

**The United States  
District Court  
for the  
Southern District  
of New York:  
A Retrospective (1990-2000)**

**The New York County Lawyers' Association  
Committee On The Federal Courts**

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The courts are what the judges make them, and the District Court in New York, from the time of James Duane, Washington's first appointment, has had a special distinction by reason of the outstanding abilities of the men [and women] who have been called to its service.<sup>1</sup>

Hon. Charles Evans Hughes, Chief Justice of the United States, November 3, 1939.

## Introduction

On November 3, 1989, the United States District Court for the Southern District of New York celebrated its 200th anniversary. The "Mother Court," as the Southern District is colloquially known, is the oldest federal court in the United States, pre-dating by several weeks the organization of the United States Supreme Court.<sup>2</sup>

Yet, as Chief Justice Hughes aptly observed, the Southern District is a court of unparalleled distinction not because it is the nation's oldest federal court, or because it routinely hears the country's most important and complex cases, but rather because of the exceptional judges who have served on the court from its inception. Since its founding in 1789, a total of 131 judges have served on the Southern District bench.<sup>3</sup> Although more than a few of these judges—Samuel R. Betts, Charles M. Hough, Learned Hand and Edward Weinfeld—are widely regarded as among the finest jurists of their time,<sup>4</sup> the Southern District did not gain and has not maintained its preeminence merely by having produced these and other stars in the judicial constellation.

To the contrary, the Southern District always has been and today remains a court of dedicated and skilled jurists who distinguish themselves daily by their workmanlike approach to the business of the federal district court: hearing and deciding cases, great and small. In this way, the judges of the Southern District carry on in the tradition of Judge Weinfeld who

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<sup>1</sup> *Proceedings Had on November 3, 1939 in the United States District Court for the Southern District of New York on the One Hundred and Fiftieth Anniversary of its Organization* 9 (1939) (alteration supplied) (hereinafter "Proceedings").

<sup>2</sup> The United States District Court for the District of New York convened for the first time on November 3, 1789. The United States Supreme Court did not hold its first session until February 1790. See H. Paul Burak, *History of the United States District Court for the Southern District of New York* 1, Federal Bar Ass'n of N.Y., N.J. and Conn. (1962) (hereinafter "History").

<sup>3</sup> History of the Federal Judiciary, <http://www.fjc.gov>, web site of the Federal Judicial Center, Washington, D.C. This includes the six who served in the District of New York before the Southern District of New York was created in 1814. History at 27.

<sup>4</sup> Of Judge Weinfeld, the Southern District's most venerated member, Justice William J. Brennan, Jr., once noted that "[t]here is general agreement on bench and bar throughout the nation that there is no better judge on any court." *Edward Weinfeld: A Judicious Life* 49, Federal Bar Foundation (1998) (hereinafter "Weinfeld").

famously advised that “every case is important” and “no case is more important than any other case.”<sup>5</sup>

### **A Brief History of the Court (1789 to 1989)**

As Paul Burak’s fine *History of the United States District Court for the Southern District of New York* recounts:

On November 3, 1789, in the Exchange Building near the foot of Broad Street, the United States District Court for the District of New York convened its first session; Judge Duane’s commission was read and ‘such gentleman who chose to attend’ were admitted to the Bar of the new court . . . .<sup>6</sup>

Judge Duane had received his commission from President George Washington on September 26, 1789, the same day the President signed the commission for John Jay, the first Chief Justice of the United States.<sup>7</sup> As difficult as it is for those of us familiar with the busy workload of the modern court to believe, for the first several years of its existence, Judge Duane presided over a court that quite literally “had nothing to do.”<sup>8</sup>

Indeed, the court’s first case, *United States of America v. Three Boxes of Ironmongery, Etc.*, an application by the fledgling government of the United States for a declaration that certain goods were subject to duty, was not filed until April 1790.<sup>9</sup> As its first case suggests, the court’s early years were consumed by customs cases and routine or uncontested admiralty matters. As Judge Thomas D. Thacher, who served on the Southern District bench in the late 1920s, once remarked: “The work of such a court must have been extremely dull.”<sup>10</sup>

In 1812, Congress created a second judgeship in the District of New York to fulfill a statutory requirement that the court hold proceedings upstate.<sup>11</sup> Less than two years later, on April 9, 1814, Congress passed a statute splitting the District of New York and with that, the

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<sup>5</sup> Weinfeld at 49.

<sup>6</sup> History at 1 (quoting Hough, *The United States District Court for the Southern District of New York* 8 (1934) (hereinafter “Hough”).

<sup>7</sup> *Id.*

<sup>8</sup> Proceedings at 16.

<sup>9</sup> History at 2.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 3.

Southern District of New York was born.<sup>12</sup> In 1821, the Southern District promulgated for the first time, with the assistance of a committee of bar leaders, a set of procedural rules governing cases brought in the court.<sup>13</sup>

On December 21, 1826, Judge Samuel R. Betts was appointed to the Southern District bench.<sup>14</sup> Judge Betts, who served on the court for 41 years until he died in 1867, is the Southern District's second longest-serving jurist.<sup>15</sup> An authority on admiralty law, Judge Betts presided over the court during a period when admiralty cases "multiplied many times in volume and importance,"<sup>16</sup> and singlehandedly transformed the Southern District from a court that "had nothing to do"<sup>17</sup> into a "busy tribunal."<sup>18</sup> Holding office during the Civil War era, Judge Betts presided over important cases involving "questions of prize, blockade and contraband resulting from captures of enemy property by United States vessels in the blockade of Confederate ports."<sup>19</sup>

In 1865, Congress created the Eastern District of New York.<sup>20</sup> This move helped to reduce the burgeoning workload of the Southern District, and forestalled for nearly 40 years the creation of a second judgeship on the Southern District bench. However, the avalanche of filings occasioned by its passage of the Bankruptcy Act of 1898 prompted Congress to create a second

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<sup>12</sup> Hough at 18. Interestingly, at inception, the Southern District of New York included, in addition to the City of New York, the upstate counties of Albany, Delaware, Rensselaer, Schenectady and Schoharie. *Id.* This oddity was corrected in 1815 when these counties were transferred to the Northern District of New York. *Id.* at 19.

<sup>13</sup> *Id.* at 23.

<sup>14</sup> History at 5.

<sup>15</sup> *Id.* Judge David N. Edelstein is the Court's longest-serving judge. Judge Edelstein served an incredible 49 years on the Court, beginning in 1951 with a recess appointment by President Harry S. Truman and ending with his death in 2000. Four other judges have served for 35 or more years on the Southern District bench: Judge Weinfeld (1950-1988, 38 years), Judge John Clark Knox (1918-1955, 37 years), Judge Milton Pollack (1967-present, 35 years) and Judge Irving Ben Cooper (1961-1996, 35 years).

<sup>16</sup> *Id.*

<sup>17</sup> Proceedings at 16.

<sup>18</sup> History at 5.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

judgeship for the court in 1903.<sup>21</sup> Indeed, in 1900, for example, bankruptcy filings exceeded the total of all other cases brought in the Southern District during that year.<sup>22</sup>

In 1906, a third Southern District judgeship was created, followed by a fourth in 1909.<sup>23</sup> To these posts President Theodore Roosevelt appointed two of the nation's finest jurists: Judges Charles M. Hough and Learned Hand. Both men served on the Southern District bench for extended terms, ten years for Judge Hough and fifteen years for Judge Hand, before being elevated to a court that at that time had not yet reached its thirtieth birthday, the United States Circuit Court of Appeals for the Second Circuit.<sup>24</sup>

During the first few decades of the twentieth century, the Southern District experienced tremendous growth in both the volume and variety of its caseload. According to Paul Burak's *History*, the growth was caused by "private litigation in diversity of citizenship [which] increased due to the rapid development of commerce in New York, and government litigation [which] similarly multiplied with the extension of federal control over many private and public activities."<sup>25</sup> Indeed, the Southern District faced a total of 9,123 new filings in 1920, more than three times the number of filings that were made just ten years before in 1910.<sup>26</sup> From 1920 to 1930, the court's workload grew heavier still with the onset of Prohibition in 1920 which caused "a staggering increase in government civil business, such as actions for tax or penalty, forfeitures, and 'padlock' cases, and an even greater rise in criminal liquor cases."<sup>27</sup>

On November 3, 1939, the twelve judges of the Southern District paused from their labors to commemorate the court's sesquicentennial anniversary with a ceremony presided over by Chief Judge John Clark Knox. Although Judge Knox spoke about the Southern District that existed nearly 60 years ago, his words still ring true today:

Along with the Government, the court has grown in power, influence and importance. Indeed, it presently exercises a jurisdiction that, perhaps, is wider than that of any tribunal upon the earth . . . . In times of peace and days of war, in years of plenty and periods of want, this court—modestly and unostentatiously—has endeavored faithfully to perform duties which these conditions imposed upon it . . . . We indulge the hope that, in the future, quite as much as it has done in the

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<sup>21</sup> *Id.*

<sup>22</sup> Hough at 34.

<sup>23</sup> History at 12.

<sup>24</sup> *Id.* The United States Circuit Court of Appeals was established in 1891. *Id.* at 11.

<sup>25</sup> *Id.* at 12.

<sup>26</sup> Hough at 34.

<sup>27</sup> History at 15.

past, the court will creditably do its work and fairly administer justice to all who come within its portals . . . . We also trust that as long as the Government stands, and may that be forever, this court will be a place to which all men in need of judicial aid may freely come and have confidence that justice will here be dispensed without favor and without price.<sup>28</sup>

The distinguished jurists of the day who observed the ceremony uniformly praised the quality and dedication of the judges who have served on the Southern District bench. In addition to Chief Justice Hughes's statement quoted at the beginning of this section, Associate Justice Felix Frankfurter praised the court's "great tradition of eminent judges of the highest standard of judicial administration."<sup>29</sup>

Judge Knox also used the occasion of the court's birthday to press the case that additional judges were needed to handle the Southern District's expanding caseload, noting in his speech that "there is no more heavily burdened court than this District Court whose anniversary we celebrate."<sup>30</sup> During the early 1940's, the Southern District's pending civil docket ranged between 3,500 and 4,500 cases per year.<sup>31</sup> This figure skyrocketed to more than 10,000 cases in 1947, even though the court disposed of 4,708 cases in that year alone.<sup>32</sup> Congress finally responded with additional judgeships in 1949 when four were added, bringing the court to 16 judges.<sup>33</sup>

In 1950, President Harry S. Truman appointed the 49-year old President of the National Public Housing Conference and former New York City Public Housing Commissioner, Edward Weinfeld, to the court.<sup>34</sup> Judge Weinfeld, widely acknowledged as the greatest judge ever to sit on the Southern District bench and, to many, the greatest judge ever to sit on any district court, did more than any judge before him or since to set the tone and work ethic for the court he called "the greatest in the country, bar none."<sup>35</sup> For many of his 38 years on the court, Judge Weinfeld "regularly arrived at the courthouse before 6 a.m. to begin his working day of 12 hours or more .

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<sup>28</sup> Proceedings at 1, 7.

<sup>29</sup> *Id.* at 26.

<sup>30</sup> *Id.* at 10.

<sup>31</sup> History at 16.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.* at 17.

<sup>34</sup> *Id.* at 18.

<sup>35</sup> Weinfeld at 13.

.. [and] usually worked six days a week, sometimes seven, including most holidays.”<sup>36</sup> In a famous reflection on his approach to the business of judging, Judge Weinfeld wrote:

When, at a fairly early hour of the morning, I put the key into the door of my darkened chambers and walk across the room to start the day’s activities, I do so with the same enthusiasm that was mine the very first day of my judicial career. What one enjoys is not work. It is joy.<sup>37</sup>

Because of his work ethic and talent, Judge Weinfeld, from his earliest days on the court to the twilight of his judicial career, set an example to which his colleagues and the others who knew him aspired. The more than 2,200 published opinions he authored during his 38-year career are hailed as “well-crafted,”<sup>38</sup> “thoroughly grounded in the facts,”<sup>39</sup> “products of reason rather than acts of will,”<sup>40</sup> and accurately, but least importantly, “almost always affirmed.”<sup>41</sup> Similarly, as two of his law clerks observed, “it is difficult, if not impossible, to capture the reality of the dignity and fairness that are the hallmarks of a Weinfeld trial . . . [in which he brings] to life that which is finest in our legal tradition.”<sup>42</sup>

It would be difficult to overstate Judge Weinfeld’s influence on the judges who have served, and who continue to serve, on the Southern District bench. Indeed, in 1985, the judges of the Southern District, in a letter to the selection committee in which they collectively nominated Judge Weinfeld for the Devitt Distinguished Service to Justice Award, expressed this very sentiment:

Judge Weinfeld has been a friend, a colleague, and a mentor for us and for other judges on this Court for the past thirtyfive years. In that time, no one has labored as long or as hard in the service of justice as has

Judge Weinfeld. While his contributions to the administration of justice have been great on many levels, the greatest is the personal example he has set for all those who know him or know of him. . . . Judge Weinfeld has set the standard for the conduct of judges, attorneys, and all others connected with the administration

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<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 44.

<sup>39</sup> *Id.* at 46.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 44.

<sup>42</sup> *Id.* at 47.

of justice. And he has set that standard not simply by what he has said or written, but rather by the daily devotion he has shown, year after year, to the rule of law.<sup>43</sup>

Following a long illness, during which he continued to conduct trials and to decide cases, Judge Weinfeld died in January 1988. Although Judge Weinfeld's death undoubtedly marked the end of an era for the Southern District, the personal example and standards he set for the judges who served with him, those who have joined the court since, undoubtedly survived his passing. In this way, the Southern District today remains a court of talented and hard-working judges who continue, in the tradition of Judge Weinfeld and the scores of other judges who served before him on the court, to distinguish themselves daily through their work ethic and their dedication to the business of the federal district court—hearing and deciding cases, great and small.

### **The Edward Weinfeld Award**

During the 1990s, the New York County Lawyers' Association Committee on the Federal Courts established the Edward Weinfeld Award to honor those who have made distinguished contributions to the administration of justice, in the tradition of Judge Weinfeld.

The following members of the New York legal community have been honored with the Edward Weinfeld Award: Judge Wilfred Feinberg (United States Court of Appeals for the Second Circuit); Judge Edward R. Korman (United States District Court for the Eastern District of New York); Judge Morris E. Lasker (United States District Court for the Southern District of New York); Judge John S. Martin (United States District Court for the Southern District of New York); Judge Joseph M. McLaughlin (United States Court of Appeals for the Second Circuit); Judge Loretta A. Preska (United States District Court for the Southern District of New York); Judge Jon O. Newman (United States Court of Appeals for the Second Circuit); Judge Eugene Nickerson (United States District Court for the Eastern District of New York); Judge James L. Oakes (United States Court of Appeals for the Second Circuit); Judge Leonard B. Sand (United States District Court for the Southern District of New York); and Mary Jo White (United States Attorney for the Southern District of New York).

### **United States Attorney Mary Jo White (1993-2001): First Woman To Lead The Office**

After graduating from Columbia Law School in 1974, Mary Jo White began her legal career as law clerk to the Honorable Marvin E. Frankel of the United States District Court for the Southern District of New York. Thereafter, she served as an Assistant United States Attorney and then Chief Appellate Attorney, Criminal Division, both in the Southern District of New York. Ms. White then moved into the private sector, eventually becoming a partner at Debevoise & Plimpton. In 1993, Ms. White returned to public service and became the first woman to serve as United States Attorney for the Southern District of New York, where she remained until December 2001.

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<sup>43</sup> *Id.* at 42.

During her term as U.S. Attorney, Ms. White quickly earned a reputation as being an aggressive prosecutor of terrorism and white collar crime. She indicted Osama Bin Laden and Al-Qaeda before September 11, 2001 for acts of terrorism against the United States; presided over the successful prosecutions of four men accused of the 1993 World Trade Center bombing; dedicated significant resources to gathering evidence in connection with the 1998 U.S. embassy bombings in Africa; and won convictions of four terrorists plotting to destroy major local landmarks. Ms. White also brought racketeering and murder charges against John Gotti; was responsible for the indictment of millionaire financier Marc Rich; and led the prosecution of Bankers Trust Company for earnings-related offenses. Near the end of her tenure, Ms. White, who was appointed by former President Bill Clinton, opened an investigation into whether Mr. Clinton had exchanged last-minute pardons for campaign contributions.

