NEW JERSEY LAWYER

February 2026

No. 358

JUDICIAL INDEPENDENCE

NJICLE

NEW JERSEY INSTITUTE FOR CONTINUING LEGAL EDUCATION

A Division of the New Jersey State Bar Association

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A spotlight on some upcoming programs...

Current Developments on the Admissibility of Expert Testimony in New Jersey

Wednesday, March 18
9 a.m. – 12:35 p.m.
Earn up to 4.0 credits.

Featuring: Hon. Charles F. Kenny, JSC (moderator); Teresa C. Finnegan, Esq.; Connor C. Turpan, Esq.

Stay up to date on the fast-moving landscape of expert testimony in New Jersey. You will explore the evolving legal framework, examine influential cases and gain practical insights that can be applied directly in litigation. The session is designed to help attorneys better understand the current admissibility standards and more effectively prepare and challenge expert witnesses in light of recent rulings.

2026 Labor and Employment Law Forum

Friday, March 20
9 a.m. – 4 p.m.
Earn up to 6.7 credits.

Featuring: Domenick Carmagnola, Esq.; Daniel R. Dowdy, Esq.; Yvette Gibbons, Esq.; Katrina M. Homel, Esq.; Robert T. Szyba, Esq.

Every year, New Jersey's leading labor and employment lawyers attend "The Forum" to stay current on developments in the law and hear from seasoned practitioners. Join this year for several distinguished panels of labor and employment lawyers addressing the most pressing issues facing the practice today. Attendees will gain insight into navigating the impact of recent changes in labor and employment law, hear key takeaways from recent and significant case law developments, among other timely topics. Don't miss this opportunity to receive targeted, practical information that you can immediately put to use in your practice.

The 2026 NJSBA Spring Conference – A Special One Day Virtual Event!

Thursday, March 19
8:30 a.m. – 4:30 p.m.
Earn up to 8.4 credits, including 2.0 in ethics.

Go on a "Spring Fling" as you choose from multiple virtual conference rooms throughout the day, gaining proven strategies and practical tactics that deliver real results across today's most critical practice areas. Don't miss this day long event on Zoom in which you can earn over 8 credits on topics that will help your practice bloom!

What You'll Accomplish in One Power-Packed Day
- Earned up to 8.0 credits including 2.0 ethics and professionalism credits
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- Developed frameworks for navigating the profession's biggest challenges
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2026 Federal Practice Bench-Bar Symposium

Tuesday, March 31
9 a.m. – 4 p.m.
Earn up to 6.3 credits.

The New Jersey State Bar Association and the Association of the Federal Bar of New Jersey, in cooperation with the U.S. District Court for the District of New Jersey, are proud to present the third Annual Federal Practice Bench-Bar Symposium.

Join U.S. District Court Chief Judge Renee Marie Bumb, along with dozens of federal judges and esteemed practitioners for this special symposium designed primarily with state court practitioners in mind. This comprehensive program will focus on the essentials of federal practice. Attendees can enjoy a networking lunch and then choose from several breakout sessions that are right for them: Discovery in Federal Court, The Effect of Bankruptcy on State Court Proceedings, Federal Criminal Practice Primer and Federal Practice Primer for Family Law Practitioners.

Law, Justice and the Holocaust

Thursday, April 23
9 a.m. – 12 p.m.
Earn up to 3.3 credits, including 3.3 in diversity.

Featuring:
Kendal Jones, Program Coordinator, Law and Justice Initiative, United States Holocaust Memorial Museum

Presented in cooperation with The United States Holocaust Memorial Museum

In honor of Holocaust Remembrance Day, we are proud to present this program featuring an interactive session that asks participants to examine the pressures faced by German jurists under the Nazis. Using legal decrees, judicial opinions, and case law of the period, participants will study the role of judges in the establishment of the Nazi German state. This close scrutiny of the past will provide a framework for an exploration of the role of the judiciary and legal profession in a democracy.

For a complete listing of programs, visit NJSBA.com

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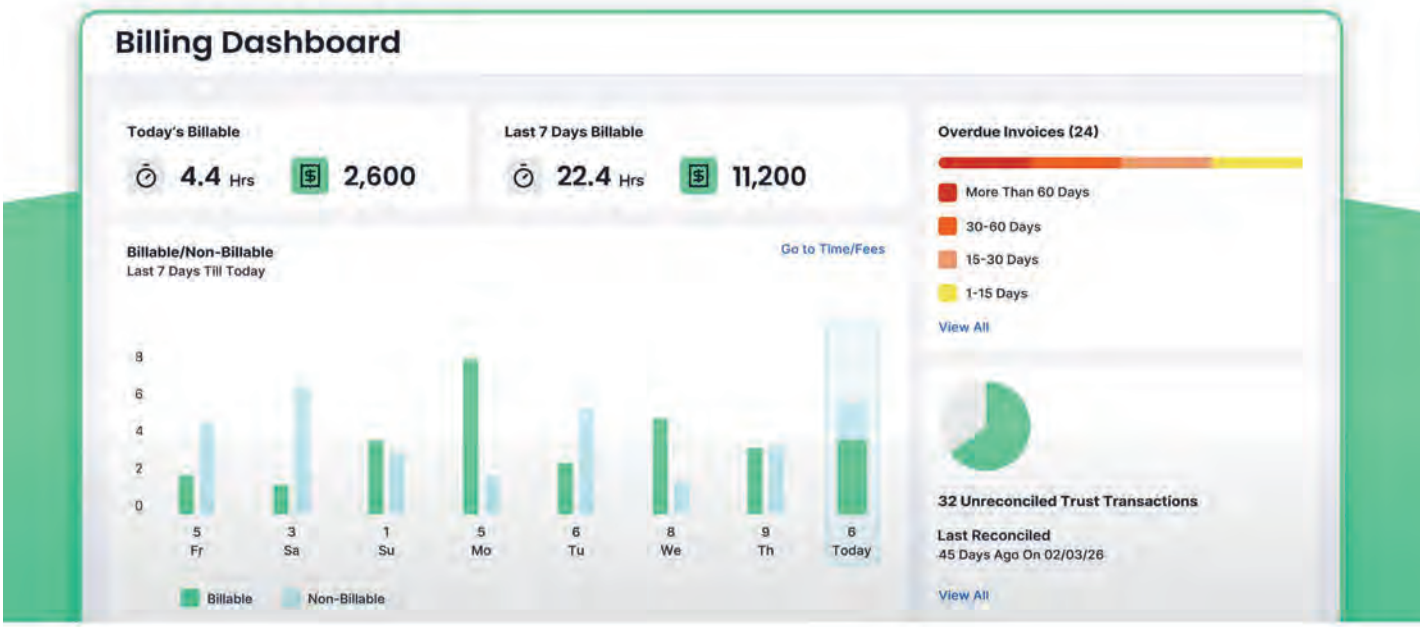

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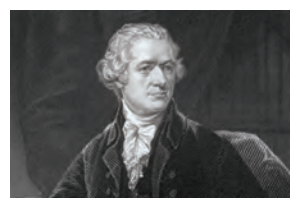

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CHRISTINE A. AMALFE

The NJSBA Will Always Lead the Fight for Judicial Independence

If one word captures the past year, it is uncertainty. That is why judicial independence and protecting the rule of law is never more important. Our democracy depends on it.

Attacks on the Judiciary have intensified. Calls to impeach judges have grown louder. Courts are entering orders which are then ignored and mocked. Law firms have been targeted simply for fulfilling their duty to represent clients. Facts seem not to matter all that much anymore. Together, these developments threaten the foundational principles of our Constitution and certainly lead citizens to question whether an independent Judiciary, one that safeguards individual rights, reins in excessive government action and ensures equal access to justice actually exists today.

The New Jersey State Bar Association has remained steadfast in defending the rule of law and judicial independence and reaffirming the essential role of an impartial Judiciary in our democracy. Lawyers cannot afford to remain on the sidelines. We have an obligation to defend our democratic institutions and push back on threats and misinformation in the public forum to ensure public confidence in an independent, co-equal Judiciary which will uphold the rule of law and the rights provided to us by our Constitution.

Now more than ever we need judges to decide issues without partisan biases or outside influence. The role of judges and the courts could not be more important.

Threats to judicial independence come in many forms. Most visibly, they appear as direct attacks on judges and those who uphold the legal system. At other times, they emerge through efforts to undermine the judicial process by shifting authority away from the courts and into the political branches, Chief Justice Stuart Rabner captured this concern in his remarks at the 2024 Annual Meeting and Convention. In his annual address on familiar state-of-the-judiciary concerns—rising caseloads, vacancies and attorney well-being—the long-time justice signaled his view on the importance of an independent judiciary.

A week earlier, the news reported that the New Jersey State Legislature was considering a constitutional amendment that would shift control of Appellate Division appointments—a power long held by the chief justice—to the governor and Senate.

The chief justice's response was stern and direct. He reminded us all that the Appellate Division and greater Judiciary in New Jersey was a balanced institution politically and demographically, built on a long-standing commitment to bipartisan fairness in judicial appointments. He cautioned that the Legislature's proposal risked undermining that balance that has served our state so well. The plan, he warned, would hinder the courts' ability to fill vacancies and preserve a diverse and effective bench.

Then, he stated the obvious. "There does not appear to be a problem that needs fixing."

New Jersey's legal system has earned a national reputation for excellence and integrity, in large part because it has remained largely insulated from political influence. Following Chief Justice Rabner's remarks—and a swift, unified response from the NJSBA and other legal organizations—the Legislature abandoned its proposal to amend the state constitution in a way that threatened the judicial independence that has served the citizens of this state so well.

The NJSBA has consistently defended the Judiciary and responded swiftly to any challenges to its independence. The Association was quick to oppose the non-reappointment of Justice John Wallace Jr., the decision not to renominate Justice Helen Hoens and political remarks directed at Justice Barry Albin. These episodes underscored the close partnership between the bench and the bar in defending judicial independence and the Judiciary as a co-equal branch of government. More importantly, they served as a reminder that this independence does not preserve itself. It requires ongoing vigilance

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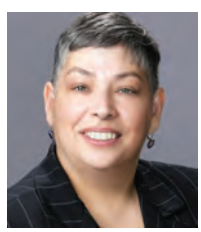
FROM THE SPECIAL EDITORS

Judicial Independence in a Complex Legal Landscape

By Albertina Webb and Darren M. Gelber

In this issue of *New Jersey Lawyer*, we focus on a foundational pillar of constitutional governance and the practice of law—judicial independence. At a time when courts are asked to resolve disputes that reach deeply into civic life across a broad spectrum of hotly contested issues, the integrity and autonomy of the judiciary are practical necessities that determine whether the rule of law can endure. Whether a case involves a question of statutory interpretation, constitutional analysis of a social issue, or a dispute about governmental structure and authority, our historical reliance upon the separation of powers and judicial autonomy have guided and shaped the way our society functions.

The theme of this issue is timely and consequential. Judicial independence safeguards the separation of powers, ensures that legal rights are adjudicated without fear or favor, and preserves public confidence that courts decide cases on the law and the facts, not on extraneous pressures or political ideologies. Across jurisdictions and practice areas, lawyers, judges, litigants, and the public rely on courts to apply neutral principles consistently. Without an independent judiciary, the promise of equal justice under law is diminished, and the predictability on which our legal system depends is compromised.



ALBERTINA "ABBY" WEBB *is the managing partner in the Eatontown office at Sarno da Costa D'Aniello Maceri Webb LLC, where she concentrates her practice on divorce, custody, domestic violence, and post-judgment family law matters. Abby continues as a member of several Supreme Court appointed committees, is an active speaker for the New Jersey State Bar Association, is a frequent presenter at NJSBA educational programs as well as for the Hispanic Bar Association, where she is a past President and Hispanic National Bar Association where she continues to serve as co-chair of the Family Section. Abby is also a member of the editorial board of* New Jersey Lawyer *and* New Jersey Family Lawyer *and has contributed to NJSBA publications and committees across a range of practice areas.*

DARREN M. GELBER *is a shareholder at Wilentz, Goldman & Spitzer, P.A., where he practices criminal, white-collar, and regulatory litigation in state and federal courts. He represents individuals, professionals, and organizations in criminal matters, investigations, and related administrative proceedings, including complex and high-stakes cases. Darren is certified by the Supreme Court of New Jersey as a Certified Criminal Trial Attorney and has served in leadership and committee roles within the organized bar. He is a frequent lecturer on criminal practice and ethics and serves on the editorial board of* New Jersey Lawyer.

Our contributors explore this subject from multiple vantage points. Several articles examine how judicial independence undergirds the rule of law, tracing the institutional norms and structural protections that insulate adjudication from political influence. Others focus on fair trials, analyzing the conditions necessary for impartial decision-making, from transparent procedures and evidentiary rigor to the ethical constraints that guide judicial conduct. We also consider public confidence: why it matters, how it is earned, and what courts and the bar can do to sustain it in an era of rapid information cycles and heightened scrutiny.

The perspectives in these pages are intentionally diverse. Experienced jurists reflect on the day-to-day realities of maintaining independence from the bench. Practitioners discuss advocacy within systems designed to be both accountable and autonomous. Attorneys assess comparative frameworks and reform proposals, offering data-driven insights into what strengthens or weakens judicial institutions. The authors foray into family, municipal and immigration areas of practice and give practical tips that are sure to stay with a practitioner throughout their practice. Together, these contributions illuminate both enduring principles and emerging challenges, with an eye toward pragmatic solutions.

The issue starts off with former U.S. Rep. Robert E. Andrews and Riza I. Dagli examining the U.S. Supreme Court's 2025 term through a three-bloc voting framework, highlighting how outcomes often reflect institutional and practical considerations rather than simple ideological division. They contrast this dynamic with the New Jersey Supreme Court's tradition of consensus and explore how court structure and culture shape judicial independence.

At the practice level, Judge Angela W. Dalton (Ret.) explains the premise that judicial independence is applied daily in family courts, a must-read for anyone treading lightly into or already involved in family practice. Highlighting fact-finding in almost every issue facing the court and litigants, applying discretionary judgment while confined to ethical and statutory factors for child support, alimony and equitable distribution, the article offers an eye-opening examination of responsibilities that family practitioners may sometimes take for granted and underscores why judicial independence is essential to fair outcomes.

Within New Jersey's court system, Josh Reinitz reviews the New Jersey Supreme Court's municipal court reform recommendations with a focus on judicial appointments, reappointments, oversight, and court structure. He explains how consolidation, professional evaluation, and administrative reforms are intended to strengthen independence in the courts most visible to the public.

Stepping back to first principles, Judge Terry P. Bottinelli (Ret.) revisits Alexander Hamilton's writings to explain the judiciary's role in enforcing constitutional limits and preserving the separation of powers. The article connects foundational principles of judicial independence to contemporary discussions about accountability, transparency, and public trust in the courts. One of the best

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President's Perspective

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and an engaged legal profession to ensure judges can apply the law to the facts before them, free from political or external pressure.

Our Supreme Court is a rarity among the highest state courts across the country. It operates under a long-standing, unwritten tradition that maintains partisan balance and prevents either political party from holding more than four seats at any time. That balance fosters collaboration, reflected in the Court's high rate of unanimous opinions. This approach contrasts sharply with the increasingly polarized atmospheres seen in other states, where judges are elected after partisan and often negative campaigns and single-party courts dominate decision-making. The New Jersey system of bi-partisanship and a balanced court is a system worth appreciating and protecting.

