

# § Benchmarks

JOURNAL OF THE NEW YORK STATE UNIFIED COURT SYSTEM (UCS)

## Justice Court Reforms Announced

**S**WEEPING CHANGES TO PROVIDE increased support and assistance to New York's town and village justice courts were announced Nov. 21 by Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman. With the release of the "Action Plan for the Justice Courts," the court system unveiled a comprehensive plan to enhance the efficiency, uniformity and effectiveness of the more than 1,200 justice courts located throughout the state.

The justice courts are constitutionally part of the New York State Unified Court System (UCS), with both civil and criminal jurisdiction (see *Benchmarks*, Summer 2006). Their criminal jurisdiction parallels that of the New York City Criminal Court, the City Courts outside New York City and the Long Island District Courts, i.e., it ranges from the most minor violations to arraignment of the most serious felons. Local, county and state budgets all look to these courts, which, in the last fiscal year, collected over \$210 million for them in fines, fees and surcharges.

Unlike other state trial courts, however, the justice courts are locally funded and administered and have operated largely outside the oversight of the UCS and the Office of Court Administration (OCA). No verbatim recording of justice court proceedings is required, and they are the only courts whose judges need not be lawyers. Indeed, close to 75 percent of the nearly 2,000 town and village justices are not lawyers.

"Of the six million new cases filed annually in New York's courts, two million alone are initiated or adjudicated in the justice courts," Chief Judge Kaye said. "New Yorkers rely heavily on our local courts to resolve

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## New York Opens Second "Mega-Courthouse"



The new Bronx County Hall of Justice

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BY ANITA WOMACK-WEIDNER

**W**ITH THE COMPLETION OF THE BRONX COUNTY HALL of Justice this winter, New York will open — for the second time in as many years — one of the largest courthouses ever built in the United States. Together, the new Bronx courthouse and the Brooklyn Supreme Criminal and Family Courthouse, which opened in July 2005 (see *Benchmarks*, Fall 2005), add 131 courtrooms and more than 1.5 million square feet to the New York City courts.

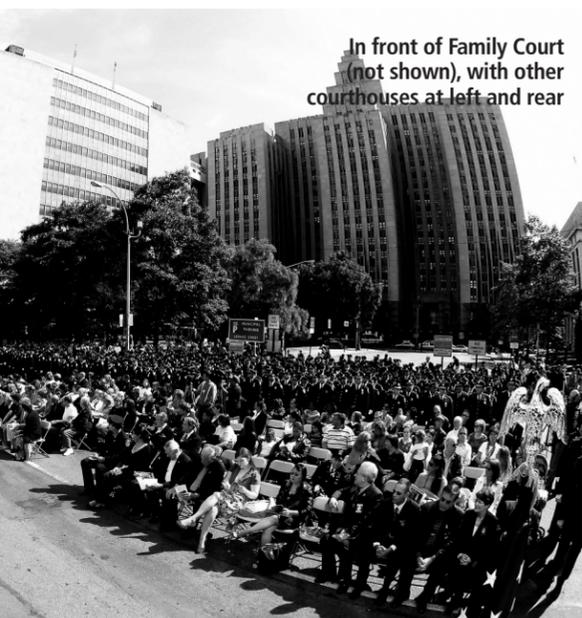
The two mega-courthouses could not be more different. The Brooklyn courthouse is 32 stories, built on a relatively small site (for a million square-foot structure) and designed to blend in with neighboring high-rise office buildings. In contrast, the 775,000 square-foot Bronx courthouse is nine stories high but runs two full city blocks, and its glass and aluminum facade contrasts sharply with its neighbors.

Rafael Viñoly, architect of the Bronx courthouse, sought a design that would give the judicial system an image of

openness and transparency, rather than the opaque, closed feeling of the traditional courthouse. "What interested me was transforming the public's perception that the building ... represented an institution that was seen as closed and in need of protection from the community," said Viñoly. "The [new] building speaks to the participatory and the democratic nature of the judicial system and its fundamental and constructive mission in our society."

The feeling of transparency and openness permeates the building. The courtrooms, jury deliberation rooms and robing rooms, all of which are in the interior of the building, have natural light from clerestory windows that "borrow" daylight from the corridors between the courtrooms and the exterior wall. The materials used throughout were chosen both to be durable and to enhance the sense of openness. The floors are terrazzo, with painted wood paneling on the walls. Glass railings and interior partitions allow natural light into the interior spaces. Double-layered frosted glass ensures visual and acoustic privacy in attorney-client rooms. All the woodwork in the courtrooms is beechwood paneling.

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In front of Family Court (not shown), with other courthouses at left and rear

## Street Corners Renamed for Court Officers Who Died on 9/11

**F**AMILY, FRIENDS AND COLLEAGUES of the three New York State court officers killed during the Sept. 11 World Trade Center attack gathered in lower Manhattan on Sept. 30 for the renaming of three street corners in their honor.

Immediately after Sept. 11, artists made a mural at the 111 Centre St. courthouse, just blocks from the twin towers, "but we wanted something more permanent for the public and the other officers" said Lt. Frank Graniero, a court officer in Richmond

Family Court. "We [New York State Court Officers Lodge #35] came up with renaming a street in their honor."

Capt. William Harry Thompson and Senior Court Officers Thomas Jurgens and Mitchel Wallace died while helping to evacuate people from the two towers.

Craig Floyd, Chairman and Executive Director of the National Law Enforcement Officers Memorial Fund, was the keynote speaker at the ceremony, which drew a crowd of close to 1,000, many in uniform.

Chief Judge Judith S. Kaye and Chief Administrative Judge Jonathan Lippman also spoke.

The intersection of White and Lafayette Streets was renamed Court Officer Mitchel Wallace Corner; the corner of Leonard and Lafayette Streets was renamed for Court Officer Thomas Jurgens; and the corner of Franklin and Lafayette Streets was renamed for Capt. William Thompson. Part of Lafayette Street near the Family Court was also named Court Officer Memorial Way. ■

## Second “Mega-Courthouse”

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There are 47 courtrooms for the Bronx Criminal Division, seven grand jury rooms and space for the Department of Corrections, the Department of Probation, the Bronx District Attorney and other criminal justice agencies. Criminal Division Administrative Judge John Collins welcomes the added courtrooms, “witness prep” rooms and jury waiting areas, noting that the division has been “really strapped for space” in its current quarters in two courthouses.

The facility features a large, open plaza and park on its north side, for use by the community and the school that is immediately adjacent to the courthouse (see article, p. 2). “The plaza has parking below, so that no parking is beneath the courthouse, and provides a significant amenity for recreational use and respite by the local residents,” said Jay Bargmann, vice president of Rafael Viñoly Architects.