Ms. White rejoined Debevoise & Plimpton in January 2002, as a partner and chair of its litigation department. At Debevoise, Ms. White focuses on internal investigations and the defense of companies and individuals who have been accused of involvement in white-collar or corporate crime and civil securities violations.

## **The Composition Of Today's Court**

### **Chief Judges: Transition and Continuity**

The position of Chief Judge in the Southern District of New York is given to the most senior active judge in the district who is not yet 65 years old. The position is held for seven years or until its holder turns 70. The duties of the Chief Judge include managing the work of the active and senior judges and the magistrate judges, as well as managing the court clerk's office, probation, pretrial services, court reporters, and security. In addition, the Chief Judge represents the Southern District of New York to bar groups, national court committees, and other branches of the government. Chief Judge Charles L. Brieant was the first to hold the position during the decade of the 1990s, having assumed it in 1986. During his tenure, which lasted until 1993, Chief Judge Brieant assisted in getting underway construction projects for the courthouse in White Plains, New York, and the new courthouse at 500 Pearl Street, in New York City. At the conclusion of his tenure, Chief Judge Brieant stated, "I think I had a great run and it's time to get out." Remarking upon his successor, Judge Brieant said, "Judge Griesa is as devoted as I am to maintaining the grand traditions of the Mother Court. The Court got along well for 200 years and will continue to do so."

The Honorable Thomas P. Griesa served as Chief Judge from 1993 through 2000. Upon assuming his position, Chief Judge Griesa stated, "We should just keep doing as well as we can and as thoughtfully as we can the work of the court—of trying and deciding cases." Judge Griesa served as Chief Judge during construction of the 500 Pearl Street courthouse, which brought to the court much-needed state-of-the-art technology, as well as features for the secure handling of prisoners, including separate prisoner elevators and holding cells on every courtroom floor.

The Honorable Michael B. Mukasey, the current Chief Judge, assumed his post in 2000. He has had to deal with heightened security concerns at the court, and with the need to implement necessary security precautions. Chief Judge Mukasey, along with Chief Judge

John M. Walker of the U.S. Court of Appeals for the Second Circuit, has been involved in efforts to renovate the courthouse at 40 Foley Square, which in addition to housing judges and court personnel from the Southern District of New York, also houses Second Circuit judges' chambers and courtrooms. The 40 Foley Square courthouse was designed by Cass Gilbert, and has been referred to by Chief Judge Mukasey as "a treasure of American architecture."

### **Judicial Appointments: The Making of a New Court**

The court enjoyed substantial growth in the number of judgeships between 1990 and 2000. At the start of that decade, the Southern District had a total of 38 judges; by the end of 2000, the court had 50 judges. Yet, it was not merely the addition of 12 new judgeships that helped to remake the court during this period. Nearly half of the 50 judges who were on the Southern District bench at the end of 2000 were appointed between 1990 and 2000, including an astounding eight judges appointed during 1994 alone. It is also significant that of the 50 judges who sat on the court at the end of 2000, 27 were active and 23 were senior. This nearly even split evidences the court's increased reliance on senior judges to manage its rising caseload.

Of the judges who served on the Southern District bench between 1990 and 2000, several made history as a result of their appointment, including the Honorable Constance Baker Motley (the first African-American woman to serve on the federal bench and the first woman to serve on as judge of the Southern District of New York), the Honorable Sonia Sotomayor (the first Hispanic woman to serve on a federal court in the Second Circuit), the Honorable Denny Chin (the first Asian-American to serve on a federal court in the Second Circuit) and the Honorable Deborah A. Batts (the first openly gay person to serve on the federal bench).

The current court has 46 judges of whom 26 are active and 20 senior. There are 34 men and 12 women on the court, the vast majority of whom are Caucasians (39 judges), with African-Americans (5 judges), Hispanics (1 judge) and Asian Americans (1 judge) also represented.

### **Magistrate Judges: Increased Role and Influence**

In the Southern District, there are now 15 magistrate judges. This is an increase from 14 in 2000 and an increase from nine full-time magistrates in 1990. Magistrate judges are not Article III judges. Therefore, they are not appointed by the President and they do not have life tenure. Rather, they are appointed by the local district judges, and full-time magistrate judges serve 8-year terms.

Whereas the earliest magistrate judges handled only pretrial discovery matters, today they are much more involved in all aspects of litigation and in the Southern District often play a key role in assisting the district judges in moving cases along swiftly.

There has been considerable litigation over the role of magistrate judges in criminal matters. As a result of such litigation, the range of functions performed by magistrate judges in criminal cases has expanded, though gradually. Whereas magistrate judges were once given discretion almost exclusively in "pretrial" matters, in the 1990's they were given considerably more authority to become deeply involved in substantive matters.

Perhaps the most significant decision exemplifying such growth was the Second Circuit's decision in *U.S. v. Williams*, in which it was held that magistrate judges can, upon the consent of the defendant, hear plea allocutions in felony cases. See *U.S. v. Williams*, 23 F.3d 629 (2d Cir. 1994). That decision was part of a series of decisions issued during the early 1990s whereby magistrate judges were given increased power in federal cases, including the power to oversee extradition proceedings, empanel grand juries, rule on pretrial motions to suppress evidence, and to conduct jury voir dire with the defendant's consent.

In civil cases, magistrate judges generally are empowered to make three types of decisions. First, they can issue interlocutory orders, which a district judge can then review, as if on appeal. Second, on case-dispositive motions magistrate judges can issue a "report and recommendations"; these are reviewable de novo by the district judge, but often, as a practical matter, may greatly influence the district judge's ultimate ruling. Finally, with the consent of all parties, magistrate judges can preside over trials and bring cases to final judgment, with review available only in the Court of Appeals.

### **The Court's Changing Docket**

The workload of the court increased steadily from 1990 to 2000. A total of 9,551 cases (8,772 civil, 779 criminal) were filed in the Southern District in 1990, and 13,647 cases were pending at the end of that year. In 2000, 11,547 cases (10,389 civil, 1,158 criminal) were filed in the court, with 14,275 cases pending at the end of that year. Dividing this workload by the 50 judges on the court at the time yields an average of 286 pending cases per judge or 510 pending cases per active judge at the close of 2000.

The workload of judges in the Southern District is comparable to the workloads of district judges serving in other major metropolitan areas. For example, in 2000, there were 7,713 pending cases in U.S. District Court for the Northern District of Illinois. That year, the Northern District of Illinois had a total of 30 judges of which 22 were active and 8 senior, yielding an average of 257 pending cases per judge or 351 cases per active judge. The Central District of California had 17,670 pending cases in 2000 which were handled by a total of 34 judges of which 27 were active and 7 senior. This yields an average of 520 cases per judge or 654 cases per active judge.

There were also significant changes in the composition of the Southern District's civil and criminal dockets during this period. Several categories of civil cases experienced dramatic increases in filings from 1990 to 2000: antitrust (365% increase); recovery of overpayments and enforcement of judgments (182% increase); civil rights (165% increase); social security (118% increase); copyright, patent and trademark (39% increase); prisoner petitions (38% increase); and all other civil cases (23% increase). By contrast, civil cases in the following areas showed substantial decreases in filings: forfeiture and penalties and tax suits (61% decrease); real property (52% decrease); and labor suits (14% decrease). The other civil case categories stayed relatively constant during this period: contracts (9% decrease); and torts (16% decrease).

As noted, criminal case filings rose significantly from 779 filings in 1990 to 1,158 filings in 2000, or a 49% increase. The largest increases were seen in the following criminal case categories: drugs (2,636% increase); immigration (619% increase); weapons and firearms

(636% increase); fraud (136% increase); and all other criminal felonies (111% increase). Significant decreases were observed in the following categories: embezzlement (67% decrease); robbery (84% decrease); and burglary and larceny (49% decrease). There were no significant changes in the remaining criminal case categories: escape (14% increase); forgery and counterfeiting (34% decrease); homicide and assault (no change).

## **Notable Cases, Trials, and Decisions**

As has been the case throughout the court's long history, Southern District judges during the 1990s weighed in some of the most pressing legal issues of the day, rendering numerous path-breaking decisions and presiding over a series of important trials. Members of the Report Subcommittee sought to identify an illustrative sampling of notable cases, trials, and decisions, which are discussed below. Of course, many other notable cases, trials, and decisions came out of the court during the 1990s, but due to space constraints this Report is able to refer to only a small fraction of them.

### **Antitrust**

#### *Blanksteen v. The New York Mercantile Exchange*

The New York Mercantile Exchange ("NYMEX" or "Exchange") is a market for the trading of futures and options contracts for energy resources and precious metals. Pursuant to NYMEX Rule 2.70, Exchange members may lease their seats on the Exchange, but if they do so they must grant the lessee of the seat the right to vote as a member of the Exchange.

This rule was challenged as being in violation of Section One of the Sherman Act by a NYMEX member who had leased all three of her Exchange seats but still wanted to be able to vote in a then-upcoming NYMEX election that was being held to select the Exchange's Board of Directors. The disgruntled NYMEX member sought to enjoin the election from taking place.

Judge Koeltl denied the motion, holding that Rule 2.70 was not "anticompetitive" within the meaning of the Sherman Act. In explaining why, Judge John G. Koeltl helped to delineate the boundary between: (a) impermissible anticompetitive limitations on who may conduct certain activities; and (b) the permissible kind of limitations that are the *raison d'être* of exchanges such as the NYMEX (and, by analogy, self-regulating organizations such as the National Association of Securities Dealers):

The purpose of the policy of Rule 2.70 appears to be to foster competitiveness rather than to hinder it. The rule reflects a judgment that the competitiveness of the exchange and its democratic character are promoted rather than hindered by rules that provide voting power to those who are active traders on the exchange and that prohibit anyone from voting on the affairs of the exchange who is not involved in the exchange on a day-to-day basis or who is not willing to pay the costs of retaining the ability to be involved. The rule thus ensures that the governance of the exchange will be truly democratic, that those persons who are most immediately involved with the affairs of the exchange have a say in its governance and that those persons who do not will have a say only if they demonstrate the sincerity of their commitment to the interests of the exchange by

retaining and not leasing their sole or last seat. By ensuring this form of democracy the rule enhances the competitiveness of the exchange with respect to other exchanges and competitive markets. Those persons who are involved in the day-to-day operation of the exchange are the persons most likely to be informed as to how to increase the competitiveness and efficiency of the exchange.

*Blanksteen v. The New York Mercantile Exchange*, 879 F. Supp. 363, 370 (S.D.N.Y. 1995).

### **Class Action Litigation**

#### *In re Auction Houses Antitrust Litigation*

In class action lawsuits in which any particular plaintiff has a relatively small stake in the outcome, plaintiffs' attorneys are often able to command extraordinarily large fees because individual plaintiffs lack sufficient financial incentives to contest attorneys' fee requests.

Congress sought to remedy this familiar problem in various ways during the 1990s—the Private Securities Litigation Reform Act is one prominent example—and in 2000, Judge Kaplan attempted to ameliorate the problem as well.

Hoping to “ease th[e] tension” between plaintiffs and their attorneys, and to “improve the class action as an instrument of justice,” *In re Auction Houses Antitrust Litigation*, 197 F.R.D. 71, 72 (S.D.N.Y. 2000), Judge Kaplan used an innovative procedural device—an auction—to select plaintiffs' counsel in a class action brought against Sotheby's Holding, Inc. and Christie's, Inc., two prominent auction houses.

Judge Kaplan “sold” the plaintiffs' case to the lowest bidder, that is, to the attorneys who agreed to accept the lowest fee in exchange for representing the class. By holding a low-bid auction, Judge Kaplan aimed to secure for the plaintiffs relatively inexpensive representation. And by removing, to the greatest extent possible, the perverse incentives that can exist for attorneys in class action contexts, Judge Kaplan aimed to select counsel who would best represent the interests of the plaintiffs.

To insure that the auction was conducted in a fair manner, Judge Kaplan prohibited bidding law firms from divulging their bids to other firms, and he *himself* “sought to act as a fiduciary to [plaintiffs'] class in selecting counsel,” a rarity—not to mention an impressive conceptual turn—in our adversary system. *Id.* at 84.

### **Commercial Law**

#### *Pan Am Corporation v. Delta, Inc.*

After the Pan Am Corporation (“Pan Am”) filed for bankruptcy in 1991, one of its major competitors—Delta Air Lines, Inc. (“Delta”)—agreed to extend to Pan Am a debtor-in-possession (“DIP”) line of credit. After receipt of the Delta DIP financing, Pan Am's financial condition continued to deteriorate, and Delta refused immediately to provide further financing.

Pan Am then initiated a \$2.5 billion breach of contract and breach of fiduciary duty action against Delta. The crux of Pan Am's claims was that Delta had agreed to help Pan Am out of bankruptcy, and that Delta's refusal to provide an additional round of financing amounted to a breach of that agreement.

Following a closely-watched five-week bench trial, Judge Robert P. Patterson, Jr. found for Delta on all significant issues, determining that Pan Am did not satisfy the conditions precedent to Delta's funding obligation and that Pan Am had to repay the funds loaned by Delta. *See Pan Am Corporation v. Delta, Inc.*, 175 B.R. 438 (1994).

### *The Common Fund v. KPMG*

Voted top defense win of 2000 by the *National Law Journal*, Judge George B. Daniels presided over the trial brought by The Common Fund, a nonprofit manager of some \$30 billion in endowment funds for high schools and colleges, against KPMG Peat Marwick LLP ("KPMG"), one of the largest accounting firms in the United States. The Common Fund claimed \$137.6 million in damages for KPMG's alleged professional negligence and breach of contractual and fiduciary obligations. The plaintiff alleged that the breaches occurred as a result of KPMG's failure to detect and report trading irregularities by one of the portfolio managers' subcontractors.

In an aggressive defense strategy, KPMG turned the tables and blamed the plaintiff for "cut[ting] corners" by never asking its auditors to probe the friendly relationship between the fund and the independent investment advisor. Without presenting a single witness or offering a single exhibit, the defense successfully argued that KPMG was retained not to conduct an audit, but rather to review the organization, which it did, thereby fulfilling its contractual obligations. The jury found for KPMG on all claims.

### **Criminal Law**

#### *United States v. Marcos, United States v. Khashoggi*

Imelda Marcos, the wife of former Philippine President Ferdinand Marcos Jr., was tried in 1990 for conspiring with her husband before his death to steal more than \$200 million in Philippine government funds to invest in New York real estate, art and jewelry. She and co-defendant Adnan Khashoggi, a Saudi Arabian believed to have been an international arms dealer, were charged with racketeering, conspiracy to racketeer, obstruction of justice, and mail fraud.

Judge Keenan presided over the three-month long jury trial, after which he was described by defense counsel Gerry Spence as "a stern judge" and "quick to reprimand but . . . quick to forgive." Mr. Spence, a self-described "cowboy" from Wyoming who wore boots and a Stetson hat to the Foley Square courthouse, also was quoted as saying that trying a case in New York was a "totally different experience," to which it took time to adjust. His adjustments, however, paid off. Depicting Mrs. Marcos as a loyal, naive wife—who came from a shoeless childhood of poverty and hunger—with no involvement in the business affairs of her husband, Mr. Spence successfully persuaded the jury to empathize with his client. And Khashoggi's counsel, James Paul Linn, used humor to portray Khashoggi as a portly man who made foolish business

decisions but who was not a criminal. The jury returned a verdict of not guilty as to each defendant.

*United States v. Frank*

Deric Frank was indicted for violation of various federal criminal laws in connection with the murder of his girlfriend. A grand jury charged that Frank forced his girlfriend into the trunk of his car and set the car on fire with her in it, burning her to death.

In November 1997, the United States Attorney's Office for the Southern District of New York filed an Intent to Seek the Death Penalty against Frank. The Federal Death Penalty Act ("the FDPA" or "the Act") of 1994 had reinstated the death penalty for a number of federal crimes, including kidnaping that results in the murder of the person kidnaped.

Frank argued that the FDPA was facially unconstitutional because, *inter alia*, it permitted a jury to find that a convicted defendant should be punished with death on the basis of aggravating factors not specifically enumerated in the Act. In rejecting Frank's argument and holding that sufficient safeguards existed to ensure that consideration of aggravating factors by the jury would not result in arbitrary or capricious sentences of death, Judge Denise Cote became the first judge in the Second Circuit to turn aside a challenge to the constitutionality of the FDPA. *United States v. Frank*, 8 F. Supp. 2d 253 (S.D.N.Y. 1998).