Our Supreme Court's near even partisan split often allows justices of different parties to review cases together at the certification stage. That early collaboration encourages more productive arguments and deliberations down the line, even if it sometimes results in narrower rulings or more incremental change. The tradeoff is well worth it. In an era of growing judicial polarization across the country, the stability and collegiality of New Jersey's Supreme Court reflect a deep and enduring commitment to judicial independence and a fair and balanced decision on the merits of any legal issue.

The lesson from our state Supreme Court is clear: politicizing the Judiciary undermines the very foundation of democracy. Public trust and fair adjudication depend on judges being free to apply the rule of law without interference, influence or intimidation.

The future of democracy depends on an independent judicial branch. As long as the NJSBA serves as the voice of New Jersey attorneys, it will continue to defend access to justice, uphold fairness in the administration of the courts and protect the independence and integrity of the judicial branch.

There is no alternative. ■

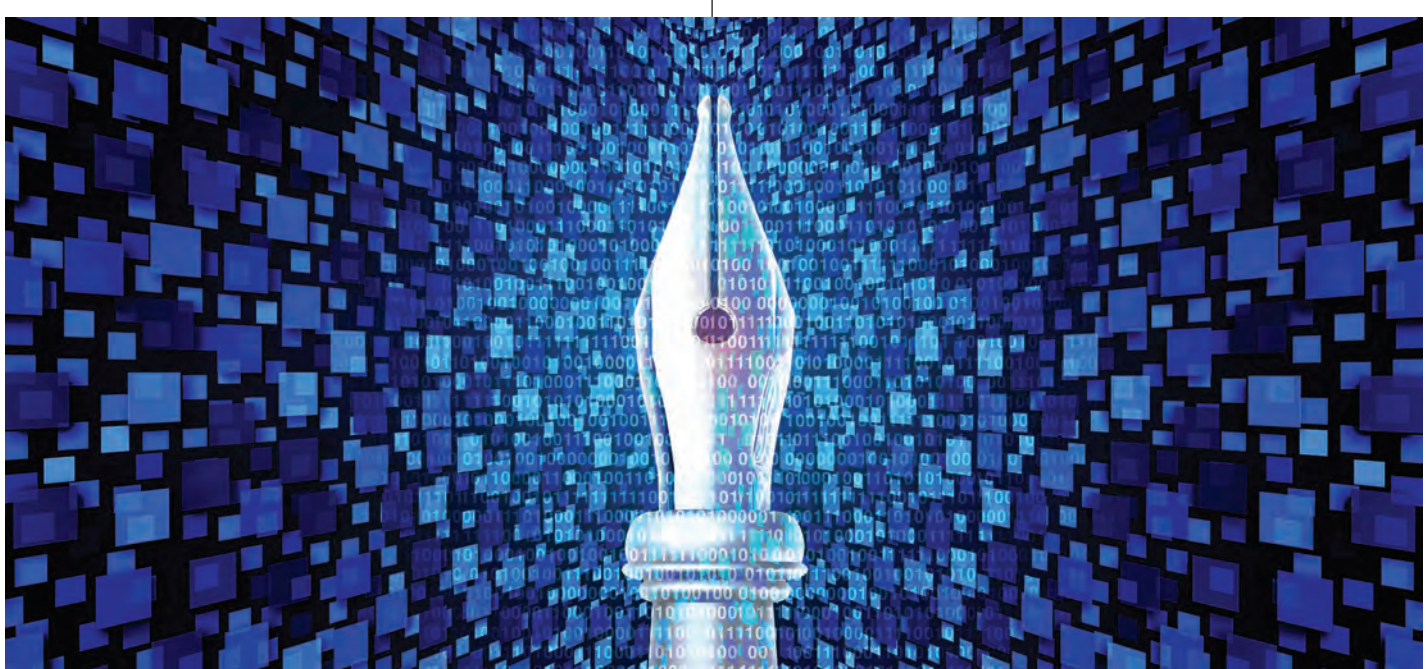
PRACTICE TIPS

WRITER'S CORNER

Pattern, Precision, and Persuasion: Editing the AI Echo

By Veronica J. Finkelstein
Litigative Consultant, U.S. Attorney's Office
Eastern District of Pennsylvania

Legal writers are already prone to repetition, and this tendency has historical roots. The tradition of using doublets and triplets, like "null and void" or "cease and desist," originated from the blending of English, French, and Latin in medieval legal systems, where scribes repeated terms across languages to ensure understanding. Some repetition can be helpful: it reinforces key concepts and ensures critical information is readily available in each section of a longer brief. But now, with artificial intelligence tools increasingly used in the legal drafting process, a new and unhelpful kind of redundancy is creeping in. You might call this redundancy the AI echo. Good legal writers must learn to spot and edit this repetition.



The Rise of the Redundant Draft

AI tools are trained on vast catalogs of existing legal writing. That means they've become adept at mimicking tone, structure, and vocabulary. But it also means the work product they generate often recycles patterns from the data sets used to train them. If you've ever used an AI assistant to draft a memo, you've probably seen this firsthand: the same phrase repeated across multiple sections, the same transition used in every paragraph, and the same framing device applied to every argument.

This redundancy dilutes the strength of the writing. When every paragraph begins with "Importantly," or every argument concludes with "Accordingly," the reader stops noticing. Worse, the reader stops trusting the writer. The brief becomes unhelpful, and the writer loses an opportunity to persuade.

Spotting the Echo

The first step in avoiding the AI echo is learning to spot it. Here are a few telltale signs:

- **Repetitive transitions:** AI tools often default to familiar connectors like "Moreover," "However," and "Therefore." These are used indiscriminately, without regard for tone or context.
- **Template thinking:** AI-generated drafts often rely on stock sentence structures. Every sentence reads the same: "The plaintiff argues X. However, Y suggests otherwise." This can be useful—but only when chosen because it fits the argument.

- **Circular reasoning:** AI-generated drafts sometimes restate the same point in slightly different language, creating the illusion of depth without substance. Three sentences in a row may, in essence, say the same thing.

These patterns can be subtle. They don't necessarily scream "bad writing." But they erode the persuasive force of the underlying argument.

Editing Against the Machine

To combat the AI echo, you must become an active editor. That means reading drafts with a critical eye and asking not just "Is this correct?" but "Is this compelling?" and "Does this read like human writing?"

Here are four editing tips to use:

- **Vary sentence structure:** Break the rhythm. Use short sentences for emphasis. Use long ones for nuance. Mix declarative, interrogative, and conditional forms. If every sentence in your brief is two lines long—break some into shorter, pithier sentences.
- **Audit transitions:** Highlight every transitional phrase in your draft. If you see the same one more than twice, change it. Use a thesaurus to find more precise transitions than the ones AI tools might suggest.
- **Track emphasis words:** Make a list of every intensifier—words like "clearly," "notably," "indeed." Ask whether they're necessary. Often, they can be omitted, and the writing will improve with a more descriptive verb instead.
- **Interrogate repetition:** If two paragraphs make the same point, combine them. If a sentence restates the previous one, cut it. Write the focus of each paragraph in the margin. If any two marginalia seem the same—review and revise.

This kind of editing isn't just cleanup—it's strategy. It's how you reclaim your voice from the machine.

Teaching the Tools

Becoming skilled at using AI tools is only the first step. When mentoring junior attorneys who use AI tools, don't just teach them to write—teach them to revise. Encourage them to identify patterns in their drafts. Have them highlight every repeated word, phrase, or structure. Then ask: which repetitions serve a purpose? Which ones don't? This builds rhetorical awareness and strengthens editorial judgment.

The Human Advantage

AI tools can generate text. They can mimic style. They can even suggest arguments. But they can't feel the rhythm of a paragraph. They can't sense when a sentence persuades. That's your job. The best lawyers don't just write well—they write with intention. They know when to echo, and when to break the pattern. So use the machine. But don't let it use you.

WHAT I WISH I KNEW

Strategic Communications Must Evolve With the Litigation Calendar

By Martin C. Bricketto
Kessler PR Group

Successful attorneys know that litigation strategies can often evolve as a lawsuit proceeds through its inevitable stages. For litigants whose reputations are at risk, whether individuals or organizations, the public-facing communications strategy should evolve as well.

Every filing in a high-profile court case is a potential media event.

How you choose to use or not use the litigation calendar will depend on factors like the facts of the case and whether they are likely to attract press attention, your client's overall public relations strategy and how eager your opponent is to use the media for their arguments. Keep in mind the press may find your case on their own. Many news sites use proprietary technology to scan court dockets and identify lawsuits that may interest their readers.

It's crucial to anticipate when the media might cover the dispute, what facts will drive that coverage and which milestones offer the best opportunities for your client to tell their story and protect their reputation. An experienced and skilled crisis communications team can help identify those strategic opportunities, possibly cultivate timely media interest and potentially flag triggers in filings that could reflect badly on your client should they be included in media coverage.

The filing of the case is your first chance to tell your story. No matter which side you're on, it's important to consider how to address media coverage, whether that coverage is sought or simply unavoidable. At the same time, factors such as the judge's likely reaction to public attention must be part of that calculus to ensure that any communications strategy aligns with the legal strategy.

If you're filing the complaint, know that reporters focus on the introduction, so make it punchy and succinct to tell your story as effectively as possible (The nitty-gritty legalese will come later - and reporters may not even read that far). Also, consider whether prepared statements from you and your client, along with a backgrounder on the suit, would help drive your key messages.

If you're on defense, there's rarely any benefit to proactively alerting the press, but don't let media inquiries catch you flatfooted. If you think your client's matter may head to court, be prepared with a clear statement and, if possible, supporting information that compels reporters to include your perspective.

The plaintiff starts with momentum, but other events on the calendar can spur headlines that favor the defendant.

For example, a motion to dismiss gives the defense a chance to reset the narrative of the matter. Reporters following the case will focus on the motion's introduction. It should frame the defense's narrative in a clear and succinct way, reinforce key themes and provide compelling tidbits that can shape headlines and soundbites, especially those that counter any inflammatory language used by your adversary in the complaint.

And while an answer to a complaint is often a nonevent, that changes if it includes a counterclaim. Prepared statements around these developments should highlight what's new while reinforcing your core messages.

Following discovery, a motion for summary judgment can become another flashpoint. For the plaintiff, it's a moment to underscore the strength of their case and turn up public pressure on the defense. For the defendant, it's a chance to portray the claims as meritless, shape public perception and potentially strengthen their position in settlement discussions.

Hearings matter—a lot. A lawyer's focus should be the judge but, with a high-profile case, understand your arguments will be quoted. While that might make a prepared statement after the proceeding unnecessary, it's important to consider whether background material or even a conversation might be valuable for key members of the press ahead of time.

While there are more and more publications that cover "legal news," even those reporters can misunderstand arguments or misquote speakers, so it's important to have a team prepared to review media coverage and act quickly to stamp out incorrect information before it spreads (We see this all the time. The jury decides a defendant is guilty of one thing, but the judge mischaracterizes the decision as something else—and that becomes the headline for all that follows).

The above is especially true should your matter go to trial. A seasoned communications team can help strategize around the value of advance briefings with the press and monitor each day's coverage. Key moments should be emphasized with reporters, on background but not off-the-record. Those moments could range from witness testimony central to your case or a decision from the judge during a sidebar or with the jury out of the room.

Highlighting these moments—and doing so in a way that avoids tainting the proceeding or violating ethical rules—can help shape public perception and counter concerns about the client's integrity among their business partners, family, and friends. Balancing legal caution with strategic communication is key to protecting both courtroom outcomes and the client's broader reputation.

Winning in court means little if you lose in the court of public opinion, where reputations are shaped and long-term consequences take root. While legal victory must remain the top priority, it should be pursued with care and strategy that protects the client's future beyond the trial. Ultimately, the goal is not just to clear a name legally, but to ensure the client can still lead a life, maintain relationships, and rebuild after the controversy fades. Don't overlook how the litigation calendar can help you and your client achieve that end result. ■

Putting Lawyers First

A Call to Transform Wellness in the Legal Profession and Change the Culture that Breeds Unwellness

By Jeralyn Lawrence
NJSBA Past President

The legal profession is built on dedication, high performance, and an unwavering commitment to serve. Yet beneath the prestige and purpose of the law lies an undeniable truth: lawyers are struggling. Across the country, we face an alarming rise in mental health challenges, suicidal ideations, burnout, addiction, and depression.

We are a profession in crisis.

To be a good lawyer, one must first be a healthy lawyer.

The Crisis We Can No Longer Ignore

During my presidency of the New Jersey State Bar Association in 2022–23, I launched the *Putting Lawyers First Task Force* to confront this growing epidemic. Our statewide survey, which drew responses from 1,643 legal professionals, revealed stark realities:

1. 10% have experienced suicidal ideation—that's 164 lawyers
2. 49% report burnout—twice the rate of other professions
3. 68% experience anxiety—five times the national average
4. 23% have significant depressive symptoms
5. 56% engage in high-risk drinking behaviors
6. 28% have considered leaving the profession entirely

JERALYN L. LAWRENCE *is the founder and Managing Member of Lawrence Law, where she focuses her practice on matrimonial, divorce, and family law in New Jersey. As Past President of the New Jersey State Bar Association, she has championed lawyer wellness—most notably through the creation of the Putting Lawyers First Task Force and the NJSBA's Well-being in the Law initiatives that prioritized mental health and quality of life for attorneys. A co-chair of the NJSBA Well-being in the Law Committee, Jeralyn has been a leading voice in moving the profession toward greater support and sustainability.*

These are not just statistics—they represent colleagues, friends, and, for many, personal truth. And when lawyers suffer, the consequences ripple outward:

- Clients receive diminished counsel
- Firms experience turnover and morale decline
- The justice system loses both its humanity and effectiveness

Judges, too, report rising fatigue, concentration difficulties, sleep disruption, and emotional distress—yet the culture still discourages vulnerability.

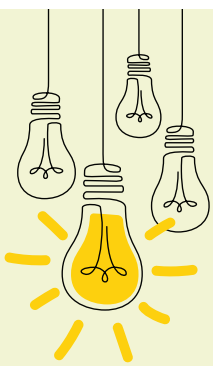
What's Driving the Decline?

Unrealistic Expectations and Structural Strain

The traditional model of legal practice demands that lawyers perform at peak capacity at all times, often under artificial deadlines and intense scrutiny. Yet this expectation disregards the human cost of constant conflict and high-stakes outcomes. The result? A profession that rewards *busyness over balance* and measures value by endurance rather than excellence.

The "Never-Off" Culture

Technology has erased the boundaries that once allowed recovery. While digital communication offers convenience—and, in some cases, enhances wellness—it has also created an expectation of perpetual availability. More than half of surveyed attorneys reported needing to respond after hours, and nearly three-quarters work weekends. This constant vigilance places the body in a state of chronic stress, leading to exhaustion, irritability, impaired judgment, and burnout.



Support Resources for Legal Professionals

Confidential mental health and well-being resources are available through:

- New Jersey Lawyers Assistance Program (NJLAP): **njlap.org**
- NJSBA Member Assistance Program: **njsba.com/member-assistance-program**

Learn more about the *Putting Lawyers First Task Force* and its report at **lawlawfirm.com/putting-lawyers-first**

Importance of Remote Work

Remote practice has brought welcome flexibility and reduced commuting stress—60% of respondents said more virtual options would improve their well-being. Yet this same flexibility can deepen disconnection. After the pandemic, many lawyers reported heightened feelings of isolation and diminished community engagement.

