

Diversity Dialogue Interview with Eileen Millett, 3/5/2020

John Caher: Welcome to Amici, News and Insight from the New York Courts. I'm John Caher. In today's Diversity Dialogue segment, we're honored to have as our guest Eileen D. Millett, Counsel to the Office of Court Administration.

John Caher: Eileen, congratulations on your new position as OCA Counsel and thanks for joining us today. Let's just start at the beginning. Where do you come from? Tell me about your childhood, your parents, where you grew up.

Eileen Millett: Well, I was born in Brooklyn. I am the oldest daughter of immigrant parents, a Cuban mother and a dad from Trinidad and Tobago. My mother arrived here from Cuba speaking no English, coming through Ellis Island actually, and being detained at the infirmary there. And my dad arrived in this country in his mid-20s, already a pharmacist, but yearning to be a doctor. And after his credentials were not recognized, he started all over again, getting his Bachelor of Science in two and a half years because he was a man on a mission. And he left his adoptive country to go to his second adopted country, France, to study medicine **at the Sorbonne** when I was about three years old.

John Caher: Holy cow! That's great.

Eileen Millett: For the next six years—by that time my mother had had two more children. I had another sister who was a year and a half younger than I and then another sibling that was about three months old—we saw my dad at holidays and obviously in the summertime, not always, because travel was very expensive and my mom was the only one working, as a bookkeeper for the IRS. But at the end of that six-year period when my dad returned home for good, he hung out his shingle and our living room became his office after he took the exam for foreign medical grads, and we became his answering service, and the rest, as they say, is history as far as he goes.

John Caher: That's fantastic. So, your father's medical degree was not recognized?

Eileen Millett: Well, anyone who graduates from a foreign medical school is required to take something called the **Educational Commission for Foreign Medical Graduates** (ECFMG), which is the exam for foreign medical grads. And despite the fact that in Paris it's a six-year program and there is a great deal of emphasis on clinical work, so you're with patients rightaway, which is not the way that our medical education works in this country, although it's changing, they didn't recognize any of what he did without him taking that exam for foreign medical grads. But my dad was very good at test-taking and so that was not a problem for him and he

was very successful in that. And then he took his **medical** boards in both New York and New Jersey and opened up his practice in Brooklyn before ultimately my parents moved to Long Island.

But he kept his practice in Brooklyn with the idea that he always espoused that poor people needed doctors too. And so he opened up the practice in Bed-Stuy, and he had a solo practice, and then a partnership practice with another doctor. He was always working and always busy. As a matter of fact, when he was doing **his** residency and internship at Harlem Hospital, my mother would get us dressed up and we would go have dinner with him in the doctor's dining room because otherwise we **hardly** saw him.

John Caher: My guess is there was a significant emphasis on education in your family.

Eileen Millett: Oh, absolutely. I mean, for my dad, there could be no other profession than medicine. And so he was terribly, terribly disappointed when I told him that I was going to study law.

John Caher: When did that happen? What made you think of the law?

Eileen Millett: Well, I'll tell you, I think I was really influenced by my maternal great-grandfather, a man that I never knew. But I'd listened to my mother tell stories about him arriving in this country and really becoming instantly very successful, patenting a medicine, which he called the de Bourg's Rheumatica and started selling it. He was then accused of practicing medicine without a license. And my mother always told the story about him defending himself against the charge and prevailing.

So, I always assumed he was a lawyer, but later found out that he really was not. He was just a confident, educated man. He was the headmaster of a school. But he was my inspiration. And so when I decided to cast aside my father's desire for me to go toward medicine, I thought I was pursuing what my great-grandfather did. He was a man who was really always an inspiration to my mother. He's archived at the Schomburg [Center for Research in Black Culture], where artifacts of his time and his becoming the leader of South and Central America and the provinces of the West Indies in the Universal Negro Improvement Association.

John Caher: Really? What was his name?

