



The New York Minutes

Southern District of New York FBA Chapter Newsletter
Volume 2, Issue 1

Table of Contents

Judicial Profile: The Honorable Loretta A. Preska NYM2

Welcome Note from William Dahill NYM8

Special Announcements: NYM9

Pictures from Swearing-In Ceremony NYM10

SDNY Chapter OFFICERS

President - William F. Dahill, Esq.;;
President Elect - Olivera Medenica Esq.;;
Vice President - Michael J. Zussman, Esq.;;
Treasurer - Stacy E. Yeung, Esq.;;
Secretary - Ira R. Abel, Esq.;;
National Delegate - Erica Gould, Esq.;;
Delegate to the Network of Bar Leaders - Philip R. Schatz, Esq.;;
Immediate Past President - Philip R. Schatz, Esq.;;



Letter from the Editor

Olivera Medenica, Wahab &
Medenica LLC

Dear FBA Members,

On behalf of the Southern District of New York Chapter of the Federal Bar Association, I want to congratulate the new officers to our Chapter and welcome you to the November 2013 edition of The New York Minutes.

The year is already coming to a close and our Chapter has had a particularly eventful season so far. In June, we featured a special SEC Enforcement event, which was followed by a program focusing on the federal court system. September was of course our Annual Meeting in Puerto Rico, which gave us a chance to catch up with colleagues from other chapters. In November we featured an interviewing skills workshop and held numerous law school outreach programs.

Next year will be even more active with various tax, fashion, trademark and ethics CLEs. In January, we will be holding a special event honoring SDNY Bankruptcy Judges. Our active calendar is solely due to the enthusiasm and hard work of our leadership and members. I encourage you to attend, meet each other, and of course, continue submitting your articles to the NY Minutes. I look forward to a great year in 2014.

Sincerely,

Olivera Medenica



JUDICIAL PROFILE:

The Honorable Loretta A. Preska

Chief United States District Judge

United States District Court for the Southern District of New York

By Phil Schatz*(1)

Chief Judge Loretta Preska of the United States District Court for the Southern District of New York was raised in Delmar, New York, a small hamlet in the town of Bethlehem, a suburb of Albany. Her father Victor was an ordnance design engineer for Benet Laboratories at the Watervliet Arsenal. Her mother Etta Mae worked as a registered nurse at St. Peter's Hospital in Albany. Judge Preska had a part-time job at the Delmar Public Library, a passion for chemistry, and a burgundy Mustang. She was captain of the Field Hockey team and President of the National Honor Society at Bethlehem Central High.

Delmar is unquestionably a nice town (in a 2005 CNN/Money magazine survey it was ranked as one of the great American towns) but it's a small place, and a homogeneous one.

Girl Scouting opened up Judge Preska's world.

The Golden Age of Scouting

In 1965, she was one of her district's delegate to the Senior Roundup in Idaho. The Senior Roundup was a big deal, a national aggregation of the most dedicated Senior Girl Scouts in the nation. Places were highly prized, and hotly contested. The 1965 Roundup was the largest, and the last, national Roundup. The promotional jacket for the EP 12,000 Girl Scouts Sing America's National Favorites (2), "presented for your listening pleasure by Ground Maxwell House Coffee," catches the tenor of the event:

Senior Girl Scouts—12,000 strong—converged in Farragut, Idaho for the 1965 Girl Scout Senior Roundup, July 15-28. They came from all over this country and from 45 foreign countries. From places as far flung as Australia. From Thailand and Tobago.

They pitched their own tents. Cooked their own meals. And their beds were sleeping bags. The campsite became a city, vivid with flags of many nations and regions.

The scouts also engaged in trading S.W.A.P.S. — "special whatchamacallits affectionately pinned somewhere" — small items brought specifically for the purpose of trading, that represent something about the girl or her troop, hometown, or state (3). Judge Preska served as a radio reporter at the Roundup, sending bulletins to her hometown radio station from a broadcast tent in Idaho. This was her first foray into public relations, a skill that has come in handy since.



In the summer of 1966, she was again selected out of many applicants to represent the Northeast region of the United States at the East-West International Conference in Honolulu, Hawaii. This trip was her first on an airplane, and a further expansion of her worldview.

