

John Caher: Welcome to "Amici," news and insights from the New York Judiciary and Unified Court System. Our guest today is the Honorable Juanita Bing Newton, Dean of the New York State Judicial Institute. Judge Newton, a Court of Claims judge, acting Supreme Court justice, and former Deputy Chief Administrative Judge for Justice Initiatives, has served as Dean since 2009.

The Judicial Institute, based at Pace Law School in White Plains, opened in May 2003. It was established under the Judiciary Law to, quote, "Serve as a continuing statewide center for the provision of education, training and research facilities for all judges and justices of the Unified Court System."

Judge Newton, thank you for speaking with us today. First of all, can you give us an overview of what the Judicial Institute is, and in a broad sense, what it does?

Judge Newton: Absolutely. Thank you, John, for giving me this opportunity to talk about our state Judicial Institute.

It was opened in 2003 with the legislative purpose of providing for education, training and research facilities for all the judges and justices of the Unified Court System. There are thousands of state-paid judges, and a thousand more town and village judges, and we provide education and training for all of the judges as well as for all of the attorneys who are employed by the Unified Court System as court attorneys, court attorney referees, magistrates and the like. Our goal here is to provide education and training. We consider ourselves the education arm of the state justice system.

Caher: How did it come to be, and why was it established in the first place?

Judge Newton: Well, you know, the court system has had a long history of providing education and training, and there was a so-called E&T unit within the Office of Court Administration. We matured to the point where the judges needed a dedicated and centralized location where education for them would be the focus, and that we would do great and interesting things in terms of education, not just so-called legal updates, which had been the previous approach.

Caher: You mentioned the E&T program. What was that?

Judge Newton: Education and Training program.

Caher: Oh, okay. I see. Thank you. Are judges required to attend any specific number of programs?

Judge Newton: Judges are required to — as are attorneys — to take 24 credits of continuing legal or judicial education every two years, and our training for judges is free. It's a part of the judicial system, so while the judges are not required to receive their 24 hours continuing judicial education from us at the Judicial Institute, the vast majority of them do receive their training, both here and in our online services as well.

Caher: What about the new judges school? What does that entail, and how long does it last?

Judge Newton: Well, we have a new judges school that I'm very proud of, and it also is a program that has been around for a while, but we changed it significantly when I became Dean. In the past, new judges school, which is a training program to provide orientation for judges as they transition from being attorneys to being judges. It used to be offered in December. The problem with that is that it was then optional. While it captured all of the judges who were elected in November, it didn't capture a lot of judges who were appointed, for example, the appointments of the Mayor of the City of New York, so that often happened at the end of December.

I asked the Chief Judge if we could move new judges school to the first week in January, thereby making it the first judicial assignment of every new judge to the bench. I think it raised the importance of it. It made it mandatory, because they were now on the payroll and they would have to attend, and it gave us an opportunity over a week-long program to again assist new judges in that very real and very important transition from being a very smart and accomplished and wonderful lawyer to an equally smart and accomplished judge. Being a judge is not the same, quite frankly, as being a lawyer.

Caher: I'm sure it's not. What are the most important things a new judge needs to know right off the bat, as soon as they put on their robes?

Judge Newton: Well, I think, as obvious as it sounds, one of the things they have to know is that they are really in a transition, that they have to give up the ways of the lawyering, not of the law. The judges have to know the law. Lawyers have to know the law, but the role of the judge is very different. You have to be willing to become a neutral magistrate, in the words of the Constitution, to resolve our cases without being adversaries.

Most of the judges have just been successful adversaries, whether it's practicing attorneys or professors or prosecutors or defense attorneys and the like, and they now have to look at the world of the courtroom through a different prism, I think. They have to begin to understand that the life of a judge is very different from the life of others. We have a lot of restrictions, appropriate restrictions,

about how we live our lives in the community, and ethical rules that have to be followed that are not self-evident before you become a judge.

What we try to teach at new judges school is a variety of things. First, we teach the substantive classes such as evidence, decision writing. Case management tools, we hear a lot of that. How do we move cases more swiftly. Well, we provide tools for assisting judges in doing that. We also try to teach them things that they won't learn anywhere else, judicial ethics, for example. Cultural competence, how to deal with the variety of people who will come into your court, and some skills that seem self-evident but are not, such as how to interface with interpreters in the courtroom. Then, of course, we do substantive legal updates such as search and seizure for criminal or domestic violence laws, special one-day programs for the surrogates that we have, and more specific laws. The judges work from 8 in the morning until 8 at night for five days.

Caher: Wow, that's quite a time period.

Judge Newton: It's very intense. There's a lot to cover.

Caher: I bet. Who are the instructors, by the way?

Judge Newton: The instructors for new judges school tend to be the judges. We rely on the senior judges. They also see this as an opportunity for them to meet all of the judges who are the administrative heads of the courts, from the Chief Administrative Judge to the Deputy Chief Administrative Judge, and they learn about the structure of the court and who to call on when they need something. You know, something as simple as how to get your email account on your computer set up. We include that for them as well.