Eight courtrooms have audio and video recording and evidence presentation capabilities, and real time transcription will be available soon, according to Fred Wilmers, project director with Rafael Viñoly Architects. “There are flat-screen video monitors throughout the courtroom well and two large flat-screen monitors for the spectators to view.” A monitor in the holding cells adjacent to the courtrooms allows dangerous or unruly defendants to view courtroom proceedings. Four courtrooms are equipped for inmate video appearances, while two video teleconferencing kiosks allow attorneys to interview clients at Rikers Island correctional facility.

The large jury assembly room, located in a cylindrically shaped structure set into the plaza, “is the architectural focus of the project, much like a



The north side of the court complex, with the jury assembly room structure in the center of the plaza

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domed rotunda of civic buildings of the past. We chose to make the jury assembly room the symbolic focus of the project,” explained Wilmers. The room seats 495 jurors.

The Oklahoma City bombing, which occurred after the project design began, prompted comprehensive rethinking of security in a glass structure. Bullet-resistant glazing is used in the lobbies and judges’ areas. The glass is above street level, primarily on circulation routes along the exterior. Where higher security is needed, “the glass is provided with a ceramic frit to prevent direct viewing from surrounding high-rise buildings,” said Bargman. The public plaza is blast resistant, as are the loading dock and mail room structures. The main entrance accommodates 10 magnetometers and X-ray machines.

The building has many “green” features, including water conservation. Extensive use of daylight and advanced heating and air-conditioning systems make it energy efficient.

The courthouse is the key to court facilities renewal in the Bronx. The move frees significant space in the Bronx County Courthouse and the Criminal and Family Court building, both of which will be renovated for continued use by other courts already in those facilities. ■

## Bronx School is Part of New Court Complex

BY ANITA WOMACK-WEIDNER

**STUDENTS AT THE BRONX SCHOOL** of Law, Government and Justice have been waiting for the new Bronx courthouse to open. Located on the plaza behind the Bronx Hall of Justice (see article, p. 1), the school will be able to provide students with a behind-the-scenes look at what really happens in the courts, law firms and the world of forensic science.

The school, which opened in 1997, moved to its current site in 2003. In addition to traditional academic courses, studies include law and government. Learning is not confined to the classroom. Eleventh and twelfth graders have already interned at law firms, the Bronx District Attorney’s office and the New York State Attorney General’s office. Soon they will intern in the new courthouse and neighboring courts, while proximity to the Hall of Justice will give students exposure to the day-to-day workings of the court and regular interaction with judges and court staff. A mentoring program open to judges and court personnel in the area, as well as others who work in the courts, is also getting underway.

The school was developed by the Urban Assembly, a nonprofit organization dedicated to creating small, public, college preparatory high schools, as the first school in the country to be physically located within a judicial complex. The combination middle and high school (grades seven through 12) literally abuts the courthouse, and students can walk back and forth between the two buildings, with full use of the courthouse law library.

Mentor applicants will go through a thorough screening process and training before being matched with a student. Mentors must commit a minimum of four hours per month of face-to-face time with a student,

according to Natasha Atkins, the school’s mentor program manager.

“I want them [the students] to learn to set and achieve high academic standards and realize what professional opportunities are available to them,” said Atkins. “For the mentors, I hope this program helps them be more connected with the community. Many of the employees are surrounded by high-offending criminals and they may not get the chance to interact positively with the community. This gives them a chance to impact positively on a child’s life.”

Students also participate in mock trial, moot court and guest speaker programs, as well as educational excursions to Germany, Washington, D.C., local courthouses, government offices and law firms. Numerous other offices and institutions, such as the Bronx Borough President’s Office, have partnerships with the school, which is equipped with its own courtrooms and state-of-the-art forensic laboratories for teaching science.

Chief Judge Judith S. Kaye spoke at the school in May 2004, in connection with the 50th anniversary of *Brown v. Board of Education*, along with then-Senior Associate Judge of the Court of Appeals George Bundy Smith. The school has also participated in the UCS Student Ambassador Program, in which high school, college and law school students educate the public about the courts.

The Urban Assembly has opened 17 schools since 1997, in partnership with the Department of Education and New Visions for Public Schools, the largest education reform organization in New York City.

For information about the internship program, contact Kimberly Felder at 718-410-3430, ext. 3908, or [kfelder@schools.nyc.gov](mailto:kfelder@schools.nyc.gov); for the mentoring program, contact Atkins at 347-573-1624 or [natkins@urbanassembly.org](mailto:natkins@urbanassembly.org). Contact Felder or Atkins for a school tour. ■

## Justice Court Reforms

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hundreds of thousands of civil and criminal cases a year. These courts must be capable of providing the same high standard of justice the public expects from every court in New York — one in which judges and personnel are highly trained and knowledgeable, litigants are treated fairly, technology is used to full advantage, and court facilities meet the most stringent protocols for security.”

The action plan represents a new partnership between the state judiciary and the justice courts, which trace back to New York’s first tribunals, said Chief Administrative Judge Lippman. “While respecting their historical and constitutional autonomy, we recognize the vital importance of ensuring a consistent standard of justice throughout all New York courts.”

Under the plan, OCA will provide enhanced support in four areas: court operations and administration; auditing and financial control; education and training; and court security. Among the plan’s specific measures are:

- mandating recording of justice court proceedings
- appointing district supervising judges for justice courts

- ensuring assignment of indigent defense counsel (and coordinating terms of different justice courts so counsel is available)
- increasing initial training for nonlawyer judges from one to seven weeks (in class and at home)
- creating year-round training center for judges and clerks
- reforming financial control practices and ensuring fiscal accountability (e.g., requiring localities to submit annual audits to OCA)
- improving facilities and ensuring adequate security protocols
- providing technology and equipment.

The judiciary’s 2007-2008 budget request includes \$10 million to begin implementation of the plan.

The action plan was developed under the direction of Lawrence Marks, Administrative Director of OCA, and Ronald Younkings, OCA’s Chief of Operations, with the assistance of a justice court advisory board and in collaboration with the State Comptroller’s Office and other state and local officials. The advisory group included town and village justices and court clerks.

The plan is on-line at [www.nycourts.gov/publications](http://www.nycourts.gov/publications). ■

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# Mental Health Courts: Providing Alternatives to Prison

BY ANITA WOMACK-WEIDNER

**T**HE DEFENDANT, A MAN IN HIS MID-40'S, STOOD before Judge Matthew D'Emic in September and nervously chewed his lip as he waited for the judge's comments about his progress.

Charged with two misdemeanor assault cases, he was referred to the Brooklyn mental health court (BMHC) after being diagnosed with schizoaffective disorder, a mental condition causing psychosis and mood changes. He had reported having hallucinations and had been hospitalized 14 times. The defendant had also abused alcohol and crack cocaine. His case was diverted from criminal court in February and placed in BMHC, where he hopes to graduate this winter. If he succeeds, the criminal charges will be dropped.