Organic Chemistry and Debate at the College of St. Rose

That same year, she entered the College of Saint Rose on a merit scholarship to study organic chemistry. Saint Rose was then an all-female school. Founded in 1920 by the sisters of St. Joseph of Carondelet to train teachers, the sisters at Saint Rose sought to nurture critical thinking, good values, and responsible citizenship in a caring and diverse community of scholars.



Judge Preska had a passion for chemistry, and spent long hours in the lab. Because she was a “day hopper” – the St. Rose name for commuters – she often got home very late. Her mother worried, as mothers do, saying “I hope you are going to use all this chemistry you are spending so much time on.” She said she would, and so she has – but not in the way that she expected. Her organic chemistry background comes in handy in quite a few disputes, from the composition of cargo tanks to the validity of patent licenses.

During freshman orientation, Judge Preska was dragooned into the debate team by Sister Bernarda Jacques. Sister Bernarda scoured every incoming freshmen’s high school transcripts for debate experience. If you had it, you were on the debate team. Sister Bernarda tolerated no objections.

Judge Preska was teamed with Patricia Fox, two years her senior, now a plastic surgeon in Schenectady and lifelong friend. Preska and Fox stood out from the other teams: Judge Preska is 5 foot 10, and Dr. Fox is barely 5 feet. “She fit under my chin,” says Judge Preska. “We definitely were an odd couple,” says Dr. Fox.

Debate experience was not the only reason Judge Preska and Dr. Fox were valued by Sister Bernarda. “We didn’t have much choice about debate,” says Dr. Fox, “We had debate experience. More importantly, we had cars. Sister Bernarda needed our cars to get back and forth from tournaments.”

Sister Bernarda sat in the back seat holding a rosary. Both Dr. Fox and Judge Preska had a tendency to drive fast. “No matter who drove, Sister Bernarda always prayed.”

Dr. Fox says Judge Preska had an uncommon ability to persuade, even then. “I remember one time we got a flat tire on the BQE. Loretta charmed to young policeman — Tootie and Muldoon type characters (4)— into changing the tire for us.”

Opting for a Life in the Law, Not the Lab

In the summer between her sophomore and junior years, Judge Preska was selected by Bethlehem to be its community ambassador in Denmark, on an exchange program run by the Experiment in Interna-

tional Living. The Experiment, whose alumni include Supreme Court Justice Stephen Breyer, Director Julie Taymor, and Peace Corps founder Sargent Shriver, seeks to foster peace through understanding, communication, and cooperation between nations and cultures. Judge Preska says her time abroad further expanded her understanding of people.

During her junior year, Judge Preska became more involved in public speaking, and realized that her future lay in the law not in the lab. Even her trusted chemistry professor, Sister Mary Rehfuss, said she should work with people.

Judge Preska's graduating class was the last all-female class at St. Rose. The real value of a St. Rose degree, she notes, is the "moral compass" it represents. St. Rose instills knowledge of right and wrong and a sense of responsibility as a citizen of the world. "No one succeeds at St. Rose, if they lack a moral compass."

In 1995, she gave the commencement address and received an honorary Doctorate of Humane Letters. In the commencement address, she noted that the world is now very different. "In those ancient times we had a 10 p.m. curfew on weeknights and a midnight curfew on weekends." The only constant, in the words of science fiction writer Ursula K. Le Guin, is "permanent, intolerable uncertainty, not knowing what comes next." Her advice to graduates: "embrace uncertainty and take advantage of the dynamic opportunities open to you because of it."

This year, Judge Preska returned to St. Rose as the inaugural Jurist in Residence to help prepare the Loretta A. Preska Mock Trial Team, a foundation funded by the generous gifts of her former law clerks. She also gave a talk about her career, "From the Chem Lab to the Courtroom," and hosted a panel discussion about the opportunities, challenges, and changes in the legal profession.

