

# PRESIDENT'S PERSPECTIVE

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## 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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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, alimo-

ny 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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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 par-

tisan and often negative campaigns and single-party courts dominate decision-making. The New Jersey system of bipartisanship 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 bal-

anced 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. ■