"You've done really well," Judge D'Emic said, smiling. "You should be able to graduate soon. Do you have anything you want to say to the court?"

"Mental illness is no joke, judge," the defendant said, enunciating each syllable as he shifted his weight from side to side. "No joke."

Welcome to New York State's mental health courts. The goal is to provide mentally ill defendants with the treatment, support and structure they need to avoid further criminal activity, while addressing their criminal cases. Defendants whose cases are diverted to a mental health court agree to accept a course of treatment as well as rigorous judicial monitoring. Participation is voluntary and usually requires consent of the prosecutor and judge. The screening process includes, among other things, a psychiatric evaluation and consideration of the nature of the offense. Some courts may exclude violent felonies or specific offenses. Most require a diagnosis of serious, persistent mental illness.

In the beginning, defendants may have to come to court once a week in addition to meeting with mental health and substance abuse counselors as often as every day. Individualized treatment plans are drawn up for each defendant, and those with drug dependence issues are randomly tested. Court dates become farther apart if the defendant makes progress, but meetings with mental health and/or substance abuse counselors remain frequent. Charges may be reduced or dismissed upon successful completion of the program.

An estimated 16 percent of the country's prison population was reported to suffer from serious

## New York's Mental Health Courts

JUDICIAL DISTRICT	LOCATION/COUNTY	JUDGE
Second	Kings	Hon. Matthew D'Emic
Fourth	Plattsburgh (Clinton)	Hon. Penelope Clute
Seventh	Rochester (Monroe)	Hon. Patricia Marks
Eighth	Buffalo (Erie)	Hon. Robert T. Russell Jr.
Eighth	Niagara Falls (Niagara)	Hon. Mark Violante
Ninth	White Plains (Westchester)	Hon. Barbara Zambelli
Tenth	Suffolk	Hon. Madeleine Fitzgibbon
Eleventh	Queens	Hon. Marcia Hirsch
Twelfth	Bronx	Hon. John P. Collins

mental illness, according to a 1999 U.S. Department of Justice report. A 2006 study shows about half of all inmates reported one or more symptoms associated with a mental health problem. Many defendants with mental illness also have drug problems. Sometimes a defendant starts out in drug court and is later diverted to a mental health court.

"The saying was that the biggest mental health provider was the jail," said Judge Mark Violante, who presides in the mental health court in Niagara Falls. "Not here. Our goal is to get them out of city and county jails and into treatment, rather than have them incarcerated and receive no treatment at all."

Mental health courts are typically in session once a week. Prior to court, there are team meetings (including, e.g., mental health court staff, service providers and counselors) to report on each defendant's progress, or the judge may receive a summarized report instead. Each court involves a host of players, from the local mental health treatment community to the state and local department of mental health, legal services providers and the district attorney's office.

Mental health court judges, who otherwise handle a regular mix of criminal cases, strike a different demeanor in the part, complimenting and encouraging defendants when they've made strides, but scolding and issuing sanctions when they miss appointments, fail a drug test or exhibit the kind of behavior that got them into trouble in the first

place. Sanctions, imposed at the judges' discretion, range from lectures, curfews or other restrictions, to brief periods of incarceration.

While eligibility guidelines or protocol may vary, all mental health courts seek to balance public safety with defendants' treatment needs. New York's mental health courts serve large urban populations such as Brooklyn, as well as smaller communities such as Niagara Falls, a city of about 55,000.

The Brooklyn court, established in 2002 and considered a model, gets many visitors from around the country and abroad. BMHC accepts misdemeanors and nonviolent felonies; violent felonies may be considered on a case-by-case basis. Defendants must plead guilty prior to being accepted into the program, and sentencing is deferred until the program is completed. Judge D'Emic's longtime law clerk, Karen Kleinberg, helps run the court, which typically hears 100 cases each Tuesday.

In Niagara Falls' Therapeutic Alternative Court (TAC), a coordinator, Jamie Marcolini, assists the judge. Marcolini has been on the job 10 months but has 23 years of combined experience as a certified mental health and addiction counselor — an invaluable asset when he searches for resources. With Marcolini's contacts, Niagara officials are able to send defendants to neighboring counties and even Pennsylvania when Niagara services or special housing accommodations are full. "We feel our mental health court is second to none considering the size of our county," said Judge Violante. "We overturn all stones."

TAC usually hears 35 to 40 cases each Thursday. Most are misdemeanors, although felonies are also accepted. The court accepts only nonviolent offenses, however, and defendants may even be excluded for prior violent history. A guilty plea is not a prerequisite. TAC originally accepted only adults, like Brooklyn, but when Judge Violante perceived a need in the teenage population, the age threshold became 16. TAC's program typically lasts 12 to 15 months for misdemeanors. Felony cases can last years, as monitoring continues during probation.

In Brooklyn, defendants who have committed a misdemeanor spend 12 months in BMHC; first-time felons spend 12 to 18 months, predicate felons 18 to 24 months.

"We are not in this business to make the mentally ill cured," said Judge Violante. "But if we can maintain them, medicate them, closely monitor them for 12 months, then we look forward to releasing them. If their cognitive skills are there, we advocate GED and further schooling. If not, their future is good if we've given them the tools."

There are over 100 mental health courts nationwide, according to the 2006 Survey of Mental Health Courts by The National Alliance on Mental Illness. New York has nine, in Brooklyn, Plattsburgh, Rochester, Buffalo, Niagara Falls, White Plains, Suffolk, Queens and the Bronx. Three more are in the planning stages. Like other problem-solving courts, mental health courts come under the oversight of the Office of the Deputy Chief Administrative Judge for Court Operations and Planning, Judy Harris Kluger, with support from the Center for Court Innovation. ■

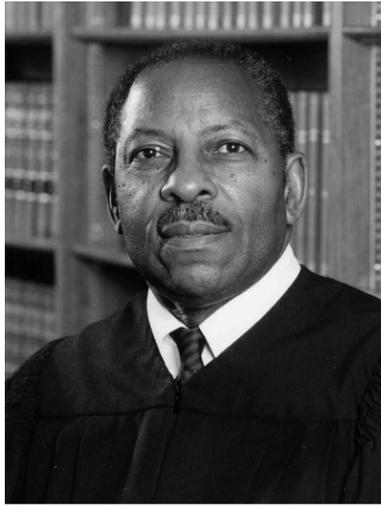
## Domestic Violence Awareness Month



Chief Judge **JUDITH S. KAYE**, Deputy Chief Administrative Judge for Court Operations and Planning **JUDY HARRIS KLUGER** and Chief Administrative Judge **JONATHAN LIPPMAN** gathered in Kings County Supreme Court Sept. 20 for a press conference marking the 10th anniversary of New York's domestic violence courts and kicking off Domestic Violence Awareness Month (October). Other speakers included Bronx District Attorney **ROBERT T. JOHNSON**; **YOLANDA JIMENEZ**, Commissioner of the Mayor's Office to Combat Domestic Violence; and **BARRY KAMINS**, President of the Association of the Bar of the City of New York. Among those in attendance were other state and local officials and many judges from the domestic violence and integrated domestic violence courts around the state.