The solution is not a return to rigid in-person models, nor complete virtual detachment. We need a *balanced hybrid approach* that preserves human connection, allows for relationship building and networking without sacrificing flexibility.

Economic Pressures and Productivity Demands

Law school debt, billable hour quotas, and staff reductions have left many lawyers overworked and under-resourced. Attorneys lacking adequate support are nearly three times more likely to experience depression or burnout. Compounding this pressure is the uncomfortable dual role of being both advocate and collector—providing legal services while ensuring clients pay for them—a hidden source of daily stress rarely acknowledged but widely felt.

A Culture of Adversarial Conflict

Lawyers are taught that toughness is essential and vulnerability is a liability. Incivility is too often mistaken for zealous advocacy. This mindset breeds environments of chronic stress and emotional suppression, where empathy is undervalued and burnout normalized. To survive, many lawyers feel compelled to armor up—even among peers.

Unaddressed Trauma Exposure

Attorneys regularly handle cases involving domestic violence, child abuse, catastrophic injury, and family breakdown. Such exposure can cause *secondary trauma*, yet few lawyers are trained in trauma-informed practice. Without proper support, these emotional burdens accumulate, often with serious mental health consequences.

The Stigma of Seeking Help

Perhaps the most damaging factor is silence. Many lawyers fear that admitting distress could jeopardize their careers, confidentiality, or standing before the bar. Although progress has been made—including revising Character & Fitness application

Question 12B—stigma remains a powerful deterrent. Too many suffer in silence until crisis strikes.

A System Ready for Change

The *Putting Lawyers First Task Force*—a 44-member body divided into six subcommittees—was created to examine structural causes and propose reform. We have already seen meaningful progress:

- Formation of the Supreme Court Committee on Wellness in the Law
- Expanded access to mental health care through the New Jersey Lawyers Assistance Program as well as a new NJSBA partnership with Charles Nechtem & Associates
- Revision of Character & Fitness Question 12B, reducing barriers to treatment
- CLE programming centered on wellness
- Statewide listening sessions conducted by the Supreme Court Committee on Wellness in the Law

These are significant advancements—proof that reform is possible.

Culture Change is Essential

Policy alone cannot heal a broken culture. We must redefine what success means in law:

- Wellness is not indulgence—it's foundational
- Rest is not weakness—it's essential for advocacy
- Connection is not optional—it sustains performance
- Balance is not a luxury—it's a prerequisite for justice

We must move from glorifying exhaustion to glorifying sustainability. The best lawyers are not those who endure the most—but those who lead with balance, empathy, and resilience.

Where We Go From Here

Courts can lead the way by embedding flexibility, humanity, and compassion into the structure of practice—through reasonable scheduling, granting adjournments with understanding, designating "no-court" weeks for catch-up, and reevaluating aggressive case completion mandates that strain both lawyers and judges. Judicial wellness must also be prioritized; healthy judges are essential to a healthy justice system.

Law firms and employers must recognize that mental health is not just a moral imperative—it's a business advantage. Adequate staffing, fair workloads, mentorship, and community-building all drive retention and performance. Reducing reliance on alcohol-centric networking and normalizing the use of personal and mental health days can further strengthen workplace culture.

Finally, **individual lawyers** must reclaim ownership over their own well-being. Setting boundaries, cultivating supportive relationships, seeking therapy without fear, and staying connected to one's purpose are acts of professional courage—not indulgence. When lawyers honor their values, they sustain not only themselves but the integrity of the profession they serve.

The Health of Lawyers Determines the Health of Justice

The legal profession stands at a crossroads. If we continue on our current trajectory, we risk losing extraordinary lawyers—not for lack of skill or passion, but because the system itself and the pace of the practice is unsustainable.

No one is coming to save us. We must save ourselves—and each other.

Putting lawyers first is not selfish. It is strategic, necessary, and the only way the legal system can truly thrive. ■

The NJSBA is Here to Help

The NJSBA Member Assistance Program connects our members—and anyone else in their household—to trained, experienced mental health professionals and resources.

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The Member Assistance Program is a benefit of membership.

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Three Blocs, One Court

Voting Alignments in the Modern U.S. Supreme Court—and Why New Jersey's High Court Looks So Different

By Former U.S. Rep. Rob Andrews and Riza I. Dagli

Editor's note: This article is adapted from the New Jersey Institute for Continuing Legal Education program "U.S. Supreme Court Year-End Retrospective 2025," in which the authors analyzed recent U.S. Supreme Court decisions and institutional voting patterns. For more information about live and on-demand programming, visit njicle.com.

The U.S. Supreme Court is often described in binary terms—liberal versus conservative, left versus right. That shorthand, however, does not fully capture how the Court has functioned in recent terms.[1] In the 2025 term, the Court's most consequential decisions reflect not two camps, but three distinct voting blocs: a Liberal bloc composed of Justices Sonia Sotomayor, Elena Kagan, and Ketanji Brown Jackson; a Conservative bloc consisting of Justices Samuel A. Alito, Clarence Thomas, and Neil M. Gorsuch; and a third group whose votes frequently turn on a different consideration—the practical effects of a decision on individuals and institutions beyond the immediate litigants.

Whether the issue involves nationwide injunctions, preventive health care coverage, parental rights in public schools, or the structure of federal regulatory programs, the Court has repeatedly divided into three voting coalitions.

That middle group—Chief Justice John G. Roberts, Jr., and Justices Brett M. Kavanaugh and Amy Coney Barrett—has shown a consistent tendency to approach cases in ways that limit abrupt changes to existing legal or regulatory arrangements. This group is described here as the Incremental Conservative bloc, reflecting a preference for narrower rulings that preserve established legal and institutional frameworks rather than broader doctrinal change. In a number of cases, these Justices have resolved disputes on limited grounds rather than addressing highly disputed substantive questions, contributing to voting alignments that do not always track traditional ideological expectations.

The pattern is most visible in cases where legal doctrine intersects directly with areas of widespread public impact, including health care, education, administrative authority, and national governance. Whether the issue involves nationwide injunctions, preventive health care coverage, parental rights in public schools, or the structure of federal regulatory programs, the Court has repeatedly divided into three voting coalitions. In these cases, the Liberal bloc has often favored resolution of underlying constitutional or statutory questions; the Conservative bloc has supported broader doctrinal approaches; and the Incremental Conservative bloc has sought outcomes that reduce the likelihood of immediate systemic change affecting regulated entities and public institutions.

This dynamic stands in contrast to the culture of the New Jersey Supreme Court, where institutional design and appointment practices emphasize balance and consensus as features of judicial independence. Recent terms reflect a high percentage of unanimous or near-unanimous decisions, including in cases involving significant social and constitutional issues.[2] The comparison illustrates how structural choices—such as appointment mechanisms and internal court norms—shape judicial decision-making and the degree to which courts operate independently of broader political disagreement.

Viewed through this three-bloc framework, the Supreme Court's 2025 decisions appear more consistent in their internal logic than headline descriptions may suggest. They reflect a judiciary operating in a highly divided political environment while seeking to manage the practical consequences of its rulings. Understanding this framework helps explain the outcomes of the Court's recent cases and provides context for how the Court may approach future disputes with similarly far-reaching implications.

Voting Blocs in Practice: The 2025 Term

Trump v. CASA, Inc.—Universal ("Nationwide") Injunctions

In CASA, the Court limited federal courts' equitable authority to enter universal injunctions, granting partial stays to confine relief to parties with standing.[3] The Court emphasized statutory equity under the Judiciary Act of 1789 rather than deciding the

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underlying birthright-citizenship executive order.[4] **Vote:** 6–3.[5] The majority comprised the Conservative and Incremental-Conservative blocs; the Liberal bloc dissented.

Kennedy v. Braidwood Management, Inc.—ACA § 2713 & USPSTF Appointments

The Court held U.S. Preventive Services Task Force members are inferior officers, appointed and removable by the U.S. Department of Health and Human Services Secretary consistent with the appointments clause, thereby preserving no-cost-sharing preventive-services coverage.[6] **Vote:** 6–3.[7] Health-policy analyses likewise record the 6–3 outcome and note the Secretary's supervisory authority.[8] Incremental-Conservatives joined the Liberal bloc to avoid abrupt consumer cost-shifts.

Trump v. Slaughter—Emergency Stay & Independent-Agency Removal

On the shadow docket, the Court granted a stay (and certiorari before judgment) allowing removal of an Federal Trade CommissionCommissioner pending review of *Humphrey's Executor*.[9] **Order:** *6–3,* with the Liberal bloc dissenting).[10]

Riley v. Bondi— CAT Deferral & Timeliness

The Court held that § 1252(b)(1)'s 30-day filing deadline is a claims-processing rule and that a Board of Immigration Appealsdenial of Convention Against Torture deferral in a withholding-only proceeding is not a "final order of removal," vacating and remanding.[11] **Vote:** *5–4.*[12]

FCC v. Consumers' Research— USF & Delegation

Rejecting nondelegation and "private delegation" challenges, the Court upheld the universal-service contribution scheme under § 254 and affirmed the Federal Communications Commission's retention of decisional authority (Universal Service Administrative Company supplying nonbinding advice).[13] **Vote:** *6–3*. The majority consisted of the Conservative and Incremental Conservative blocs, while the Liberal bloc dissented.[14]

Mahmoud v. Taylor— *Parental Opt-Out & Free Exercise*

The Court held that parents were entitled to a preliminary injunction, holding that denying opt-outs for elementary instruction involving LGBTQ-inclusive books substantially burdens parents' free exercise and triggers strict scrutiny.[15] **Vote:** *6–3.* The majority consisted of the Conservative and Incremental Conservative blocs, while the Liberal bloc dissented.[16]

Free Speech Coalition v. Paxton— Age Verification for Adult Sites

Applying intermediate scrutiny, the Court sustained Texas's HB 1181, reasoning that it only incidentally burdens adult access while targeting minors' access to material obscene to minors.[17] **Vote:** *6–3*. The Conservative and Incremental Conservative blocs comprised the majority; the Liberal bloc dissented.[18]

United States v. Skrmetti— Restrictions on Gender-Affirming Care for Minors

The Court upheld Tennessee's SB 1 under rational-basis review, concluding the law does not classify on bases warranting heightened scrutiny merely because it references "sex."[19] **Vote:** *6–3*. The majority consisted of the Conservative and Incremental Conservative blocs, while the Liberal bloc dissented.[20]

Bondi v. VanDerStok— ATF Rule & "Ghost Guns"

The Court held the Bureau of Alcohol, Tobacco, Firearms and Explosives' 2022 rule applying the Gun Control Act of 1968 to cover "ghost gun" weapon kits was facially consistent with the act. The Court held that the kits were "weapons" because the kits contain all the parts necessary to manufacture and fabricate a gun with little effort in about 20 minutes.[21] **Vote:** *7–2*. Justices Alito, Roberts, Kavanaugh, Barrett, Sotomayor, Kagan, and Jackson voted to uphold the ATF's rule, while Justices Thomas and Gorsuch dissented.[22]

Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos (Mexico)—PLCAA & Foreign Plaintiffs

The Court unanimously concluded Mexico's complaint failed to plausibly allege that gun manufacturers aided and abetted unlawful gun trafficking. The Protection of Lawful Commerce in Arms Act bars the suit.[23] **Vote:** *9–0.*[24]

What "Incremental Conservatism" Looks Like

Reliance interests & consumer costs. In *Braidwood*, preserving the Affordable Care Act's preventive-services regime avoided immediate copays across the insured population; the Court also clarified supervisory/removal powers that render USPSTF structurally accountable.[25]

National infrastructure/administration. In *Consumers' Research*, sustaining the Universal Service Fund protected widely relied-upon subsidies for low-income consumers, rural carriers, schools, libraries, and health care institutions.[26]

Public safety administration. In *VanDerStok*, a broad majority—including

Incremental-Conservatives—upheld ATF's regulatory response to modern crime patterns involving untraceable firearms.[27]

Conversely, deference to legislative judgments (and a diminished presence of reliance interests) appears in *Skrmetti* and *Paxton*, where the Court sustained age-based medical restrictions and age-verification regimes, respectively.[28]

Comparative Perspective: New Jersey's Supreme Court

By tradition and practice, New Jersey's Supreme Court maintains partisan balance and exhibits a consensus ethos. Data from the 2022–23 term indicate only ≈8% of merits decisions were non-unanimous—over 90% unanimous or without full dissent—"in stark contrast" to the U.S. Supreme Court's more frequent ideological splits.[29]

Practitioner Takeaways

Model blocs. Anticipate Liberal rights-protective and stability-oriented arguments; Conservative separation-of-powers rigor; Incremental-Conservative moderation tied to reliance interests and administrative continuity.[30]

Lean on reliance interests. When seeking cross-bloc majorities, emphasize concrete impacts on nonpolitical actors (patients, schools, rural networks) that make doctrinal moderation attractive (e.g., ACA § 2713; USF).[31]

Shadow-docket preparedness. *Slaughter* foreshadows merits-stage questions on independent-agency removal and remedies; brief remedial doctrines as well as *Humphrey's Executor* implications.[32]

In New Jersey. Craft consensus-oriented arguments that stress administrability and statutory craftsmanship, consistent with the Court's institutional equilibrium.[33]

Conclusion

The Justice Roberts Court's three-bloc dynamic explains why doctrinal ambition is sometimes tempered in the face of disruptive consequences for nonpolitical actors. The same framework predicts conventional conservative outcomes where reliance interests are weak or legislative prerogatives loom large. New Jersey's high court—by design and culture—remains a consensus tribunal, a reminder that composition and tradition shape adjudicative behavior as surely as constitutional text. ■

Endnotes

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Why Family Law Depends on Independent Judicial Judgment

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By Hon. Angela W. Dalton (Ret.)

Judicial independence is often discussed in structural or constitutional terms—separation of powers, security of tenure, and insulation from political influence. Those protections are foundational, but independence is most meaningfully exercised in the daily work of New Jersey's courts. In the Family Part, where matters implicate personal safety, parental rights, financial stability, and children's long-term well-being, judicial independence is not an abstract principle. It is a practical discipline that shapes how justice is delivered in individual cases.

Judicial independence ensures that even within a high-volume system and a framework of administrative oversight, decisions remain grounded in evidence, statutory mandates, and the lived realities of the families before the court.

Family court litigation presents distinct challenges. Cases arise from intimate relationships, often involve heightened emotion, and frequently expose imbalances of power or access to resources. Statutes, court rules, and guidelines provide necessary structure and consistency, but they cannot account for the full complexity of family dynamics. Judicial independence ensures that even within a high-volume system and a framework of administrative oversight, decisions remain grounded in evidence, statutory mandates, and the lived realities of the families before the court.

The Canons and the Daily Work of Impartiality

The New Jersey Code of Judicial Conduct articulates the ethical foundation for judicial independence. Canon 1 states that an independent and impartial judiciary is indispensable to justice and directs judges to uphold and promote that independence.[1] Canon 3 requires judges to perform the duties of office impartially and diligently.[2] These provisions do more than prohibit external interference; they affirmatively require judges to exercise judgment free from undue constraint, guided by law and facts rather than expedience.

