

THE MOTHER COURT

A NEWSLETTER OF THE SDNY CHAPTER OF THE
FEDERAL BAR ASSOCIATION

SUMMER 2021 · VOLUME 1 · ISSUE 3



**Nancy Morisseau, President
SDNY Chapter**

A MESSAGE FROM THE PRESIDENT

Dear SDNY Chapter Members, Colleagues,
and Friends:

Happy Pride Month! It is great to share this latest issue of *TMC* with you. In this summer issue we: celebrate the life of the late Hon. Deborah Batts with a touching tribute from one of her former clerks who is currently a magistrate judge; spotlight the various virtual meetings held with Congressional members and/or their staff to discuss FBA's legislative priorities for the year; feature two book reviews addressing the U.S. Supreme Court's role in dealing with international and cross-border matters; and answer the top questions received by the SDNY Clerk's Office.

We also honor the memory of former Second Circuit, Chief Judge, Robert A. Katzmann who passed away on June 9, 2021. Finally, there is a brief review of past programs and upcoming events.

Look for our Fall issue in September!



**FBA SDNY members, the Second Circuit's
Justice for All program, and New York
City high school and middle school
students re-enact *Russo v. Central School
District No. 1* (2d Cir. 1972).
April 23, 2021**

Magistrate Judge Ona T. Wang Pays Tribute to the Honorable Deborah A. Batts (1947-2020)

One did not just "clerk for" The Honorable Deborah A. Batts. Rather, one embarked on a two-year intensive mentorship experience that went well beyond learning how to manage federal litigation. In addition to learning how to be an effective advocate, we learned how to listen: for nuance, for the unspoken need, for the extra-legal issues at play. We clerks gained a lifelong sponsor, supporter, and friend. Through Debbie, we also were inducted into a community of former, current and future clerks and courthouse staff.

Professionally, I learned from Judge Batts the importance of the rule of law, and how that could and should be applied in real life with a generous measure of compassion and humanity. Cases were about more than the legal claims and defenses raised. Rather, Judge Batts always cared about the individual people whose lives and livelihoods were involved in the events that led to litigation, and the needs they sought to be addressed through litigation (and, indeed, whether it was possible

"Cases were about more than the legal claims and defenses raised. Rather, Judge Batts always cared about the individual people whose lives and livelihoods were involved in the events that led to litigation, and the needs they sought to be addressed through litigation."



to address those needs in the federal courts). We could always tell when a decision weighed on her, because those were the times she wanted her clerks to challenge her the most.

Notwithstanding the seriousness of our work, Judge Batts had a goofy and sometimes wicked sense of humor in chambers and off the bench, and never took herself too seriously. She understood that many young people, particularly BIPOC and LGBTQ+ lawyers, saw her as a trailblazer and an icon, but to her kids she was "Mom" and to us clerks she was "Judge," and later, "Debbie." As my mom slowly faded away due to dementia, Debbie stepped into the space left behind, always ready to listen and offer support. She kissed my babies, played with my puppies, and gave me career advice. In return, I bored her with stories about animal behavior and graduate school (not that interesting) and brought my quirky dad in to chambers to meet her. They bonded over their red sneakers.

Debbie's favorite animal was the elephant, which was fitting since she had an amazing memory. After two years of being called to internal status conferences about any of the hundreds of active cases she happened to be thinking about at that moment, I learned to think about cases the same way, much to my law clerks' chagrin. "What's going on with the case where . . ." is a common refrain in my chambers now,

just as it was in Debbie's chambers over 20 years ago. It was my proudest professional moment when Judge Batts again administered the oath of office - 20 years after the first time - when I took the bench three years ago as a United States Magistrate Judge (SDNY) in the same courthouse where I started my legal career. We thought we would have the luxury of many years to be colleagues but, sadly, that was not to be. I still hear her voice from time to time, challenging me to set aside my preconceptions and engage with the issues and the people in each case, and reminding me to make sure that every litigant feels seen and heard.



Chief Judge Colleen McMahon, Magistrate Judge Ona Wang and Judge Deborah Batts

Hon. Ona T. Wang is a magistrate judge in the Southern District of New York. Before taking the bench in 2018, she was a litigation partner at Baker Hostetler LLP. She clerked for Judge Batts in 1998-2000.