# Two Court of Appeals Judges Retire

BY ANITA WOMACK-WEIDNER



## JUDGE GEORGE BUNDY SMITH

From the time he was young, George Bundy Smith wanted to be a lawyer or a minister. By the time he received his bachelor's degree from Yale University in 1959, the civil rights movement was percolating. He decided it would be better to be a lawyer.

In September, Judge Smith retired from the New York State Court of Appeals. As the senior associate judge, he would preside over the court in Chief Judge Judith S. Kaye's absence.

When I met Judge Smith in his Manhattan chambers in late August, race was still on his mind.

"When I got out of law school and became a member of the bar in 1963 we had one African American judge in the Appellate Division, First Department," said Judge Smith. "No others, and none on the Court of Appeals. Once I leave, there will be no African American on the Court of Appeals."

Judge Smith is the third African American to serve on the state's highest court. Judge Harold Stevens was the first (1974), Judge Fritz Alexander II (1985-1992) was the second. Appointed to the court by Gov. Mario Cuomo in 1992, Judge Smith's 14-year term expired on Sept. 24. His application for reappointment was denied by Gov.

**"[H]is passion for preparation and study of the law is matched by his passion for justice — justice for litigants and justice for society — which he has honed over his entire lifetime."**

George E. Pataki. Had he been reappointed, he would have had to retire Dec. 31, 2007, because he will reach the mandatory retirement age of 70 in April.

"We have some excellent black judges," said Judge Smith. "I hope when the time comes, that the governor will look at those persons. I hope African Americans and Latinos are added to the Appellate Division and the Court of Appeals."

At the Court of Appeals ceremony honoring Judge Smith, Chief Judge Kaye called him an "indispensable right-hand man. ... [H]is passion for preparation and study of the law is matched by his passion for justice — justice for litigants and justice for society — which he has honed over his entire lifetime," she said. "We know his struggle in every case, large

and small, to reach just the right result, and then to express it thoughtfully, clearly and convincingly."

Janet Gordon, a former principal law clerk, said: "When writing opinions for the court, he always sought to assure fair and just results and was never deterred by the prospect of being the lone dissenter. While his willingness to dissent meant that his staff would have to work late many nights drafting majority and dissenting opinions, we were always comforted by the fact that Judge Smith would be there, too, and would invariably be the last one to leave chambers."

Born in New Orleans, La., to a teacher and a minister, both college graduates, he grew up in segregated Washington, D.C. He and his twin sister, Inez Smith Reid, entered Yale Law School in 1959. In his second year, Judge Smith participated in the Freedom Rides from Atlanta, Ga., to Montgomery, Ala., and met several civil rights leaders, including Dr. Martin Luther King Jr.

After receiving his law degree, Smith worked for the NAACP Legal Defense and Educational Fund, trying civil rights and demonstration cases in the South. He went on to receive an M.A. in political science and Ph.D. in government from New York University. In 2001, he earned an M.A. in the judicial process from the University of Virginia Law School.

Judge Smith's judicial career began on the New York City Civil Court (1975-1979), followed by election to the Supreme Court. He was named an associate justice of the Appellate Division, First Department, in 1987 and remained on that court until his appointment to the Court of Appeals. Judge Smith and his wife, Dr. Alene Smith, a retired college professor, have two children.

One case Judge Smith remembers well is *People v. Calabria*. The first time it reached the Court of Appeals, Calabria's robbery conviction was reversed due to prosecutorial mis-

conduct. A new trial was ordered. Again, he was convicted. This time, the conviction was affirmed, with Judge Smith and one colleague dissenting. "Judge Rosenblatt concurred with the majority, but urged the prosecutor to take another look at the case," said Judge Smith. The prosecutor concluded the wrong person had been convicted. The charges were vacated and the case dismissed.

"There are going to be times when the system errs ... and I think the judge has to guard against that time and time again," he said. "There really is no adequate compensation for somebody who has spent years in jail. You can pay him or her all the money in the world, and it won't compensate for that loss of freedom or that loss of life if the person is executed."

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## JUDGE ALBERT M. ROSENBLATT

His office is lined with reminders of things important to him — photos of his wife and daughter, busts of Sherlock Holmes, and a photo of him, wearing his black robe, skiing down the side of a mountain after marrying a couple at the peak.

**"Al Rosenblatt is a man of absolute integrity, but despite his awesome personal and professional accomplishments, he is also a man of great humility and kindness."**

Meet Albert M. Rosenblatt, Associate Judge of the New York Court of Appeals.

Judge Rosenblatt warmly greets me in his chambers and moves with the ease of an athlete. In fact, he is one — a nationally-ranked senior squash player and member of the 1997 and 2001 U.S. (Master's) Maccabiah Team, the quadrennial Jewish Olympics. A professional ski instructor, he initiated and taught in the ski program for the disabled at Mohawk Mountain, Conn., working primarily with young amputees.

Come Dec. 31, Judge Rosenblatt must retire from the Court of Appeals, New York's highest court, because he has reached the mandatory retirement age of 70. Born in New York City, his term on the court began in December 1998.

While he is formally retiring from the court, he is far from retiring from the working world. Judge Rosenblatt has accepted a teaching position at New York University Law School. He is the editor of "The Judges of the New York Court of Appeals: A Biographical History," due out next spring. And he will continue as president of the Historical Society of the Courts of the State of New York.

"Never has the word 'retirement' been more inapt or ill-fitting than in the case of Judge Albert M. Rosenblatt's upcoming departure from the Court of Appeals," said Chief Judge Judith S. Kaye at his retirement party in October. "Indeed, my colleagues and I have yet to encounter anyone more energetic, more enthusiastic, more vitally engaged in the work of the court."

Dutchess County Court Judge Gerald Hayes calls Judge Rosenblatt "a brilliant man" whose "written opinions demonstrate that he is a legal scholar."

Thomas Dolan, Acting Supreme Court Justice, Dutchess County,

who has known Rosenblatt for 34 years said: "Al Rosenblatt is a man of absolute integrity, but despite his awesome personal and professional accomplishments, he is also a man of great humility and kindness. We, his 'old guys and girls,' would not have enjoyed the success that we have, but for the help, guidance, training and support that we received over the years from our old friend."

As he nears his last day, Judge Rosenblatt was asked if he recalled his first Court of Appeals case. He did. The case involved plaintiffs injured in the 1993 bombing of the World Trade Center. "The plaintiffs said the World Trade Center was to blame because they didn't provide adequate security," said Judge Rosenblatt. "The appeal involved discovery. The question was: should they get the security protocol of the World Trade Center to show that security was inadequate? We denied it, for the most part, unanimously."