Judge Leonard B. Sand adhered to Judge Cote's decision two years later in *United States v. Bin Laden*, rejecting a subsequent challenge to the constitutionality of the FDPA following the Supreme Court's decision in *United States v. Apprendi*, 530 U.S. 466 (2000). Judge Sand found that "Apprendi does nothing to alter our . . . conclusion that, in federal capital cases, gateway mental states and aggravators are not required to be contained in the indictment." 126 F. Supp. 2d 264 (S.D.N.Y. 2000).

*United States v. Pirro*

In what the *New York Law Journal* described as "the most politically charged trial in years . . . entangled with intrafamily rivalry, political ambition and wealth," Judge Barrington D. Parker, Jr. presided over a six-week jury trial of criminal charges brought against Albert J. Pirro, Jr. Pirro, a former lawyer, real estate developer and husband of Westchester County District Attorney Jeanine F. Pirro, was indicted for filing false tax returns with the Internal Revenue Service for the years 1991 through 1993, understating his income by more than \$1 million. Mr. Pirro's brother, accountant and co-defendant, Anthony Pirro, also was tried for his role in preparing these false documents.

The prosecution set forth evidence establishing that Albert Pirro improperly wrote off nearly \$1 million in personal expenses as business deductions for items including: payments to a public relations firm that was connected to one of Ms. Pirro's campaigns; a \$45,000 decorative gate at the family home; Westchester County Club expenditures; furnishings for a West Palm Beach, Florida home; luxury automobiles (including a Bentley, two Mercedes and a Ferrari); fees for lawyers and investigators used in a paternity case against him in Indian; flowers; golf lessons; jet flights; a wrought iron fence for the family's pet pig; and a \$24,000 luxury cruise.

Although the brothers' relationship was publicized as stormy, the lawyers representing each completed closing arguments without blaming each other. In a failed tactic, the defense rested their case without calling a single witness, stating that the government had not met their burden of proof and, specifically, had failed to show intent. After nearly six weeks of trial, the twelve person jury found both Pirro brothers guilty of conspiracy, tax evasion and filing false tax returns.

On November 1, 2000, Judge Parker sentenced Albert Pirro to 19 months in federal prison for his conviction on 34 counts of tax evasion. Despite pleas from defense counsel, Judge Parker determined that the severity of the offense far outweighed Mr. Pirro's good works. Judge Parker further ordered Albert Pirro to pay half of the prosecution costs, which amounted to approximately \$62,000.

### **First Amendment**

#### *New York Magazine v. The Metropolitan Transit Authority*

In 1997, *New York* magazine launched an advertising campaign on New York City buses that made light of Mayor Rudolph Giuliani's asserted propensity for taking credit for all positive developments in the City. Mayor Giuliani ordered the advertisements removed, on the theory that they violated his "publicity rights"—that is, his right under Sections 50 and 51 of the New York Civil Rights Law to prevent his likeness from being used for advertising purposes without his prior permission.

*New York* magazine argued that the Mayor's order violated its rights under the First Amendment, and moved to enjoin City officials from removing the ads. Judge Shira A. Scheindlin granted the motion:

Who would have thought that the Mayor would object to more publicity? But that is what this case is all about. Our twice-elected Mayor, whose name is in every local newspaper on a daily basis, who is featured regularly on the cover of weekly magazines, who chooses to appear in drag on a well-known national TV show, and who many believe is considering a run for higher office, objects to his name appearing on the side of City buses. He staunchly asserts . . . that he has a 'right to publicity,' namely the right to *control* the use of his name when it is used for advertising or trade purposes. However, one who has chosen to be Mayor, and therefore to be the subject of daily commentary and controversy, cannot avoid the limelight of publicity—good and bad. Because of the 'incidental use' and 'public importance' limitations on the right to publicity, the Mayor's assertion of his right must yield to [New York Magazine's] assertion of its First Amendment rights.

*New York Magazine v. The Metropolitan Transit Authority*, 987 F. Supp. 254, 256-57 (S.D.N.Y. 1997) (emphasis in original).

#### *Million Youth March, Inc. v. Safir*

At a 1998 rally in New York City held in connection with the Million Man March, Mr. K. Muhammad, a Nation of Islam and "Black Power" activist, called upon listeners to, *inter alia*,

“take their goddamn guns” from the police, and “use their guns on them,” albeit “pointedly in the context of self-defense.” *Million Youth March, Inc. v. Safir*, 63 F. Supp. 2d 381, 385 (S.D.N.Y. 1999)

Approximately one year later, Muhammad applied for a parade/rally permit on behalf of a group called Million Youth March, Inc. The permit application was denied by New York City officials, who cited the provocative remarks that Muhammad had made during the 1998 rally. The rally organizers then initiated an action, and moved for an injunction ordering the City to issue them a permit. Judge Denny Chin granted the motion and entered an injunction. He explained:

The City’s desire to deny Muhammad and [Million Youth March, Inc.] a platform from which to speak is understandable. Many of their statements are bigoted, hateful, violent, and frightening. The right to free speech, however, applies not only to politically correct statements but also to statements that we may disagree with and that, indeed, we may abhor. At least as frightening as the rhetoric of Mr. Muhammad is the possibility of a society where freedom of speech is not respected, and where the right to speak publicly can be denied on the basis of administrative whim, personal dislike, or disapproval of anticipated content.

*Million Youth March*, 63 F. Supp. at 383 (S.D.N.Y. 1999).

Following Judge Chin’s ruling, the rally went ahead—with more New York City police deployed than there were marchers.

#### *Tunick v. Safir*

In 1999, photographer Spencer Tunick announced his intention to pose and then photograph 75 to 100 nude models on the street in a residential New York City neighborhood. The New York City Police Department (“NYPD”) made it clear that if Tunick went ahead with his planned photo shoot, he would be arrested for violating a New York statute that bans public nudity.

Tunick hurriedly initiated an action, and moved for a preliminary injunction to prevent the NYPD from arresting him during the planned photo shoot. Judge Harold Baer, Jr. granted the motion and issued the requested injunction, holding, *inter alia*, that Tunick’s proposed photo shoot fell within the “artistic exemption” to the state statute that bans public nudity. *See Tunick v. Safir*, 1999 U.S. Dist. LEXIS 10902, 99 Civ. 5053 (S.D.N.Y. Jul. 16, 1999).

#### *T & A’s Inc. v. Town Board of the Town of Ramapo*

Under strong pressure from local religious leaders, the Town of Ramapo enacted an “adult uses” zoning ordinance in 1997 that was modeled on a similar New York City ordinance, whose constitutionality had repeatedly been upheld. Under the Ramapo ordinance, all local adult entertainment establishments had to be located at least 1,000 feet away from extant schools. Accordingly, T&A’s, a Ramapo adult entertainment establishment located 800 feet from a school, was required to relocate.

T&A's sought to enjoin enforcement of the Ramapo ordinance. Judge Parker entered such an injunction, holding that the ordinance violated the First Amendment. Judge Parker emphasized that while the aboverferenced New York City ordinance permitted "adult uses" in 11% of the total area of the City, the Ramapo ordinance permitted adult uses in less than 1% of the relevant municipality. *See T & A's Inc. v. Town Board of the Town of Ramapo*, 109 F. Supp. 2d 161 (S.D.N.Y. 2000).

Judge Parker's decision and the decisions of other courts upholding the constitutionality of the New York City ordinance provided significant guidance to lawmakers concerning the permissible scope of "quality of life" measures curbing adult entertainment.

### **Intellectual Property**

#### *UMG Recordings, Inc. v. MP3.Com*

During the late 1990s, certain internet services—among them, MP3.com—permitted millions of networked computer users to download and listen to music without first receiving permission from copyright holders.

To stop this practice, a number of major record companies sued MP3.com for copyright infringement. MP3.com defended against the record companies' suit by arguing that it was transforming the copyrighted recordings, and that its use of the recordings was therefore protected by the "fair use" doctrine.

In an issue of first impression in the Second Circuit, Judge Jed S. Rakoff granted partial summary judgment to the record companies. Judge Rakoff held that MP3.com could not avail itself of the "fair use" defense because, *inter alia*, transforming the recordings solely to facilitate their unauthorized transmission through another medium did not amount to "transforming" them for the purposes of the fair use doctrine.

In his opinion, Judge Rakoff emphasized the durability in cyberspace of basic legal concepts: "The complex marvels of cyberspatial communication may create difficult legal issues; but not in this case. Defendant's infringement of plaintiff's copyrights is clear." *See UMG Recordings, Inc. v. MP3.Com*, 92 F. Supp. 2d 349, 350 (S.D.N.Y. 2000). In November 2000, Judge Rakoff entered judgment for the plaintiffs in the amount of \$53.4 million.

### **International Law**

#### *Holocaust Insurance Cases*

Throughout the late 1990s, a wave of class-action lawsuits was filed against European insurance companies and banks on behalf of Holocaust victims and their United States beneficiaries.

In one class action filed in the Southern District of New York in 1997, Holocaust victims and their heirs sought payment of benefits that were called for in the policies, but were never honored. The plaintiffs alleged that the European insurance industry refused after World War II to honor many of the thousands of life insurance and other insurance policies sold to Jews and

other Holocaust victims before and during the war. The plaintiffs alleged that when the claims were presented for payment, the insurers refused to honor the demands, asserting that they could not locate policies, that the policies were nationalized, or that the heirs were unable to produce death certificates. *See Cornell v. Assicurazioni Generali S.p.A., Consolidated*, 2000 WL 1099844 (S.D.N.Y.).

In 1998, a related class action was filed on behalf of Holocaust victims and their beneficiaries whose insurance policies were sold, confiscated, converted or retained by European insurers. The insurance policies were of many types, including life, property, casualty, dowry, disability, liability, accident, and health. The complaint charged that the insurers conspired with one another to prevent Holocaust victims from recovering insurance assets after World War II. The complaint also charged that the insurers colluded with the Nazi regime to retain, for their own use, payments made to the plaintiffs prior to 1946. *See Winters v. Assicurazioni Generali S.p.A. Consolidated*, 2000 WL 1858482 (S.D.N.Y.).

In 2002, Chief Judge Mukasey dismissed two related cases for failure to make out a prima facie case of personal jurisdiction over several defendants. *See Cornell v. Assicurazioni Generali S.p.A., Consolidated*, 2000 WL 1099844 (S.D.N.Y.); *Drucker Cornell v. Assicurazioni Generali S.p.A., Consolidated*, 2000 WL 284222 (S.D.N.Y.). Twelve cases, however, were ultimately consolidated before him, and in 2002, Judge Mukasey denied the defendants' motion to dismiss on grounds of *forum non conveniens*. Judge Mukasey found that the International Commission on Holocaust Era Insurance Claims was not an adequate alternative forum for litigating the plaintiffs' claims, and that the defendants had not demonstrated that the balance of conveniences weighed in favor of a European forum, thus clearing the way for discovery and trial. *See In re Assicurazioni Generali S.p.A. Holocaust Insurance Litigation*, 2002 U.S. Dist. LEXIS 18127, \*19 (S.D.N.Y.).

#### *Cases Under The Torture Victim Protection Act and The Alien Tort Claims Act*

With the passage in 1991 of the Torture Victims Protection Act ("TVPA"), federal courts were provided with the means to redress torture committed by foreign nationals in violation of international law and to breathe new life into the long-standing but infrequently used Alien Tort Claims Act ("ATCA").

#### *Doe v. Karadzic*

Judge Leisure presided over two high-profile international war crime trials arising under both the TVPA and the ATCA during the 1990s. The purpose of each trial was to place a price tag on the war crimes—a campaign of murder, "ethnic cleansing," and systematic rape—committed by Bosnian Serb forces acting under General Radovan Karadzic. The juries awarded more than \$5 billion in damages to the victims of Karadzic's crimes—thereby demonstrating that the law and courts of the United States remain uniquely positioned to provide remedies to individuals in various locations around the world. *See Doe v. Karadzic*, 866 F. Supp. 734 (S.D.N.Y. 1994), *rev'd on other grounds in Kadice v. Karadzic*, 70 F.3d 232 (2d Cir. 1995).

*Wiwa v. Royal Dutch Petroleum Co.*

Nigerian emigres alleged that they suffered grave human rights abuses at the hands of the Nigerian government because of their role in protesting the oil exploration and development activities of Royal Dutch Petroleum Company and Shell Transport and Trading Company. They filed a complaint in the Southern District under the TVPA and the ATCA alleging that Royal Dutch and Shell participated in or ordered these abuses.

Judge Wood initially dismissed the action on grounds of *forum non conveniens*, finding that while the plaintiffs had established personal jurisdiction, the United Kingdom was the more appropriate forum for the litigation. See *Wiwa v. Royal Dutch Petroleum Co.*, No. 96-8386, 1998 U.S. Dist. LEXIS 23064 (S.D.N.Y. 1998); *Wiwa v. Royal Dutch Petroleum Co.*, No. 96-8386, 1998 U.S. Dist. LEXIS 22352 (S.D.N.Y. 1999). The Second Circuit disagreed with the *forum non conveniens* determination, holding that the district court had not, as a matter of law, given enough weight to the United States resident plaintiffs' choice of forum and to the interests of the United States, as expressed in the TVPA, in providing a forum in which claims of violations of the laws of international human rights could be litigated. See *Wiwa v. Royal Dutch Petroleum Co.*, 226 F.3d 88, 106 (2d Cir. 2000).

On remand, Judge Wood denied the defendants' motion to dismiss as to all but two of the plaintiffs' claims. In doing so, Judge Wood expressly ruled that the TVPA does not preempt ATCA claims for torture and extrajudicial killings, but instead provides an additional basis for asserting claims of this nature.

Judge Wood granted the defendants' motion to dismiss, with leave to amend, as to Plaintiff Owens Wiwa's claim of arbitrary arrest and detention and to his claim that the defendants violated his right to life, liberty and personal security. Judge Wood determined, however, that Plaintiffs Owens Wiwa and Jane Doe had alleged facts sufficient to defeat a motion to dismiss on their remaining claims for torture, summary execution, "cruel, inhuman, or degrading treatment," and crimes against humanity. Judge Wood further held that Plaintiff Jane Doe had established a claim that her right to personal security and right to peaceable assembly had been violated. In reaching this determination, Judge Wood found that the plaintiffs had alleged violations that are sufficiently defined under customary international law as to be actionable under the ATCA. See *Wiwa v. Royal Dutch Petroleum Co.*, 2002 U.S. Dist. LEXIS 3293 (S.D.N.Y. 2002).

*Mushikiwabo v. Barayagwiza*

In *Mushikiwabo v. Barayagwiza*, Judge John S. Martin granted a motion for a default judgment awarding upwards of \$70 million in an action brought against Jean Bosco Barayagwiza, a leader of the Rwandan Hutu political party, the Coalition pour la Defense de la Republique ("CDR"). Judge Martin found that Barayagwiza and the CDR, in conjunction with the Rwandan government, "played an instrumental role in the torture and massacre of thousands of Rwanda's Tutsi minority, as well as moderate members of the Hutu majority." *Mushikiwabo v. Barayagwiza*, 1996 WL 164496, \*1 (S.D.N.Y. 1996). Judge Martin also held that the defendant had been properly served while in the United States to attend a session of the United Nations.

### *Tachiona v. Mugabe*

In an action before Judge Victor Marrero, members of an opposition political group in Zimbabwe filed a class action lawsuit against Zimbabwe's President, Robert Mugabe, and other senior ministers, as well as against the Zimbabwe government's ruling political party, the Zimbabwe African National Union-Patriotic Front ("ZANU-PF"). The lawsuit, seeking remedies under the TVPA and the ATCA, asserted that the ZANU-PF, President Mugabe and his senior ministers engaged in a campaign of terror and violence designed to suppress opposition, and perpetrated and/or encouraged acts of murder, torture, terrorism, rape, beatings, and destruction of property. *Tachiona v. Mugabe*, 169 F. Supp. 2d 259 (S.D.N.Y. 2001). President Mugabe was served while in New York, both in his individual capacity and in his role as the head of the ZANU-PF.