FBA'S VIRTUAL CAPITAL HILL DAY 2021

BY: DINA T. MILLER

On May 3 to May 7, 2021, the Federal Bar Association (FBA) held its annual “Capitol Hill Day” -- the FBA’s primary, non-partisan advocacy event. Unlike past years, Capitol Hill Day was held virtually this year as a weeklong event rather than on one day. FBA leaders and members around the country met with members of Congress virtually to discuss issues affecting the federal courts. The FBA's five key priorities of important legislative proposals discussed during Capitol Hill Day were as follows:



Dina Miller is an FBA Circuit Vice President for the Second Circuit.

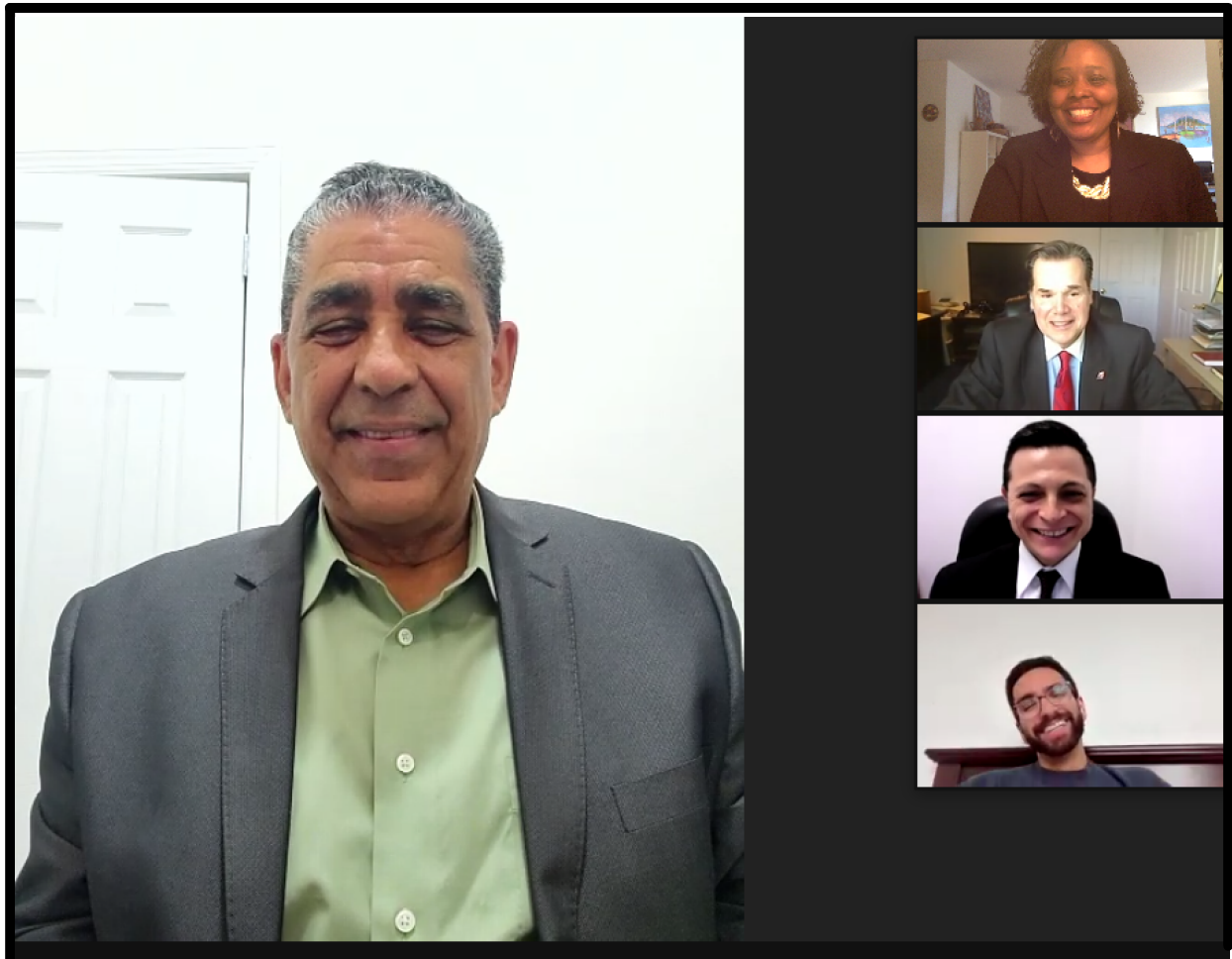
Greater Security for Federal Judges and Courthouses