A graduate of the University of Pennsylvania and Harvard Law School, Judge Rosenblatt was Dutchess County District Attorney from 1969 to 1975, and served as president of the State District Attorneys' Association. He was a County Court judge (1976-1981); a justice of the state Supreme Court (1982-1987); Chief Administrative Judge of the New York State Courts (1987-1989); and an associate justice of the Supreme Court, Appellate Division, Second Department (1989-1998).

He is currently chair of the Council of State and Federal Judges in New York.

When asked what a day at the Court of Appeals is like, Judge Rosenblatt replied: "like a monastery." He is usually at the courthouse reading by 6 or 7 a.m., followed by breakfast with one of the judges. At his retirement party, Chief Judge Kaye said that she and Judge Rosenblatt typically eat "a small bowl of dry, raw oatmeal ... a touch of skim milk, followed by a modest cup of coffee." She went on to joke that, once he's left the room, she follows their Spartan meal with a chocolate croissant and a venti caramel macchiato.

At 9:50 a.m. the bell rings, and the seven judges meet to conference cases, joined by two clerks of the court. The judges confer until noon, going through five or six cases with each judge presenting a case uninterrupted, followed by preliminary votes. At noon, the judges lunch with their respective law clerks, filling them in on the morning's conference. From 2 p.m. to 5 p.m., oral arguments are heard. From 5 p.m. to 5:55 p.m. each day, Judge Rosenblatt plays squash. At 6 p.m. sharp, the judges have dinner together, returning to the courthouse to work until about midnight.

"In the decision-making process, we like that people are open and don't

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## TECHNOLOGY

## UCS Launches Virtual Library Services

This fall, UCS law libraries will make it easier for court attorneys and judges to do research without leaving their desks.

Researchers will be able to visit a law library, submit reference questions and receive research training on LexisNexis, Lexis Template, Loislaw, Westlaw and LION (the UCS Library & Information Network) — all on-line.

The **Virtual Reference Desk** allows researchers to request copies of library materials or reference information and have material delivered digitally by research librarians within 48 hours. The **Question Point Pilot Project** enables researchers to e-mail reference questions and receive an e-mail response from library personnel the next business day. A new feature of **Computer-Assisted Legal Research (CALR)** allows individuals to make an appointment for on-line training in on-line research. A librarian logs on and either takes control of the individual's computer, guiding him/her through the search process, or the individual works directly with the librarian. Hours are 2 p.m. to 4 p.m. on Tuesdays, 10 a.m. to noon on Thursdays, or by appointment. The librarians providing these services are in eight locations across the state.

## Wireless Fidelity Makes Its Way to the Courts

The Department of Technology is working to add Wireless Fidelity (Wi-Fi) systems to courthouses so that visitors can use their personal computers to go on-line.

Officials will initially target public areas — law libraries, jury areas and rooms where attorneys, litigants and other courthouse users gather. Under a pilot program, Wi-Fi has been installed in a courthouse in Buffalo, Binghamton and White Plains, as well as in Bronx Housing Court. Adding Wi-Fi to the Westchester County Courthouse annex also corrected a public safety issue. Previously, cell phones and court officers' police radios did not work in the building; with

Wi-Fi, officers can now communicate among themselves. By the end of the fiscal year, officials hope to make significant progress in bringing Wi-Fi to additional New York City courthouses and at least one district outside the city.

The Wi-Fi system benefits many users, said Chip Mount, Director of Court Research and Technology. "One is the public, including jurors. Two is the courthouse user — attorneys, litigants, court-related agencies — and three is our court employees. Ultimately, Wi-Fi will enable court personnel to access computers and IP phones in areas such as the lobby where network wires do not reach."

## UCS Programs Broadcast Live Or On Demand

What do Law Day, judicial ethics training and the State of the Judiciary have in common?

All are broadcast using a new technology designed by VBrick Systems, Inc., which develops, manufactures and supports video distribution products over a broadband network for use in applications including news and information distribution, videoconferencing, distance learning, training and surveillance. The system used by the UCS is ethernet TV — known internally as CourtNet TV — which broadcasts live and recorded video to computers and large-screen televisions.

The idea to use VBrick came about because of the growing number of programs conducted at the Judicial Institute (JI), particularly the judicial ethics training program. Candidates for elected judicial office must take an ethics course prior to election day. It was impractical to require over 150 candidates to travel to the JI for the daylong sessions, so the program was broadcast live to thirteen locations. Participants could e-mail questions to the JI, where they were relayed to the moderator.

"In the past, we used videoconferencing to do training, but it's difficult to show

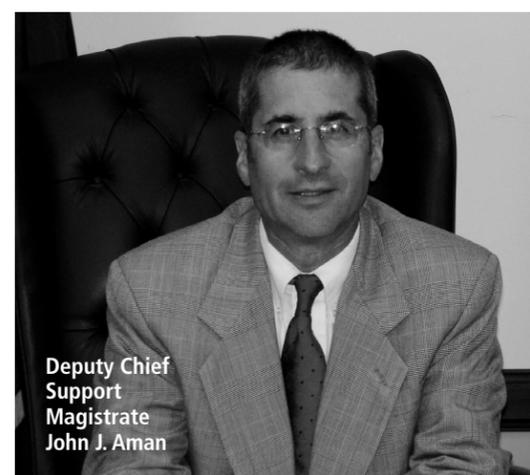
presentations such as PowerPoint," said Sheng Guo, chief technology officer for the Division of Technology. "There's also a limit to the number of people who can participate — roughly 30 to 40. With VBrick technology, hundreds of people can watch programs simultaneously on their computers."

Previously, JI programs were copied onto videocassettes and distributed, often by mail. VBrick is expected to save the court system more than \$100,000 annually on VHS tape replication and distribution alone.

Officials are using the technology to build an on-line library in which programs such as Lunch & Learn, conferences and training courses can be viewed on demand.



## New York State's Deputy Chief Support Magistrate John J. Aman



Deputy Chief Support Magistrate John J. Aman

**Q: What are the responsibilities of a support magistrate?**

**A:** A support magistrate has jurisdiction in family court over child support and child-support related issues. We hear cases and make decisions, not recommendations. Our jurisdiction consists of the actual dollar amount paid to the custodial parent by the noncustodial parent and the provision of health insurance for the children — a very important issue. We address the allocation of the payment of uninsured and unreimbursed health-related expenses; child-care expenses necessary for the custodial parent's schooling or employment; and the children's extraordinary or special education expenses. We can order a noncustodial parent to provide life insurance for the children. And, we determine paternity if that hasn't previously been addressed.

We also have authority to order spousal support. This might happen if the parties are married and don't wish to legally separate or divorce.

While our responsibilities at first blush may appear to be somewhat focused, they are, in perspective, very extensive.

