally the paper was white and the heelball was black, but over time the hobbyists developed many colors of heelball and used other colors of paper, including gold or silver on black paper). The image that emerges on the paper is called a brass rubbing.

Memorial Brasses

Memorial brasses, also called monumental brasses, began to appear in Great Britain at least as early as the 14th century. Initially, brass sheets had to be imported from continental Europe, but by the late 16th century the brass was made in Great Britain. Engravers would create the image of a dignitary in a sheet of brass, often the image of a lord or an ecclesiastical figure, after that person died, and the image would then be imbedded in stone, usually in the floor of a church. Often a description of the deceased person, with dates and other information, was added at the bottom of the image, also engraved in brass.

Sadly, during the reign of King Henry VIII, after he broke from the Catholic Church, King Henry's representative, Thomas Cromwell, and his agents, removed many memorial brasses from the great abbeys (including Westminster Abbey), because they represented Catholicism. During that time looters also removed the brass to sell or to melt into bullets. Nevertheless, many memorial brasses have remained, especially in small, out of the way churches across Great Britain.

My mother started rubbing brasses in 1962 at local parish churches near Oxford. She had friends who also rubbed brasses, and she became enamored of the process. She continued rubbing brasses when we returned to Oxford in 1967, and during subsequent visits to Great Britain as well. Over time my mother had some of her brass rubbings framed, and I was surrounded by these brass rubbings as I grew up. As a result, I started to rub brasses myself when I went to Great Britain during college. By then, the authorities had realized that brass rubbing was damaging the original memorial brasses, slowly eroding the crisp lines in the brass, so they created copies of the most popular brasses and placed them in brass rubbing centres, now located throughout Great Britain. Tourists and others can go to a centre to purchase materials and rub one or more brasses, at a price.

Eight Brass Rubbings

Over time I had my own brass rubbings framed, and I have hung them in my home. After both my parents passed away, I became the custodian of my mother's brass rubbings, and I have added some of them to my walls. I currently have eight brass rubbings hanging in my living room and one in my dining room.

To illustrate some of what was often included in the memorial brasses, I photographed a rubbing of the brass of Jane Bradburye, currently hanging in my dining room. Here is the content of the description that is under the image of Jane:

> Here lyeth the body of Jane, the wife of Henrye Bradburye Gent, daughter of one Gyles Poulton, of Desboroughe in the cunty of Northmton Gent., who in her lyfe not onlye lived vertuouslye but finished her daies with fayth in Christ most joyfullye She died the third of August. 1578. And had issue of her bodye by the said Henry: William, Marye, Anne & Elizabeth.

In addition to the traditional brass rubbings, I have on my wall a tapestry in the image of a brass rubbing, made for my mother by a friend who understood her fascination with the hobby that my mother spent many years enjoying.

Author's notes: Some of the history here came from "Brasses and Brass Rubbing," Suzanne Beedell, John Bartholomew and Son Ltd., 1973.

If any readers would be interested in having a brass rubbing or two, please send your request to Lisa Margaret Smith, c/o anna.denicola@federalbarcouncil.org, including your email and mailing address. The brass rubbings would not be framed.

Lawyers Who Made a Difference

The Phenomenal Career of Franklin A. Thomas

By Pete Eikenberry

Franklin Thomas grew up in Bedford Stuyvesant and attended Columbia University, where he played basketball and is the university's all-time leading rebounder. Subsequently, he graduated from Columbia Law School. After a stint with the federal government at the U.S. Department of Housing and Urban Development, he was recruited into the U.S. Attorney's office for the Southern District of New York by its legendary head, Robert Morgenthau.

At the U.S. Attorney's office, Thomas was first assigned to work with now Second Circuit Judge Pierre Leval in the Criminal Division. As roommates and collaborators, they helped to prepare and to successfully try a case against the defendants, three of whom were convicted of conspiring to blow up the Statue of Liberty as members of the Black Liberation Movement ("BLM").

Next, Thomas was recruited as deputy commissioner of the police department by Vincent Broderick, whom Mayor John Lindsay had appointed as police commissioner.

Subsequently, Senator Bobby Kennedy asked Thomas to head the Bedford Stuyvesant Restoration Corporation. The senator intended the Restoration Corporation to be the U.S. model for an economic development corporation in a minority area.

Thomas' implementation of his visions for Bedford Stuyvesant, discussed below, is still important to the community; it resulted in, for instance, a shopping center and the Billie Holiday Theatre.

During his 10 years at Restoration, Thomas met a number of U.S. corporate heads who later named him president of the Ford Foundation. At the time, the Ford Foundation was in dire economic straits and floundering in its mission. In his 17 years as president, Thomas rebuilt the foundation onto a sound economic basis and successfully recast its mission. He also opened a foundation office in South Africa, where he negotiated Nelson Mandela's release from prison and into the South African presidency.