The FBA supports the adoption of greater security measures to protect the Federal Judiciary and all federal courthouses. To this end, we asked Congress to approve the “Daniel Anderl Judicial Security and Privacy Act” legislation that will help keep judges’ personal identification information off the internet. We also urged Congress to provide adequate funding, as requested by the Judiciary and the General Services Administration, to improve the security and protection of federal judicial facilities. We believe that the safety of all federal judicial personnel and the physical security of all federal courthouses throughout the country is critical to the preservation of the rule of law. The July 2020 murder of the son of U.S. District Court Judge Esther Salas has highlighted the need for improved security for the federal Judiciary. Indeed, threats against judges and court officials have greatly multiplied in recent years, from 926 in 2015 to 4,449 in 2019, according to the U.S. Marshals Service.



More Judgeships for our Federal Courts

The FBA urged Congress to approve the recent request of the Judicial Conference for two new appellate court judgeships and 77 new district judgeships, and the conversion of nine temporary district judgeships to permanent status. Congress has the authority to establish the appropriate number and distribution of judicial officers throughout the federal courts but has not approved comprehensive judgeship legislation since 1990. Case filings in the district courts and courts of appeals have significantly increased since then. In fact, according to the Administrative Office of the U.S. Courts, from 1990 through 2020 district court caseloads rose 47 percent, with civil cases went up by 41 percent and criminal filings went up by 72 percent.



FBA members virtual meeting with Rep. Adriano Espaillat (NY-13), a member of the House Committee on Appropriations.

Responsible Federal Court Case Records Reform

In December 2020, the House of Representatives approved legislation (The Open Courts Act, HR 8235) that would require a complete overhaul of the federal courts' electronic platform (CM/ECF) for online filing in the appellate, district, and bankruptcy courts. The legislation also would terminate charges for non-commercial users of the federal courts' Public Access to Court Electronic Records (PACER) system. The FBA raised concerns echoed by the Judiciary about the necessity and the cost of a federal court records overhaul estimated to be approximately \$2 billion. A similar version of the Open Courts Act is likely to be reintroduced in the 117th Congress. As such, the FBA has urged Congress to appropriate sufficient funds for this purpose if it insists on requiring an entirely new federal court records system and to consider the assurance of greater protection and funding against cybersecurity breaches.



Virtual meeting with Rep. Tom Suozzi (NY-3) of the House Ways and Means Committee.

Adequate Funding for our Federal Courts

The FBA also supported the Federal Judiciary's FY 2022 budget request of \$8.12 billion in discretionary appropriations, which includes funding to maintain current services and fund priority initiatives like responses to growing security threats against judges and court facilities, both physical and cyber, as well as more magistrate judges and additional videoconferencing capabilities. This appropriation to the Judiciary represents less than 2 percent of one penny of a taxpayer's dollars.

Establish an Independent Immigration Court

Since 2013, the FBA has urged Congress to replace the Executive Office for Immigration Review (EOIR) in the Department of Justice with an independent “United States Immigration Court” to serve as the principal adjudicatory forum under Title II of the Immigration and Nationality Act. Hiring more immigration judges, while urgent, will not address the longstanding management and operational deficiencies within EOIR.