**Q: Do you only establish child support obligations?**

**A:** We establish child support obligations if one has never been established. However, we do much more than that. For instance, we handle applications to modify previously established obligations, and we have jurisdiction to enforce our orders and orders of other courts and other states.

**Q: What are some of your enforcement powers?**

**A:** Support magistrates can enter income executions, grant money judgments, order license suspensions (professional, recreational and drivers' licenses), sequester property, and award attorney's fees on

enforcement and violation applications. We can also find a willful nonpayment of support and recommend incarceration by a family court judge.

**Q: How long have you been a support magistrate?**

**A:** I have been doing this since 1993, but have worked in family law virtually my entire legal career. I've been Deputy Chief Support Magistrate to Chief Magistrate Peter Passidomo for two years. I spend half my time in court running a calendar (in Erie County), and half in my statewide administrative capacity.

**Q: How many support magistrates are there and what is the term of appointment?**

**A:** There are approximately 120 support magistrates statewide. We are appointed initially for three-year terms and reappointed to five-year terms thereafter. Many support magistrates spend their entire legal careers doing this work.

**Q: How many cases do you typically hear in a week?**

**A:** Support magistrates can carry an extensive caseload. It's not uncommon to calendar 100 cases or more in a week.

**Q: Are support magistrates trained on the job?**

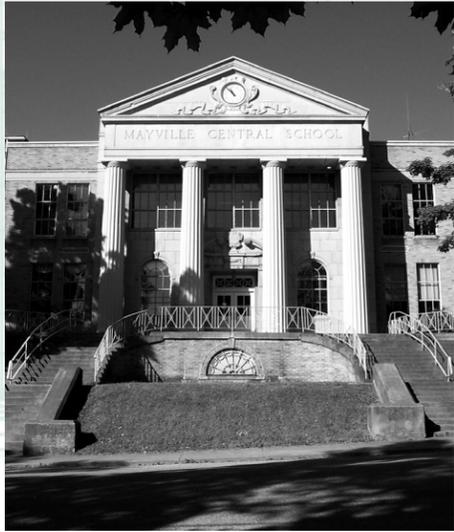
**A:** We have a special training program for new magistrates, and we have extensive training once a year for "veterans." Many men and women who seek out this job already have a family law interest and background. I'm seeing more and more young people coming out of law school who want to work in this area. We try to hire someone with a good family law legal background, an interest in children, the requisite personality and demeanor, and an impeccable reputation as a lawyer and in the community.

**Q: Support magistrates must see emotional and perhaps volatile situations. How do you deal with these?**

**A:** We see people in emotionally-charged situations and under great stress. Money is very important to people. It's amazing to me that many times litigants will settle custody and visitation issues, but not the support issues. These cases have an emotional aspect and the potential to be volatile, which is why we have security in the courtroom. Not only do support magistrates have to learn the law and its application, but we need to be masters in dealing with people. I might estimate that 75 percent of our litigants are self-represented. It's sometimes difficult for litigants to stay on track and not become involved in side disputes. They want to tell their life stories. We must make sure that litigants are focused and talk about the child support issues, but still feel they've had the opportunity to be heard. It is important for people to walk out and say: "I had my shot at this; someone listened to me, and I'll accept the outcome."

Also, this may be the only time that people interact with the courts. It's really important for us to be cognizant of this and demonstrate the proper demeanor. It is important that individuals leave their encounters with the court system with a positive feeling, at least as much as we can control that. ■

# COURT CONSTRUCTION UPDATE



The former Mayville High School, soon-to-be Chautauqua Family Court

## CHAUTAUQUA COUNTY FAMILY COURT

The former Mayville high school will serve as the new Chautauqua County Family Court. Renovation is expected to be completed by February 2007. The school was built in 1924 and has landmark status.

**What's New?** Architects will be able to preserve much of the architectural style of the original building, including prominent facades and large, arched windows. When completed, it will have two courtrooms, two hearing rooms, a child-care center and court administration offices. Enhancements include a wireless Internet system, an improved air circulation system and a new security system. The building will also serve as a municipal government center, with county and city offices. Most of the court space occupies a portion of the first floor and is accessed by the public from an interior corridor. Judges' chambers will be located on the second floor.

**Architect:** Harrington Sandberg Architects and Engineers, P.C.  
**OCA Architect:** Michael Hinnenkamp

## Other noteworthy updates . . .

**HERKIMER FAMILY COURT** has moved from the County Office Building into renovated space at the Herkimer County Office and Courts Facility located on the same block. The new space doubles Family Court's square footage and provides two formal courtrooms, one hearing room, a separate hearing examiner's office, two attorney/client conference rooms, an attorney waiting room, two agency waiting rooms and holding cells. Security improvements include closed-circuit cameras, wireless panic alarms and proximity card readers (**Project Manager:** Ward Associates, P.C.; **OCA Architect:** Edward Rodman).

## THE SECOND DISTRICT COURT OF SUFFOLK COUNTY

relocated this past summer from a location over a bank in Deer Park to a completely renovated single-occupancy building in the heart of the Village of Lindenhurst, close to public transportation. The previous facility had no jury accommodations and was located in an industrial area inconvenient to public transportation. The new building has one courtroom, two hearing rooms, conference rooms and rooms for examinations before trial. It also has a state-of-the-art security system. A quality-of-life court will sit here once a week (**Architect:** Chris Deutsch, Department of Public Works, the Division of Design and Construction, Suffolk County).



Interior of the new Riverhead courthouse

## SUFFOLK COUNTY SUPREME COURT (RIVERHEAD)

A new Supreme Court facility has been built to accommodate the county's growing needs. Partial occupation of the new courthouse is scheduled for early December. Three existing buildings that housed the court and related offices, including the Commissioner of Jurors, will be renovated.

**What's New?** The three-story, 95,000 square-foot courthouse was erected behind the existing buildings and is connected to them by two enclosed bridges. The new courthouse has an atrium lobby, nine courtrooms and chambers, a jury assembly room, jury impaneling rooms, a children's center, a public cafeteria and conference space.

**Architect:** Baldassano Architecture and Perkins Eastman Architects P.C.  
**OCA Architect:** David Patterson

RICK KOPSTEIN/NEW YORK LAW JOURNAL

## Marian Wright Edelman Addresses Conference on Minority Youth in the Courts

BY ANITA WOMACK-WEIDNER

**T**HE FOUNDER AND PRESIDENT OF THE CHILDREN'S Defense Fund (CDF) told a conference of lawyers, judges, caseworkers and researchers that a new movement is needed to redirect political and economic policies toward families in an effort to stem the growing tide of poor minority children involved in the family and criminal court systems.

"New York State spends 3.4 times more per prisoner than for public school pupil," said keynote speaker Marian Wright Edelman of the CDF. "I can't think of a dumber investment policy. The most important thing we can all do is to keep them [juveniles] out of the system in the first place ... and get them out as early as we can."