We like to have judges teaching judges in new judges school because sometimes we don't want to have the attorneys, because then the judges have to face these attorneys the week later, and we don't want the judges to be intimidated by how can they rule on motions by lawyers who just appeared before them, teaching them how to rule on motions. It seems awkward, so we rely mostly on professors and judges for new judges school.

Caher: It's hard to imagine how we survived without the Institute. What about veteran judges? What does the Institute offer those who are experienced in terms of continuing judicial education?

Judge Newton: Well, you know, as I said, the judges are required by statute to engage in continuing legal education. We have new law, and of course we have to stay up with new statutes, new pronouncements from the appellate courts, the Court of

Appeals, and so we provide a series of distance learning programs throughout the year.

We have three kinds of programs. We'll have two-day specialized programs. We have one-day special programs where the judges are invited to come to the Judicial Institute, and we have a whole series of one-hour lunch-and-learn programs that are authored from the Judicial Institute, broadcast — we have our own broadcast system — live to all the judges who can look at it from their computers in their chambers.

Then they're posted on our website and they're available for viewing both on computers on the court system, in that, but also on the World Wide Web. We had a person call us once who was sunning on the beach in the Caribbean, asking for the password so that he could watch a CLE program. Our education is far and wide.

Caher: So, people in Niagara County don't necessarily have to travel to White Plains to take advantage of your programs?

Judge Newton: That's exactly right. The judges and the court attorneys and the attorneys who work for the court system can view what we call our course catalog from anywhere in the world. We encourage the judges and the court attorneys to come together at lunchtime, brown-bag it so to speak, around the conference room and look at the programs together, but the judges can actually — and many do — review the programs right at their desks at any time, or any time they want to. I figured out a way to put it on my mobile device, and I can watch it on my iPad. I watch programs all the time.

Caher: Your mission requires you to provide education, training and research. Within that mission, what do you find are the most popular courses and programs for the judges?

Judge Newton: Well, we have a wide range of offerings, and judges are unique and special. Different judges like different things. We have some judges who really want the legal updates, our annual programs that review the decisions of the appellate courts, the Court of Appeals, the U.S. Supreme Court. We bring experts from the legal profession to come in and update them on that kind of case, that kind of subject matter.

There are judges who say, "I don't want to do the legal updates. I read the [New York] Law Journal every day, so I'm interested in new programs." For them, we make something innovative like our "Medicine for Judge"s program, where we had a week-long program where we tried to bring the learnings of medicine to the judges, who often, in say medical malpractice and other kinds of similar

actions, have to enter into the world of the scientific expert. We do quite a bit of that kind of stuff now, because the science is ever-present in our courtrooms at every level. The expert witness is there, presented to the judges, and the judges have now become the gatekeepers as to what of the science can come into the courtroom, and how will it affect the outcome of the decision. Some judges like that kind of stuff.

Other judges like new topics. For example, we just did a program on actual innocence, which is a topic that we hear about greatly this last couple of years, and there are new developing principles and laws on this subject of actual innocence. Some judges like programs such as that which are cutting-edge, and review what's new and what we can anticipate will be coming to the courtroom. I myself like the science classes. I find it interesting. I guess I'm — I'm not a frustrated doctor, believe me — but I do find it interesting that so much science is presenting itself into the courthouse.

Caher: Many judges have told me that either they took very little science, certainly didn't take any in law school, and maybe didn't take any as an undergraduate. I imagine it's very valuable, since, as you mentioned, increasingly they're having to deal with fairly complex scientific issues in the courtroom, aren't they?

Judge Newton: Absolutely. For example, next month we are having a day-long program on the developing brain, and will cover such topics as trauma, brain trauma, and how that can affect domestic violence cases, for example, and what does that mean for a Family Court judge who's set to make some important decisions about the family? Or how does blood spectrum disorders, as I believe they're called, most common being autism, how does that present in the courtroom? Do we as judges have to make accommodations for litigants, witnesses and others who may be suffering from such a disorder, and what can we learn from the medical profession? These are common.

We have a lot of cases coming out of the mental hygiene area that require us to listen to any number of psychiatric experts, some of whom don't agree with one another, and yet we have to make decisions about what they offer to us in deciding cases. It's very interesting.

Some of our judges participated on a national level with a program called ASTAR, which is a program that encouraged judges to become more familiar [with science], not to become a substitute expert counsel in any case, but to become more familiar with science and scientific thinking, and so we've been working with them. Forty of our judges, through the Institute and through the ASTAR program, have been named fellows in the ASTAR program. We do some national work with other teaching institutions on science in the law.

Caher: Between Frye and Daubert, it seems that judges have been shouldered with a considerable responsibility to make what are largely scientific determinations in the courtroom.

Judge Newton: Absolutely, John. When I think of Frye and Daubert and the label given to judges as gatekeepers, I personally become very concerned, because how do I know whether or not this very important and oftentimes very persuasive evidence to jurors and other finders of fact should be permitted to go forward? We even presented some training on the issue of whether or not New York is a Frye state, which we are, I think, or, because of the developing law, which may be looking more like a Daubert.