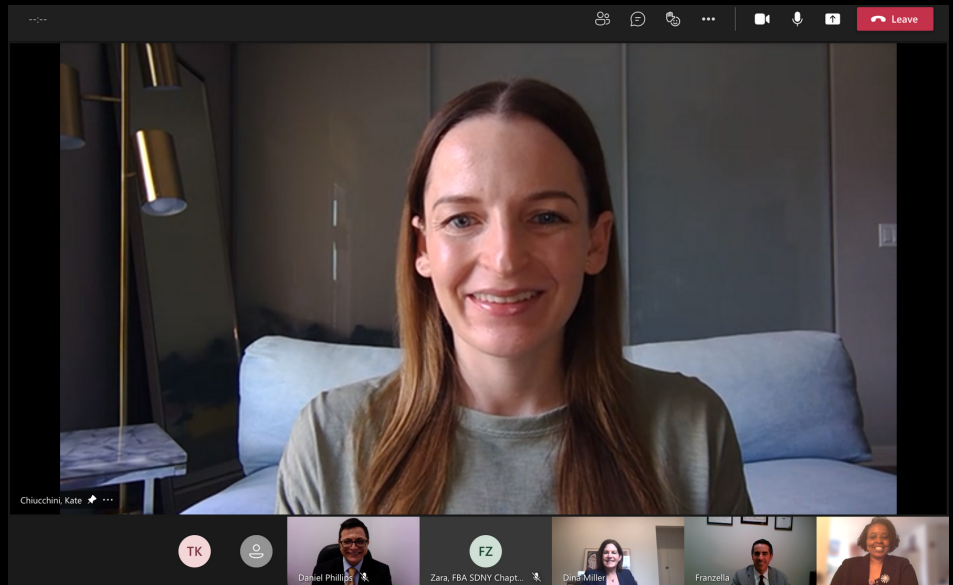


FBA members' virtual meeting with Shelby Boxenbaum, Counsel to U.S. Senator Bob Menendez (NJ).



Scott Rausch, Legislative Director for Rep. Andrew Garbarino (NY-2) Capitol Hill Day virtual meeting.

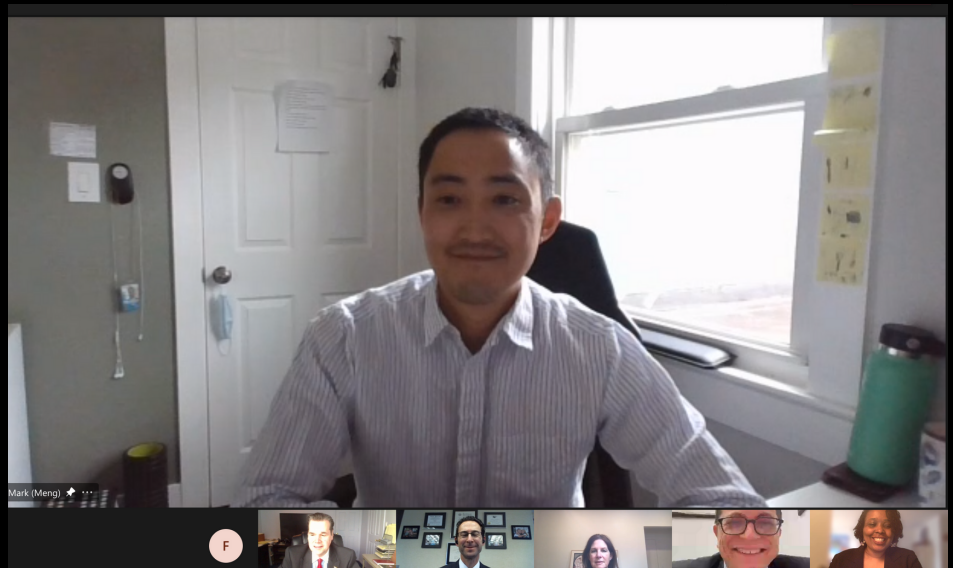
Kate Chiucchini, Rep.
Kathleen Rice's (NY-4)
Legislative Counsel



James Johnson,
Legislative Director for
Rep. Frank Pauline, Jr.
(NJ-6)



Mark Olson, Press
Secretary for Rep. Grace
Meng (NY-6)