Family judges regularly apply detailed statutory frameworks, including the Prevention of Domestic Violence Act,[3] the alimony factors,[4] and the Child Support Guidelines.[5] These authorities promote predictability and fairness, but they do not displace the judge's obligation to assess credibility, weigh competing narratives, and evaluate context. Judicial independence ensures that outcomes reflect thoughtful application of the law rather than mechanical adherence to formulas.

Independence in Domestic Violence Jurisprudence

Domestic violence cases vividly illustrate the necessity of independent judicial judgment. Under the Prevention of Domestic Violence Act, courts must determine not only whether a predicate act occurred but also whether ongoing protection is necessary based on the totality of the circumstances.[6]

In *Cesare v. Cesare*, the New Jersey Supreme Court reaffirmed that Family Part judges possess special jurisdiction and expertise in domestic violence matters and are owed substantial deference in their factual findings.[7] The Court emphasized that abuse must be evaluated in context and criticized the Appellate Division for minimizing the significance of a documented history of violence.[8] *Cesare* underscores how judicial independence enables trial judges to integrate statutory factors with real-world conditions, thereby promoting outcomes that prioritize safety and legitimacy.

Judicial Independence and Alimony Determinations

Alimony determinations further reflect the role of judicial independence in family law. New Jersey's alimony statute, N.J.S.A. 2A:34-23, identifies multiple factors for courts to consider, including need and ability to pay, the marital standard of living, earning capacity, and caregiving responsibilities.[9] The statute does not prescribe a formula. Instead, it entrusts trial judges with weighing these factors in light of the parties' circumstances.

That structure depends on independent judgment. Financial disclosures and calculations provide a necessary framework, but they cannot capture the full economic reality of a marriage or its dissolution. Judicial independence allows courts to evaluate credibility, history, and context, and to reach outcomes that are equitable rather than purely mechanical. In this respect, alimony determinations underscore a core function of independence: ensuring that statutory factors are applied with judgment, not simply tallied.

Ability to Pay, Due Process, and Independent Enforcement

Judicial independence also plays a critical role in enforcement proceedings. In *Pasqua v. Council*, the Supreme Court held that indigent parents facing incarceration for nonpayment of child support are entitled to appointed counsel under the New Jersey Constitution.[10] The Court recognized that enforcement mechanisms cannot operate automatically and must include a meaningful inquiry into ability to pay. Independent judgment is required to ensure that coercive remedies are imposed only after careful consideration of due process, fairness, and the individual circumstances of the obligor.

Case flow expectations serve important purposes in a high-volume system, but judicial independence ensures that these structural efficiency objectives never override a judge's obligation to make individualized, fact-driven determinations.

Administrative Structure and Family-Focused Judicial Discretion

Administrative structure is essential to the operation of a statewide court system. Case management protocols, uniform procedures, and timeliness goals promote efficiency, consistency, and public confidence. Particularly in the Family Part—where dockets are heavy and resources finite—these structures are necessary to ensure access to justice.

At the same time, family law resists purely administrative solutions. Parenting arrangements, safety planning, financial transitions, and children's developmental needs do not unfold on predictable timelines. Judicial independence preserves the discretion necessary to recognize when a case requires additional time, attention, or flexibility in order to reach a fair and durable outcome. Case flow expectations serve important purposes in a high-volume system, but judicial independence ensures that these structural efficiency objectives never override a judge's obligation to make individualized, fact-driven determinations.

Family judges routinely navigate this balance. They may defer final decisions to allow for therapeutic intervention, adjust schedules to accommodate evaluations or discovery, or craft interim relief designed to stabilize families while a fuller record develops. These are not deviations from judicial responsibility; they are expressions of it. Independence permits judges to resist premature resolution when doing so would sacrifice long-term stability for short-term closure.

This discretion is especially critical where children are involved. Outcomes driven primarily by administrative timelines risk overlooking school schedules, special needs, parent-child relationships, or safety concerns. Judicial independence ensures that the court's focus remains on the family's lived circumstances, even within a system that appropriately values efficiency. In this way, independence functions not as an obstacle to administration, but as its necessary complement—ensuring that justice remains humane, responsive, and worthy of public trust.

Independence in ADR and the Role of Lawyer and Retired-Judge Neutrals

Judicial independence has doctrinal parallels in alternative dispute resolution. As mediation and arbitration have become integral to New Jersey family practice, appellate decisions have clarified that private dispute resolution operates within a public policy framework that values neutrality and reasoned decision-making.

In *Fawzy v. Fawzy*, the Supreme Court upheld the enforceability of arbitration agreements concerning custody and parenting time, subject to procedural safeguards designed to protect children's best interests.[11] In *Minkowitz v. Israeli*, the Appellate Division emphasized that arbitration is a creature of contract, but one that remains subject to statutory and public policy constraints.[12]

Ethical guidance reinforces this continuity. Rule of Professional Conduct 2.4 clarifies that a lawyer serving as a third-party neutral does not represent any party and must ensure that participants understand the neutral's role.[13] New Jersey ethics opinions have cautioned against blurred boundaries between neutral services and legal representation, underscoring the importance of independent professional judgment.[14,15]

Recent national guidance further reinforces these principles. In ABA Formal Opinion 518 (Oct. 15, 2025), the American Bar Association Standing Committee on Ethics and Professional Responsibility addressed the ethical obligations of lawyers serving as mediators, arbitrators, and other third-party neutrals.[16] The opinion emphasizes that neutrality is not self-executing and requires affirmative steps to avoid misleading communications about the neutral's role, particularly where parties may be unrepresented or unfamiliar with the ADR process. It cautions that a neutral's prior roles, professional reputation, or financial interests may create implicit influence if not carefully managed. By underscoring the need for clarity, informed consent, and vigilance against role confusion, the opinion reinforces that independence in private dispute resolution—like judicial independence in court—is essential to public confidence in the legitimacy of outcomes

Conclusion

Judicial independence is not confined to constitutional theory or appellate review. In New Jersey family law, it is

exercised daily through individualized fact-finding, discretionary judgment, and adherence to ethical obligations. Whether applied by judges in the courtroom or by lawyers and retired judges serving as neutrals, independence safeguards public trust and ensures that justice remains responsive to the families it serves. ■

Endnotes

1. New Jersey Code of Judicial Conduct, Canon 1 (revised Sept. 1, 2016).
2. New Jersey Code of Judicial Conduct, Canon 3.
3. Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 to -35.
4. N.J.S.A. 2A:34-23.
5. N.J. Ct. R. 5:6A; Appendix IX-A.
6. N.J.S.A. 2C:25-29(a).
7. *Cesare v. Cesare*, 154 N.J. 394, 412–13 (1998).
8. *Id*. at 417–18.
9. N.J.S.A. 2A:34-23.
10. *Pasqua v. Council*, 186 N.J. 127, 146–50 (2006).
11. *Fawzy v. Fawzy*, 199 N.J. 456, 472–81 (2009).
12. *Minkowitz v. Israeli*, 433 N.J. Super. 111, 132–36 (App. Div. 2013).
13. N.J. Rules of Prof'l Conduct R. 2.4.
14. Advisory Comm. on Prof'l Ethics Op. 676 (1994).
15. Advisory Comm. on Prof'l Ethics Op. 711 (2007).
16. ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 518 (Oct. 15, 2025).

Safeguarding Judicial Independence

Implementing Municipal Court Reform in New Jersey

By Josh Reinitz

The independence of our judiciary has long been a bedrock principle in American democracy. The ability of courts to operate independent of external pressure, whether political or financial, is crucial to maintaining a free and fair judicial system. Equally essential is respect for the rule of law and the principle of justice, which exists only when you have a judiciary free of undue influence.

The appointment process that potential Superior Court judges undergo is designed to ensure that partisan politics remain outside our courtrooms. While the nomination process for Superior Court judges involves political judgment and negotiation inherent in an appointment system with multiple stakeholders, the robust vetting by the State Senate and committees representing the government and profession is meant only to ensure qualified candidates reach a confirmation hearing. Then, once sworn in, the judges receive a seven-year runway to demonstrate their abilities and independence before being granted tenure. These safeguards are intended to limit the influence of partisan politics in judicial decision-making. Without similar or scaled-down versions of these guardrails, how can we expect our hundreds of independent municipal courts to, collectively and without exception, rise above the fray and keep the temptations of politics and money at bay?

In New Jersey, municipal courts play a particularly visible role in public life, handling millions of cases each year, from traffic offenses to disorderly persons matters. For many residents, these courts are their only direct interaction with the justice system. Despite this significance, municipal courts have long faced criticism and scorn. Because they are locally funded and administered, and because municipalities retain broad appointment powers over judges, prosecutors, and public defenders, the courts have often been perceived as susceptible to political influence and revenue-driven practices.

Recognizing these challenges, the New Jersey Supreme Court convened the Working Group on Municipal Court Reform in 2018. Its 2019 report issued 17 recommendations to strengthen fairness, efficiency, and independence. This article examines Recommendations 11 through 17, which focus on judicial independence: reforms to appointment and reappointment processes, and structural changes through consolidation and regionalization.

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Reforming Appointments and Reappointments

Recommendation 11—Objective Review by JPACs

Currently, municipal judges are appointed by local governing bodies, often with minimal input from the outside. Recommendation 11 proposes that the Judicial and Prosecutorial Appointments Committee of the New Jersey State Bar Association review candidates for appointment and reappointment. JPACs would assess qualifications and report whether a candidate is "qualified" or "not qualified." Final selection would remain under the municipal government's purview.

This reform maintains municipal discretion while adding a layer of objective, professional evaluation by groups familiar with judicial qualifications. Adding a layer of objective evaluation may help limit the perception that appointments are driven by local political considerations. The Working Group identified this additional layer of review as a potential means of introducing greater uniformity and professional assessment into the appointment process, while preserving municipal discretion.

Recommendation 12—Extending Judicial Terms

At present, municipal judges serve a three-year initial term, followed by unlimited subsequent three-year terms,

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renewable upon a vote of the governing body. The Working Group recommended extending reappointment terms to five years while retaining a three-year initial term.

Longer terms promote judicial independence by reducing short-term political pressures. Municipal court judges would then be less concerned about drawing the ire of municipal officials, who are responsible for reappointment decisions, and more likely to render decisions independent of interference. This reform proposal also enhances stability and may attract more experienced attorneys to judicial service since they are likely to be less concerned about losing their job based upon the quickly changing winds of political fervor.

Recommendation 13—Judicial Evaluation and Training

Recommendation 13 calls for establishing a judicial evaluation system for municipal judges facing reappointment. Evaluations would be conducted by assignment judges and presiding judges, based on established criteria such as legal competence, fairness, temperament, and adherence to judicial standards. Because relatively few municipal courts incur reappointments each year, the process would remain manageable while ensuring thorough review of the candidates.

The recommendation also expands continuing judicial education. The annual Municipal Court Judges' Conference would increase from one day to two, providing additional training on emerging issues such as implicit bias, mental health diversion, and technology. Municipal leaders are encouraged to attend proceedings or visit courts to better understand operations. Together, evaluation and training foster accountability and professional growth.

The opportunity to further engage with and educate municipal officials on the roles of the municipal courts would be a welcome addition to training. Most municipal officials have little to no experience in our municipal courts and often view them as an untapped source of revenue, especially in the current times, where municipalities cannot offset inflation and the cost of health benefits without substantially raising property taxes. Some stakeholders argue that municipal reliance on fines and fees may create perceptions that financial considerations unduly influence court operations.[1] Concerns about revenue dependence have, in some instances, led to significant public criticism of municipal court practices. There have been reported instances in which questions were raised about the relationship between court revenue and judicial appointments.[2]

Strengthening the Roles of Prosecutors and Public Defenders

Recommendation 14—Longer Terms and Mandatory Training

Prosecutors and public defenders in municipal courts are currently reappointed annually. The Working Group proposes extending these reappointment terms to three years after an initial one-year term. The group also advocated for granting the Attorney General authority to mandate statewide training.

Mandatory training should address the more challenging matters in municipal court such as driving while intoxicated, domestic violence, discovery obligations, as well as the options for diversion. Lengthening the prosecutor's term would promote stability and reduce the perception that these positions are merely temporary, making them less politically driven. By enhancing professionalism on both sides of the courtroom, the reform strengthens fairness and bolsters independence.

Recommendation 15—Presiding Judges of the Municipal Courts

The Working Group also recommends amending statutory requirements governing the designation of presiding judges of the municipal courts. Under current law, designation is restricted, limiting the judiciary's ability to ensure effective oversight. By relaxing these requirements, the Chief Justice could designate additional full-time presiding judges across vicinages.

With several of our vicinages covering multiple counties and thousands of square miles, it is easy to see why expanding the number of presiding judges would make sense. These judges serve as an essential check and safeguard to ensure an independent judiciary. If presiding judges were given a more circumspect territory to supervise, it would also limit the number of judges under supervision and allow for the development of closer relationships to foster the sharing of the application of improper pressures from a municipality, and allow it to be quickly reconciled.

Expanded supervisory authority would improve consistency, mentoring, and accountability throughout the system. This reform represents a modest but meaningful step toward centralizing oversight within the judiciary, thereby reducing the influence of municipal politics.

Structural Reform: Consolidation and Regionalization

Recommendation 16—Incentives for Consolidation

New Jersey has 565 municipalities and more than 500 separate municipal courts. This highly fragmented system has led to duplication, inefficiency, and vastly inconsistent practices. Recommendation 16 calls for expanding the statutory framework for shared and joint

courts and for extending the concept of central municipal courts to all counties.

The recommendation also suggests offering additional financial or administrative incentives to encourage municipalities to consolidate voluntarily. Consolidation enables pooled resources, improved technology, expanded court hours, and the creation of more full-time judicial positions. Significantly, it dilutes the influence of any single municipality, thereby reinforcing judicial independence.

While this will certainly engender pushback from organizations lobbying for the continuation of home rule without infringement, there should be a way to incentivize municipalities to consolidate while retaining the ability to appoint judges, prosecutors, and public defenders. Centralization makes too much sense from a cost and independence perspective to be anything but inevitable. These recommendations were also implemented before the widespread use of virtual platforms, which now makes many in-person court appearances superfluous. By significantly reducing the number of required in-person appearances, there is no way to justify keeping courts entirely separate, especially those without significant volume.

Recommendation 17—Mandating Regionalization After Transition

While voluntary consolidation is encouraged, Recommendation 17 proposes a more definitive solution. After a three-year transition period, municipalities that have not joined shared, joint, or central courts, notably smaller courts with limited filings, would be required to regionalize.

While sure to be unpopular at first, mandatory regionalization would ensure that all New Jersey residents benefit from consistent, efficient, and independent courts. By shifting local courts into broader regional structures, the judiciary reduces the risk that judges will be pressured by local officials whose control has now been diluted.

Implications for Judicial Independence

Together, these recommendations create a comprehensive framework for strengthening independence in our municipal courts. Challenges remain to achieving a more independent municipal court judiciary. Many reforms require legislative action, and municipalities may strongly resist regionalization. Still, the proposed changes mark a critical step in aligning municipal courts with our superior courts and the necessary guiding principle of judicial independence.

Conclusion

> A municipal court is "the people's court." Municipal courts remain a place in which people, sometimes on the verge of violence, can seek relief. In effect, municipal courts provide a safety valve for society. By providing access to impartial judges, municipal courts forestall violence and encourage the peaceful resolution of disputes.
>
> State v. Storm 141 NJ 245, 254 (1995)

Ensuring that the municipal court system is fair, efficient, and independent is essential to maintaining public trust in the rule of law. The reforms recommended by the Working Group—objective vetting of judges, longer terms, professional evaluations, expanded training, stronger supervision, and ultimately consolidation and regionalization—offer a pathway toward a more independent municipal judiciary, which will imbue the entire system with more credibility.

