



# 2005: A Banner Year for Juries

By Judith S. Kaye

**F**or all the phenomenal years it has been my privilege to serve as Chief Judge, jury reform has been a dominant interest. Why?

Juries are not only part of our history and heritage, they are also at the very heart of our justice system, essential to effective resolution of the disputes brought to court. Then too, juries are our direct line of communication with the public – one of the few opportunities we have to show the public, firsthand, that our justice system works well and deserves trust and confidence. Finally, throughout the past decade, an enormous amount of research and innovation, nationwide, has focused on jury improvement. We cannot, and should not, ignore the lessons learned.

And for all the activity over the past dozen years, 2005 promises to be a stand-out.

One highlight of the year is our Law Day celebration. Traditionally, the American Bar Association selects a theme that unifies Law Day celebrations all across the country. This year the ABA not only chose “The American Jury: We the People in Action” as the Law Day theme but also suggested that the entire ensuing week be declared Juror Appreciation Week. We happily took up that suggestion. It’s a time to say thank you to people who have served, and a time to reach out to the public generally – to high school students, civic groups, potential jurors,

employers – to encourage positive attitudes about our prized jury system.

Any chance to work with our fabulous Jury Commissioners and jury personnel is one I enjoy, and this has been an especially gratifying one. I thank as well New York City attorney Mark Zauderer (Chair of the Jury Commission) for inspiring dialogues on the jury all across the state, and Debbie Shayo (Executive Director of the Law, Youth & Citizenship Program) for developing materials that students and other Law Day celebrants could take home to their families to spread the word about jury service.

The ABA’s designation of the 2005 Law Day theme came as no surprise to me. When Virginia attorney Robert Grey assumed the presidency of the American Bar Association, he identified the jury as his signature initiative, and he named me Co-Chair of the ABA’s American Jury Commission. Throughout his presidential year (August to August), we have been hard at work on ways to promote, and improve, the jury system.

Chief among Robert Grey’s efforts has been the formulation of a single set of principles reflecting the lessons

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learned through jury research and experience over recent decades. When we began our jury reform effort here in New York back in 1993, we used the American Bar Association jury standards – then 10 years old – as the centerpiece around which to shape our own thinking about what would work best for New York. President Grey’s idea was that an updated set of ABA standards, similarly, would serve as a catalyst for state-by-state improvements long into the future.

And indeed, on February 14, 2005, the American Bar Association House of Delegates approved the ABA Principles for Juries and Jury Trials – a set of 19 principles, from soup to nuts. Topics covered include the right to trial by jury, assembling a jury, conducting trials and promoting juror comprehension, jury deliberations and post-verdict matters.

Important as the ABA Principles are, as Chief Judge I am even more enthused by the work of the Jury Trial Project, described in the accompanying article by Elissa Krauss. The Jury Trial Project centered on 50 of our own superb New York trial judges who stepped forward to try some of the jury innovations in wide use around the country, with close monitoring of the actual experience for judges, attorneys and jurors. Fascinating! I hope you find her report as interesting, and exciting, as I do.

Change, I recognize, is never easy. We grow accustomed to doing things one way, and then are reluctant to try something new and different. With respect to jury trials in particular, old ways have the significant virtue of reducing the risk of reversal and other unhappy surprises. But resistance to change also can be stagnating, and in the area of juries, regressive and self-defeating. We have learned so much about new methods, new technology, new expectations. Why turn our backs when we can all benefit from one another’s experience?

And here is where *two* features of this edition of the New York State Bar Association *Journal* are so especially welcome to the Chief Judge. First is the report on the Jury Trial Project – hard evidence from the front lines of the efficacy of several of the by-now-established jury innovations. Second is Dean Robert Keating’s report on the Judicial Institute, a first-rate facility available to judges, court staff and the Bar to train and prepare for the challenges, and opportunities, of the 21st century.

Regretfully, I acknowledge the validity of Elissa Krauss’s conclusion: New York led the way in so many respects in bringing the jury system up to date, but we have lately fallen behind in areas of juror utilization and comprehension. I end this article where I began: 2005 promises to be a stand-out year. ■