Book Reviews

The U.S. Supreme Court's Role On The World Stage

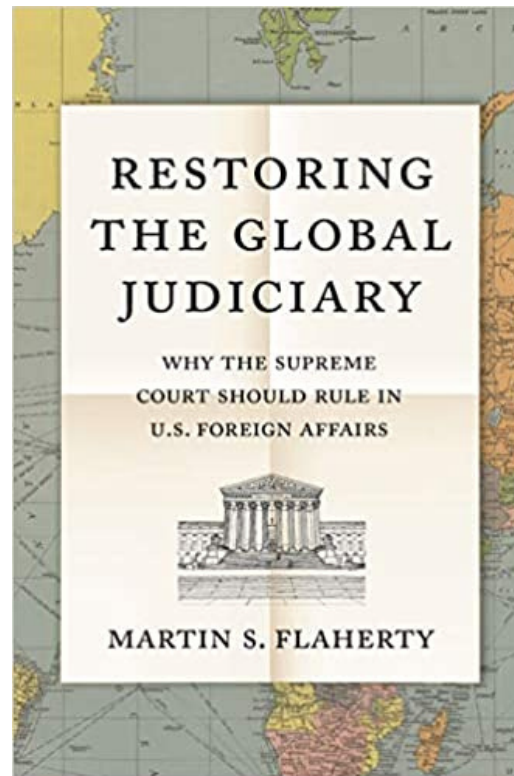
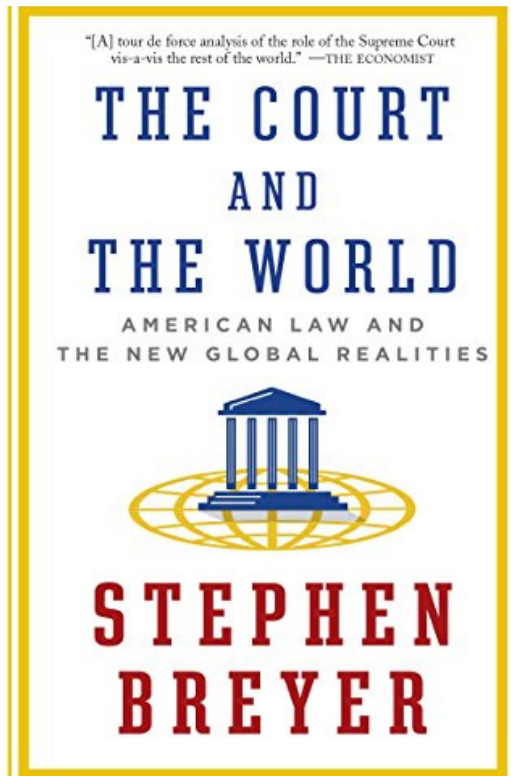
BY: Raymond J. Dowd

Last year I became president of the American Foreign Law Association, an organization dedicated to promoting the understanding and application of foreign, comparative and international law since its founding almost 100 years ago. I found two very readable books to be helpful to understanding the U.S. Supreme Court's role in dealing with international and cross-border legal issues.

I recommend that you start with *The Court and the World: American Law and the New Global Realities* (Vintage 2016) 400 pages \$17.00. First published in 2014, this work provides an authoritative view of Justice Stephen Breyer's thinking on the U.S. Supreme Court's role in applying foreign law to domestic disputes to applying U.S. law extraterritorially, and to the level of respect we should afford foreign sovereigns, foreign legal systems, and foreign judgments. I interviewed Associate Justice Stephen G. Breyer on his book in March 2021, watch for the video replay at www.afla-law.org. He is lively, thoughtful and provocative.

A great follow up is Fordham Law School Professor Martin Flaherty's *Restoring The Global Judiciary: Why the Supreme Court Should Rule in U.S. Foreign Affairs* (Princeton University Press 2019). Flaherty's ground-breaking scholarship covers the history of the U.S. Constitution, the views of the drafters on the role of the U.S., and the decisions of the U.S. Supreme Court until the present. Flaherty argues compellingly that the Supreme Court's deference to the Executive Branch in foreign affairs and on questions of foreign law is contrary to an originalist view of the Supreme Court's role, contrary to Supreme Court history, and contrary to the Constitutional system of checks and balances.

These books cover a wide range of legal practice areas – from piracy on the high seas, to kidnapping children, to antitrust and human rights so would likely be of interest and practical use to almost all federal practitioners.