The State Department filed a formal Suggestion of Immunity on behalf of Mugabe and the other ministers. Following a detailed exposition on the history of sovereign immunity and its relation to head-of-state immunity, Judge Marrero concluded that Mugabe and the others were immune from suit in the present action. He reasoned that while the Federal Sovereign Immunity Act ("FSIA") shifted determinations of sovereign immunity from the State Department to the courts in cases involving commercial transactions, in cases involving assertions of head-of-state immunity in actions brought individually and directly against sitting heads of state, and where the State Department filed a formal Suggestion of Immunity, courts were to follow the pre-FSIA common law tradition and defer to the State Department's suggestions. Because the State Department, in this case, recommended immunity, Judge Marrero deferred to this suggestion and found there to be no personal jurisdiction. Judge Marrero additionally found that Mugabe enjoyed diplomatic immunity by virtue of his presence in the United States as representatives of the United Nations.

Judge Marrero declined, however, to find that head-of-state or diplomatic immunity extended to confer immunity from service of process on the ZANU-PF, as effected through service on Mugabe. Ultimately, Judge Marrero entered a default judgment against the ZANU-PF as to the plaintiffs' TVPA claims, awarding each plaintiff upwards of \$13 million in compensatory and punitive damages for extrajudicial killing and torture. *Tachiona v. Mugabe*, 216 F. Supp. 2d 262, 268 (S.D.N.Y. 2002).

### **Internet Law**

#### *Bensusan Restaurant Corp. v. King*

In April 1996, a Missouri business posted a "page" on the world wide web that advertised for the "Blue Note," a Missouri night club. Soon thereafter, the owner of New York's "Blue Note" jazz club initiated a trademark infringement action in the Southern District against the Missouri club.

The Missouri club then moved to dismiss the action for lack of personal jurisdiction. Judge Sidney H. Stein granted the motion, holding that personal jurisdiction could not be exercised over the Missouri defendant either under New York's long-arm statute or consistent with the Due Process Clause of the United States Constitution. *See Bensusan Restaurant*

*Corp. v. King*, 937 F. Supp. 295 (S.D.N.Y. 1996). Judge Stein held that the mere act of a defendant's posting a generic advertisement on the worldwide web can not be construed as an effort to target individuals in any *particular* jurisdiction reached by the web.

This line of reasoning has been enormously influential, and has helped to clarify a complex—and increasingly important—corner of personal jurisdiction law. *Bensusan* has been cited by scholars and courts many hundreds of times since 1996.

## **Securities Litigation**

### *In re Initial Public Offering Securities Litigation*

The Initial Public Offering (“IPO”) cases involve allegations of securities fraud arising from initial public offerings during 1999 and 2000. The cases involve allegations of “laddering,” a practice by which brokers allocate IPO shares to purchasers in exchange for an agreement by the purchaser to buy additional blocks of stock in the after-market at prices higher than the offering price. The cases also allege that IPO underwriters were collecting undisclosed commissions from certain investors.

Beginning in December 2000, following a steep decline in share prices for high-tech companies and publication of an article in *The Wall Street Journal* reporting that several underwriters were under government investigation for their practices in allocating shares in “hot” IPOs, plaintiffs’ lawyers filed the first of the IPO cases. The number of IPO cases grew rapidly, ultimately reaching more than 1,000 individual cases. Taken together, the cases are brought against more than 300 companies, such as eToys and Priceline.com, more than 1,000 officers, directors and employees of these companies, and nearly 50 underwriters, including Morgan Stanley Dean Witter & Co. and Credit Suisse Group.

The cases were initially wheeled-out to individual judges until August 2001, when Chief Judge Mukasey issued an order consolidating the IPO cases for pretrial purposes and assigning them to Judge Scheindlin. Nine related, but separate, antitrust suits concerning only the IPO underwriters were transferred to Judge William H. Pauley, III.

Two months later, 38 of the underwriters filed a motion requesting that Judge Scheindlin recuse herself pursuant to 28 U.S.C. § 455 based on her stock ownership, as well as that of her husband and adult son. In a lengthy opinion examining the law of recusal, Judge Scheindlin ruled that § 455 did not require her to recuse from the IPO cases. *In re Initial Pub. Offering Secs. Litig.*, 174 F. Supp. 2d 70 (S.D.N.Y. 2001). The Second Circuit affirmed the ruling, finding that the district court had “expended substantial judicial time” before the recusal motion was made and that there existed no “appearance of bias.” *In re Certain Underwriters*, 294 F.3d 297, 299 (2d Cir. 2001).

Due to the “unique proportions” of the case, innovative case management strategies have been developed. For instance, an access-only website was created at the suggestion of Judge Scheindlin, allowing attorneys to serve each party in the case over the Internet rather than through the traditional methods of service. The parties currently await Judge Scheindlin’s ruling on a motion to dismiss.

## **Terrorism**

The significance of the below-referenced terrorism trials—all of which concern pre-September 11, 2001 acts of terror—cannot be underestimated. During the 1990s, terrorists killed New Yorkers and caused substantial damage both to New York’s physical infrastructure, and to the sense of freedom, security, and openness that New Yorkers once took for granted. The task of doing impartial justice in the face of such terrorism has fallen in numerous cases to the “Mother Court.”

During the 1990s, fears of further terrorism motivated a substantial tightening of security around New York City courthouses, and a number of security-related physical improvements at area federal courts. In 1993 alone, some of these improvements included the installation of a security booth at the entrance to an underground parking lot on Pearl Street, the sealing of rooftop windows on the building’s seventh-floor pavilion, and the closing of a basement-level subway entrance to the courthouse.

In the late 1990s, dump trucks filled with sand blocked the portion of Pearl Street between the United States Courthouse at Foley Square and the Daniel Patrick Moynihan United States Courthouse. Judges, court personnel and deliveries could enter the garages only after one of the dump trucks moved and let them through. Since then, the trucks have been replaced with gated guard houses and reinforced steel barriers to upgrade the security. Entrance to the courthouses has also been limited and metal detectors and bag searches have been added at each of the entrances.

### *United States v. Salameh et al.*

Following what at the time was the “single most destructive act of terrorism ever committed in the United States,” Judge Kevin Thomas Duffy presided over the six-month trial of Muhammed Abouhalima, Ahmad Ajaj, Nidel Ayyad and Mohammed Salameh for their role in the 1993 bombing of the World Trade Center—an attack that killed 6, injured more than 1,000, and caused more than half a billion dollars in damages. Based primarily on circumstantial evidence elicited from more than 1,000 exhibits and more than 200 witnesses, the defendants were found guilty of membership in a terrorist conspiracy to plant a homemade bomb in the underground parking lot of the World Trade Center.

Although the trial lasted six months, some of the most controversial moments occurred during sentencing, a process which, in federal court, is typically a predicable and scripted event. First, Judge Duffy disqualified prominent defense attorneys William Kunstler and Ronald Kuby from representing their clients at the sentencing, based upon conflicts of interest. Next, despite facing life sentences, the defendants announced that they would defend themselves at sentencing if Judge Duffy refused to permit their chosen counsel to represent them. Accordingly, the defendants appeared at the sentencing *pro se* and were each sentenced to 240-year prison terms. On appeal, a federal panel affirmed the convictions, but ordered Judge Duffy to resentence each defendant so as to confirm that each had knowingly waived his right to counsel at the sentencing. *United States v. Salameh*, 152 F.3d 88, 161 (2d Cir. 1998).

*United States v. Rahman, United States v. El-Gabrownny*

Before becoming Chief Judge, Judge Michael B. Mukasey presided over the trial of ten defendants charged with participating in a conspiracy to conduct a campaign of terrorism against New York City. The conspiracy included the 1993 bombing of the World Trade Center, as well as planned—but not consummated—strikes against local bridges and tunnels.

Following a lengthy jury trial, the ten defendants were convicted. Those convictions were affirmed by the United States Court of Appeals for the Second Circuit, which praised Judge Mukasey's handling of the case: "The trial judge, the Hon. Michael B. Mukasey, presided with extraordinary skill and patience, assuring fairness to the prosecution and to each defendant and helpfulness to the jury. His was an outstanding achievement in the face of challenges far beyond those normally endured by a trial judge." *United States v. Rahman*, 189 F.3d 88, 188-89 (2d Cir. 1999).

In the course of the conspiracy case, Judge Mukasey issued a number of noteworthy opinions. In 1994, for example, Judge Mukasey denied defendants' recusal motion, which argued that Judge Mukasey was "connected" to the victims of the conspirators' crimes because he is assertedly a Zionist, and Israel was a "victim" of the conspiracy because the conspirators attacked New York City to dissuade the United States from supporting Israel.

Judge Mukasey rejected this argument:

The victims of the World Trade Center explosion were the six people it killed, the hundreds it injured, and the thousands who felt its effects in other ways. If it is the government's theory that that explosion was a protest against United States policy, then the victims were targeted as Americans, in particular people who worked in New York. If the logic of [defendants'] position about a relationship to victims were accepted, a more fundamental reason for my recusal would be that I am an American, in particular a New Yorker. That, of course, would compel the disqualification of every judge on this Court, if not in this country, and gives away the basic illogic of [defendants'] position.

*United States v. El-Gabrownny*, 844 F. Supp. 955, 961 (S.D.N.Y. 1994).

*United States v. Bin Laden*

Following the August 1998 bombing of the United States embassies in Kenya and Tanzania, the United States Attorney's Office for the Southern District of New York brought multiple charges against Osama Bin Laden and others alleged to be part of his terrorist organization. As part of the investigation into the bombings, U.S. government officials searched a Mr. El-Hage's apartment in Kenya and tapped his telephone lines—all without a valid search warrant.

El-Hage, an American citizen, moved to suppress the fruits of those searches. Judge Sand denied the motion, holding that U.S. government officials may search an American citizen abroad without a warrant when the government demonstrates, *inter alia*, that the American citizen was a foreign agent and that the search was conducted primarily for intelligence-

gathering purposes. Finding that the search of El-Hage met those criteria, Judge Sand denied the motion to suppress. *See United States v. Bin Laden*, 126 F. Supp. 2d 264 (S.D.N.Y. 2000).

In the wake of Judge Sand's ruling, and after a jury trial, El-Hage and others were convicted of a number of federal crimes growing out of the 1998 attacks on the embassies, and were sentenced principally to life in prison.

## **In Memoriam**

This section acknowledges the contributions of the judges who served on the court during the 1990-2000 period, and who are now deceased.

### Hon. Dudley B. Bonsal

Judge Bonsal was born in Bedford, New York in 1906. He received a recess appointment to the United States District Court for the Southern District of New York from President John F. Kennedy in 1961 and a permanent appointment from President Kennedy in 1962. Judge Bonsal assumed senior status in 1976, and died in 1995.

Judge Bonsal graduated from Dartmouth College (A.B., 1927) and Harvard Law School (LL.B., 1930). He was in private practice in New York City from 1930 to 1942, and again from 1945 to 1961—primarily at the law firm of Curtis, Mallet-Prevost, Colt & Mosle. A former president of the Association of the Bar of the City of New York (1958-1960), Judge Bonsal was chairman of a Bar panel that recommended due process reforms in the federal civilian security risk program, which the panel criticized for infringing on individual freedom. Judge Bonsal was also a member of Judicial Conference Committee to Implement the Criminal Justice Act (1964-1979, Chairman 1974-79), and was appointed a Judge of the Temporary Emergency Court of Appeals in 1977.

One of Judge Bonsal's notable cases was *SEC v. Texas Gulf Sulphur Co.*, 312 F. Supp. 77 (S.D.N.Y. 1970), in which, applying a then-new Second Circuit standard, Judge Bonsal ruled that a news release issued by Texas Gulf Sulphur Co. in 1964 had been "misleading to the reasonable investor."

### Hon. Vincent L. Broderick

Judge Broderick was born in New York, New York in 1920. He was appointed to the United States District Court for the Southern District of New York in 1976 by President Gerald R. Ford. He assumed senior status in 1988, and died in 1995.

Judge Broderick graduated from Princeton University (A.B., 1941) and Harvard Law School (LL.B., 1948), and served in the United States Army Corps of Amphibian Engineers (1942-1946). After law school, Judge Broderick entered into private practice at the law firm of Hatch, Root, Barrett, Cohen & Knapp (1948-54) and was later appointed Deputy Commissioner in the New York City Police Department (1954-1956), where his duties focused on legal matters. Judge Broderick served as Chief Assistant United States Attorney for the Southern District from 1961 to 1965, acting as United States Attorney for much of 1962. During his tenure as Police Commissioner of the City of New York from 1965- 1966, Judge Broderick was praised for his

efforts to root out racial discrimination within the department. Following his service as Police Commissioner, Judge Broderick returned to private practice, at the law firms of Phillips, Nizer, Benjamin, Krim & Ballon (1966-1971) and Forsyth Decker Murray & Broderick (1971-1976).

Upon being appointed to the bench in 1976, Judge Broderick became an active participant in various criminal law committees of the Judicial Conference of the United States, as well as an out-spoken advocate of judicial flexibility in sentencing. Judge Broderick's notable cases included *Jackson v. Senkowski*, 817 F. Supp 6 (S.D.N.Y. 1993), in which he suggested that there may be a federal defense of self-defense implicit in the Fifth and Fourteenth Amendment Due Process Clauses.

#### Hon. John M. Cannella

Judge Cannella was born in New York, New York in 1908. He was appointed to the United States District Court for the Southern District of New York in 1963 by President John F. Kennedy. Judge Cannella assumed senior status in 1977, and died in 1996.

Judge Cannella graduated from Fordham University (B.S. 1930) and Fordham Law School (LL.B. 1933). Judge Cannella worked his way through law school by playing professional football, graduating from Fordham with a law degree under his belt—as well as two seasons with the New York Giants. Judge Cannella worked in private practice for several years before becoming an Assistant United States Attorney for the Southern District of New York (1940- 1942). He then served in the United States Coast Guard, as Executive Officer to the Intelligence Service, Third Naval District (1942-1945), and as an Associate Justice of the Court of Special Sessions of the City of New York (1949-1963).

As a United States District Judge, Judge Cannella's notable cases included *Shanker v. Helsby*, 515 F. Supp. 871 (S.D.N.Y. 1981) (upholding the right of the New York City Board of Education to stop collecting dues on behalf of a local teachers' union because a nine-day teachers' strike was conducted in violation of various no-strike provisions) and *Trans World Airlines, Inc. v. Icahn*, 609 F. Supp. 825 (S.D.N.Y. 1985) (effectively putting an end to TWA's attempt to block the takeover activity of Carl C. Icahn by concluding that Icahn had not failed to disclose his true motivation in purchasing TWA stock).

#### Hon. Irving Ben Cooper

Judge Cooper was born in London, England in 1902. He received a recess appointment to the United States District Court for the Southern District of New York in 1961 from President John F. Kennedy, and a permanent appointment in 1962. Judge Cooper assumed senior status in 1972, and died 1996.

After attending the Universities of Colorado and Missouri (B.A., 1922), Judge Cooper received a law degree from the Washington University School of Law (LL.B., 1925). Following law school, he was in private practice for over a decade (1927-1938) before entering into public service for the City of New York, as special counsel to the Department of Investigation of the City of New York (1934-37); New York City Magistrate (1938-1939); Associate Justice, Court of Special Sessions (1939-51); and Chief Justice of the Court of Special Sessions of the City of New York (1951-60). Judge Cooper held numerous additional state and federal public service

positions, and was the 1965 recipient of the prestigious Silver Buffalo Award of the Boy Scouts of America.

As a United States District Judge, Judge Cooper's notable cases included *Flood v. Kuhn*, 316 F. Supp. 271 (S.D.N.Y. 1970) (upholding immunity from antitrust laws for professional baseball) and *Galella v. Onassis*, 353 F. Supp. 196 (S.D.N.Y. 1972) (finding that paparazzo had "relentlessly invaded" the privacy rights of Jacqueline Kennedy Onassis, and had interfered with the work of the Secret Service agents assigned to protect her).

#### Hon. David N. Edelstein

Judge Edelstein was born in New York, New York in 1910. He received a recess appointment to the United States District Court for the Southern District of New York in 1951 from President Harry S. Truman, and a permanent appointment in 1952. Judge Edelstein assumed senior status in 1994, after having served as the Chief Judge of the Southern District of New York from 1971 to 1980. He continued to hear cases up until his death, in 2000.

Judge Edelstein received a bachelor's degree (B.S.), a master's degree (M.A.), and a law degree (LL.B.) from Fordham University, paying his way through his many years of school by working as a page for the New York Stock Exchange (1929-1932). After several years in private practice and one year as an attorney in the Claims Division of the Department of Justice, Judge Edelstein became an Assistant United States Attorney for the Southern District of New York (1945-1947). His public service then continued with terms as special assistant to the U.S. Attorney General, Department of Justice, Lands Division (1947-48), and as Assistant U.S. Attorney General, Department of Justice, Customs Division (1948-51).