Implementation will neither be quick nor straightforward, but the principles at stake are clear: judicial independence is not an abstract value. It is a practical necessity for the daily functioning of justice in New Jersey's municipal courts and the marshalling of our efforts to further protect that independence is a most worthy pursuit. ■

Editor's note: The New Jersey State Bar Association has long advocated for municipal court reform, and in October 2025 formally requested that the New Jersey Supreme Court reconstitute a Working Group on Municipal Court Reform to reexamine prior recommendations in light of post-pandemic realities, including issues of court administration, fairness, and judicial independence.

Endnotes

1. New Jersey Courts, *Municipal Court Operations, Fines, and Fees* (2019), available at njcourts.gov/sites/default/files/courts/municipal/njc-2019-report.pdf
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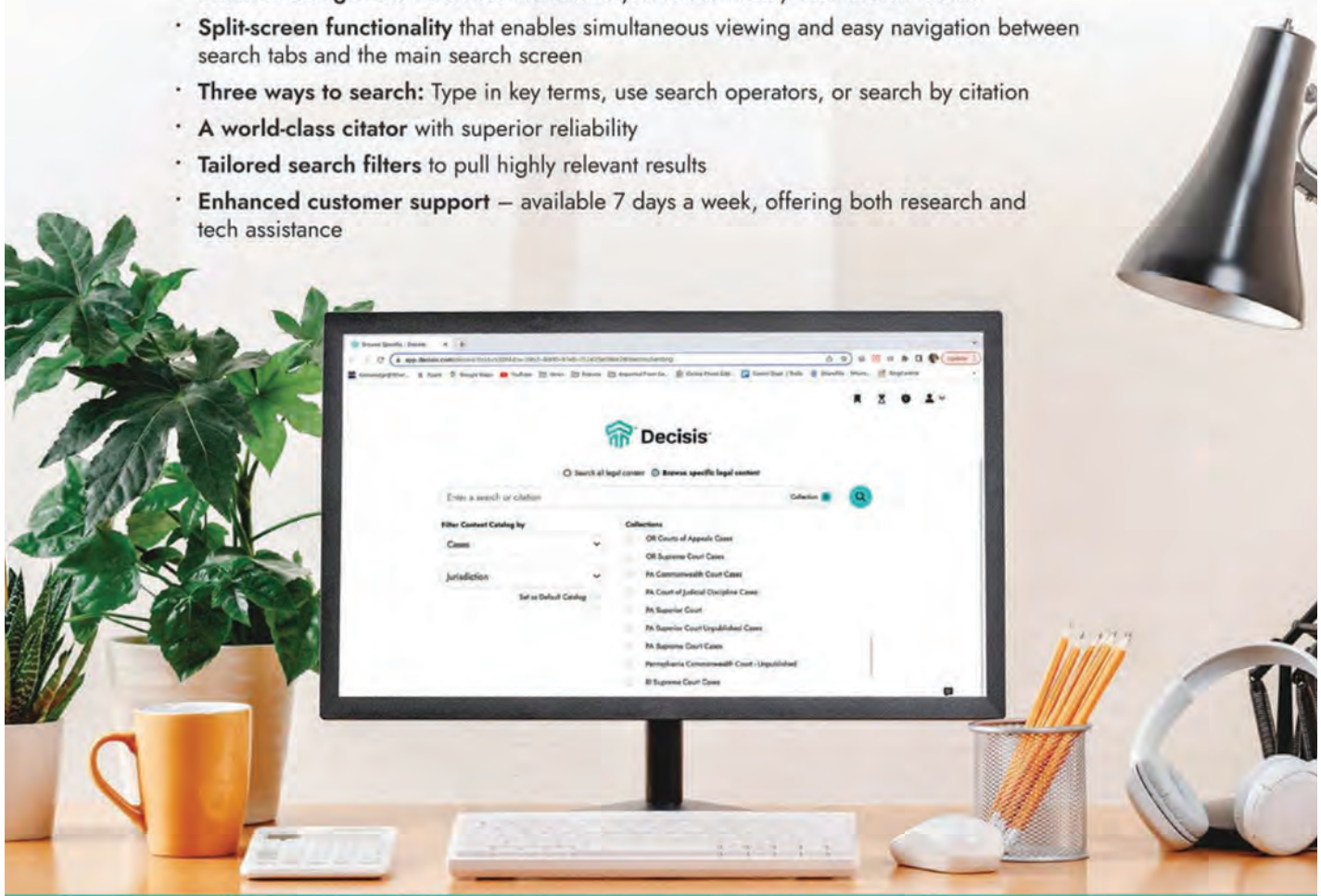

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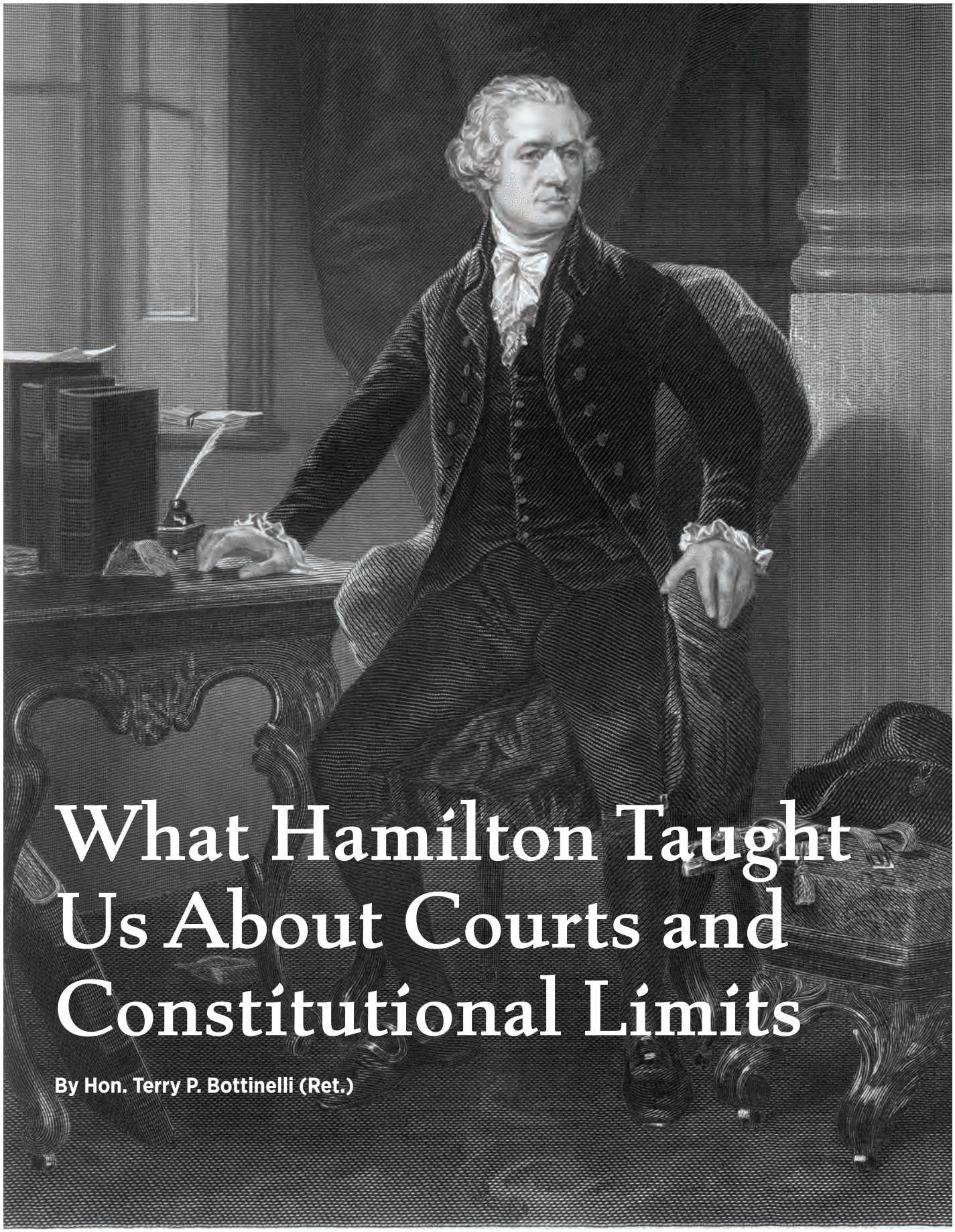

What Hamilton Taught Us About Courts and Constitutional Limits

By Hon. Terry P. Bottinelli (Ret.)

In an article published on May 28, 1788, Alexander Hamilton, in *Federalist No. 78*, emphasized that "[t]he complete independence of the courts of justice is peculiarly essential in a limited constitution. By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no *ex post facto* laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void." His words remind us that democracy is not self-sustaining; it requires institutions strong enough to resist arbitrary power and protect individual rights. The principles of checks and balances, separation of powers, and the rule of law are not abstract theories—they are the living framework that ensures government remains accountable to the people.

The Foundations of Democratic Governance

Democratic governance rests on a set of doctrines so well established they are often described as *hornbook law*. These principles are the scaffolding of constitutional democracy:

Rule of Law

- Laws must apply equally to all, including those in positions of authority.
- Protects against arbitrary governance and guarantees due process.
- Example: On March 18, 1954, the landmark case of *Brown v. Board of Education* illustrated how the rule of law can dismantle systemic injustice.

Separation of Powers

- Divides authority among legislative, executive, and judicial branches.
- Prevents concentration of power and fosters collaboration.
- Example: Congress's power to declare war (Article 1, Section 8) versus the President's role as commander in chief demonstrates the balance between branches.

Checks and Balances

- Each branch restrains the others to prevent abuse.
- The judiciary, in particular, acts as a constitutional firewall.
- Example: On Feb. 24, 1803, Chief Justice John Marshall delivered a judicial ruling in *Marbury v. Madison* establishing the courts' authority to strike down unconstitutional laws.

Safeguards for Individual Rights

Due Process and Equal Protection

- Courts protect individuals when legislatures are gridlocked or executives overreach.
- Example: During the Civil Rights Movement, courts upheld protections despite political resistance.
- Today, these safeguards are critical in debates over surveillance, immigration, and voting rights.

Transparency and Accountability

Democracy thrives in sunlight. The framers insulated judges from political pressure, but independence must coexist with transparency:

Judicial Independence

- Article III's life tenure and salary protections ensure impartiality.
- However, independence must not become opacity.

Modern Challenges

- The "shadow docket" of the Supreme Court—emergency rulings without full opinions—has raised concerns about accountability.
- Reforms could include requiring written explanations for emergency orders and limiting reliance on expedited procedures.

Accountability Mechanisms

- Independent audits, legislative oversight, and judicial review.
- Adoption of a binding code of conduct for Supreme Court Justices to address conflicts of interest and recusal standards.

Institutional Integrity

Courts must avoid decisions that appear partisan or lack clear reasoning. Public trust in the judiciary depends not only on outcomes but on the perception of fairness. A judiciary that consistently demonstrates principled reasoning strengthens democracy; one that appears politically motivated erodes it.

Popular Sovereignty

Ultimately, authority derives from the people. Elections, civic participa-

tion, and public discourse are the lifeblood of democracy. Citizens must remain vigilant, informed, and engaged to ensure institutions serve their intended purpose.

- Example: Voter-led initiatives and grassroots movements often push institutions to uphold democratic values when political elites falter.
- Participation is not limited to voting—it includes advocacy, protest, and community organizing.

Conclusion

Checks and balances are not mere constitutional abstractions; they are the mechanisms that keep democracy alive. Hamilton's vision of an independent judiciary remains vital today, but independence must be paired with transparency, accountability, and ethical standards. Ongoing attention to constitutional principles remains important for courts, legislatures, and the public in maintaining the balance envisioned by the framers.

Democracy is not guaranteed—it is sustained by vigilance, integrity, and the active participation of the people. ■

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Value of Civics and Constitutional Design

What the Framers Modeled for an Age of Polarization

By Maureen Abbey Scorese

The U.S. has a unique system—a first of its kind—that was revolutionary at its inception. The framers of the U.S. Constitution conceived the system of three branches of government during the Constitutional Convention in Philadelphia in 1787, 11 years after the Declaration of Independence. Influenced in part by Baron de Montesquieu's philosophy, advocating for the separation of a government's powers to protect individuals' liberty,[1] the Founding Fathers worked to create a system that would (1) prevent tyranny by dividing power; (2) balance efficiency in governance with protections for individual freedom(s); and (3) ensure that no single person or group could dominate the government. They believed the British King had been a tyrant, and they wanted to ensure that no single person or institution could dominate the newly established federal government.

Each of the three branches of the U.S. government have distinct powers that overlap in a way to create interdependence, therein creating checks and balances. In this way, the branches have distinct roles and core powers; each is designed to be dependent so that there exists a check on the power, control and authority of the other branches.

This type of government did not exist at the time it was created. The initial government that formed after the Declaration of Independence, under the Articles of Confederation (1781), put more power in the states, in an attempt to create a true democracy and to give each state—and its unique population—more control over their locale, and a very weak federal government. This state-driven government created diverging systems—including different financial systems, which resulted in business and trade fights, economic difficulties, debt problems for the federal government (because it has no taxing authority), and diplomatic weakness for the country, to name a few. The Founding Fathers convened again after years of trying out this new democratic government, in Philadelphia at the Constitutional Convention. They engaged in heated debate with constructive dialogue. It included leaders' acknowledgement of their peers' differing views—with real compromise by all involved—for creating a government that could work effectively for a diverse population. Creating the United States and its government structure as a federal republic was truly an experiment.

A brief refresher on the civics, and how the Founding Fathers limited federal powers and balanced other powers with state governments, is just as important as understanding the interdependence and checks and balances of the three branches of government.

A Concise Civics Overview

The legislative branch enacts federal statutes. Article I, Section 8 enumerates Congress's principal powers, including taxation; regulation of interstate and foreign commerce; war powers and national defense; coin money; establish post offices and inferior federal courts; and securing patents and copyrights. Congress may also enact laws "necessary and proper" to carry its enumerated powers into execution. Constitutional constraints appear in Article I, Section 9 and the Tenth Amendment, including limits on suspension of habeas corpus, and prohibitions on bills of attainder and ex post facto laws; the Tenth Amendment reserves undelegated powers to the states or the people.

The executive branch executes and enforces federal law, and includes the President, Vice President, Cabinet, and executive agencies. The President serves as commander in chief, conducts foreign affairs, and approves or vetoes legislation. The executive branch supervises the agencies that Congress creates.

The judicial branch interprets and applies federal law. It includes the Supreme Court and the lower federal courts. The judiciary resolves cases and controversies and reviews challenged governmental action for consistency with the Constitution and federal law.

Together, the Constitution assigns distinct core functions to each branch while equipping each with mechanisms to check the others, thereby limiting the concentration of power.

Each state establishes its own government under their state constitutions,

The Founding Fathers convened again after years of trying out this new democratic government, in Philadelphia at the Constitutional Convention. They engaged in heated debate with constructive dialogue. It included leaders' acknowledgement of their peers' differing views—with real compromise by all involved—for creating a government that could work effectively for a diverse population.