Eileen Millett: His name was John Sidney de Bourg. John Sidney is memorialized in the [Marcus] Garvey books. He was a mulatto man, very fair with blue eyes. My mother was his favorite and so she talked about him all the time. But

Garvey dubbed him the “white man” in his books. As I said, all of this is archived at the Schomburg [Center for Research in Black Culture].

John Caher: Now, how did you get into environmental law? Was that your intention upon going to Syracuse Law?

Eileen Millett: Very interesting. So, that was completely by accident. Like I think many people of that time, in the mid to late '70s, I really thought I want to be a litigator. I want to be on my feet. People don't remember Perry Mason anymore, but that was the inspiration for people of a certain era. I left being in the DA's office where I did have the opportunity to try cases and be on my feet to apply for an opening in real estate financing and the Attorney General's Office.

I was dissuaded from joining the Real Estate Financing Bureau because I was told that the Bureau was in a state of flux. They had just fired the head of the Bureau, but they had this very interesting position that was a hybrid where I would be prosecuting cases on the criminal prosecution side of the office because they had just passed a law making it a felony to possess, deal in, or transport hazardous waste without a permit. And they wanted somebody who'd be willing to bring those cases and then to do the civil remediation on the environmental side of the office, so two different sides of the office, two different bosses. What could be more interesting than that for somebody who's up for a challenge?

John Caher: Now, when was this that you were in the Attorney General's Office

Eileen Millett: In the '80s, the mid-'80s.

John Caher: So, the AG was probably Bob Abrams?

Eileen Millett: That was Bob Abrams. Absolutely.

John Caher: Okay. Now, as a black woman, did you face any particular hurdles in law school or along the road to becoming an attorney?

Eileen Millett: I really always felt that in law, which is I think a profession that's still very male dominant, I really felt that it was more my gender than my race that was the issue. So being a black and a Latino woman, with a mother who always said, "I am a proud black Cuban," and would repeat the phrase, “tengo un pais tengo una bandera” — I have a country, I have a flag. Obviously, I grew up hearing three languages, French, because that was my dad's language that he spoke with a mother and grandmother who were from Dominica, and a mother, whose first language was Spanish.

So, I heard those languages and that was my surroundings. But I always felt that it's really more being a woman in a field that's still very male that could be the source of making one feel excluded. I'll never forget walking into the locker room of Syracuse Law School and feeling like I'd walked into the Green Bay Packers' locker room, where we really didn't really have a female bathroom except off of the library, really like an afterthought, so a very, very different kind of environment.

John Caher: It's funny, well, not funny, but interesting is how much of the civil rights battle revolved around public accommodations, bathrooms.

Eileen Millett: Yes. And, even things like being able to use your own name. I mean, I remember my father always encouraging us. As I said, I'm the oldest, but I have four siblings. There were four girls and one boy, so three sisters and a brother. My father always encouraged the girls to keep our own name, to have a profession. You had to have a profession, you should keep your own name. And, your husband also was going to be a professional, but you couldn't make more money than him. Those were my father's rules.

John Caher: Now, of course, you parlayed your experience into a partnership at Phillips Nizer, a major law firm in Manhattan. What was the role at the partnership like? Do you think you faced the same hurdles as everyone else or different ones?

Eileen Millett: Well, again, I would say very much the same sort of thing that one finds in many, many venues in the legal profession, which is that it's still a very male-dominated position. The stock and trade of private practice is really trolling for dollars on a daily basis, which can present quite a challenge. And again, depending upon what sort of case you may be pitching a client for, they're going to be much more comfortable with someone who looks like them. And the people doing the interviewing are typically going to be male and white. So, sometimes you are fighting an uphill battle.

But I can't say that those are any things that really held me back. Again, being inspired by my great-grandfather and my grandmother who was also somewhat of an inspiration, my mother's mother, no bar was too high for me.

John Caher: Now, and any lawyer listening to this is going to want to know why someone would give up a partnership at Phillips Nizer to join the court system.