From St. Rose to Fordham Law

Following her graduation in 1970, she entered Fordham Law School. She was one of only 8 women in her section of 100. Sidley Austin LLP partner Susan Harrington, head of Sidley's Private Clients Group in New York and an authority on international estate planning and taxation, was in Judge Preska's section at Fordham. "The women who were at Fordham in the early 1970's really wanted to be there," says Harrington. "There were only a handful of us, so we all knew each other very well. Loretta was always a lot of fun, but she also had a professional mien and incredible poise. She was clearly a woman who knew where she wanted to go and how to get there." Adds Harrington, "If I had fallen asleep in 1973 and awakened in 2013, I wouldn't have been a bit surprised to learn of her amazing success."

Judge Preska has nothing but the fondest memories of her time at Fordham, and her professors there, such as Joseph McLaughlin (who was later Dean, Eastern District Judge, and member of the Second Circuit Court of Appeals), and John Sprizzo (who was later a colleague on the Southern District bench). The fondness is mutual; Fordham awarded Judge Preska the Louis J. Lefkowitz Public Service Award, the Fordham Law Alumni Association awarded her its Medal of Achievement, and the Milton and Moselle Pollack Foundation created a scholarship at Fordham called the Judge Loretta Preska Award, given annually to the son or daughter of a New York firefighter or police officer.

Litigation Associate and Partner

Following graduation in 1973, she was a summer associate at the prestigious New York law firm

Cahill Gordon & Reindel. At the time, Cahill had no female partners, and Judge Preska was the only female summer associate. She was lucky to get the opportunity to work with Cahill partner and First Amendment specialist Floyd Abrams (whose daughter Ronnie she swore-in as a United States District Judge for the Southern District in 2012). She speaks of Abrams with great admiration. “He was and is a gracious advocate, striking just the right tone between vigorously arguing his position avoiding stridency, personal attacks, and other shabby practices.”

Judge Kevin Castel, now a colleague on the Southern District bench, was a fellow-associate (and later partner) at Cahill. “We were good friends,” he says. “We met and bonded over our mutual affection for rice pudding” at the long-vanished Lawyer’s Club in the Equitable Building, 120 Broadway. “I was her bag carrier in her first appellate argument, which was in the Appellate Division, First Department.”

While at Cahill, she earned a LLM from NYU School of Law, alongside her future husband, Tom Kavalier. Kavalier is one of the country’s top securities litigators and a former editor-in-chief of Fordham Law Review. (Kavalier clerked for Judge Milton Pollack, who later became Judge Preska’s judicial mentor when she ascended to the Southern District bench). In 1983, she and Kavalier married, Justice Ernst Rosenberger officiating, and Judge Preska left Cahill to partner with her Fordham classmate, Peter Calamari, at Hertzog Calamari & Gleason.

Carla Craig was an associate and partner of Judge Preska’s at Hertzog. “I first met Judge Preska when she interviewed me for an associate position in 1983,” says Judge Craig, “and we worked together a lot. She was and is a wonderful role model and mentor.” When Judge Craig ascended to the bankruptcy bench in 2000, Judge Preska spoke at her induction ceremony. Judge Craig is now the Chief Bankruptcy Judge for the Eastern District of New York.

Judge Preska credits pro bono with providing opportunities to develop as a litigator. She says her experiences in pro bono cases were “absolutely invaluable” to helping her build confidence as a litigator. She continued to support pro bono at Hertzog, where she acted as pro bono Special Trial Counsel to the First Department Departmental Disciplinary Committee.

Joining the Southern District Bench

In 1992, Judge Preska was nominated to the District Court by President George H.W. Bush, to take the seat previously occupied by Judge Robert Ward. She was confirmed as part of a bipartisan package that included Sonia Sotomayor, now an Associate Justice of the Supreme Court. In 2008, Judge Preska was nominated by President George W. Bush to the Second Circuit Court of Appeals, but the nomination died with the 2008 election. Judge Preska says the lack of action on the nomination was a blessing-in-disguise, because it permitted her to become Chief Judge in 2009 when then-Chief Kimba Wood took senior status.