The conference, entitled "The Disproportionate Number of Minority Youth in the Family and Criminal Court Systems," was sponsored by the UCS Franklin H. Williams Judicial Commission on Minorities and the New York State Family Court Judges Association. Held at the New York State Judicial Institute on Sept. 18, the conference also included community group leaders and law enforcement officials.

Edelman has been an advocate for disadvantaged Americans, particularly children, all her life. She was the first black woman admitted to the Mississippi bar and directed the NAACP Legal Defense and Educational Fund office in Jackson, Miss. Edelman established the CDF in 1973.

Many poor, disadvantaged children of color face marginal lives and premature death without

intervention, Edelman told the conference. Poverty leads to a lack of access to medical and mental health care and, typically, placement in failing schools. Research also links poverty to risks of abuse, neglect, academic failure, delinquency and violence. "Although they represent only 34 percent of the U.S. adolescent population, minority youths represent 62 percent of the youths in detention," Edelman said. "One in three black boys born in 2001 will spend time in prison at some point in their lives."

In a letter included in the conference program, Chief Judge Judith S. Kaye, who introduced Edelman, cited New York's statistics. "Last year over 100,000 young people appeared in [New York's family and criminal] courts," she wrote. "In New York City, 90 percent of these young people were minorities. A significant percentage were minorities even in areas of the state with small minority populations."

Lawyer and clinical psychologist Michael L. Lindsey told the conference that proportionality [of minorities in the foster care and justice systems] has its greatest impact when discretion is used. "If discretion is exercised, minorities don't usually get the benefit," said Lindsey.



Marian Wright Edelman, Founder and President, Children's Defense Fund

JACK MCCOY

### The following were among the recommendations made at the conference workshops:

- increase the number of family court judges
- focus family court proceedings on the entire family, not just the child
- investigate why children of color don't receive the same services as other foster care children
- improve juvenile justice data collection
- improve monitoring of the system and its players
- review drug arrest policies (panel members said low-level marijuana possession arrests bring many juveniles into the system)
- reduce discretion in parole/probation revocations
- explore electronic monitoring in lieu of detention.

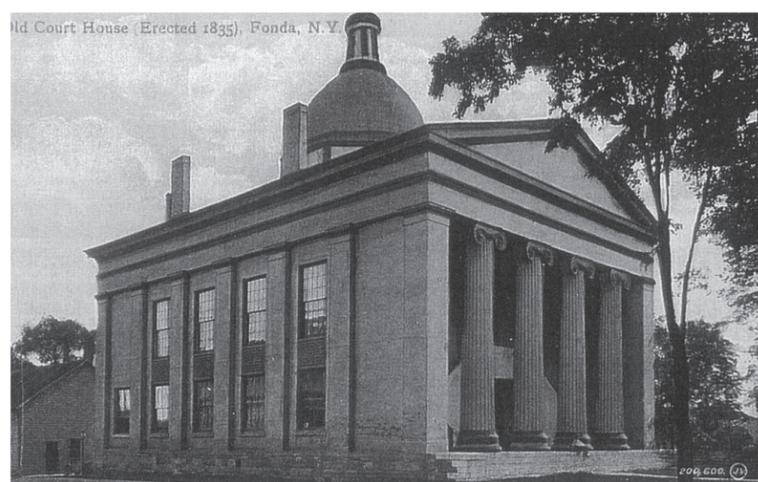
The conference was the brainchild of Bronx Family Court Judge Gayle P. Roberts, president of the family court judges association, and Kings County Supreme Court Justice Cheryl E. Chambers. ■

## HISTORIC NEW YORK STATE COURTHOUSES

# THE OLD MONTGOMERY COUNTY COURTHOUSE AND THE JAMES FENIMORE COOPER LIBEL TRIALS

### THE OLD MONTGOMERY COUNTY COURTHOUSE

**LOCATION:** 9 Park St., Fonda, N.Y.  
**HOUSES:** The building now houses the Montgomery County Department of History and Archives, the Board of Elections and the County Economic Development Offices. The courts relocated in 1892 because nearby train traffic disrupted court proceedings.  
**JUDICIAL DISTRICT:** Fourth  
**BUILT:** 1835-1837  
**MASON:** Henry Holmes  
**CARPENTER:** Lawrence Marcellus  
**ARCHITECTURE:** Three-story Greek revival courthouse with Ionic columns and a silver cupola. There are fluted columns on the gabled end of the front of the courthouse, where there is a relief or raised sculpture. The relief was added in 1910, when an extension was built.  
**HISTORIC STATUS:** On both the state and national historic registries



“The liberty of the Press and the welfare of the community, require that the greatest possible latitude should be given to criticism not incompatible with the rights of Authors; but they too have rights which it is your duty to protect.”

successfully sued, commented: “Can the reader ... imagine a more grievous torture than ... the reading of Mr. Cooper’s stupid and slanderous trash? Oh, it was too much — five jurymen are supposed to have been carried out fainting.”

Judge Willard told the jury that the question was whether Webb had confined his criticism to the work and the author or if he had attacked the character of the man. “[T]his case is one of very general importance, because your decision will establish to a certain extent, the rights both of Editors and Reviewers and of Authors,” said Judge Willard. “The liberty of the Press and the welfare of the community, require that the greatest possible latitude should be given to criticism not incompatible with the rights of Authors; but they too have rights which it is your duty to protect.”

The jury could not reach a verdict, allegedly due to a single holdout — a juror who had a friend in common with Cooper. The rest were said to have reached a not guilty verdict in five minutes. A second trial also concluded with the jury unable to reach a verdict. A third trial, in 1843, resulted in a not guilty verdict in 10 minutes. Following the first jury’s deadlock, Webb retracted the article on which the second indictment was based.

In the interim, Cooper had multiple actions pending against Weed. The first case came to trial while Weed’s daughter was seriously ill. When Weed failed to appear, Cooper demanded a default judgment. Cooper was awarded \$400, which Weed promptly paid. After Weed was assessed damages of varying amounts in several other cases, he retracted his articles about Cooper.

From 1837 to 1845, Cooper brought libel suits against editors and others connected to newspapers in the Cooperstown area, Albany and New York City. Cooper prevailed in many of his suits; the press countered primarily by not reviewing his future work. The litigation so affected Cooper that he enjoined his family never to authorize a biography of him. ■

*The primary sources used for this article were “The Effingham Libels on Cooper” by Ethel R. Outland, 1929, and “Historic Courthouses of New York State” by Herbert A. Johnson & Ralph K. Andrist, 1977.*

### THE JAMES FENIMORE COOPER LIBEL TRIALS

Author James Fenimore Cooper was born in New Jersey in 1789, the son of Elisabeth Fenimore Cooper and Judge William Cooper. His father founded Cooperstown, N.Y.