As a United States District Judge, Judge Edelstein served as a member of the Judicial Conference of the United States. His notable cases included *United States v. International Business Machines Corp.*, 1956 U.S. Dist. LEXIS 3992 (S.D.N.Y. 1956), a seminal antitrust case under the Sherman Act, requiring I.B.M. to modify its business practices in connection with the sale, lease, and repair of its tabulating and electronic processing machines; though ultimately recused, Judge Edelstein oversaw the I.B.M. antitrust litigation for 43 years.

It is a testament to Judge Edelstein's remarkable work ethic that for many years, he had the distinction of being the longest-serving active judge in the country, and remains the longest-serving judge ever to sit on the Southern District bench.

#### Hon. Lee P. Gagliardi

Judge Gagliardi was born in 1918 in Larchmont, New York. He was nominated to the United States District Court for the Southern District of New York by President Richard M. Nixon in 1971. Judge Gagliardi assumed senior status in 1985, and served until his death in 1998.

Judge Gagliardi graduated from Williams College (A.B., 1941) and Columbia University School of Law (LL.B., 1947). Prior to an extended career in private practice at Clark, Gagliardi & Miller (1955-1972), he served as a Lieutenant in the United States Naval Reserves

during World War II, primarily on a destroyer in the Atlantic Ocean (1942-1945), and as an Assistant to the General Attorney for New York Central Railroad Company (1948-1955).

As United States District Judge, Judge Gagliardi presided over the criminal conspiracy trial of two members of President Nixon's Cabinet, John N. Mitchell and Maurice H. Stans. *See United States v. Mitchell*, 372 F. Supp. 1239 (S.D.N.Y. 1973). This trial marked the first time that two former Cabinet members had been tried together, as well as the first trial of high-ranking Nixon officials with potential links to the Watergate scandal. Mitchell and Stans were acquitted before Judge Gagliardi, but were later convicted on related charges.

#### Hon. Mary Johnson Lowe

Judge Lowe was born in 1924 in New York, New York. She was appointed to the United States District Court for the Southern District of New York by President Jimmy Carter in 1978 and assumed senior status in 1991. She served as a senior judge, in New York and in Las Vegas, until her death in 1999.

Judge Lowe graduated from Hunter College of the City University of New York (B.A., 1951), Brooklyn Law School (LL.B., 1954), and Columbia University School of Law (LL.M., 1955), and was in private practice in New York City from 1955 until 1971. Judge Lowe then served as a Criminal Court Judge (1971-1973); Acting Supreme Court Justice for the New York County Supreme Court, Centralized Narcotics Term (1973-1974); a Judge on the Bronx County Supreme Court (1975-1976); and a New York Supreme Court Justice (1977-1978).

As a United States District Judge, Judge Lowe's notable cases included *Pitts v. Black*, 608 F. Supp. 696 (S.D.N.Y. 1984) (issuing injunction barring New York City from "refusing to allow homeless individuals to register to vote on the ground that they fail to inhabit traditional residences.") and *Women in City Government United v. City of New York*, 515 F. Supp. 295 (S.D.N.Y. 1981) (holding that city pension system, which made the assumption that women lived three years longer than men, discriminated illegally against women by requiring them to make higher contributions even though they received lower monthly benefits when they retired).

#### Hon. Thomas Francis Murphy

Judge Murphy was born in 1905 in New York, New York. He was nominated to the United States District Court for the Southern District of New York in 1951 by President Harry S. Truman. Judge Murphy assumed senior status in 1970, and served until his death in 1995.

Judge Murphy graduated from Georgetown University (A.B., 1927) and Fordham University School of Law (LL.B., 1930). Following graduation, he worked for twelve years in private practice at the law firm of Alcott, Holmes, Glass & Paul. He became an Assistant United States Attorney in the Southern District of New York in 1942, and served there until 1950, at which time he was appointed Police Commissioner of the City of New York (1950-51).

As a United States District Judge, Judge Murphy entered a judgment of denaturalization against Vladimir Sokolov, a former lecturer at Yale University who Judge Murphy ruled had concealed his past as a Nazi propagandist. But Judge Murphy's most famous case came during his career as a federal prosecutor, when he procured a jury conviction in the case of Alger Hiss, a

former State Department official who was on trial for perjury following accusations that he had lied about passing confidential documents to a Communist party member.

Hon. Charles E. Stewart, Jr.

Judge Stewart was born in 1916 in Glen Ridge, New Jersey. He was appointed to the United States District Court for the Southern District of New York in 1972 by President Richard M. Nixon. Judge Stewart assumed senior status in 1985 and served as a senior judge until his retirement in 1993. He died one year later, in 1994.

Judge Stewart graduated from Harvard College (B.A., 1938) and Harvard Law School (LL.B., 1948). Between college and law school, Judge Stewart served as a Captain in the United States Army (1942-1945). Following law school, he was in private practice in New York City for twenty-six years (1948- 1972), where he specialized in antitrust law.

As a United States District Judge, Judge Stewart's notable cases included *Fuentes v. Roher*, 395 F. Supp. 1225 (S.D.N.Y. 1975) (ordering hearing for School Board Superintendent who had been removed for engaging in partisan political conduct during school board elections); *Torres v. Sachs*, 381 F. Supp. 309 (S.D.N.Y. 1974) (finding that New York City Board of Elections' practice of using English as the exclusive language for elections violated the Voting Rights Act); and *SEC v. Vesco*, 548 F. Supp. 1270 (S.D.N.Y. 1981) (finding that Robert Vesco and others had looted various companies in violation of the securities laws and ordering disgorgement of illicitly gained profits).

Hon. Charles H. Tenney

Judge Tenney was born in New York, New York in 1911. He was appointed to the United States District Court for the Southern District of New York in 1963 by President John F. Kennedy. Judge Tenney assumed senior status in 1979 and served as a senior judge until his death in 1994.

Judge Tenney graduated from Yale University (A.B., 1933; J.D., 1936). Following law school, he worked in private practice at the law firm of Breed, Abbott and Morgan (1936-1942), and then served as a Lieutenant Commander in the United States Naval Reserve on aircraft carriers in the Pacific during World War II (1942-1945). Following the war, Judge Tenney returned to Breed, Abbott and Morgan in 1945, and became a partner in 1951. Judge Tenney served as Commissioner of the Department of Investigations of New York City (1955- 1958), and was then Corporation Counsel (1958-1961), City Administrator (1961- 1962), and Deputy Mayor of the City of New York (1962-1963).

As a United States District Judge, Judge Tenney's notable cases included *Williamsburg Fair Housing Committee v. New York City Housing Authority*, 493 F. Supp. 1225 (S.D.N.Y. 1980), in which he issued an injunction barring the New York City Housing Authority from using quotas to favor whites over black or Hispanic applicants in certain Brooklyn housing projects.

Hon. Inzer B. Wyatt

Judge Wyatt was born in 1907 in Hunstville, Alabama. He was appointed to the United States District Court for the Southern District of New York by President John F. Kennedy in 1962. He assumed senior judge status in 1977, but continued to preside over cases until his death in 1990.

Judge Wyatt attended the University of Alabama, Tuscaloosa (A.B., 1927) and Harvard Law School (LL.B., 1930). Following law school, Judge Wyatt worked in private practice in New York City (1930-1941), leaving for three years to serve as a Colonel in the United States Army (1942-1945), but returning to private practice after World War II (1946-1962).

As a United States District Judge, Judge Wyatt's notable cases included *Male v. Crossroad Assoc.*, 337 F. Supp. 1190 (S.D.N.Y. 1971), in which he granted partial summary judgment to plaintiffs who were not permitted to apply for housing in government-sponsored "urban renewal" housing projects due to their status as welfare recipients.

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## APPENDIX<sup>45</sup>

### **Chief Judges of the U.S. District Court for the Southern District of New York (1990 to 2000)**

#### Hon. Charles L. Brieant (1986 to 1993)

Judge Brieant was born in 1923 in Ossining, New York and was appointed to the United States District Court for the Southern District of New York by President Richard M. Nixon in 1971. He received both his undergraduate and law degree from Columbia University (B.A., 1947; LL.B., 1949) and served in the United States Army Air Corps (1943-1946). Throughout his career, Judge Brieant has served in numerous government positions at the local and state level throughout the State of New York, as a legislator, attorney, and administrator. In addition, he was in private practice at Bleakley, Platt, Schmidt & Fritz in White Plains, New York (1949-1971). During his time as an active United States District Judge, Judge Brieant served on the Executive Committee of the Judicial Conference of the United States.

#### Hon. Thomas P. Griesa (1993 to 2000)

Judge Griesa was born in Kansas City, Missouri in 1930. He received his undergraduate degree from Harvard University (A.B., 1952) and his law degree from Stanford Law School (LL.B., 1958). He was appointed to the United States District Court for the Southern District of New York in 1972 by President Richard M. Nixon after being in private practice at Davis Polk & Wardwell (1960-1972). Judge Griesa also served in the United States Coast Guard (1952-1954) and in the Admiralty and Shipping Section of the Department of Justice (1958-1960). Judge Griesa assumed senior status in 2000.

#### Hon. Michael B. Mukasey (2000 to present)

Judge Mukasey was born in the Bronx, New York in 1941. He received his undergraduate degree from Columbia University (B.A., 1963) and his law degree from Yale Law School (LL.B., 1967). He began his career in private practice in 1967, when he joined the firm of Webster, Sheffield, Fleischmann, Hitchcock & Brookfield. In 1972, Judge Mukasey joined the United States Attorney's Office for the Southern District of New York, Criminal Division; from 1975 to 1976, he served in that Office as Chief of the Official Corruption Unit. Judge Mukasey returned to private practice in 1976, working at the firm of Patterson, Belknap, Webb & Tyler until his 1987 appointment to the United States District Court for the Southern District of New York by President Ronald Reagan.

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<sup>45</sup> Information for the judicial biographies that follow are drawn primarily from two sources: the Federal Judicial Center ([www.fjc.gov](http://www.fjc.gov)) and the Second Circuit Redbook series published by the Federal Bar Council, from the years 1989-1990 through the years 2001-2002. The Committee wishes to thank the Federal Bar Council for providing this valuable resource.

## **Active Judges of the U.S. District Court for the Southern District Of New York**

### Hon. Harold Baer, Jr.

Judge Baer was born in 1933 in New York, New York. He was appointed to the United States District Court for the Southern District of New York by President William J. Clinton in 1994. He received his undergraduate degree from Hobart College (B.A., 1954) and his law degree from Yale Law School (LL.B., 1957). Judge Baer was Assistant United States Attorney for the Southern District of New York (1961-1967), leaving in 1967 as Chief of the Special Prosecutions Unit and returning from 1970 to 1972 as First Assistant United States Attorney. He was in private practice twice (1968-1970 and 1972-1982), both times with the law firm of Guggenheimer & Untermeyer in New York. Judge Baer served as President of the New York County Lawyers' Association (1979-1981) and was a Justice in the Supreme Court of the State of New York, New York County (1982-1992). Just prior to his appointment to the Southern District, he served as a member of the Mayoral Commission to Investigate Alleged Police Corruption (the Mollen Commission, 1992-1994). At the same time, he was the Executive Judicial Officer of JAMS, an entity specializing in mediation and arbitration. Judge Baer is a member of the New York County Lawyers' Association.

### Hon. Deborah A. Batts

Judge Batts was born in 1947 in Philadelphia, Pennsylvania. She was appointed to the United States District Court for the Southern District of New York in 1994 by President William J. Clinton. She received her undergraduate degree from Radcliffe College (A.B., 1969) and her law degree from Harvard Law School (J.D., 1972). Judge Batts began her legal career by clerking for the Hon. Lawrence W. Pierce of the United States District Court for the Southern District of New York (1972-1973). She was in private practice with Cravath, Swaine & Moore in New York City (1973- 1979) and then served as an Assistant United States Attorney, Criminal Division, in the Southern District of New York (1979-1984). She was also Special Associate Counsel in the Department of Investigation of The City of New York (1990-1991). Prior to her 1994 appointment to the bench, Judge Batts served as an Associate Professor of Law at Fordham University School of Law (1984-1994).

### Hon. Richard M. Berman

Judge Berman was born in 1943 in New York, New York. He was appointed to the United States District Court for the Southern District of New York by President William J. Clinton in 1998. Judge Berman received his undergraduate degree from the Cornell University School of Industrial and Labor Relations (B.S., 1964) and his law degree from New York University School of Law (J.D., 1967). He received a Diploma of Comparative Law (1968) and a Diploma of International Law (1970) from the University of Stockholm Faculty of Law, as well as a master's degree from the Fordham University Graduate School of Social Science (M.S.W., 1996). Judge Berman began his legal career in private practice, as a litigation associate at Davis Polk & Wardwell (1970-1974). He then served as the Executive Assistant to United States Senator Jacob K. Javits (1974-1977), the Executive Director of the New York Alliance to Save Energy, Inc. (1977- 1978), and the General Counsel and Executive Vice President at Warner Cable Corporation (1978-1986). He was a partner at LeBoeuf, Lamb, Greene & MacRae

(1986-1995) and served as a Judge in the Queens County Family Court (1995-1998). Judge Berman is a member of the New York County Lawyers' Association.

Hon. Naomi Reice Buchwald

Judge Buchwald was born in 1944 in Kingston, New York. She was appointed to the United States District Court for the Southern District of New York by President William J. Clinton in 1999. She received her undergraduate degree from Brandeis University (B.A., 1965) and her law degree from Columbia University School of Law (LL.B., 1968). Judge Buchwald started her career in private practice as a litigation associate in Marshall, Bratter, Greene, Allison & Tucker in New York (1968-1973). She then spent seven years at the United States Attorney's Office in the Southern District; first as an Assistant U.S. Attorney (1973-1976), then as Deputy Chief of the Civil Division (1976-1979), and finally as Chief of the Civil Division (1979-1980). She served as a Magistrate Judge in the Southern District of New York (1980-1999), and as Chief Magistrate.

Hon. Richard C. Casey

Judge Casey was born in 1933 in Ithaca, New York. He was appointed to the United States District Court for the Southern District of New York by President William J. Clinton in 1997. He received his undergraduate degree from the College of the Holy Cross (B.S., 1955) and his law degree from the Georgetown University Law Center (LL.B., 1958). Judge Casey served in the United States Army and in several legal positions in the government from 1958 to 1964, including four years as an Assistant United States Attorney, Criminal Division, in the Southern District of New York (1959-1963). He then worked in private practice at Brown & Wood (then known as Brown, Wood, Fuller, Caldwell & Ivey) as an associate (1964- 1970), a partner (1970-1984), and Of Counsel (1984-1997).

Hon. Denny Chin

Judge Chin was born in 1954 in Kowloon, Hong Kong. He was appointed to the United States District Court for the Southern District of New York by President William J. Clinton in 1994. Judge Chin was the first judge of Asian-American descent to be appointed to a federal court in the Second Circuit. He received his undergraduate degree from Princeton University (B.A., 1975) and his law degree from Fordham University School of Law (J.D., 1978). Judge Chin began his legal career by clerking for the Hon. Henry F. Werker of the Southern District of New York from 1978 to 1980. He served as an Assistant United States Attorney in the Southern District of New York from 1982 to 1986. He has worked in private practice at Davis Polk & Wardwell; Campbell, Patrick & Chin; and Vladeck, Waldman, Elias & Engelhard, P.C. Judge Chin is a member of the New York County Lawyers' Association.

Hon. Denise Cote

Judge Cote was born in 1946 in St. Cloud, Minnesota. She was appointed to the United States District Court for the Southern District of New York by President William J. Clinton in 1994. She received her undergraduate degree from St. Mary's College (B.A., 1968) and her law degree from Columbia University School of Law (J.D., 1975). She also has a graduate degree from Columbia University Graduate Facilities in History (M.A., 1969). Judge Cote served as a

law clerk to the Honorable Jack B. Weinstein of the United States District Court for the Eastern District of New York (1975-1976). Judge Cote served as a federal prosecutor for a large part of her legal career, working as an Assistant United States Attorney (1977- 1983) and a Deputy Chief (1983-1985) in the Criminal Division of the Southern District of New York. In 1991, she became the first woman to serve as Chief of the Criminal Division for the United States Attorney's Office for the Southern District (1991-1994). Judge Cote has worked in private practice with two different firms: Curtis, Mallet-Prevost, Colt & Mosle; and Kaye, Scholer, Fierman, Hays & Handler, where she became a partner in 1988.