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The federal judiciary is an essential branch of the government to maintain the balance of power. It adjudicates cases and controversies and, through judicial review, enforces constitutional limits on legislative and executive action. In doing so, it safeguards core rights and structural protections, particularly where majority decision-making threatens minority interests.

typically including an executive (usually a governor), legislature, and judiciary. While most of this article focuses on the federal government, the state governments are equally important. Federalism divides power between federal and state governments, with some powers exclusive to one, with many that are shared (with federal prevailing in the event of a conflict of laws).

It is notable that the U.S. Constitution was intended to divide powers between the states and federal government, to ensure states have authority and power to govern local matters while granting the federal government limited, enumerated powers. It was important in our young nation to create a federal government that had limited and specific powers. By this time, Americans realized that the nation needed to give some powers to the federal government (especially tax, regulate commerce and provide for national defense) to survive and thrive.

The Judiciary's Function in Enforcing Constitutional Boundaries

The federal judiciary is an essential branch of the government to maintain the balance of power. It adjudicates cases and controversies and, through judicial review, enforces constitutional limits on legislative and executive action. In doing so, it safeguards core rights and structural protections, particularly where majority decision-making threatens minority interests. The judiciary also ensures that statutes and government conduct comport with the Constitution and governing law.

The courts may set aside federal and state enactments and executive action that exceed constitutional or statutory authority. That review function impacts the legislators in how they draft laws. It also influences executive action, including agency actions and directives. In this way, the courts act to preserve the separation of powers by keeping each branch within its constitutional lane.

Trends in Judicial Structure and Court Administration

In recent years, courts have operated amid heightened political and legislative scrutiny, with increased attention to the structure, authority, and administration of the judiciary. A Brennan Center for Justice report identified dozens of bills introduced in 20 states in 2024; the measures addressed issues such as judicial selection processes, disciplinary oversight, enforcement of court rulings, venue rules, and the allocation or reassignment of judgeships. Six of the proposals were signed into law in Kentucky, Louisiana, North Carolina, Tennessee, Utah and Wyoming.[2]

Concurrently, redistricting efforts in several states (most recently in Texas and California), have drawn increased public and legal scrutiny, particularly where district boundaries are alleged to favor specific political outcomes or raise concerns about representational equity.[3]

While not illegal, these measures can raise questions about their potential effects on judicial independence and institutional balance. The practical effect is to subject courts to partisan objectives and, at times, to coordinated pressure from organized interests, including well-resourced industry and advocacy groups operating with limited public visibility. Such developments have prompted broader discussion about how changes to court structure and authority may affect the separation of powers. When the judiciary's independence is compromised, the Constitution's system of checks and balances deteriorates: one branch's capacity to restrain the others diminishes, and governmental power becomes increasingly concentrated in the actors able to shape—or circumvent—judicial decision-making.

Acts of Violence and Threats to the Judiciary

Threats, harassment and attempted intimidation directed at judges have intensified in New Jersey and nationwide.[4] The targeted 2020 attack on U.S. District Judge Esther Salas' home—killing her son, Daniel Anderl, and wounding her husband—led to laws to shield judges' information and additional protections (and funding) for judges' personal security, including Daniel's Law and the federal Daniel Anderl Judicial Security and Privacy Act.

Notwithstanding these efforts to protect judges, the threats to federal judges continue to rise with online harassment and "doxxing" accelerating exposure risks. Since February 2025, judges in

multiple states reported anonymous pizza deliveries to their residences—sometimes with messages implying the sender knows where the judge lives.[5] Law enforcement agencies and judicial organizations have characterized such incidents as potential intimidation efforts, and investigations remain ongoing.[6]

Historically, there have been many challenges to the U.S. government through special interest groups, extreme partisan politics, and secret subversive groups.[7] While summarizing these events is beyond the scope of this article, the important theme in history is this: the country and its government survives because it is the people that come together to vote, to speak, to engage in the difficult debates. It is vital to continue the same debates and dialogues that has enabled our government to survive these 250 years.

The Role of Education and Critical Thinking in Our Society

Observers across disciplines have noted changes in public discourse, including increased polarization and reduced emphasis on deliberative dialogue. Statements from our government leaders are marked by threats and intimidation, and efforts to chill speech. Debates over the scope and limits of free speech and protest activity have intensified, with legal, institutional, and cultural dimensions. There have been attacks on selected members of our community, educators and law firms and professionals based on the viewpoints they express or the clients they represent. The news and information environment presents challenges, including the rapid spread of misinformation, deepfakes, and sensationalized coverage in lieu of verified reporting with fact-checking and genuine engagement.[8] Ultimately, the current trends in public discourse create a path to shock, outrage and polarization, rather than dialogue which nurtures respect (for differences) and understanding.

In today's climate, meaningful, respectful dialogue is harder to sustain. Instead of testing claims through questioning and evidence, debate is increasingly framed as tribal conflict—"us versus them"—with spillover into workplaces, communities, and families.

The central question is not merely how we arrived here, but how institutions and citizens can re-commit to basic democratic norms: viewpoint tolerance, objective evaluation of facts, and good-faith dialogue as the mechanism for resolving disagreement.

Education plays a pivotal role in any society. It is a measure of better public health, reduced crime, more employment (lower unemployment) and increased tax revenue. If you educate the individuals in society, society will improve. Similarly, if you take care of the poorest in a society and give them the tools to work and succeed, it leads to a more successful society overall.

The framers of the U.S. Constitution had a high level of education for their era. Over half attended college; others had a combination of school and private tutors (typical for the time). All were well-read, and intellectually accomplished. Education gives individuals critical thinking skills, cultural understanding, and empathy. This develops people that are informed and engaged in their community, which in turn creates a stronger society.

Why Critical Thinking is So Important

Critical thinking is a core building block to a society. Critical thinking requires skepticism, curiosity, and disciplined inquiry. It requires people to test or question statements before accepting them. It requires a listener to fact-check the information, the source, prior to reaching conclusions based on evidence rather than impulse or blind acceptance of what they hear.

Lawyers practice critical thinking daily: plaintiffs and defendants will describe the same events differently, and effective advocacy depends on probing each account, corroborating through third-party sources, and evaluating the record before offering advice or taking a position.

More broadly, critical thinking equips individuals to assess credibility, identify bias, and break down complex problems into workable solutions. It strengthens decision-making by demanding that options be weighed and the assumptions be challenged.

Its civic value is equally significant. Critical thinking promotes different perspectives and civil dialogue, reduces susceptibility to manipulation, and helps counter the "us versus them" reflex that fuels polarization. When critical thinking collapses, grievance can harden into absolutism—and, in extreme cases, into violence. The lesson is not speculative diagnosis, but institutional and cultural: we should reinforce habits of evidence-based reasoning and respectful engagement before rhetoric escalates into harm.

We all need the skill of critical thinking.

Institutional Endurance and Civic Responsibility

Recent surveys indicate a decline in public confidence in the courts and related legal institutions in the United States.[9] Surveys and institutional indices reflect ongoing public discussion about how legal institutions perform their roles amid political pressures and public scrutiny.[10] This includes conversation about how courts, legislatures, and executive branches interact within the constitutional system.

Many civic scholars suggest that public understanding of constitutional structures and civic processes — including critical thinking and informed dialogue—contributes to institutional resilience and informed participation.[11] Those habits will create space in our government for dialogue, compromise, and decisions that are oriented toward the public interest rather than partisan or personal advantage.

The Founding Fathers modeled that discipline. The Constitution emerged from sustained debate, hard bargaining, and repeated returns to the table—not unanimity. It was the product of contested drafting and structural compromise, informed by the lived experience of arbitrary power and a determination to prevent its return.

Scholars and civic educators often emphasize that public engagement, civic education, and informed participation are important elements of a healthy constitutional democracy.[12] A pluralistic society requires confidence rather than fear: curiosity about neighbors, tolerance for disagreement, and a shared commitment to constitutional norms that protect everyone—especially when we disagree. ■

Endnotes

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Judicial Independence in Immigration Adjudication

Structure, Safeguards, and Debate

By Anais Gonzales

ANAIS GONZALES *is a staff attorney at the Camden Center for Law and Social Justice in Camden.*

The United States immigration court system has developed through a series of statutory and regulatory changes, rather than through an act of Congress. Presently, immigration courts operate within the Department of Justice. Consequently, this placement within the executive branch has fueled prolonged debate regarding the amount of independence enjoyed by immigration judges (IJs) and the extent of the administration's influence over immigration adjudication.

Case law is conclusive on the matter that undocumented immigrants have the right to due process.[1] Many cases before IJs involve deportation, asylum, and other forms of humanitarian protection. These proceedings are governed by statute, but are structurally different from Article III courts. Instead of being members of the judiciary or of an independent court, IJs are employees of the executive branch and are required to follow the directives of the administration.

Several notable organizations, including the American Bar Association, the National Association of Immigration Judges (NAIJ), and the Round Table of Former Immigration Judges ("the Round Table") have proposed and advocated for the creation of an independent Article I Immigration Court, recognizing that "immigration courts lack many of the basic structural and procedural safeguards necessary to ensure fair and impartial adjudications."[2] By creating an Article I immigration court, the concerns of these groups could be mitigated. However, such a change may raise additional considerations.

Employed by the Executive Branch

The immigration court system, also known as the Executive Office for Immigration Review, operates as part of the Department of Justice. EOIR encompasses both the trial level immigration courts, as well as the Board of Immigration Appeals, which functions as the appellate court. Appealing a decision from the BIA sends the case to the circuit court, finally placing the case in front of an independent adjudicator. As a result, judicial review by an Article III court occurs only after administrative adjudication has concluded.

Immigration judges are DOJ employees, and therefore are subject to performance evaluations, employment policies, and administrative directives issued by the Attorney General. While the immigration system began as an administrative process, it gradually became a quasi-judicial legal proceeding, where judges act according to directives from whatever administration is in power. This means that the administration can require judges to manage their dockets and dispose of cases in a particular way. A few examples of these directives include setting case completion quotas, preventing judges from terminating low priority cases (such as when the migrant has been approved for a visa), and requiring them to reorganize their dockets according to the priorities of the administration.

Proposals for an Article I Immigration Court

A number of large and influential organizations have formally recommended the creation of an Article I immigration court, in acknowledgement of the many concerns involving EOIR. The ABA is one such organization, having released a report on immigration reform in 2010, as well as a comprehensive update in 2019. In these reports, the ABA identified several features of the current system that, in its view, warrant reevaluation, including disparities in asylum approval rates, the Attorney General's supervisory and certification authority, and administrative control over judicial functions. The ABA's analysis situates an Article I court within a broader set of institutional reforms aimed at increasing consistency, transparency, and separation between adjudication and enforcement.

Similarly, the National Association of Immigration Judges, which represents sitting immigration judges, and the Round Table have supported legislative reform. In 2020, the NAIJ submitted a letter to Congress, signed by 54 other organizations, expressing concern about due process and adjudicatory independence within EOIR.[3] That same year, the Round Table submitted testimony to the House Judiciary Committee describing how EOIR's structure allows for executive branch influence over immigration adjudication.[4] In subsequent statements, the Round Table emphasized that these concerns are not limited to a single administration, but are inherent in the framework.

Nevertheless, the creation of an Article I court would not eliminate political influence over immigration adjudication, but would instead alter its source. Under an Article I model, Congress would assume a greater role in defining the court's jurisdiction, procedures, funding, and judicial appointment process. As with other Article I courts, immigration judges would likely serve fixed terms and be subject to reappointment, raising separate questions about legislative influence, confirmation dynamics, and budgetary control. Additionally, the transition to an Article I court would involve significant logistical and institutional changes, including the transfer of personnel, development of new procedural rules, and resolution of transitional jurisdictional issues.

For these reasons, some reform proposals emphasize incremental or complementary measures, such as limiting the Attorney General's certification authority, modifying performance evaluation systems, expanding procedural safeguards, or increasing judicial review, either as alternatives to or in conjunction with broader structural reform. Within this framework, an Article I immigration court is frequently discussed as one option among several for addressing longstanding concerns regarding the structure and function of immigration adjudication.

Restructuring the immigration court system could address several of the concerns identified above regarding the scope of executive control. Under an Article I framework, Congress could establish a statutory structure governing the operation of the court, which would limit the role of the executive branch in matters related to adjudicatory function and judicial administration. Such a framework may allow immigration judges to adjudicate cases with greater institutional independence and could promote greater stability and consistency in immigration jurisprudence over time. This structure could also reduce variations in adjudicatory practices associated with changes in presidential administrations. However, such a system is not without its flaws. Judicial independence may still be compromised by legislative influence, funding mechanisms, or appointment and oversight structures established by Congress. These considerations highlight the need for careful legislative design to balance institutional independence with accountability. ■

Endnotes

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Establishing Judicial Review

Origins of the U.S. Supreme Court

Editor's note: This article originally appeared in **Constitutionally Speaking—The U.S. Supreme Court***, a publication of the New Jersey State Bar Foundation (NJSBF). The NJSBF is the educational and charitable arm of the New Jersey State Bar Association and is dedicated to advancing public understanding of the law, the legal system, and the role of courts in a constitutional democracy. Written for a general audience, the article is reprinted here as part of this issue's broader examination of judicial independence. Learn more about the Foundation at njsbf.org*

A 2024 Gallup poll revealed that 52% of Americans disapprove of the job that the U.S. Supreme Court is doing. According to a 2024 Associated Press-NORC Center for Public Affairs poll, 7 in 10 Americans believe the justices on the Court are motivated by **ideology**, not fairness.

Ken I. Kersch, a political science professor at Boston College and author of *The Supreme Court and American Political Development*, says the Court has faced disapproval since its inception.

"The history of the Supreme Court is rife with outbreaks of attacks on individual Supreme Court decisions, and on the legitimacy of the Supreme Court and the federal judiciary more generally," Professor Kersch says. "Supreme Court justices have often been politicians before serving on the bench. This means that they have ties to political parties, which often take positions on constitutional issues when campaigning for election. And just as is the case today, they have often been identified with distinctive, and even antagonistic, approaches to interpreting and applying the Constitution."

Professor Kersch points to one of the U.S. Supreme Court's earliest decisions—*Chisholm v. Georgia* (1793)—where the Court ruled that two South Carolina men could sue the state of Georgia for debts they were owed. The fallout from that decision led to the U.S. Constitution's 11th Amendment which prohibits any federal court from hearing cases where individuals from one state attempt to sue another state. He also notes other Supreme Court decisions were controversial at the time, including *McCulloch v. Maryland* (1819), which upheld the constitutionality of a national bank, and *Brown v. Board of Education* (1954), which found racial segregation of children in public schools unconstitutional.

"Challenges [to the U.S. Supreme Court] have been common, to the point of being routine, throughout American history," says Professor Kersch. "That is the fate of the Supreme Court as both a legal and a political institution. It does not exist outside of American politics."

In addition, Professor Kersch says that many presidents have campaigned on unpopular U.S. Supreme Court decisions. For example, during his presidential campaign, Theodore Roosevelt attacked the Court's decision in *Lochner v. New York* (1905), which struck down a New York law regulating bakery workers' hours.

"Similarly, Abraham Lincoln campaigned for the U.S. Senate, and then the Presidency, by attacking the Supreme Court's *Dred Scott* (1857) decision, which held that it was unconstitutional for an American state or territory to ban slavery," Professor Kersch says.