Raymond J. Dowd is a past President of the S.D.N.Y. Chapter of the Federal Bar Association. He is a partner at Dunnington Bartholow & Miller LLP.

Ruby J. Krajick, SDNY Clerk of Court, Answers Litigants' Most Frequently Asked Questions

1) How do I familiarize myself with rules and procedures for SDNY?

1)Go to www.nysd.uscourts.gov and browse our website for resources

2)Review our Local Rules located here:

<https://nysd.uscourts.gov/rules>

3)Review our ECF Filing Rules and Instructions located here:

<https://nysd.uscourts.gov/rules/ecf-related-instructions>

4)Review the assigned Judge's individual rules of practice

located here: <https://nysd.uscourts.gov/judges>

2) How do I find my Bar ID number and my date of admission?

Please email Attorney Services with your inquiry at:

helpdesk@nysd.uscourts.gov. This information is not available on the internet.

3) I am filing a new miscellaneous (M98) case with a Sealing Request and an Order to Show Cause with emergency relief/TRO. Who reviews my Sealing Request for a new filing and who reviews my Order to Show Cause with emergency relief/TRO?

The Part 1 Judge will review the Sealing Request on the newly filed MC case (M98). If the request has been granted, once the action has been opened in paper form with our Finance office, the assigned District Judge will review the Order to Show Cause with emergency relief/TRO.

4) I am applying for admission with SDNY. Due to COVID restrictions, do I have to appear in person?

Due to the COVID-19 Pandemic, admission ceremonies have

been suspended. Attorney Admission is granted or denied on the papers. After the attorney applies for admission via PACER, Attorney Services reviews the application. If the application is without deficiency, the attorney will receive an email with the payment link.

After payment has been received, the attorney's name will be included in the proposed order to be signed by the Part I judge on duty. The attorney's certificate is then issued and mailed.

5) *Regarding Attorney Admissions and filing for Pro Hac Vice, what should I do if I cannot obtain a Certificate of Good Standing from a specific court due to COVID?*

When filing for admissions or pro hac vice, if an attorney cannot obtain a Certificate of Good Standing from a specific court due to COVID, they must add this information on their affidavit for judicial review.

6) *How do I file a Consent to Proceed before a Magistrate Judge?*

Consents to Proceed before a Magistrate judge are not filed electronically. See ECF Filing Rule and Instruction 18.2 for guidance.

7) *How do I know if my case is closed?*

The top right of the docket sheet in PACER will have a flag indicating CLOSED. The information will also be visible in the header showing "Date Terminated: xx/xx/xxxx."

8) *I am having issues linking my PACER account to my CM/ECF SDNY account. What should I do?*



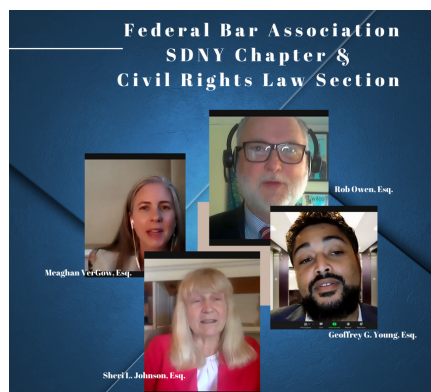
Please email helpdesk@nysd.uscourts.gov for assistance.

Ruby J. Krajick has served as the Clerk of the Court for the Southern District of New York since 2010.

Former Chief Judge Robert A. Katzmann, Second Circuit, with past presidents of the FBA SDNY chapter Raymond Dowd and Michael Zussman at the "Meet the Marshal" event honoring Michael Greco, US Marshal, SDNY (February 23, 2016).



In Memoriam
Hon. Robert A. Katzmann (1953-2021)



LIFE or DEATH: The Difference and the Ethics of Race and Gender in the Effective Representation of Death Penalty Cases
May 13, 2021

UPCOMING PROGRAMS

- **September 2021** - Sexual Harassment in Workplace: Title VII & NYSHRL
- **September 2021** - Law Clerk Program



Federal Bar Association

Southern District of New York Chapter

Editorial Board

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