Hon. George B. Daniels

Judge Daniels was born in 1953. He was appointed to the United States District Court for the Southern District of New York by President William J. Clinton in 2000. He received his undergraduate degree from Yale University (B.A., 1975) and his law degree from the University of California at Berkeley, Boalt Hall School of Law (J.D., 1978). Judge Daniels began his legal career as a criminal defense attorney for the Legal Aid Society of New York (1978-80), and then served as law clerk to Chief Justice Rose E. Bird of the California Supreme Court (1980-1981), before entering into private practice with Skadden, Arps, Slate, Meagher & Flom in New York. He then served as an Assistant United States Attorney in the Eastern District of New York (1983-1989), and held several judicial posts, as a judge in the Criminal Court of the City of New York, first in New York County (1989-1990) and then in Bronx County (1993-1995), and a Justice of the Supreme Court of the State of New York (1995). He was an adjunct professor at Brooklyn Law School and a trial advocacy instructor at Hofstra Law School, Benjamin N. Cardozo School of Law, and the National Institute for Trial Advocacy. In addition, Judge Daniels co-authored a book entitled New York Criminal Law (West Publishing Co., 1996).

Hon. Alvin K. Hellerstein

Judge Hellerstein was born in 1933 in New York, New York. He was appointed to the United States District Court for the Southern District of New York by President William J. Clinton in 1998. He received both his undergraduate (B.A., 1954) and law degree (LL.B., 1956) from Columbia University. Judge Hellerstein was in private practice for nearly forty years with the firm of Stroock & Stroock & Lavan LLP of New York City, where he co-founded Stroock's Litigation Department. He began his legal career by clerking for the Hon. Edmund L. Palmieri of the United States District Court for the Southern District of New York (1956-1957). He also served as a First Lieutenant in the Judge Advocate General's Corps in the United States Army (1957-1960).

Hon. Barbara S. Jones

Judge Jones was born in 1947 in Inglewood, California. She was appointed to the United States District Court for the Southern District of New York by President William J. Clinton in 1995. She received her undergraduate degree from Mount St. Mary's College (B.A., 1968) and her law degree from Temple University School of Law (J.D., 1973). Judge Jones began her legal career in the United States Department of Justice as a Special Attorney in the Organized Crime and Racketeering Criminal Division, and served as a Special Attorney for its Manhattan Strike Force Against Organized Crime and Racketeering (1973-1977). She was an Assistant United

States Attorney in the Southern District of New York (1977- 1987), and in 1984, she became the first woman to be appointed Chief of an Organized Crime Strike Force in that office. In addition, Judge Jones served as Chief of the General Crimes Unit (1983-1984) and Chief of the Organized Crime Unit (1984-1987) in the Southern District. She has been adjunct Associate Professor of Law at Fordham University School of Law since 1985.

Hon. Lewis A. Kaplan

Judge Kaplan was born in 1944 in Staten Island, New York. He was appointed to the United States District Court for the Southern District of New York by President William J. Clinton in 1994. He received his undergraduate degree from the University of Rochester (A.B., 1966) and his law degree from Harvard Law School (J.D., 1969). Upon graduation from law school, he served as a law clerk for the Hon. Edward M. McEntee of the United States Court of Appeals, First Circuit (1969-1970). Judge Kaplan spent most of his legal career in private practice at the firm of Paul, Weiss, Rifkind, Wharton & Garrison, where he became partner in 1977 (1970- 1994). He also served as a Special Master in the Westway Litigation in the Southern District from 1982 to 1983.

Hon. John G. Koeltl

Judge Koeltl was born in 1945 in New York, New York. He was appointed to the United States District Court for the Southern District of New York by President William J. Clinton in 1994. He received his undergraduate degree from Georgetown University (A.B., 1967) and his law degree from Harvard Law School (J.D., 1971). Upon graduation from law school, Judge Koeltl clerked for the Hon. Edward Weinfeld of the United States District Court for the Southern District of New York (1971-1972), followed by the Hon. Potter Stewart of the United States Supreme Court (1972-1973). Judge Koeltl spent nearly twenty years in private practice with the law firm of Debevoise & Plimpton in New York (1975-1994), where he became a partner in 1979. He was also an Assistant Special Prosecutor on the Watergate Special Prosecution Force in the United States Department of Justice (1973- 1974). Judge Koeltl is a member of the New York County Lawyers' Association.

Hon. Gerard E. Lynch

Judge Lynch was born in 1951 in Brooklyn, New York. He graduated from Columbia College (B.A., 1972) and from Columbia University School of Law (J.D., 1975). Afterwards, he served as a law clerk to the Hon. Wilfred Feinberg of the United States Court of Appeals for the Second Circuit (1975- 1976) and to the Hon. William J. Brennan, Jr. of the United States Supreme Court (1976-77). Judge Lynch then joined the faculty of the Columbia University School of Law, where he taught for over twenty years (1977-2000). Prior to his appointment to the bench by President William J. Clinton in 2000, he also served in numerous government positions, including as an Assistant United States Attorney in the Southern District of New York (1980- 1983) and as Chief of the Criminal Division of that office (1990-1992). He was Associate Counsel for the Office of Independent Counsel for Iran/Contra (1988-1990). In addition, he was Of Counsel in the law firm of Howard, Darby & Levin, now Covington and Burling (1992-2000).

Hon. Victor Marrero

Judge Marrero was born in 1941 in Santurce, Puerto Rico. He received his undergraduate degree from New York University (B.A., 1964), studied as a Fulbright Scholar at the University of Sheffield School of Law (1966-1967), and received his law degree from Yale Law School (LL.B., 1968). Following law school, he was Assistant to Mayor John V. Lindsay in New York City (1968-1970) and served in New York City government until 1977, as Assistant Administrator and Neighborhood Director for the Model Cities Administration (1970-1973), Executive Director for the Department of City Planning (1973-1974), Special Counsel to the Comptroller (1974-1975), and Chairman of the City Planning Commission (1976-1977). He was Commissioner and Vice Chairman of the New York State Housing Finance Agency (1978-1979) and United States Undersecretary of Housing and Urban Development (1979-1981). Judge Marrero was in private practice for over a decade (1981-1993) and then served as Ambassador to the U.S. Mission to the United Nations (1993-1999) before his 1999 appointment to the United States District Court for the Southern District of New York by President William J. Clinton.

Hon. John S. Martin, Jr.

Judge Martin was born in 1935 in Brooklyn, New York. He graduated from Manhattan College (B.A., 1957) and Columbia Law School (LL.B., 1961). Judge Martin began his legal career as a law clerk to Hon. Leonard P. Moore of the United States Court of Appeals for the Second Circuit (1961-1962). Judge Martin then served as an Assistant U.S. Attorney in the Southern District of New York (1962-1966) and an Assistant to the Solicitor General of the United States (1967-1969). He was in private practice from 1969 to 1980, with the law firms Martin, Obermaier & Morvillo and Schulte Roth & Zabel. Judge Martin served as the United States Attorney for the Southern District of New York (1980-1983) and then returned to private practice with Schulte Roth & Zabel from 1983 until his appointment to the United States District Court for the Southern District of New York by President George Bush, Sr. in 1990.

Hon. Lawrence M. McKenna

Judge McKenna was born in 1933 in New York, New York. He received his undergraduate degree from Fordham College (A.B., 1956) and his law degree from Columbia Law School (LL.B., 1959). Prior to being appointed to the bench by President George Bush, Sr. in 1990, he was in private practice in New York City at the law firm of Simpson Thacher & Bartlett, and was a partner at the law firm Wormser, Kiely, Alessandroni, Hyde & McCann and its successor, Wormser, Kiely, Galef & Jacobs for over thirty years (1959-1990).

Hon. Colleen McMahon

Judge McMahon was born in 1951 in Columbus, Ohio. She received her undergraduate education at Ohio State University (B.A., 1973) and her legal education at Harvard Law School (J.D., 1976). After a few years in private practice at the law firm of Paul, Weiss, Rifkind, Wharton & Garrison, Judge McMahon served as Speechwriter and Special Assistant to the Honorable Donald McHenry, United States Mission to the United Nations (1979-1980). She then returned to Paul, Weiss, where in 1984 she became the first woman litigator to be elected as a partner of that firm. Judge McMahon served as a Judge of the New York Court of Claims

(1995) and as an Acting Justice of the Supreme Court of New York (1995-1998). In 1998, she was appointed to the United States District Court for the Southern District of New York by President William J. Clinton.

Hon. William H. Pauley, III

Judge Pauley was born in 1952 in Glen Cove, New York. He graduated from Duke University (A.B., 1974) and received his law degree from Duke University School of Law (J.D., 1977). Thereafter, he worked for the Nassau County Attorney's Office (1977-1978). Prior to his appointment to the bench by President William J. Clinton in 1998, Judge Pauley was in private practice for approximately twenty years, primarily at the law firm Snitow & Pauley (1978-1998).

Hon. Loretta A. Preska

Judge Preska was born in 1949 in Albany, New York. She graduated from the College of St. Rose (B.A., 1970), Fordham University School of Law (J.D., 1973), and New York University School of Law (LL.M. in Trade Regulation, 1978). Prior to her appointment to the bench by President George Bush, Sr. in 1992, Judge Preska was in private practice for over twenty years, first with Cahill Gordon & Reindel (1973-1982) and then with Hertzog, Calamari & Gleason, where she became a partner in 1983 (1983- 1992). Judge Preska is a member of the New York County Lawyers' Association and, before becoming a District Judge, served on the Association's Federal Courts Committee. In 2001, Judge Preska received the Edward Weinfeld Award in recognition of her years of dedicated service to the Southern District of New York.

Hon. Jed S. Rakoff

Judge Rakoff was born in 1943 in Philadelphia, Pennsylvania and was appointed in 1996 by President William J. Clinton to the United States District Court for the Southern District of New York. He attended Swarthmore College (B.A., 1964), Oxford University, Balliol College (M.Phil., 1966), and Harvard Law School (J.D., 1969). Judge Rakoff clerked for the Honorable Abraham Freedman, U.S. Court of Appeals, Third Circuit (1969-1970). He was in private practice for two years before serving as an Assistant United States Attorney for the Southern District of New York (1973-1980), where he was Chief of the Business and Securities Fraud Prosecutions Unit. Judge Rakoff then returned to private practice, as a partner at the law firms of Mudge, Rose, Guthrie, Alexander and Ferdon, and Fried Frank Harris Shriver and Jacobsen.

Hon. Shira A. Scheindlin

Judge Scheindlin was born in 1946 in Washington, D.C. She attended the University of Michigan (B.A., 1967), Columbia University (M.A., 1969) and Cornell Law School (J.D., 1975). Prior to her appointment to the bench by President William J. Clinton in 1994, Judge Scheindlin clerked for the Honorable Charles Brieant of the United States District Court for the Southern District of New York (1976-1977) and held various positions in federal and local government (1977-1982), including a four year stint as an Assistant United States Attorney in the Eastern District of New York (1977- 1981). She was a Magistrate Judge in the United States District Court for the Eastern District of New York (1982-1986) before entering private practice as a partner in the law firm of Herzfeld & Rubin (1986-1994). Judge Scheindlin is a member of the

Advisory Committee on Civil Rules of the Judicial Conference of the United States. Since 1983, Judge Scheindlin has also been an Adjunct Professor of Law at Brooklyn Law School. Judge Scheindlin is a member of the New York County Lawyers' Association.

Hon. Allen G. Schwartz

Judge Schwartz was born in 1934 in Brooklyn, New York. He graduated from City College of New York, Baruch College (B.B.A., 1955) and the University of Pennsylvania Law School (LL.B., 1958). Prior to his appointment to the bench by President William J. Clinton in 1994, Judge Schwartz served in the U.S. Army (1958-1959) and U.S. Army Reserves. He was an Assistant District Attorney in New York County (1959-1962) and Corporation Counsel in New York City (1978-1981). He was also in private practice with the law firms Proskauer Rose Goetz & Mendelsohn and Schwartz, Klink & Schreiber, P.C.

Hon. Sidney H. Stein

Judge Stein was born in 1945 and graduated from Princeton University (A.B., 1967) and Yale Law School (J.D., 1972). He served in the New York Army National Guard (1969-1975), and began his legal career as a law clerk for the Honorable Stanley H. Fuld, Chief Judge of the New York Court of Appeals and Chief Judge of the State of New York (1972-1973). He spent more than twenty years in private practice, with Paul, Weiss, Rifkind, Wharton & Garrison (1974-1981) and as a founding partner of Stein, Zauderer, Ellenhorn, Frischer & Sharp (1981-1995). He was appointed to the United States District Court for the Southern District of New York by President William J. Clinton in 1995. Judge Stein is a member of the New York County Lawyers' Association.

Hon. Laura Taylor Swain

Judge Swain was born in Brooklyn, New York in 1958. She graduated from Harvard-Radcliffe College (B.A., 1979) and Harvard Law School (J.D., 1982). She was appointed in 2000 to the United States District Court for the Southern District of New York by President William J. Clinton. Judge Swain has been a law clerk for the Honorable Constance Baker Motley in the United States District Court for the Southern District of New York (1982-1983), was in private practice with Debevoise & Plimpton (1982-1996), and served as a U.S. Bankruptcy Judge in the Eastern District of New York (1996-2000).

Hon. Kimba M. Wood

Judge Wood was born in Port Townsend, Washington in 1944. She graduated from Connecticut College (B.A., 1965), the London School of Economics (M.Sc., 1966), and Harvard Law School (J.D., 1969). Prior to her appointment to the bench by President Ronald Reagan in 1988, Judge Wood was associated with Steptoe & Johnson (1969-1970). She then served in the Special Counsel's Office of the Office of Economic Opportunity Legal Services Program (1970-1971) and in private practice with LeBoeuf, Lamb, Leiby & MacRae (1971-1988), where she became a partner in 1978.

## **Senior Judges of the U.S. District Court for the Southern District of New York**

### **Hon. Robert L. Carter**

Judge Carter was born in 1917 in Careyville, Florida. He received his undergraduate degree from Lincoln University, Pennsylvania (A.B., 1937) and his law degree from Howard University Law School (LL.B., 1940). He also received a graduate degree from Columbia University Law School (LL.M., 1942), and honorary degrees from multiple universities. He was a Lieutenant in the United States Army Air Force (1941-1944). Prior to his appointment to the bench by President Richard M. Nixon in 1972, Judge Carter served in a variety of private and public sector positions, including service as assistant special counsel (1945-1956) and general counsel (1956- 1968) to the NAACP, and as a member of the American Delegation to the U.N. Conference on Crime and Treatment of Offenders (1965) and the U.N. Conference of African Jurists on African Legal Process and Individual Rights (1968). He was a partner in the firm Poletti, Freidin, Prashker, Feldman & Gartner (1969-1972). Judge Carter has also taught as an adjunct professor of law at Yale University, New York University, and University of Michigan School of Law. He assumed senior status in 1986.

### **Hon. Miriam Goldman Cedarbaum**

Judge Cedarbaum was born in 1929 in New York, New York. She was appointed to the United States District Court for the Southern District of New York by President Ronald Reagan in 1986, and assumed senior status in 1998. She received her undergraduate degree from Barnard College (B.A., 1950) and her law degree from Columbia University School of Law (LL.B., 1953). Upon graduating from law school, Judge Cedarbaum served as a law clerk for the Honorable Edward Jordan Dimock of the Southern District of New York (1953-1954). She has served the public in numerous capacities: as an Assistant United States Attorney for the Southern District of New York (1954-1957); as an attorney in the Department of Justice in Washington, D.C. (1958-1959); as First Assistant Counsel for the New York State Moreland Commission on the Alcoholic Beverage Control Law (1963-64); and as Acting Village Justice (1978-82) and Village Justice (1982-86). In addition, Judge Cedarbaum was Associate Counsel to the Museum of Modern Art in New York (1965-1979). Judge Cedarbaum has also served as a part-time legal consultant to law firms advising on litigation matters (1959-1962) and was in private practice at Davis Polk & Wardwell (1979-1986).