Chief Judge Preska was a litigator in the federal courts before becoming a federal judge, and understands the pressures on lawyers as advocates. Her courtroom demeanor is unfailingly polite, but she also ensures that the trains run on time. She values solid presentations by prepared lawyers, which she says make the judge’s job much easier. “Good lawyers make judges look good.” Her judicial philosophy is conservative in the old-school sense. “An essential quality of any good judge is the discipline to put aside one’s personal views and apply the law,” she says, “the judiciary is not a policy-making branch of government.” She may also share her judicial mentor Judge Milton Pollack’s view that “the harder you work, the longer you live.” Pollack was the oldest sitting federal judge when he died in 2004.

Relationships With Her Law Clerk “Family”

Judge Preska has unusually warm relationships with her law clerks, whom she calls “family.” Maura Monaghan, now a litigation partner at Debevoise & Plimpton, who clerked for Judge Preska from 1996-1997, says “I adore Judge Preska. She’s been an amazing mentor.” Mike Longyear, a defense lawyer at Lankler, Siffert & Wohl LLP, who clerked for her from 2009-2010, says “She is one of the nicest people I ever met, and she is always like that. She taught us how to conduct ourselves in and out of the courtroom, and how to approach complex legal questions”. James Bernard, a litigation partner at Stroock & Stroock & Lavan LLP, who clerked for her from 1997-1998, says “I can’t tell you how much I enjoyed my clerkship.”

All of her law clerks recall that Judge Preska refers to litigants and jurors as her “customers,” and goes out of her way to service their needs. “The message that we were there to serve our customers resonated with all of us,” says Bernard. “The judge really emphasized public service,” says Longyear. Judge Preska actively participates in settlement discussions, patiently working long hours to help the parties reach a negotiated resolution. She talks to jurors after every case, asking how she might improve the experience. Not surprisingly, the jurors love her. So do litigants. Monaghan says, “She has true insight into people. Litigants feel they’ve gotten a fair hearing in front of Judge Preska, no matter what the result. And that’s the goal of any civil society.” Jennifer Mone, one of Judge Preska’s first clerks and now Deputy General Counsel for Hofstra University, says, “She commands respect but at the same time brings humanity to the process. That’s a delicate balance and she does it naturally.”

The Operation of the “Mother Court”

The Southern District of New York was the first federal court in the country to actually sit, preceding even the Supreme Court. For this reason, it is known as the Mother Court (or in some parts of the country, less charitably, as the Sovereign District of New York). It is the largest and busiest federal court in the country. The court acts through a board of judges, and the board of judges acts through committees. Every judge and magistrate judge serves on one or more of the court’s 22 committees (5). The chief judge oversees the entire apparatus, with an extraordinary management team, including Clerk of Court Ruby Krajack, who is in charge of Court administration, District Executive Ed Friedland, who is in charge of procurement and physical operations, Michael Fitzpatrick, the Chief Probation Officer, and Art Penny, the Chief Pretrial Services Officer.

There is a general consensus around the courthouse, and the New York legal community, that Judge Preska was born to be the Chief Judge of the Court. Dr. Fox wastes no words. “Loretta is as good as it gets,” she says, “she makes things happen. Effortlessly, impeccably, and unpretentiously.” “I think Loretta truly enjoys the challenges and variety of issues that she encounters as the Chief,” says Chief Judge Craig. Judge Castel agrees. “Loretta’s a doer. She not only sees a problem, she comes up with a plan of action to attack the problem. That’s her special gift. Most smart people can identify problems. Loretta solves them. She forms a plan, and then implements it.”

“It’s no surprise to me that she’s turned out to be a fabulous chief judge,” continues Castel. “Loretta is a considerate and thoughtful person and a strong leader. It’s more difficult than you can imagine

to combine these skills.” Moreover, as Chief, Judge Preska needs all the diplomacy she can muster. “Federal judges are notoriously independent,” he says, “any attempt to order a judge may lead to the famous rejoinder, ‘Last time I checked, my Presidential commission is the same size as yours.’ The job of chief doesn’t come with any big bag of powers. The Chief has to persuade. Her leadership skills have to be refined and subtle.”