The Statue of Liberty Case

Thomas' first assignment at the U.S. Attorney's office was to help Judge Leval prepare the Statue of Liberty case for trial. Judge Leval recalled as follows:

> Frank seemed to approach this case as he did any other case. In 1964, it was a very difficult time in the country for African-Americans; there were plenty of reasons for Black people to feel negatively about the state of the country. In the Statue of Liberty case, the defendants were the Black Liberation Front who had planned to blow up the Statue. (Author's note: BLF was a precursor to the later Black Power movement.)
>
> Frank was a smart and dedicated working friend. Everything that came through was a shared problem. He was always willing to work together with others. For example, I had the issue of establishing the United States' ownership of the Statue of Liberty: we ultimately decided to prove ownership by proving value through finding the cost of repairs assuming the statue had been bombed and damaged in the way the defendants' intended.
>
> Frank and I cooperated on determining the value of the Statue of Liberty's arm repairs. We interviewed a contact at the MoMA, Joseph Turnback, who was an Austrian refugee who restored sculptures. When they asked him about what it would take to restore the Statue, Turnback gave a long, detailed explanation of a very

> complex process. When I asked how much it would cost, Mr. Turnback did not answer. I asked again and Mr. Turnback still didn't answer and tears formed in his eyes and he said, "For America, I would do this for nothing."

Judge Leval and Thomas traveled to Montreal to talk with the fourth defendant, Michele Jucleaux, who was a Canadian newscaster. She loved romantic causes, was involved with the Quebec separatist movement and was going to bring dynamite. Judge Leval said they, "Wanted to turn her and use her as a state's witness and we were successful in doing so."

Judge Leval reported on the trial as follows:

> The trial occurred in June or July of 1965, lasted a month to five weeks and our supervisor Steve Kauffman, Frank, and I all worked together closely and ran the trial together. The three defendants were convicted, and the sentences they received would be perceived as pittances today. The first defendant received a five year sentence. The second defendant (a jazz musician employed at Henry Street Settlement) received a three year sentence. The third defendant (a college student) received an 18 month sentence. The defendants were sympathetic because they had a real reason to protest, saw their act as a purely symbolic act and planned the act as such.

In conclusion, Judge Leval explained that he and Frank worked together as follows:

> We conferred on every aspect of working on issues. Frank was dependable, reliable, open-minded, friendly and cooperative. He focused on the work and was self-confident, open-spirited, and good-humored. He did not expect problems and did not have them with others.

Bobby Kennedy Recruits Thomas

After becoming a New York senator, Bobby Kennedy determined to establish an economic development corporation in a minority community, and he chose Bedford Stuyvesant. The senator arranged for the organization of two different corporations. One corporation, Bedford Stuyvesant Restoration Corporation, was comprised of Bedford Stuyvesant community leaders. The senator selected Thomas to be the president of the Restoration Corporation, which continues as an important presence in the community.

A second corporation, D&S, was headed by John Doar, the former head of the Civil Rights Division under U.S. Attorney General Kennedy. The D&S board was comprised of leaders of leading American corporations including Tom Watson of IBM, Bill Paley of CBS and George Moore of Citibank. The business leaders brought their companies' resources to bear. For instance, IBM established a manufacturing facility in Bed Stuy, and Citicorp was instrumental in implementing Frank's dream of a mortgage pool to permit residents to secure mortgages on their homes. Both corporations were headquartered in the long ago demolished Grenada Hotel across from the Brooklyn Academy of Music.

How I Met Frank Thomas

In 1968, I came to know Thomas as a neighbor in Fort Greene, Brooklyn. That year, my late wife Sue and I were encouraging others to follow us and buy homes across from Fort Greene Park as pioneers in the neighborhood. A friend told me that "the great John Doar is coming to Brooklyn."

That spring, I wrote to Doar, suggesting he look at a house that was for sale on our block in Fort Greene. One Saturday, John showed up wearing a blue knit wool navy cap while I was tearing down a ceiling to renovate our new home. Sue showed John around the neighborhood. He got back to me to say that his wife was not ready to live in Fort Greene. He said that he told Thomas about the house, and Thomas and his wife bought it. (Thomas had begun work as president of the Restoration Corporation.) Doar said that I should stop by and see him at the Grenada Hotel after my 1968 congressional primary race was over in June. (I was not expected to win. I got 13 percent of the vote.) That summer I met with John, and he offered me a job. I started in 1968 the day after Labor Day.

Only recently have I come to appreciate Thomas' visions for

Bedford Stuyvesant, which he was able to actually implement with Senator Kennedy's support. Currently, I am interviewing people who worked with Thomas in various capacities so I may flesh out his accomplishments and give insight into his leadership: Frank wanted, among other things, a shopping center for Bedford Stuyvesant with a supermarket, a headquarters building for which the art of local residents would be purchased and displayed, the pool where residents could secure mortgages on their homes in the historically red lined neighborhood, and a theatre with events of interest to the Black community.