### **Hon. William C. Conner**

Judge Conner was born in 1920 in Wichita Falls, Texas. He was appointed to the United States District Court for the Southern District of New York by President Richard M. Nixon in 1973, and assumed senior status in 1987. Judge Conner received both his undergraduate (B.B.A., 1941) and law degree (LL.B., 1942) from the University of Texas, and was a lieutenant in the United States Naval Reserve (1942-1946). Judge Conner has been awarded the Jefferson Medal for outstanding contributions to the development of U.S. patent law (1975), was President of the New York Patent Law Association (1972-73), and has served on the Board of Editors of the Manual for Complex Litigation.

Hon. Kevin Thomas Duffy

Judge Duffy was born in 1933 in New York, New York. He was appointed to the United States District Court for the Southern District of New York by President Richard M. Nixon in 1972. He received both his undergraduate (A.B., 1954) and law degree (LL.B., 1958) from Fordham University. Judge Duffy was a clerk for the Honorable J. Edward Lumbard in the United States Court of Appeals for the Second Circuit (1955-1958). He then served as an Assistant United States Attorney in the Southern District of New York (1958-1959), where he became Assistant Chief of the Criminal Division (1959-1961). Judge Duffy worked in private practice, as an associate with Whitman, Ransom, & Coulson (1961-1966), and as a partner at Gordon and Gordon (1966-1969). He then served as the New York Regional Director for the Securities and Exchange Commission (1969-72). Judge Duffy is the recipient of the Fordham Alumni Gold Medal for Excellence in the Law (1984), the Distinguished Public Service Award from the New York County Lawyers' Association (1994), the William O. Douglas Award for Lifetime Achievement (1995), and the Fordham Law Gavel and Shield Association's first annual Thomas F. Murphy Award (1999). Judge Duffy was honored in 1998 by both the Respect for Law Alliance and the Federal Law Enforcement Foundation for presiding over the trials of the individuals involved in the first attack on the World Trade Center. Judge Duffy assumed senior status in 1998.

Hon. Gerard L. Goettel

Judge Goettel was born in New York, New York in 1928. He was appointed to the United States District Court for the Southern District of New York in 1976 by President Gerald R. Ford, and assumed senior status in 1993. He received his undergraduate degree from Duke University (B.A. 1950) and his law degree from Columbia University (LL.B., 1955). He was a Lieutenant in the United States Coast Guard (1951-53) and an instructor in the U.S. Coast Guard Reserve (1953-1961). He served as an Assistant United States Attorney in the Southern District of New York (1955-56) and as a Deputy Chief of the Attorney General's Special Group on Organized Crime, Department of Justice (1958-59). He was associated with the law firms Lowenstein, Pitcher, Hotchkiss, Amann, and Parr (1959-62) and Natanson and Reich (1968-69), and was associate general counsel for The Overmyer Company (1969-71). In addition, Judge Goettel has served as an Adjunct Professor of Law at Fordham University Law School and Pace University Law School, and as a United States Magistrate for the United States District Court for the Southern District of New York of New York (1971- 76).

Hon. Charles S. Haight, Jr.

Judge Haight was born in 1930 in New York, New York. He received his undergraduate degree (A.B., 1952) and law degree (LL.B., 1955) from Yale University. Prior to his appointment to the bench by President Gerald R. Ford in 1976, he served as a trial attorney in the Admiralty and Shipping Section, Civil Division, United States Department of Justice (1955-1957), and worked in private practice for the firm Haight, Gardner, Poor & Havens, where he became a partner in 1968. He is a director of the Kennedy Child Study Center and a member of the board of managers of the Havens Relief Fund Society. Judge Haight assumed senior status in 1995.

Hon. John F. Keenan

Judge Keenan was born in 1929 in New York, New York. He graduated from Manhattan College (B.B.A., 1951) and Fordham University School of Law (LL.B., 1954), and served in the United States Army (1954-1956). Judge Keenan began his legal career in the New York County District Attorney's Office as an Assistant District Attorney (1956-1973), Administrative Assistant District Attorney (1974), and Chief Assistant District Attorney (1974-1976). He was Special Prosecutor (Deputy Attorney General) in the Investigation into Corruption in the Criminal Justice System of New York City (1976-1979), as well as Chairman and President of the New York City Off-Track Betting Corporation (1979-1982), and Criminal Justice Coordinator for the City of New York (1982- 83). Judge Keenan was appointed to the bench in 1983 by President Ronald Reagan and assumed senior status in 1996.

Hon. Whitman Knapp

Judge Knapp was born in 1909 in New York, New York. He received his undergraduate degree from Yale College (A.B., 1931) and his law degree from Harvard Law School (LL.B., 1934). Prior to his appointment to the bench in 1972 by President Richard M. Nixon, he was in private practice with Cadwalader, Wickersham & Taft (1934-1937); Donovan Leisure Newton & Lumbard (1941); and Barrett, Knapp, Smith, Schapiro & Simon (1950-1972). Judge Knapp served in the District Attorney's Office for New York County as Deputy Assistant District Attorney (1937-1941), Chief of the Indictments and Frauds Division (1942-1944), and Chief of the Appeals Bureau (1944-1950). He was Chairman of the so-called Knapp Commission, which investigated allegations of corruption in New York City's Police Department (1970-72). He was also a member of the Temporary Commission on Revision of the New York State Penal Law and Code of Criminal Procedure (1953-54). Judge Knapp assumed senior status in 1987.

Hon. Shirley Wohl Kram

Judge Kram was born in New York, New York. She attended the College of the City of New York and Brooklyn Law School (LL.B., 1950). Prior to her appointment to the bench in 1983 by President Ronald Reagan, Judge Kram served as a judge for the Family Court, the Civil Court and the Criminal Court of the City of New York (1971-1983). She has also worked for the Legal Aid Society, where she was head of the Narcotics Unit, and coauthored a book entitled The Law of Child Custody: Development of the Substantive Law (D.C. Heath & Co., 1982). Judge Kram assumed senior status in 1993.

Hon. Morris Edward Lasker

Judge Lasker was born in 1917 in Hartsdale, New York. He graduated from Harvard College (B.A., 1938) and from Yale Law School (LL.B., 1941). Prior to his 1968 appointment to the bench by President Lyndon B. Johnson, he was staff attorney for the United States Senate Committee Investigating National Defense Programs (1941-1942) and was in private practice in New York City (1946-1968). He was Town Attorney for New Castle, New York (1955-1957) and a New Castle Justice of the Peace (1957-1958). Judge Lasker is a former Chairman of the Advisory Committee of the Center for Research in Crime and Justice at the New York

University School of Law, and is a former member of the Executive Committee of the Association of the Bar of the City of New York. He assumed senior status on October 3, 1983.

Hon. Peter K. Leisure

Judge Leisure was born in 1929 in New York, New York. He graduated from Yale University (B.A., 1952) and the University of Virginia School of Law (LL.B., 1958). Prior to his appointment to the United States District Court for the Southern District of New York by President Ronald Reagan in 1984, Judge Leisure served as a Lieutenant in the United States Army Reserve, Artillery (1953-1955), and as an Assistant United States Attorney, Criminal Division, in the Southern District of New York (1962- 1966). In addition, he spent many years in private practice, associated with Breed, Abbott & Morgan, and as a partner with Curtis, Mallet-Prevost, Colt & Mosle and with Whitman Ransom (1966-1984). He was a member of the Judicial Conference Committee on Judicial Ethics (1990-1994). Judge Leisure assumed senior status in 1997.

Hon. Constance Baker Motley

Judge Motley was born in New Haven, Connecticut. She graduated from New York University (B.A., 1943) and Columbia University (LL.B., 1946) and has received honorary degrees from numerous universities. Prior to her appointment to the United States District Court for the Southern District of New York by President Lyndon B. Johnson in 1966, Judge Motley was on the legal staff of the NAACP Legal Defense and Education Fund (1945-1965). She was President of the Borough of Manhattan (1965-1966) and served in the New York State Senate (1964-1965). During her tenure with the NAACP, Judge Motley was a principal trial attorney, where she worked on the briefs for *Brown v. Board of Education* with Thurgood Marshall, who would later become a Justice of the United States Supreme Court; represented Dr. Martin Luther King, Jr. in connection with 1963 demonstrations in Birmingham, Alabama; and argued a series of vital civil rights cases before the United States Supreme Court. Judge Motley was the first African-American woman to sit on the federal bench, and the first woman to serve as a judge of the Southern District. She served as Chief Judge of the United States District Court for the Southern District of New York from June 1, 1982 until October 1, 1986, and assumed senior status in 1986.

Hon. Richard Owen

Judge Owen was born in 1922 in New York, New York. He graduated from Dartmouth College (A.B., 1945) and Harvard Law School (LL.B., 1950). Prior to his appointment to the United States District Court for the Southern District of New York by President Richard M. Nixon in 1973, Judge Owen served in the United States Army Air Corps (1942-1945), for which he received the Distinguished Flying Cross with Oak Leaf Cluster, was an Assistant U.S. Attorney in the Southern District of New York (1953-1955), a Special Assistant United States Attorney General (1954), and a Senior Trial Attorney in the Antitrust Division, U.S. Department of Justice (1955-1958), before returning to private practice (1958-1974). He was also an assistant professor at New York University School of Law (1951-1953). Judge Owen assumed senior status in 1989.

Hon. Robert P. Patterson, Jr.

Judge Patterson was born in 1923 in New York, New York. He graduated from Harvard College (B.A., 1947) and Columbia Law School (LL.B., 1950) and served in the United States Army Air Corps. Prior to his appointment to the United States District Court for the Southern District of New York by President Ronald Reagan in 1988, Judge Patterson held several positions in the state and federal government, including Assistant United States Attorney in the Southern District (1953-1956), and he served as a Special Hearing Officer for conscientious objectors for the United States Department of Justice (1961-1968). He practiced in the private sector with Patterson, Belknap & Webb (1956-1988), where he became a partner in 1960. Judge Patterson assumed senior status in 1998.

Hon. Milton Pollack

Judge Pollack was born in 1906 in New York, New York. He graduated from Columbia University (B.A., 1927) and Columbia Law School (J.D., 1929). Prior to his appointment to the United States District Court for the Southern District of New York by President Lyndon B. Johnson in 1967, Judge Pollack was in private practice in New York City (1929-1967). Since his appointment, he has served on multiple committees of the Judicial Conference of the United States. Judge Pollack assumed senior status in 1983.

Hon. Leonard B. Sand

Judge Sand was born in 1928 in New York, New York. He attended New York University School of Commerce (B.S., 1947) and Harvard Law School (LL.B., 1951). Prior to his appointment to the bench by President Jimmy Carter in 1978, Judge Sand served as law clerk in the United States Department of Justice (1952-1953), as an Assistant United States Attorney in the Southern District of New York (1953-1954), and as an Assistant to the Solicitor General of the United States (1956-1959). Judge Sand was in private practice with Rosenman, Goldmark, Colin & Kaye (1954-1956) and Robinson, Silverman, Pearce, Aronsohn, Sand & Berman (1959-1978). He was elected as a Delegate to the New York State Constitutional Convention in 1967 and has served as adjunct Professor of Law at New York University School of Law. In addition, Judge Sand has authored numerous volumes of the highly influential treatises on federal jury instructions that bear his name. Judge Sand assumed senior status in 1993.

Hon. John E. Sprizzo

Judge Sprizzo was born in Brooklyn, New York in 1934 and attended St. John's University (B.A., 1956; LL.B., 1959). Prior to his appointment to the United States District Court for the Southern District of New York by President Ronald Reagan in 1981, Judge Sprizzo worked in the Organized Crime Section, Criminal Division, U.S. Department of Justice (1959-1963), was an Assistant United States Attorney for the Southern District of New York (1963-1968), Chief Appellate Attorney (1965-1966), and Assistant Chief of the Criminal Division (1966-1968) before returning to private practice with Curtis, Mallet-Prevost, Colt & Mosle (1970-1981). He was also Associate Professor of Law at Fordham Law School from 1968 to 1972. Judge Sprizzo assumed senior status in 2000.

Hon. Louis L. Stanton

Judge Stanton was born in New York, New York in 1927. He graduated from Yale University (B.A., 1950) and the University of Virginia School of Law (LL.B., 1955). He served in the United States Merchant Marine Cadet Corps from 1945 to 1947 and was on active duty as a Lieutenant in the United States Marine Corps from 1950 to 1952. Prior to his appointment to the bench by President Ronald Reagan in 1985, Judge Stanton was in private practice in New York City with Davis Polk & Wardwell (1955-1966) and Carter, Ledyard & Milburn (1966-1985), where he became a partner in 1967. Judge Stanton assumed senior status in 1996.

Hon. Robert W. Sweet

Judge Sweet was born in Yonkers, New York in 1922. He graduated from Yale University (B.A., 1944; LL.B., 1948). He served as a Lieutenant in the United States Naval Reserve from 1943 to 1946. Prior to his appointment to the bench by President Jimmy Carter in 1978, Judge Sweet was in private practice (1948-1953; 1955-1965; 1970-1978), and served as an Assistant United States Attorney for the Southern District of New York (1953-1955), Executive Assistant to the Mayor of the City of New York (1966), and Deputy Mayor for the City of New York (1966-1969). He was a partner in the law firm Casey, Lane and Mittendorf (1957-1965) and Skadden, Arps, Slate, Meagher, and Flom (1970- 1978). Judge Sweet assumed senior status in 1991.

Hon. Robert J. Ward

Judge Ward was born in New York, New York in 1926. He graduated from Harvard College (B.S., 1945) and Harvard Law School (LL.B., 1949). He served in the United States Naval Reserve (1944-1946) and was discharged as a Lieutenant (j.g.). Prior to his appointment to the United States District Court for the Southern District of New York by President Richard M. Nixon in 1972, Judge Ward was an Assistant District Attorney for New York County (1951- 1955), an Assistant United States Attorney for the Southern District of New York (1956-1961), and in private practice (1961-1972). Judge Ward assumed senior status in 1991.

## **Magistrate Judges of the U.S. District Court for the Southern District of New York**

### Hon. Ronald L. Ellis

Judge Ellis was born in LaFourche, Louisiana in 1950. He was appointed United States Magistrate Judge for the Southern District of New York in 1993, and is currently serving as the District's Chief Magistrate Judge. He graduated from Manhattan College with a Bachelor of Chemical Engineering degree, and from the New York University School of Law. Prior to becoming a Judge, he served as an Adjunct Professor of Law at the New York University School of Law and at the New York Law School, and in various leadership capacities at the NAACP Legal Defense and Education Fund, including as Director of the Poverty and Justice Program.

### Hon. Michael H. Dolinger

Judge Dolinger graduated from Columbia College (B.A., 1968), and from Columbia Law School (J.D., 1972). Prior to his appointment as United States Magistrate Judge for the Southern District of New York in 1984, he was law clerk to the Honorable Wilfred Feinberg of the United States Court of Appeals for the Second Circuit, was associated with the law firm of Nickerson, Kramer, Lowenstein, Nessen, Kamin & Soll, and served from 1976 until 1984 as an Assistant United States Attorney in the Civil Division of the United States Attorney's Office for the Southern District of New York.

### Hon. Douglas F. Eaton

Judge Eaton was born in Plainfield, New Jersey in 1942. He graduated from Harvard College (B.A., 1963), and from Harvard Law School (J.D., 1966). Judge Eaton was appointed to the United States District Court for the Southern District of New York in 1996, following 20 years as a solo practitioner in Manhattan. Prior to becoming a solo practitioner, Judge Eaton was law clerk to a United States District Judge, served as a member of the United States Coast Guard Reserve, was an attorney in the New York City Department of Investigation, was associated with the law firm of Hughes Hubbard & Reed, and from 1971 until 1975 was an Assistant United States Attorney in the Criminal Division of the United States Attorney's Office for the Southern District of New York.

### Hon. Kevin N. Fox

Judge Fox graduated from Columbia College (B.A., 1978), and from Brooklyn Law School (J.D., 1981). Prior to his appointment to the bench in 1997, Judge Fox served in the Criminal Defense Division of the Legal Aid Society of New York (1981-87), was Executive Director of Governor Mario Cuomo's Task Force on Bias-Related Violence (1987-88), and worked as an attorney in the Law Department of the New York City Transit Authority (1989). Judge Fox then served as Deputy City Personnel Director and General Counsel for the New York City Department of Personnel (1990-94), and in the Law Department of the Triborough Bridge and Tunnel Authority (1994-97).