Eileen Millett:

Well, as I said a moment ago, the stock and trade of private practice is trolling for dollars on a daily basis, which really can present quite a challenge. And then depending upon where you are in the pecking order, the politics of origination— every lawyer will know that— who really brought in the client, what is the split going to be? How are you going to share things equitably? Some firms are more transparent than others. There are always going to be questions about how are you going to be compensated at the end of the year and how that works. I think that some of us, myself included, get to the point where we just decide, let's put that aside and do something that is really less challenging in that way, so we know what we're making and we're not worried about, will this year be a good year or will it not?

So, to be offered the position to become the highest-ranking nonjudicial person in the court system was really an honor. It was an honor to be selected. And really in the last several months it has been a distinct pleasure to work with some very brilliant minds that I never really never expected to encounter.

The private practice world has a view of itself as being somewhat superior. I think that people in the private practice world would be taken aback by the likes of people like Judge Lawrence Marks and John McConnell, and even some of the people I've encountered in Counsel's Office who have been here for quite a long time, who really are stellar in the work that they do and are unsung heroes, really. So, I really enjoy and relish the challenge of ferreting out the cutting-edge issues that I deal with every day and doing something on a daily basis, almost on an hourly basis, that is consequential, not something I would have encountered in private practice.

John Caher:

You mentioned the cutting-edge issue, so what exactly does the Counsel for OCA do?

Eileen Millett:

Well, our responsibilities are very, very broad.

for example, and people don't know this, all of the rules of the court are made by the Administrative Board of the courts, that's the Chief Judge and the four Presiding Justices of the four departments in New York— First, Second, Third and Fourth. We are really the law office for the Unified Court System. And all of the rules that appear—the rules of the Chief Judge, the rules of the Chief Administrative Judge—are all made by that governing body if you will, the Administrative Board. They meet approximately every six weeks. And it is those entities or individuals that I just named, as well as the Chief Administrative Judge, and I am their

advisor. So, you have those six people in the room and myself, the seventh as their advisor making, I'll use the word I used a moment ago, decisions that are consequential in the court system.

As an example, the Bar Association came to us approximately two or three months ago, actually, probably less, and said, "We've received a great deal of attention on the application for admission to practice of the mental health question and we are proposing that that question be eliminated." And, of course, this a question of character and fitness. New York requires an in-person interview. It's part of the question that deals with drug abuse and alcohol abuse.

I think they had to give some very considered thought to how we would address that particular question and would we eliminate it or would we find an alternative. And we embraced the second path and I think it was the correct path. But that's an example of the sort of thing that we do. It was announced in the State of the Judiciary by Chief Judge DiFiore, and I think roundly applauded by the State Bar Association for the speed with which we acted, and the result that we came up with, which we think is going to be a bellwether and will be followed. New York always leading by example, will again, I think, do so in this area.

John Caher:

That's great. Now, how many attorneys do you supervise?

Eileen Millett:

I supervise, believe it or not, 17 people, and a paralegal, and, of course, there is additional support staff. And we handle just about everything that you can imagine would come into a law office. We represent judges and nonjudicial employees. When judges assume their official capacity, of course, they are represented by the Attorney General.

We represent the court system before the Division of Human Rights and the EEOC Commission. We draft and prosecute disciplinary proceedings against nonjudicial personnel. We have a legislative branch of our counsel's office in Albany. And they look at, and obviously I approve, the court systems' legislative program, comment on legislation that involves the courts.

Sometimes, we'll propose new rules and legislation that affect practice and procedure in the courts. And we also have attorneys who are the advisory council to many, many committees, the committee, for example, to look at judicial conduct, Family Court, criminal justice. We draft administrative and procedural rules that affect the court system. Judicial ethics comes under the purview of counsel's office. Rules of judicial conduct are under the purview of counsel's office. So, as I said, it is a

very, very broad, very consequential office. Anything that has to do with document production or FOIL comes to us. Anything that has to do with contracts for goods and services comes to us.