David Danoia and the 80 Houses

In the 1960s, New York City routinely destroyed a house if the owner became delinquent in payment of the taxes on it. At a meeting of the D&S board held in Bedford Stuyvesant, the residents complained that the destruction of houses by the city ultimately led to the accumulation of garbage, rats, junkies and illicit activities in the middle of their blocks. Doar gave me the problem to solve. I called Tom Cuite, president of the City Council. He said, "Pete, that's easy, talk to Sy Feller, head of the demolition for the city." Sy was very accommodating. He said, "Just give me a letter any time the community wants to preserve a house, and I will put a hold on the demolition." Some 50 years later, I learned what happened after I started sending the letters. Frank Thomas had had the Restoration Corporation purchase 80 decrepit houses from the city (the "80 houses").

David Danoia is now a long established architect in lower Manhattan. In 1968, Danoia was set to graduate as an architect from Pratt Institute when he was approached by Restoration Corporation staff members. They said Thomas was looking for an architect, but Danoia said, "I am not licensed." The Restoration Corporation representatives said, "It doesn't matter; Frank just wants somebody who understands the issues." After lunching in Bedford Stuyvesant with the "recruiters," they said, "Now, we are going to take you to meet 'the man'!" Thomas hired Danoia immediately.

As one of Danoia's first tasks, Thomas assigned him the job of renovating the 80 houses. Two problems arose: the city building inspectors allegedly wanted a $40,000 bribe, and the union leaders shut down the renovations because the workers were not union. Thomas told Danoia, "We can take care of this!"

Thomas set up a sting with money in a suitcase and police hidden in a bathroom. The offending inspectors were arrested, and the problem disappeared. The union leaders came to the Restoration Corporation in a cavalcade of three cars weighted down with the individual bulks of the leaders. Danoia told them that none of the 400,000 residents of Bed Stuy could get membership in their unions, and the unions were going to have to do something. A deal was struck and the process of membership for the renovation workers at the Restoration Corporation was expedited into hours from the problematic months' long process of the past.

Ben Glascoe and the Shopping Center

Ben Glascoe was recommended to the Restoration Corporation by a friend, Everette Jennings, whose brother had coached him on a football team in Bed Stuy. Thomas installed Glascoe as a community director in one of the five local centers that Thomas had set up. Thomas sent Glascoe to college full time for six months for education in "shopping center management and leasing." Thomas then made him responsible for lining up tenants for a shopping center. Thomas' concept was that tenants were more likely to locate in the new shopping center if someone talked to them who was from the neighborhood. Thomas got Bobby Kennedy to help in the effort. Thomas sent Glascoe to Washington, and Senator Kennedy walked Glascoe into the offices of a number of federal agencies, including the Social Security Administration. It and other agencies eventually agreed to locate facilities in the planned shopping center.

Herbert Scott-Gibson and the Billie Holiday Theatre

In 1968, Herbert Scott-Gibson, a singer, and his wife Evelyn, a dancer, had moved from the apartment house where they had been

neighbors of Sue and me to a house they purchased in Washington Park. (In the distressed Fort Greene redlined neighborhood, houses were for sale for prices in the vicinity of $20,000 to $60,000 assuming the buyer could find a mortgage. Sue and I received a $12,000 mortgage from Bankers Trust, a client of White & Case, where I had been an associate, towards a purchase price of $23,000.)

After living on the same block, Thomas got to know Scott-Gibson. He had sung for the president in the White House and for the Queen in England, but never at the Met. Black singers had yet to be invited. I invited Scott-Gibson to my office in the Grenada Hotel where I worked for Doar. My secretary and I interviewed Scott-Gibson and created a resume that I gave to Thomas. Thomas talked to Scott-Gibson and hired him as one of the five heads of the small neighborhood offices. Thomas asked Scott-Gibson to buy art from local residents to place in the planned headquarters building then under renovation, which Scott-Gibson did – another vision of Thomas' fulfilled.

Thomas also assigned to Scott-Gibson the task of conceiving of and planning for a local theatre, which became the Billie Holiday Theater. Scott-Gibson's multiple contributions were so significant that he was later employed by the Metropolitan Museum of Art in a major position, before he died in 1980 at the age of 52.

Conclusion

Danoia, Glascoe and Scott-Gibson are only three of a multitude of Thomas' choices of leaders who helped implement his visions. His instinctive recognition of leadership and his trust in the leaders he identified were major pillars of his success. I have not yet reported on other interviews amplifying his accomplishments at Ford and his leadership role in South Africa. More to follow. Also, Thomas' autobiography will be published later this year.

Author's note: Columbia Law third year student Marica Wright assisted in the interview of Judge Leval.