Hon. Mark D. Fox

Judge Fox was born in the Bronx, New York in 1943. Judge Fox attended the State University of New York at Buffalo (B.A., 1964) and Brooklyn Law School (J.D., 1967). He served in the United States Army until 1970 in the Criminal Investigation Division. From 1970 to 1973, Judge Fox was an Assistant District Attorney, first in Bronx County and then in Orange County. He then took a position as Chief Trial Attorney with the Orange County Legal Aid Society, followed by stints as Chief Attorney and Public Defender for Orange County. From 1977 until his full-time appointment in 1991 (he was appointed part-time Magistrate in 1988), Judge Fox was in private practice with Bravoso, Fox and Coffill in Port Jervis, New York. In 2000, Judge Fox served as a visiting lecturer in trial practice at the Harvard Law School.

Hon. James C. Francis IV

Judge Francis was born in Tulsa, Oklahoma in 1952. He graduated from Yale College (B.A., 1974), the John F. Kennedy School of Government at Harvard University (M.P.P., 1978) and Yale Law School (J.D., 1978). Prior to his appointment as Magistrate Judge in 1985, Judge Francis was law clerk to the Honorable Robert L. Carter, United States District Court for the Southern District of New York (1978-79), and served at the Legal Aid Society of New York (1979-85), where his practice focused on impact litigation.

Hon. Deborah Freeman

Judge Freeman was born in Jamaica, New York in 1957. She graduated from Yale College (B.A., 1979), and from the New York University School of Law (J.D., 1986). Prior to her appointment to the bench in 2001, she was associated with the law firm of Parker Auspitz Neesemann & Delehanty P.C. (1986–87), and then worked at the New York office of Morrison & Foerster LLP as an associate (1987-1995) and a litigation partner (1995-2001). From 1993 to 1999, Judge Freeman was a Director of the Legal Aid Society of New York.

Hon. Martin R. Goldberg

Judge Goldberg was born in the Bronx, New York in 1945. He graduated from Fairleigh Dickinson University (B.A., 1966), and from New York Law School (J.D., 1969). Prior to his appointment to the United States District Court for the Southern District of New York in 1992, he was engaged in private practice (1981-1992), served as Chief Assistant District Attorney and Acting District Attorney for the Orange County District Attorney's Office (1972-1980), and worked at the Legal Aid Society of New York (1970- 1972).

Hon. Gabriel Gorenstein

Judge Gorenstein was born in New York City in 1957. He received his B.A. degree from Yale University in 1979 and J.D. degree from Columbia Law School in 1984. Judge Gorenstein clerked for Judge Spottswood W. Robinson, III, Chief Judge of the United States Court of Appeals for the D.C. Circuit. From 1985 to 1987, Judge Gorenstein was an associate with Debevoise & Plimpton in New York City. In 1987, he became an Assistant United States Attorney in the Southern District of New York, Civil Division, and in 1990, was named Chief of the Civil Rights Unit. He was named Chief Appellate Attorney in 1991. In 1994, Judge

Gorenstein was appointed General Counsel of the New York City Human Resources Administration. He served as Acting First Deputy Commissioner of the HRA from 1996 to 1997. From 1998 to his appointment in 2001, Judge Gorenstein served as a New York City Criminal Court Judge. Since 1997, Judge Gorenstein has served as an Adjunct Professor of Law at Brooklyn Law School.

Hon. Theodore H. Katz

Judge Katz was appointed as a magistrate judge in the United States District Court for the Southern District of New York in 1991 and has served as the District's Chief Magistrate Judge. Judge Katz was born in Brooklyn, New York in 1947. He graduated from Brandeis University (B.S., 1968) and Columbia Law School (J.D. 1973). After graduation, Judge Katz served as law clerk to Judge Robert L. Carter, United States District Judge in the Southern District of New York. Prior to his appointment to the bench, he worked as a staff attorney at the New York City Human Rights Commission and as a staff attorney and director of the Prisoners' Rights Project of the New York Legal Aid Society.

Hon. Frank Maas

Judge Maas was born in New York, New York in 1950. He graduated from Harpur College, State University of New York at Binghamton (B.A., 1972) and New York University School of Law (J.D., 1976). Prior to his appointment to the bench in 1999, Judge Maas was Law Clerk to the late Honorable Henry F. Werker, United States District Court for the Southern District of New York (1976-1978); Assistant United States Attorney, Criminal Division, Southern District of New York (1980-1986); Deputy Commissioner and First Deputy Commissioner, New York City Department of Investigations (1995-1999); and Deputy Commissioner and Special Counsel, New York City Department of Business Services. He was in private practice at the law firms of Curtis, Mallet-Prevost, Colt & Mosle (1978-1980) and Phillips, Lytle, Hitchcock, Blaine & Huber (1986-95).

Hon. Andrew J. Peck

Judge Peck was born in New York, New York in 1953. He graduated from Cornell University (A.B., 1974) and Duke University Law School (J.D. 1977). Prior to his appointment to the bench in 1995, Judge Peck was law clerk to the Honorable Paul Roney, United States Court of Appeals, Fifth Circuit (1977-1978) and in private practice with Paul, Weiss, Rifkind, Wharton, & Garrison (1978-1995).

Hon. Henry Pitman

Judge Pitman was born in 1953 in Brooklyn, New York. He graduated from Fordham University (B.A., 1975; J.D., 1978). Prior to his appointment to the bench in 1995, Judge Pitman was law clerk to the Honorable Lloyd F. McMahon, United States District Court for the Southern District of New York (1978-1979), and an Assistant United States Attorney for the Southern District of New York (1985-1990). Judge Pitman was also in private practice with the law firms Chadbourne & Parke; Hall, McNicol, Hamilton & Clark; and Lieberman & Nowak.

Hon. Lisa Margaret Smith

Judge Smith was born in 1955 in Hamilton, New York. She graduated from Earlham College (B.A., 1977) and Duke University School of Law (J.D., 1980). Prior to her appointment to the bench in 1995, Judge Smith was Assistant District Attorney, Kings County (1980-1985); Assistant Attorney General, New York State Department of Law (1985-1986); Supervising Senior Assistant District Attorney, Kings County (1986-1987); and Assistant United States Attorney for the Southern District of New York (1987-1995).

Hon. George A. Yanthis

Judge Yanthis was born in 1948 in Rome, New York. He graduated from Kent State University (B.B.A., 1970) and Syracuse University College of Law (J.D., 1974). He served as Lieutenant Colonel in the New York Army National Guard and a Staff Judge Advocate for the 42nd Infantry Division. Prior to his appointment to the bench in 1997, Judge Yanthis was a staff attorney for the New York State Urban Development Corporation, Radisson Development Office (1974-1975); the New York State Assembly (1975-1976); and the Office of the New York State Secretary of State (1976-1980). Judge Yanthis also served for nearly seventeen years as an Assistant United States Attorney for the Northern District of New York (1980-1997).

**Former Judges of the U.S. District Court for the  
Southern District of New York (1990 to 2000)**

Hon. Kenneth Conboy

Judge Conboy was born in 1938 in New York, New York. He was nominated to the United States District Court for the Southern District of New York by President Ronald Reagan in 1987 and served until his resignation in 1993. Judge Conboy attended Fordham College (A.B., 1961), University of Virginia School of Law (J.D., 1964), and Columbia University (M.A., 1980). He was a Captain in the United States Army (1964-66). Judge Conboy worked in the Manhattan District Attorney's Office, where he served as Trial Assistant, Chief of the Rackets Bureau, and Executive Assistant District Attorney (1966-1977). He also served at the New York City Police Department, as Deputy Commissioner and General Counsel (1978-1983), was New York City's Criminal Justice Coordinator (1984-86), and was appointed by the governor to serve on the New York State Crime Control Planning Board and Joint State/City Commission on Integrity in Government. Judge Conboy resigned his judgeship in 1993, and in 1994 he resumed private practice in New York City.

Hon. Louis J. Freeh

Judge Freeh was born in 1950 in Jersey City, New Jersey. He was nominated by President George Bush, Sr. in 1992 to the United States District Court for the Southern District of New York and served until his resignation in 1993. He attended Rutgers College (B.A., 1971), Rutgers University School of Law (J.D., 1974), and New York University School of Law (LL.M., 1984). Following law school, he was a special agent in the F.B.I. from 1975 to 1980. He worked in the United States Attorney's Office in the Southern District of New York as Assistant U.S. Attorney (1981-1987); Chief of the Organized Crime Unit (1987-1989), Deputy U.S. Attorney (1989), and Associate U.S. Attorney (1989-1990). He then served as Special Prosecutor for the Department of Justice (1990-1991) and, following his resignation from the bench, as the Director of the Federal Bureau of Investigation (1993-2001). Judge Freeh was also a member of the New York County Lawyers' Association, and served on the Association's Federal Courts Committee.

Hon. Pierre N. Leval

Judge Leval was born in 1936 in New York, New York. Judge Leval attended Harvard University (A.B., 1959; LL.B., 1963). Upon graduation, he served as law clerk to the Hon. Henry J. Friendly, United States Court of Appeals, Second Circuit (1963-1964). He worked as Chief Assistant District Attorney in New York County and as an Assistant United States Attorney in the Southern District of New York, where he was Chief of Appeals. He was also in private practice with the firm Cleary, Gottlieb, Steen & Hamilton. He was nominated to the United States District Court for the Southern District of New York by President Jimmy Carter in 1977 and served as District Judge until his appointment to the United States Court of Appeals for the Second Circuit in 1993 by President William J. Clinton, where he assumed senior status in 2002. Judge Leval is a member of the New York County Lawyers' Association.

Hon. Charles M. Metzner

Judge Metzner was born in New York, New York in 1912. He received both his undergraduate (A.B., 1931) and law degree (LL.B., 1933) from Columbia University. He began his legal career in private practice, and then served as a research assistant to the Judicial Council of the State of New York (1934-1941) and as a law secretary to the Hon. William C. Hecht, New York State Supreme Court (1942-1953). He served as an executive assistant to the Attorney General of the United States (1953-1954), before returning to private practice, with Chapman, Walsh & O'Connell (1954-1959). He also served as a director of the New York County Lawyers' Association from 1957 to 1959. Following his 1959 appointment by President Dwight D. Eisenhower to the United States District Court for the Southern District of New York, Judge Metzner chaired the United States Judicial Conference Committee on the Administration of the Magistrates System (1969-1981). Judge Metzner assumed senior status in 1977.

Hon. Barrington D. Parker, Jr.

Judge Parker was born in 1944 in Washington, D.C. He received his undergraduate degree at Yale College (B.A., 1965) and his law degree from Yale Law School (LL.B., 1969). He then served as law clerk to Hon. Aubrey E. Robinson, Jr., United States District Judge in the District of Columbia (1969-1970). Prior to his appointment to the bench in 1994 by President William J. Clinton, Judge Parker was in private practice in New York City for over twenty (20) years with Sullivan & Cromwell (1970-1977), Parker Auspitz Neesemann & Delehanty, P.C. (1977-1987), and Morrison & Foerster (1987-1994). He was elevated to the United States Court of Appeals for the Second Circuit in 2001 by President George W. Bush.

Hon. Sonia Sotomayor

Judge Sotomayor was born in the Bronx, New York in 1954. She was nominated to the United States District Court for the Southern District of New York by President George W. Bush, Sr. in 1991 and served until her appointment to the United States Court of Appeals for the Second Circuit in 1998 by President William J. Clinton. Judge Sotomayor attended Princeton University (B.A., 1976) and Yale Law School (J.D., 1979). She served as an Assistant District Attorney in New York County from 1979 to 1984 and was then in private practice with Pavia and Harcourt, where she became a partner in 1988 (1984-1992). She is an Adjunct Professor at New York University School of Law and a Lecturer-in-Law at Columbia Law School.

Hon. John M. Walker, Jr.

Judge Walker was born in New York, New York in 1940. He received a bachelor's degree from Yale University (B.A. 1962) and a law degree from University of Michigan Law School (J.D., 1966), and he served as a Private First- Class in the United States Marine Corps Reserves (1963-67). Following school and military service, he was State Counsel to the Republic of Botswana (1966- 1968), worked in private practice (1969-1970), and served as Assistant United States Attorney, Criminal Division, in the Southern District of New York (1970- 1975). Judge Walker returned in 1975 to private practice with the firm Carter, Ledyard & Milburn, first as an associate and then as a partner (1975-1981). He then served Assistant Secretary of the United States Treasury Department (1981- 1985) until his 1985 appointment by

President Ronald Reagan to the United States District Court for the Southern District of New York. In 1989, Judge Walker was elevated to the United States Court of Appeals for the Second Circuit by President George Bush, Sr. where he has served as Chief Judge from 2000 to the present.

**Former Magistrate Judges of the U.S. District Court for the  
Southern District of New York (1990 to 2000)**

Hon. Leonard Bernikow

Judge Bernikow was born in Brooklyn, New York in 1934. He graduated from Queens College, City University of New York (B.A., 1956) and from New York University School of Law (LL.B., 1959). Following military service and a stint in private practice, Judge Bernikow served as a staff attorney for the criminal division of the Legal Aid Society (1965-1968). Prior to being appointed Magistrate Judge in 1975, he was an Assistant Corporation Counsel in the General Litigation Division of the Law Department of the City of New York (1968-1975), and became head of that division in 1972.

Hon. Naomi Reice Buchwald

Judge Buchwald was appointed a United States District Judge for the Southern District of New York in 1999 by President William J. Clinton, and her biography appears above.

Hon. Barbara A. Lee

Judge Lee was born in Meriden, Connecticut in 1937. She graduated from Boston University (A.B., 1959) and Harvard Law School (LL.B., 1962). From 1962 to 1966, she served as a staff attorney with the Securities and Exchange Commission. Judge Lee was in private practice, first as an associate and then as a partner, with the law firm Poletti Freidin Prashker Feldman and Gartner (1968- 1982). She then worked as a solo practitioner (1982-1988) until her appointment to a seven-year term as a Magistrate Judge. Judge Lee is a member of the New York County Lawyers' Association, and has served on the Association's Federal Courts Committee.

Hon. Nina Gershon

Judge Gershon was born in 1940 in Chicago, Illinois. She graduated from Cornell University (B.A., 1962) and Yale Law School (J.D., 1965), and was a Fulbright Scholar at the London School of Economics/Hampstead Clinic (1965- 1966). Judge Gershon was an attorney in the Appellate Division, First Department's Mental Health Information Service (1966-68), and served as an Assistant Corporation Counsel for the City of New York (1968-1976), becoming Chief of the Consumer Protection Division in 1975. In 1976, she entered duty as a Magistrate Judge, and was the first Chief Magistrate Judge of the Southern District of New York, serving a two-year term from 1992-1994. She was appointed as a United States District Judge for the Eastern District of New York in 1996 by President William J. Clinton.

Hon. Sharon Ellen Grubin

Judge Grubin received a bachelor's degree from Smith College and a law degree from Boston University School of Law. She was associated with the law firm of White & Case until she entered on duty as a Magistrate Judge in 1984. She has taught seminars and conducted lectures at New York University School of Law, Yale Law School, Brooklyn Law School, and New York Law School. Judge Grubin retired in 2000.

Hon. Kathleen Anne Roberts

Judge Roberts received a bachelor's degree from University of Massachusetts (B.A., 1971) and a law degree from Yale Law School (J.D., 1977). She served as a law clerk to the Honorable William C. Conner of the United States District Court for the Southern District of New York (1977-1979) and as an Assistant United States Attorney in the Southern District of New York, in both the civil and criminal divisions (1979-1985). She was a Magistrate Judge in the Southern District of New York from 1985 to 1995. In 1995, Judge Roberts began employment as an arbitrator, and she is currently a full-time ADR neutral for JAMS, as well as an Adjunct Professor at New York University School of Law, where she teaches Alternative Dispute Resolution. Judge Roberts is a member of the New York County Lawyers' Association.

Hon. Joel J. Tyler

Judge Tyler attended Indiana University and New York University (B.A., 1943). He graduated from Fordham Law School, having attended classes at night while working during the day. Judge Tyler worked in the law department of Allied Chemical and Dye Corporation (1947-1951) before opening his own practice in 1951. He served as Commissioner of Licenses for the City of New York (1966-1968), and served on the Criminal Court of New York (1968-1976), during which time he famously ruled that the pornographic film "Deep Throat" was obscene. Judge Tyler subsequently served as a New York State Supreme Court Justice (1976-1978), and as law secretary to Justice Theodore R. Kupferman of the Appellate Division, First Department (1978-1979). He entered on duty as a Magistrate Judge in 1979, a post he held until his retirement in 1991.