In his first inaugural address President Lincoln indicated his misgivings about the U.S. Supreme Court's power.

"The candid citizen must confess that if the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by the Supreme Court," President Lincoln said, "the people will have ceased to be their own rulers, having to that extent practically resigned their government into the hands of that eminent tribunal."

Origins of the Court

Article III, Section 1 of the U.S. Constitution established the U.S. Supreme Court. It reads: "The judicial Power of the United States shall be vested in one supreme Court and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office."

It should be noted that by "inferior courts" the Framers of the Constitution did not refer to the quality of the courts but the fact that these courts would be lower than the U.S. Supreme Court, meaning that the Supreme Court would have final say over federal law. In addition to serving on the highest court in the land, in the early days, each U.S. Supreme Court justice was required to travel to other federal judicial districts, also known as circuits, to hear lower cases. This practice was known as "circuit riding" and was pretty unpopular among the justices. Circuit riding remained in place for a little over a century until an act of Congress abolished it in 1891.

The U.S. Constitution set up the U.S. Supreme Court, but Congress' passage of the Judiciary Act of 1789 and the Evarts Act of 1891 is where our modern-day, three-tier court structure comes from. In the federal system, the U.S. Supreme Court sits at the top. Beneath that are circuit courts, also known as courts of appeals, and beneath that are district courts. The Evarts Act established the role of the U.S. Courts of Appeal, or U.S. Circuit Courts, which eliminated the need for "circuit riding."

Today, in the federal court system, there are 94 district courts, where a single judge presides; and 12 regional circuit courts where appeals are heard by a three-judge panel. In addition, the middle tier includes a 13th appeals court—the Court of Appeals for the Federal Circuit.

Power of the U.S. Supreme Court

While the U.S. Supreme Court was established via the U.S. Constitution, its power was solidified with the ruling in *Marbury v. Madison* (1803). The case centered around William Marbury, who was one of 42 new justices of the peace appointed by outgoing President John Adams. Marbury's commission, as well as several others, was not delivered before incoming President Thomas Jefferson took office. Once in office, President Jefferson directed that the commissions should not be delivered. When *Marbury v. Madison* came before the Court, the questions to be decided were whether Marbury—the plaintiff—had a right to receive his commission and could he sue for that right. Also to be decided, was whether the U.S. Supreme Court had the authority to order the delivery of the commission.

It wasn't so much what the Court decided in the case that made it important. It was the reasoning behind it that set a precedent which endures to this day. The Court found that while Marbury was entitled to his commission, and had a right to sue to obtain it, the U.S. Supreme Court could not grant it to him. The Court held that Section 13 of the Judiciary Act of 1789, the provision that enabled Marbury to bring his claim directly to the U.S. Supreme Court, was itself unconstitutional, since it extended the Court's original jurisdiction beyond that which Article III, Section 2, of the U.S. Constitution established. Original jurisdiction simply refers to what court can first (or originally) hear a case.

Chief Justice John Marshall, writing for the majority of the Court, reasoned that the Judiciary Act of 1789 conflicted with the U.S. Constitution, and Congress did not have the power to modify the Constitution through regular legislation.

"The government of the United States has been emphatically termed a government of laws, and not of men," Chief Justice Marshall wrote in the Court's majority opinion. "It is emphatically the province and duty of the Judicial Department to say what the law is."

With this decision, Justice Marshall established what is known as "judicial review," a concept that cemented the U.S. Supreme Court's authority to declare a law unconstitutional and, therefore, strike it down. Marbury never received his commission. Here's another fun fact—the signature on these disputed commissions was none other than John Marshall, serving in his capacity as President John Adams' Secretary of State at the time before he was appointed as Chief Justice of the U.S. Supreme Court.

How the U.S. Supreme Court Works

Currently, the U.S. Supreme Court is comprised of one Chief Justice and eight Associate Justices. As per the U.S. Constitution, all federal judges/justices, including U.S. Supreme Court Justices, are appointed by the President of the United States and confirmed by the U.S. Senate. If a judge or justice is not confirmed by a majority of the Senate, the President must appoint another candidate. This process is just one of the ways that the U.S. Constitution puts checks and balances on the three branches of government—Executive (President), Legislative (Congress) and Judicial (Courts).

The U.S. Supreme Court receives as many as 7,000 to 10,000 requests per year to review cases. The Court usually accepts anywhere from 100 to 150 cases for review. The process begins with a challenger submitting a "*writ of certiorari*," also called a cert petition. *Certiorari* is Latin for "to inform, apprise or show." The justices review the petitions and vote on whether to hear the case. Four of the nine justices must vote in favor of taking a case. The Court refers to this as the Rule of Four. When the Court agrees to take a case, it is called "granting cert."

As Professor Kersch explains, the Chief Justice of the Court

presides over its procedures, processes, conferences, and deliberations. Once a case has been heard before the Court, a vote is taken among the justices. If the Chief Justice is in the majority, Professor Kersch says, they are charged with assigning the writing of the majority opinion to a justice of their choice or they may choose to write it. If the Chief Justice is not in the majority, the most senior justice in the majority has the power to assign the opinion.

Organizations or individuals often submit *amicus* briefs to the U.S. Supreme Court when they have a vested interest in the outcome of a particular case. *Amicus* is Latin for friend or comrade, so *amicus* briefs are also called "friend of the court" briefs. These briefs attempt to persuade the justices to their side. So, do the justices put much stock in these briefs? Do they read them?

In fact, according to Professor Kersch, *amicus* briefs have been very influential in shaping modern U.S. Supreme Court opinions because not only do the justices read them, but some also end up adopting the legal argument provided in them. Sometimes the justices cite the briefs in their opinions, Professor Kersch says, and sometimes they don't. The justices weigh all the arguments, he says, and then adopt those that they find most persuasive. So, the reality is that any justice's legal argument could have come from a lawyer representing an expert or an advocacy group, who has submitted an *amicus* brief.

"The justices have no hesitation about adopting the arguments made by the lawyers in those *amicus* briefs," Professor Kersch says. "In fact, those who follow these things closely know that it is hard to imagine how the justices would write judicial opinions without them."

Ethics Standards

Federal law requires federal judges to recuse themselves from any case "in which their impartiality might reasonably be questioned." There is also a code of conduct for lower federal judges, and additional misconduct standards as well.

Justices on the U.S. Supreme Court, however, had no ethics code or code of conduct for more than 230 years. On November 17, 2023, the U.S. Supreme Court announced the adoption of the Justices' Code of Conduct—the first time the justices had put a code in writing. The code of conduct was met with criticism because there is currently no formal mechanism to enforce it, according to the Congressional Research Service, a non-partisan research institute within the Library of Congress.

Justice Elena Kagan addressed the criticism when she sat on a panel for the 2024 Ninth Circuit Judicial Conference, calling it a "fair" criticism and admitted that the Court should "figure out some mechanism" for enforcement of the code. Justice Kagan suggested that the Chief Justice could appoint a committee "of highly respected judges with a great deal of experience, and a reputation for fairness" to enforce the code

The problem with enforcement of a code of conduct at the U.S. Supreme Court level, according to Professor Kersch, is that they are enforceable only by higher ranking judges.

"Because there are no higher-ranking judges than the justices of the U.S. Supreme Court, there is no one to enforce the standards against them, outside of the possibility that they would be impeached and removed from office," Professor Kersch says.

Again, this is dictated by the separation of powers or checks and balances outlined in the U.S. Constitution. It means that the President and Congress do not have the power to discipline members of the U.S. Supreme Court.

"To allow that would make them superior to the U.S. Supreme Court, in a matter where the Court is given the power under the U.S. Constitution to operate independent of the other branches," says Professor Kersch. "In areas where the judiciary is constitutionally authorized to act, to subject the Supreme Court's justices to external supervision would potentially undermine judicial independence, autonomy, and supremacy in a way contrary to the Constitution's logic and design." ■

New Jersey State Bar Foundation

The Influence of a U.S. Supreme Court Dissent

Editor's note: This article first appeared in **Constitutionally Speaking—The U.S. Supreme Court**, *published by the New Jersey State Bar Foundation (NJSBF). The Foundation's mission is to promote civic education and legal literacy by providing accessible, nonpartisan resources for students, educators, and the public. Although originally developed for a general readership, the article is included here to complement this issue's focus on the structure, function, and independence of the judiciary. Learn more about the Foundation at njsbf.org.*

When a U.S. Supreme Court majority opinion is released, legal scholars scrutinize it, either praising it for its considered legal argument or disparaging it because they disagree with its conclusion. What about the dissenting opinion?

Not much attention is paid to dissenting opinions—most of the time. U.S. Supreme Court dissenting opinions sometimes influence future opinions of the Court, shape case law, and in some cases, change the course of U.S. history.

In his book *Dissent and the Supreme Court: Its Role in the Court's History and the Nation's Constitutional Dialogue*, Melvin I. Urofsky, a noted legal historian and history professor at Virginia Commonwealth University, wrote that only the hardest cases to resolve get to the U.S. Supreme Court. He notes in the book that if an issue was easy, it would have been decided by lower courts.

"Because the questions are hard, and because they cause disagreement among the people, it is not surprising that the justices of the high court will also disagree," Professor Urofsky wrote. "The dissenter will point out what he or she perceives to be the weakness of the majority opinion, the faulty constitutional reasoning, or a failure to understand the actual facts of the case. The dissenter is telling the majority, 'Wait. I think you have this wrong. You need to look at that constitutional clause and its history again. You need to ask other questions."

Who is it For?

Who are dissenting opinions intended to convince? Fellow justices? Future courts?

It is both, according to Edward Hartnett, a professor at Seton Hall University Law School, and an expert on the history and practice of the U.S. Supreme Court. Professor Hartnett explains that before U.S. Supreme Court opinions are publicly released, they are circulated internally among the justices.

"A dissent circulated inside the Court has the potential to change another justice's mind," Professor Hartnett says. "What was first circulated internally as a draft dissent might turn into a majority opinion, while what was first circulated as a draft majority opinion might turn into a dissent."

When the Court was first established in 1789, and up until approximately 100 years ago, Professor Hartnett notes that it was common for justices to only dissent internally, among their fellow justices but not in public. A justice would only publicly dissent if "they thought it was especially important to do so," he says. Professor Hartnett notes that custom is "not the current practice" of today's Court.

"When a justice dissents publicly, he or she is writing for the future," Professor Hartnett says. "Sometimes it is to persuade future justices; sometimes it is to persuade Congress to act; sometimes it is to call attention to an issue; and sometimes it is to try to minimize the damage done (as the dissenter sees it) by the majority."

Thomas J. Healy, a professor at Seton Hall University Law School and author of *The Great Dissent: How Oliver Wendell Holmes Changed His Mind—and Changed the History of Free*

Speech in America, thinks that most dissenting justices are speaking to those outside the Court with the hope that their views will eventually triumph.

"A justice who dissents has, by definition, already failed to persuade a majority of the Court. Dissenting is a way to point out the error of a decision to future courts and those outside the judicial system," Professor Healy says. "In the best-case scenario, a dissent may end up prevailing in the long run and eventually becoming the law. This has happened a number of times throughout history."

Ruth Bader Ginsburg, who sat on the U.S. Supreme Court from 1993 until her death in 2020, and wrote her fair share of dissents, once said, "It has been a tradition in the United States of dissents becoming the law of the land. So, you're writing for a future age, and your hope is that with time the Court will see it the way you do."

Professor Hartnett notes that dissents in a wide range of cases have strongly influenced later majority opinions. Examples, according to Professor Hartnett, include dissents that have questioned the constitutionality of legally mandated racial segregation, punishing subversive speech under the First Amendment, limiting economic regulation under the due process clause, and compelled payments from public employees to unions under the First Amendment.

Changing History

The two dissents issued in the 1857 case of *Dred Scott v. Sandford* are examples of U.S. Supreme Court dissents that helped change the course of history.

Dred Scott was enslaved in Missouri in the 19th century. His master, Dr. John Emerson, was a surgeon in the army and took Scott with him when he travelled. Those trips took Scott to Illinois, a free state, as well as the territory of Wisconsin, which was also free. The legal precedent at the time, especially in Missouri, was "once free, always free," meaning that if a slave was taken into a free state, and resided there, they automatically gained freedom. The doctrine stated that they could not be re-enslaved if they returned to a slave state. In April 1846, Scott sued for his freedom.

The Missouri Supreme Court did not uphold the "once free, always free" doctrine, holding instead that Scott was still enslaved. Once the case came before the U.S. Supreme Court, it ruled 7–2 that Blacks had no right to sue in federal court. The Court's majority opinion, written by Chief Justice Roger B. Taney, further stated that Blacks were not, and never could be, citizens of the United States. The ruling also declared that the 1820 Missouri Compromise was unconstitutional. The Missouri Compromise attempted to maintain the balance between slave states and free states, admitting Maine as a free state and Missouri as a slave state. It also restricted slavery to territories south of a certain dividing line (the 36th parallel).

Justice John McLean, who sat on the U.S. Supreme Court from 1829–1861, and Justice Benjamin Curtis, who sat on the Court from 1851–1857, issued separate dissents in the *Dred Scott* case. Both disagreed with Justice Taney's argument that Blacks were not citizens at the time of the U.S. Constitution's adoption, pointing out that free Blacks had political rights in 1787, and in some states—Massachusetts, New Hampshire, New Jersey (for a limited time) and New York—they could vote. Justice McLean's dissent discussed the concept that one's place of birth was tied to citizenship. His argument eventually influenced the 14th Amendment, which granted birthright citizenship to those that had been previously enslaved.

"Being born under our Constitution and laws, no naturalization is required, as one of foreign birth, to make him a citizen," Justice McLean wrote. "Where no slavery exists, the presumption, without regard to color, is in favor of freedom."

Justice Curtis' dissent focused on, among other things, the overreach of the majority of the Court, who were decidedly pro-slavery.

"When a strict interpretation of the Constitution, according to the fixed rules which govern the interpretation of laws, is abandoned, and the theoretical opinions of individuals are allowed to control its meaning, we have no longer a Constitution; we are under the government of individual men, who for the time being have power to declare what the Constitution is according to their own views of what it ought to mean," Justice Curtis wrote.

According to Professor Urofsky's book, a New York publisher printed the Curtis dissent in its entirety as a pamphlet. It was used by the new Republican Party candidates, who were against slavery, in the 1858 mid-term elections, as well as the 1860 presidential election. In fact, Abraham Lincoln quoted from Justice Curtis' dissent in some of his most famous speeches during his presidential campaign.

Ultimately, the Civil War and later the ratification of the 13th, 14th and 15th Amendments to the U.S. Constitution effectively overturned the Court's decision in *Dred Scott*.

Right All Along

Justice John Marshall Harlan, who served on the U.S. Supreme Court from 1877 until his death in 1911, issued a lone dissent in the 1896 case of *Plessy v. Ferguson,* proving that a lone voice can make a difference.

With its majority opinion in *Plessy*, the U.S. Supreme Court upheld a Louisiana law—the Separate Car Act—requiring separate railroad cars for Black and white passengers. The Louisiana law is where the phrase "separate but equal" comes from.

Homer Plessy, who was seven-eighths white, but technically Black under Louisiana law, was recruited by a civil rights group

that wanted to overturn the law. Plessy took a seat in the whites-only car on a Louisiana train. When he refused to vacate his seat, he was arrested. His attorneys argued that the Separate Car Act violated the U.S. Constitution's Thirteenth and Fourteenth Amendments.