These are the kinds of cutting-edge legal discussions and presentations, I guess almost research-level productions, that we try to present to the judges, to keep them abreast and informed of the living law and how it interfaces with the cases that come into our courtroom.

Caher: All of this is changing all of the time, and we're seeing different things emerge not just in the scientific realm, but in the entire legal realm. How do you adjust your curriculum, or do you adjust your curriculum, to deal with emerging trends, emerging issues?

Judge Newton: Well, you know, we have a core curriculum, I guess. I never thought of it as that, but there are some fundamentals that we do want to present every year. Because we have these various vehicles and because we, in general, tape our programs and can preserve them, we try to make sure that we have all of our core programs offered in the one-hour lunch-and-learn mode every year. We have over 300 programs in our catalog.

With respect to these newer matters, we take the opportunity to have two-day specialized programs and invite judges who might hear those cases to come to the Judicial Institute to be immersed in those areas. For example, we had the one-day special program on actual innocence, an idea that was actually brought to me by a judge of the Appellate Division. We had the multiple-day program on environmental law and crime, because that was brought to us by our national partners at ASTAR.

We encourage people, judges and attorneys, to call contact us to tell us of matters that we want to present programs on. Of course, we read the Law Journal every single day to see if there's anything that's going on that we say, "Gee, this is interesting, we need to update the judges or teach the judges or present the judges with these issues."

Caher: You are located, of course, on the campus of Pace Law School. What is the relationship between the Institute and the Law School?

Judge Newton: Yes. Let me just say we are on the campus of Pace Law School, but we have a beautiful state-of-the-art facility that was designed specifically with the instruction of judges in mind, with a lecture hall and breakout rooms, and it's a wonderful facility. First of all, we permit Pace and its students to use the facility when they have a program that requires a larger venue. More importantly, we look at ourselves as partners in the education of lawyers, judges and students. The professors at Pace often come and teach courses for us. We have occasion to partner, to hold national conventions on, for example, on environmental law and criminal acts, and of course Pace has a nationally-renowned Department of Environmental Law, so that we collaborate in programs.

Then, we collaborated in one of my favorite programs, which is called the LEO program, Legal Education Opportunity, where we brought young people who were accepted to law schools in to give them a head start, so to speak. They would come here for, I believe it was eight weeks, and would be educated by professors from Pace about law school. It was to help them feel confident that they could succeed in what for many of them was their first opportunity to be involved in the law or to even know any lawyers. They came from racial and ethnic minorities and other financially disadvantaged groups, and it's been just a terrific success.

Unfortunately, the program was defunded and we haven't had it in a long time. But this year, one of our LEO graduates, as we call them, was elected to the state Assembly, and her first act as a member of the Assembly was to ask for and receive funding for the LEO program. She said it made her a lawyer, and her life as a lawyer, possible. We're excited, and that's Assemblywoman Latoya Joyner, and we will be resurrecting the LEO program, which is a wonderful collaboration between Pace and the Judicial Institute, and a great thing for the New York State community to have some wonderful LEO lawyers.

Caher: That's great. What else do you see in the future of the Judicial Institute?

Judge Newton: Well, I see the Institute continuing its role as an approved CLE, or Continuing Legal Education, provider. In that respect, we offer a lot of courses to our attorneys and magistrates and court attorney referees and other quasi-judicial employees who are equally important in the work of adjudicating cases and controversies, and that's a big business for us. Last year, we issued 18,000 CLE certificates, which is an enormous number. That tells you that there are a lot of attorneys and judges and lawyers taking our courses.

I think that we will continue to focus on distance learning and automation of some of our operations. But but also I hope that in the future we'll be able to revive our summer judicial seminars, which used to be week-long programs where we brought the judges together at various venues for a week of education and training.

That's important because I think that any educator will tell you that the pedagogical value of learners coming together to not only share their experiences, but to also learn from scholars. It just cannot be overstated, and this is something we've not been able to do over the last few years because of budgetary reasons. That's my great hope, that we'll be able to bring people together for more in-person training.

I think we're going to continue, I think importantly, to investigate issues that are critical to our interfacing with the community that comes before us. We are now on the road to providing implicit bias training for all of our judges and those who interface with the public, because public trust and confidence is just absolutely essential in the work we do. We are given power from the community, and the community has to respect and know that we respect that power, and we will do our very best.

We are hoping to do more programs like that on implicit bias, actual innocence, domestic violence training and others. Again, we have a lot. We have our foundational courses we have to take, interesting courses we want to take, and community issues we want to address, so we have a lot on our plate. I think the future for the Institute is bright and busy. Bright and busy, I think, is how you would describe us.

Caher: Well, that seems to be a wonderful way to sum it up, and I appreciate your time with us.

Judge Newton: Thank you so much, John. It was a pleasure to talk with you about the Judicial Institute, which is a great institute.

Caher: Thank you for listening to this edition of "Amici." If you have a suggestion for a topic on "Amici," call John Caher at (518) 453-8669, or send him a note at [jcaher@nycourts.gov](mailto:jcaher@nycourts.gov). In the meantime, stay tuned.