After spending seven years abroad, Cooper returned to New York in 1833 and repurchased the family estate, including land on Lake Otsego called Three Mile Point, which his father had allowed villagers to use as a picnic site. On July 22, 1837, Cooper placed a notice in the local paper forbidding further public use of the Point. That curtly worded notice became the source of eight years of controversy and litigation.

Residents held a town meeting protesting Cooper’s actions and drew up resolutions to remove Cooper’s books from the local library. Elius Pellet, editor of the “Chenango Telegraph” chronicled the conflict that August. The article was republished in the “Albany Evening Journal” by Thurlow Weed, and in the “Otsego Republican” by Andrew Barber.

Cooper demanded a retraction from Barber, and, in September,

he sued Pellet and Barber for libel. The suit against Barber, for replication of libelous materials, was the first to come to trial in the Fonda courthouse, in May 1839. The judge directed a verdict of \$400 in favor of Cooper. That judgment was upheld on appeal. In March 1841, Cooper had authorities seize Barber’s press and types to settle the award, bankrupting the editor.

By the time that award was settled, the Pellet libel suit had brought Cooper another \$400 verdict, and he had filed numerous other libel suits, many that he litigated on his own behalf and won.

Between August 1837 and November 1838, Cooper published two books, “Homeward Bound” and “Home as Found.” In the latter, the novelist devoted three chapters to a fictional character whose circumstances mirrored the Point controversy. The book contained a very unflattering portrait of the villagers, including a newspaper editor. Reviews were “extremely vitriolic and unrestrained” and criticized Cooper for including the real-life drama. Among the many comments and articles, the “New-Yorker” asked:

“Does an author subject himself to personal criticism by submitting a work to the public? Not necessarily, we are inclined to believe. But if he makes his work the channel of disparaging remarks upon others — whether individuals or in masses — is not the case essentially altered?”

In an 1838 review of the books, James Watson Webb, editor of the “Morning Courier and New York Enquirer,” called Cooper “a base-minded caitiff, who has traduced his country for filthy lucre ... a traitor to national pride and national character.” Based on that review, a grand jury indicted Webb for libel in February 1939. Webb’s comments on the indictment were the basis of a second indictment four months later.

Webb obtained a change of venue from Otsego to Montgomery County. During the trial in the Fonda courthouse on the first indictment, in November 1941, Judge John Willard ruled that the defense could submit into evidence parts of the novels that justified the review. Both books were read to the jury in their entirety, an 11-hour undertaking. Park Benjamin, another editor whom Cooper

## DID YOU KNOW?

Who was the first official reporter in the United States?

George Caines (1771-1825), appointed by the New York State Supreme Court pursuant to state legislation enacted in April 1804, was the first official reporter in the nation. Caines served in this position for only one year. He produced three volumes, known as “Caines’ Reports,” containing decisions from May 1803 to November 1805. Cases reported by Caines from other New York courts are in volumes entitled “Caines’ Cases.” Caines resumed his law practice in New York City when his term as official reporter ended.

# NEW YORK STATE JUDICIAL INSTITUTE

## Program Highlights

- **NOVEMBER 16, 2006**  
**Lunch and Learn:**  
**The Treatment of Medicaid/HRA Liens**  
 Faculty: Hon. Paul Victor  
 (Live simulcast from Bronx Supreme Court)  
 This program will explore issues that arise in case settlements and on infant compromise applications.
  - **NOVEMBER 20, 2006**  
**Appellate Term Judges Conference**  
 This comprehensive seminar covers case law updates and substantive law issues.
  - **DECEMBER 11-15, 2006**  
**New Judges Program**  
 This week-long training program for new judges provides a review of the substantive and procedural law germane to their respective courts.
  - **DECEMBER 15, 2006**  
**Lunch and Learn:**  
**Protective Issues in Family Court**  
 Faculty: Margaret Burt, Esq.  
 (Live simulcast from the Judicial Institute)  
 This program covers a variety of issues relating to protection of children in family court.
  - **JANUARY 4, 2007**  
**Lunch and Learn:**  
**DWI Law: The Repeat Offender**  
 Faculty: Peter Gerstenzang, Esq.  
 (Live simulcast from the Judicial Institute)  
 New legislation that amends the penal law to add stiffer penalties for repeat drunk-driving offenders is the focus of this program.
  - **JANUARY 17-18, 2007**  
**Matrimonial Judges Training**  
 This two-day seminar provides a case law update and examines current issues in matrimonial law.
- TECHNOLOGY ENHANCES JI TECHNOLOGY PROGRAM**  
 At a recent JI seminar on complex evidence in cutting-edge science and technology cases, small hand-held reply devices enabled the 70 participants to record answers anonymously to questions posed by presenters. The interaction provided instantaneous feedback to the presenters on questions such as the participants' familiarity with the topic (e.g., 71 percent had had cases involving DNA evidence) and their comprehension of the lecture while it was being given. The two-day program, which included a lecture by Nobel Laureate Dr. Harold E. Varmus, President of Memorial Sloan-Kettering Cancer Center, was a joint venture of the JI and ASTAR, the Advanced Science and Technology Adjudication Resource Center.

## Legal Updates

These two-day legal update programs for court attorneys and law secretaries cover new developments in legislation and case law relating to criminal, civil, matrimonial and family law.

- **NOVEMBER 29-30, 2006**  
 (Gideon Putnam Hotel, Saratoga Springs)
- **JANUARY 8-9, 2007**  
 (Judicial Institute)
- **JANUARY 10-11, 2007**  
 (Judicial Institute)

## Court of Appeals Judges Retire

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### JUDGE SMITH

Judge Carmen Beauchamp Ciparick paid Judge Smith tribute at the Queens County Bar Association this fall, saying: "I will miss my colleague, who has always been there for me, always willing to give advice and pep talks, always so very well prepared, always a champion for justice and for what is right. I will miss his kind words and smile. When we next convene, I'll be assuming the seat of senior associate judge. I'll never be able to fill your shoes, however. There will never be another quiet, gentle giant like you." ■

### JUDGE ROSENBLATT

want to box each other into a corner," said Judge Rosenblatt. "We want judges to say 'my initial impression was X, but now I can appreciate this point.' This is the appellate process, and it's intellectually rigorous, but never hostile in my opinion. The chief judge brings out the best in people."

Asked what it takes to make a good judge, Rosenblatt replied: "A judge must have confidence and fairness so the community feels they're getting justice. But you can't look at it [the law] in a completely cold and intellectual way; you have to look at its practical and human consequences."

He added: "I'm sure going to miss my colleagues. I love them all. They are six of the best people I've ever met." ■

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# Benchmarks

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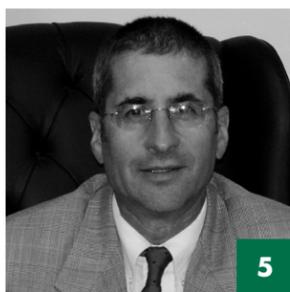
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