The Court's majority opinion in *Plessy* stated, "We consider the underlying fallacy of the plaintiff's argument to consist in the assumption that the enforced separation of the two races stamps the colored race with a badge of inferiority. If this be so, it is not by reason of anything found in the act, but solely because the colored race chooses to put that construction upon it."

In an often-quoted dissent Justice Harlan wrote, "Our Constitution is colorblind and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man and takes no account of his surroundings or his color when his civil rights as guaranteed by the supreme law of the land are involved…"

Nearly six decades later, Thurgood Marshall, then the lead attorney for the plaintiff in *Brown v. Board of Education,* who would later become the first African American appointed to the U.S. Supreme Court, cited the arguments in Justice Harlan's *Plessy* dissent to bolster his case. *Plessy* was overturned in 1954 with the Court's decision in *Brown*. The Court unanimously ruled that racial segregation in public schools is unconstitutional.

Dissenting Rarely

Justice Oliver Wendell Holmes served on the U.S. Supreme Court for 30 years, from 1902–1932, and is sometimes called "The Great Dissenter." Ironically, according to Professor Healy, Justice Holmes did not like to dissent, "believing it undermined the reputation and collegiality of the Court." He says Justice Holmes dissented if he felt strongly about an issue and did so in high-profile cases involving workplace regulations and free speech.

"Justice Holmes' dissents were powerful because they were rare. In several instances, his dissents ended up having more influence on the law than the majority opinions he disagreed with," notes Professor Healy. "A justice who dissents all the time becomes like the boy who cried wolf."

As an example, Professor Healy points to Justice Felix Frankfurter who served on the Court from 1939 to 1962.

"When Felix Frankfurter took his seat on the Court in 1939, he was one of the most respected legal minds in the country," Professor Healy wrote in a review of Professor Urofsky's book that appeared in the *Boston Review.* "But after writing 251 dissents over the course of twenty-three years—many of them long, pedantic [dull], and condescending—his reputation suffered, and with it the power of his dissents; today his influence on the law is considered insignificant." ■

Special Editors

Continued from page 7

takeaways from the article is that "checks and balances are not mere constitutional abstractions; they are the mechanisms that keep democracy alive."

Building on those foundational themes, Maureen Abbey Scorese provides a civics-based overview of constitutional structure, explaining how the framers designed interdependent branches of government to prevent the concentration of power. She explores how education, critical thinking, and informed civic engagement contribute to institutional resilience and the long-term health of the judiciary.

Beyond the Article III courts, Anais Gonzales analyzes the structural placement of immigration courts within the executive branch and the resulting implications for adjudicatory independence. The article outlines proposals for reform, including the creation of an Article I immigration court, while examining the tradeoffs inherent in different institutional models.

The issue concludes with supplemental educational material from the New Jersey State Bar Foundation regarding the Supreme Court. These articles provide important historical and informative context that complements this special edition.

We invite you to engage closely with this issue—question assumptions, test arguments, and consider how the themes resonate in your own work. Whether you appear in court, advise clients, craft policy, or teach, the materials collected here aim to deepen understanding and prompt constructive dialogue about how best to preserve a judiciary that is independent, impartial, and worthy of the public's trust.

Thank you for reading, and for your ongoing commitment to the rule of law. ■

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Explore 36 practice-oriented sections covering dispute resolution, workers' compensation, child welfare law, and more. Our diverse spectrum of legal areas offers members valuable career-building opportunities and resources.

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SECTION SPOTLIGHT

How the Leadership and Experience Council Serves New Jersey Lawyers

The New Jersey State Bar Association offers 80 sections, committees and divisions for members to stay apprised of the latest trends in their specialty, shape legislation and become better attorneys for their practice and clients. The Leadership and Experience Council is a newly reimagined committee that brings together New Jersey's most seasoned legal minds. Designed for attorneys looking to elevate the next chapter of their careers, the council provides resources, guidance and community for those considering new practice areas, transitioning into or out of public service or planning for retirement or firm succession. **Alan F. Schwarz,** *who co-chairs the council with NJSBA Trustee Brian J. Neary, spoke recently about leading the council, its mission and how senior and experienced attorneys can benefit from joining.*

What inspired you to get involved with the council, and why did you decide to take on the role of co-chair?

One of the things you think about in retirement is how to give back in a meaningful way. Serving on this Council is one way to do that. It's designed to support attorneys at various stages of their careers. Experienced attorneys of course, but also younger lawyers who are just getting started. The legal profession has changed significantly and will continue to evolve, not only because of artificial intelligence but because of the realities of practicing law today. The practice isn't always what people expect, and those challenges can be difficult to navigate alone. There is a great deal that more senior and experienced attorneys can share with younger lawyers. Just as importantly, younger attorneys have valuable insights to offer in return, especially when it comes to technology and new ways of working. There is also an important group in the middle—attorneys who have been practicing for 10 to 15 years and find themselves at a crossroads. Some are considering moving from government service into private practice, which can be a challenging transition. Others are looking to move from private practice to in-house roles or into business, paths I have taken myself. I appreciate what this group is trying to accomplish and the emphasis it places on mentorship and engagement. We have a strong, diverse group of people who bring a lot to the table. Serving as co-chair is a meaningful opportunity to stay involved while helping others navigate their professional journeys.

How can the Council help mid-career lawyers transition into their later careers?

The Council brings together a diverse group of experienced lawyers who have navigated many of the same transitions others may be considering. For example, attorneys interested in moving from private practice into business can connect with people like me who understand the steps involved. The same is true for those looking to wind down or transition out of a law firm. Several Council members have gone through that process themselves. The Council serves as a pipeline to experienced practitioners who can offer practical answers and guidance. We are also developing programs and seminars designed to share the journey of experienced lawyers, drawing on real-world experience. These programs will focus on the full professional arc—how to start, grow and build a sustainable practice or career. At its core, the work of the Council is about support: mentoring, teaching, sharing experience and, just as importantly, listening. The opportunity to pass along individual experience to someone else is invaluable, both for the person receiving guidance and for those offering it.

Mentorship is central to the Council's mission, particularly the connection it creates across generations of attorneys.

Why is mentorship so important to the profession, both for those just starting out and for more seasoned lawyers?

Mentorship has always been important, particularly when I was starting out. But the COVID era really intensified the need to make mentorship a deliberate part of the profession. So much of our work now happens through screens, often in isolation, and that limits the informal conversations and shared experiences that once happened naturally. Having a mentor you can call, meet for coffee, or talk through challenges with makes a real difference. It helps younger and mid-career lawyers understand what it truly means to be a lawyer and what it takes to build a successful career. People naturally gravitate toward what feels easiest and most comfortable, but the legal profession—whether we like it or not—is built on relationships. Growing a practice, serving clients and advancing professionally all depend on the ability to build and maintain those relationships. That skill doesn't develop overnight. It's often learned through strong mentorship.

What are your goals for the Council in the near term?

Our immediate goal is to activate the group and fully tap into the depth of experience its members bring. It truly is a stellar collection of leaders in the profession, including former Supreme Court justices, firm leaders, and seasoned practitioners. Reading the roster feels like a who's who of the legal community. The opportunity to engage with people of this caliber is rare. We want to translate that experience into meaningful programming. Several events are already in development, with the first scheduled for March 12. That program will focus on new business development and marketing, featuring three panels designed to provide practical guidance. Another planned program will address transitioning from government service into private practice. Beyond events, we are looking to strengthen connections with career services offices at local law schools. We want to engage directly with students and administrators to understand their needs and explore ways the Council can provide support, including hosting programs on campus. We also see strong opportunities to collaborate with the NJSBA Young Lawyers Division. There is a natural exchange of value there. Young lawyers bring energy and new perspectives, while this group offers experience, guidance, and mentorship. Our goal is to leverage the collective experience of this group in ways that meaningfully benefit the broader bar and support attorneys at every stage of their careers. ■

Around the Association

NJSBA Events Highlights

From meaningful pro bono work to end-of-year celebrations, NJSBA members remained active across the state.

Young Lawyers Support First Responders Through Wills for Heroes Initiative

The NJSBA Young Lawyers Division hosted another successful Wills for Heroes event on Nov. 22 at the state Department of Health's National EMS Conference, offering free estate planning assistance to the first responders who serve New Jersey communities.

Across a series of support tables at Harrah's Resort in Atlantic City, the group of 14 lawyers, paralegals and law students provided pro bono estate planning guidance to roughly 900 EMS professionals. Program Co-Chair Kaitline Hackett and former co-Chair William Dungey also participated in a panel outlining the significance of estate planning tools—such as advance health care directives and powers of attorney—for EMS personnel.

Beyond giving back, the Wills for Heroes program provides lawyers with a valuable opportunity for professional development through pro bono service. Volunteers gain hands-on experience in client interaction, document preparation and estate planning fundamentals while building their communication skills and professional connections.

NJSBA Sections and Committees Ring in the Holidays

NJSBA sections and committees gathered across the state in December to celebrate the holiday season while giving back to their communities.

NJSBA

Young Lawyers Division *and*
Leadership and Experience Council

Business Development, Marketing & Networking for Young Lawyers+

Thursday, Mar. 12 | 1–4:30 p.m. | New Jersey Law Center

YLD members–$75 | NJSBA members–$99 | Non-members–$125 | 4.0 CLE credits

This program is designed to help young lawyers and others seeking to build a book of business understand, develop, and strengthen their business development skills. Join experienced practitioners, general counsel, in-house decision-makers, and business development professionals to learn how lawyers at different stages and in different practice settings can build a thriving practice.

The day will include panels that explore:

How to Get Started

How to Grow and Expand Your Business Generation: Getting to the Next Level and Beyond

How to Expand Beyond Yourself as the Biller and Beyond Your Practice Area

The afternoon will conclude with an informal networking cocktail event, designed to help attendees put the day's lesson into practice.

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to register

MODERATOR
Christopher L. Jackson, Esq.

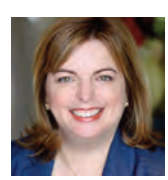
MODERATOR
Alan F. Schwarz, Esq.
FXSpotStream

MODERATOR
Brian J. Neary, Esq.
Connell Foley LLP

SPEAKER
David J. Bruno, Esq.
The Bianchi Law Group

SPEAKER
Alessandra Moore, Esq.
Lowenstein Sandler

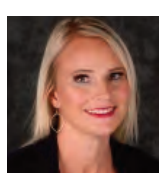
SPEAKER
Joseph A. Natale, Esq.
Greenbaum Rowe Smith & Davis



SPEAKER
Elise Holtzman, Esq.
The Lawyer's Edge

SPEAKER
Jeralyn L. Lawrence, Esq.
Lawrence Law

SPEAKER
Christopher S. Porrino, Esq.
Lowenstein Sandler



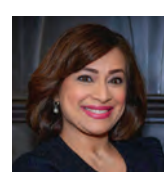
SPEAKER
Maralee Sanders, Esq.
Hartmann Doherty Rosa Berman & Bulbulia

SPEAKER
Gigio K. Ninan, Esq.
Shankar Ninan & Co.

SPEAKER
Travis Nunziato, Esq.
Laddey Clark & Ryan

SPEAKER
Caroline E. Oks, Esq.
FBT Gibbons

SPEAKER
Vincent P. Browne, Esq.
FBT Gibbons



SPEAKER
Rippi K. Karda, Esq.
Assoc. General Counsel
Verizon


NJSBA
FAMILY LAW
SECTION
2026 Family Law Retreat
ARUBA
Wednesday, March 25—Sunday, March 29
Aruba Marriott Resort & Stellaris Casino
SCAN HERE

NJSBA PRACTICEHQ

The New Jersey State Bar Association's Practice HQ is a free member resource designed to help you build and maintain a successful, thriving legal practice.

Visit njsba.com to find checklists, whitepapers, videos, and other resources available to you as a member of the NJSBA.

Find information on topics such as:

OPENING OR CLOSING A LAW FIRM

There's a lot to know about opening or closing a law practice. Where do you start? The materials in this section start you down the right path and make sure vital considerations aren't overlooked.

CLIENT DEVELOPMENT

The success of your law practice relies on pleasing clients. But, before you can please clients, you have to obtain them. Learn how to find and retain satisfied clients.

DOCUMENTS

Learn how to effectively and securely draft, edit, share, and collaborate on electronic documents.

TECHNOLOGY

Review the fundamentals you should consider to figure out your organization's needs.

MONEY

Billing by the hour means that your supply of "product" is limited by the clock and calendar. Examine the resources provided to build a profitable practice.

MANAGEMENT

The best-run legal organizations embody a positive, growth-oriented culture, and entails fostering your organization's most valuable asset– your people.

COMPARISON CHARTS

Do you know which password manager, web meeting service, or encrypted email service is best for your business? We can help you figure that out.

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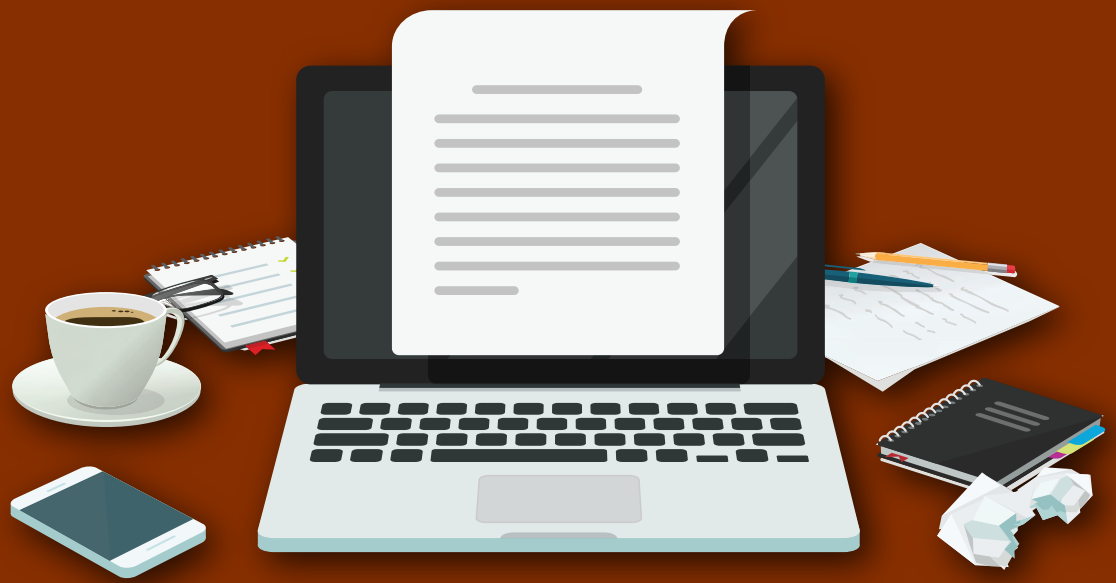

Calling all Writers

Do you want to be an author?

The NJSBA invites members to submit subject area article ideas and practice tip submissions for *New Jersey Lawyer.*

Our award-winning magazine is published six times a year. Check out the njsba.com editorial calendar for topics identified for upcoming editions, or submit an article for consideration to appear in its regular columns on technology; ethics and professional responsibility; wellness; lessons learned from fellow attorneys; writing tips; practice management guidance; insights from the bench and diversity, equity and inclusion topics.

Reach out today at askthenjsba@njsba.com

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