The consequential issues that you mentioned a minute ago, of course, modernization or consolidation, the order of the day, everybody's on board with doing our best to see that get at least first passage and beyond. Criminal justice reform, I need not talk about discovery and bail reform. We just hired a new deputy for criminal justice who has dug right in and will take the bull by the horns in ensuring that the court system gets it right. The Legislature as you know, passed that legislation with not a great deal of input from the courts or from prosecutors' offices. There have been a couple of little hurdles that people have had to jump over. We're doing our best to smooth the way. Rent law overhauls are another big challenge that the court system will face. E-filing. I could go on, but I think you get the flavor.

John Caher: It sounds like you deal with more diverse issues in a day than you would in a year in private practice.

Eileen Millett: Oh, absolutely. And, I say to people, my job is both exhilarating and terrifying all at the same time. It's like riding a roller coaster, where you get to the end of the ride, and even though you've been terrified and exhilarated, you can't wait to come back the next day and start all over again. That's how I would describe it.

John Caher: That's as good as it gets. Are there any overriding goals you want to achieve in this position going forward?

Eileen Millett: My overarching goal is to make counsel's office one of the premier law offices in government. We have, as I said, 17 people. It's not enough to do the breadth and depth of what we work on.

What do I least enjoy about this job? Having insufficient time for that in-depth research and reflection. It's one thing to ask somebody else to do the hands-on work, but it's another thing to be able to do it yourself and to have the time to digest the cases, the precedent, the law, and then write a proposal where you've had an opportunity to do some really in-depth thought about something. At times, I feel like a dilettante. I'm only skimming the surface, but there just isn't sufficient time to do more.

John Caher: Sure, sure. Now, the Chief Judge often speaks of the importance of diversity in the workforce. How is her mission being carried out internally? What are we doing about it?

Eileen Millett: Well, I know that we have set up, for example, interview panels. I think that it has been one of the ways that the court system has sought to ensure that we interview a diverse population. I have mixed feelings about the use of panels for the kind of pointed, focused work that we do in counsel's office, but I would say that is a vehicle that has given us an added idicia of credibility because as long as people are putting in their applications, there will be some assurance that they are going to be treated fairly. They're asked the same questions, they're provided the same amount of time in the interview process, things of that nature.

John Caher: At least they were in the game.

Eileen Millett: Yes.

John Caher: For someone listening to this podcast or reading the transcript, what would you tell them about working for the New York State Court System? Should they do it?

Eileen Millett: Well, I have to really speak more, John, for counsel's office. And, I would say that they are an incredibly stellar, diverse, hard-working core group of folks who not only enjoy their work but who really dig in. In counsel's office, you have very, very little turnover. As you know, I'm new in this job, and as I said, we have a new deputy for criminal justice, and the only reason we have that new deputy position, it's not really a new position, but a new individual in that position, is because his predecessor left to join the bench. We have a new deputy counsel for litigation, and the only reason she's here is because her predecessor left because he felt it was time for him to retire. So, I'm telling the story by telling you that people don't leave counsel's office. They come here and they stay because they enjoy the work, they enjoy the environment, and they enjoy making a difference and doing something that's consequential.

John Caher: That's certainly been my experience with the counsel's office. There's very little changeover and people have been there for decades and decades.

Eileen Millett: Exactly. And that's not necessarily a bad thing. I think it speaks volumes for what the positions mean to the office.

John Caher: I think you're right. Eileen, thank you so much for your time this afternoon. I really appreciate it.

Eileen Millett: Thank you, John.

John Caher:

Okay. Thanks for listening to Amici. You'll find all of our recent podcasts and the court system's website at www.nycourts.gov. Most are also available in the iTunes podcast library and on SoundCloud. If you have a suggestion for an Amici podcast, please let me know. I'm John Caher and I can be reached at (518) 453-8669. In the meantime, stay tuned.