The Challenges of Sequestration

Judge Preska’s diplomatic skills have also caused her to be a leader for the entire country on the pressing issue of sequestration, which have forced judicial districts to slash their operations and even furlough personnel. She was instrumental in organizing a letter, on her letterhead, from the Chief Judges of 87 federal court jurisdictions to Congress explaining the devastating effect of sequestration on Court operations and the administration of justice.

This sort of cooperation among Chief Judges is largely unprecedented – but so are the effects of sequestration. These Congressionally-mandated cuts threaten to make our courts less safe, less efficient, and less fair. The district courts have been able to make do only because they have slashed their operations to the bone. Further cuts will cause grave harm to the judiciary’s Article III mission. As noted in the letter, “A second year under sequestration will have a devastating, and long-lasting, impact on the administration of justice in this country.” The signatory Chief Judges agree “our constitutional duties, public safety, and the quality of the justice system will be profoundly compromised by any further cuts.”

*Reprinted from The Federal Lawyer, December 2013

Phil Schatz is a partner at Wrobel Schatz & Fox LLP, a litigation firm in New York City. He is a past president of the SDNY Chapter of the Federal Bar Association, and a member of the editorial board of The Federal Lawyer

- (1) Judge Preska may be the only chief judge with a nationally-distributed record under her belt.
- (3) Judge Preska still has her yellow Roundup cowboy hat as well as numerous SWAPS: sassafras tea from Pennsylvania, tomato recipes from Ohio, Spanish Moss from South Carolina, a fabric outline of the State of Rhode Island, and a leather arrow with the legend of Chikagou, the chief who gave his name to Chicago.
- (4) Author’s Note: Tootie and Muldoon were two lovable NYC policemen, played by the great Joe E. Ross and Fred Gwynne, respectively, in the 1961-1963 TV series Car 54, Where Are You. The theme song is etched in many childhood memories:

There’s a holdup in the Bronx,
Brooklyn’s broken out in fights;
There’s a traffic jam in Harlem
That’s backed up to Jackson Heights;
There’s a scout troop short a child,
Khrushchev’s due at Idlewild!
Car 54, Where Are You??

- (5) When she teaches the annual seminar for new chief judges, titled “The Leadership Role of the Chief District Judge” (colloquially known as “baby chief judge school”), she often remarks that, “the Southern District has more committees than most courts have judges.”

President William F. Dahill Note and Welcome



Welcome to all of our readers and SDNY Chapter members to another term of the FBA. I am honored and excited to be the Chapter President for the upcoming year. As the many of you who were able to attend saw first-hand, our Swearing In ceremony with Chief Judge Preska on October 1, 2013 was a wonderful and meaningful event. We are very fortunate to have the support and encouragement of Chief Judge Preska, Southern District Clerk of the Court Ruby Krajack and District Executive Ed Friedland (along with the other Judges and court personnel of the SDNY and Second Circuit). We look forward to growing that relationship.

In the upcoming year, we already have numerous outstanding programs planned. These programs include an Interview Skills seminar on November 20, 2013; a holiday party anticipated to be held at a brand new Manhattan “adult beverage” establishment; an evening honoring the Bankruptcy Judges of the SDNY on January 27, 2014 (spearheaded by SDNY FBA Secretary Ira Abel); an anticipated Federal Career Day; a Tax CLE on January 29, 2014; a full day Fashion Law CLE on February 7, 2014 (conducted by SDNY FBA President-Elect and NY Minutes Editor Olivera Medenica); an Immigration Law CLE (conducted as in past years by Amy Gell, who this year is our local Government Relations Committee liaison); and a very exciting and special program/display, Lawyers Without Rights. This very special program is being arranged in conjunction with the American Bar Association and the German Bar Association. It addresses that time in March, 1933, when overnight all Jewish Judges and lawyers in Germany were barred from courtrooms. The display will open at the Thurgood Marshall Courthouse in mid-February, after which it will be moved to 500 Pearl Street. We hope to organize and hold other civil rights programs in conjunction with this event. (If any of you have ideas, please contact us!). My thanks to immediate past President Phil Schatz for initiating the effort to bring the program here, and to the Chair of our Civil Rights committee, Wylie Stecklow, for continuing to spearhead this effort.

In the upcoming year we will continue the drive to open Law School divisions and to recruit new law student members. Exciting progress has already been made with New York Law School and, along with our EDNY neighbors, Brooklyn Law School. This will be an area of continued focus. Also, as I addressed on October 1, the FBA presents a unique opportunity to be heard on important issues such as the impact of budget cuts on the federal courts and judiciary. I am very pleased that I have been asked to join with some notable speakers to provide testimony on the impact of the budget cuts on the federal courts at an all-day forum on December 2, 2013 sponsored by NYCLA. It is incumbent on all of us to speak up for the courts in this very difficult time and to help protect and promote what is supposed to be a co-equal third branch of our federal government.

Finally, in closing, I invite all of you to do three things: (1) attend our excellent events; (2) come to us with ideas for events you would like to run – you will be supported!!, and (3) bring in new MEMBERS. This last issue is one which is critical, and will benefit all of us.

I look forward to meeting as many of you as possible this year.

William F. Dahill

SPECIAL ANNOUNCEMENTS and EVENTS:



PAST EVENTS:

- June 17, 2013, “SEC Enforcement: Questions for the New Division Co-Director on What Lies Ahead.” Featuring SEC Enforcement Division Co-Director George Canellos on where the SEC’s enforcement program may go in the months ahead and the challenges it will face.
- June 18, 2013, the FBA hosted an important program on behalf of the federal court system, Is Our Federal System Being Dismantled? A report from Capitol Hill on the budget battles, judicial vacancies, and adequate judicial pay. Speakers included SDNY Chief Judge Preska, FBA Executive Director Karen Silberman, and FBA Government Relations Counsel Bruce Moyer.
- September 18, 2013. “Intangibles Tax CLE” at Fordham Law School. Panel discussion on recent developments in international taxation and the taxation of intangibles. The panelists focused on recent proposals by the Obama Administration and the OECD on base erosion and profit shifting. NOTE: This event was sponsored by the FBA Section on Taxation in conjunction with Fordham Law School. SDNY Chapter was not involved.
- September 26-29, 2013, Annual Meeting and Convention in Puerto Rico.
- November 20, 2013, Interviewing Skills Workshop

UPCOMING EVENTS:

- January 27, 2014, Event honoring the SDNY Bankruptcy Judges
- January 29, 2014, Tax CLE
- February 2014, Fashion Law CLE
- April, 2013, Trademark Law & Ethics CLE.
- Dates TBD - SEC Enforcement Symposium and webcast regarding recent Supreme Court decisions and other high profile securities cases (CLE will be provided).

LAW SCHOOL OUTREACH:

The Younger Lawyers Division and the Law School Division Task Force are leading the charge to start Federal Bar Association law school divisions across the country. In New York, the Southern and Eastern District of New York chapters have made significant progress at New York Law School and Brooklyn Law School, respectively.

At NYLS, law students have generated substantial interest and obtained the requisite number of signatures to charter a student organization. The division hopes to be fully recognized by the school and plan its first event by Spring 2014. Brooklyn Law School's student division is also well on its way to full recognition by the school. The division has formed a board and hosted its first "meet and greet" event on November 6, attended by several students and members of the Eastern and Southern District boards. Moving forward, the chapters intend to start law school divisions at other area law schools.

While law school divisions will generally have their own bylaws in order to be formally recognized by their schools, the divisions also are under the auspices of their local FBA chapter. As with the FBA, law school divisions' purpose will be to foster interest in federal practice areas and plan social and substantive events to increase membership and interest in federal law. Law school divisions will also be a great resource for the FBA, its sections and chapters, which will benefit from fresh interest from younger lawyers, helping increase membership and maintaining an active local presence.

PICTURES FROM SWEARING IN CEREMONY:



Judge Loretta A. Preska swearing in new officers of the SDNY Chapter. From left to right: Ira Abel, William Dahill, Michael Zussman, Olivera Medenica, Erica Gould, Stacy Yeung, Philip Schatz.



Olivera Medenica and Judge Loretta A. Preska.



Philip Schatz.



Ray Dowd and John McCarthy.



Attendees to the Swearing In Ceremony.



William Dahill.



Judge Loretta A. Preska.