

## PCCW Newsletter Summer 2006: “Spotlight On”

How did you get to the Supreme Court from Cornell University?

My desire to attend Cornell was fostered by fellow PCCW member, Eleanor Applewhaite ‘59, a cousin, attorney, and, dare I say, role model (she doesn’t like to be referred to as such). I was impressed by Ellie from the time I was very young because of our shared love of dance. I recall her, on many a holiday, spinning me around in her living room to the music of “The Nutcracker” or some other classical piece. As I matured I came to realize that Ellie was a woman of many firsts, and became even more impressed. I always hoped to be as accomplished as she. It was important to know that Ellie went to Cornell and was an accomplished lawyer. It made those achievements seem more like a matter of course, than an unattainable dream.

Although, while at Cornell, I never thought of becoming a judge, I did know that I wanted to go to law school. I was always interested in righting wrongs whether racial, social, economic or other. At Cornell, I marched against apartheid in South Africa and was interested in a number of different social issues. In the College of Human Ecology, my major was Human Development and Family Studies, but I took courses in public policy and found them very interesting and enlightening. I remember thinking of getting dual degrees in law and psychology. I had focused a bit on adolescent development and wanted to help shape the laws governing adolescents by testifying before Congress. Though, I had not really determined how one would come to do that.

After graduating from Cornell, in 1982, I worked for a year at a pharmaceutical advertising agency mainly to earn money for what I expected would be a daunting tuition bill. (I was right. It took several years to pay off my law school loans.) Then, it was off to law school!

I attended Benjamin N. Cardozo School of Law and to the extent one enjoys law school, I certainly enjoyed Cardozo. As with most law schools, the majority of my education was filled with traditional law school courses – contracts, property, civil procedure, and the like. In my third year, however, I had the pleasure of taking a criminal law clinic with Professors Barry Scheck (before he became famous for the Innocence Project) and Lawrence Vogelstein. They made the clinic so exciting and rewarding that criminal law became my chosen method of practice.

I would say my path from Cornell to the bench involved preparation and good fortune. I began my legal career in the Bronx office of the Legal Aid Society's Criminal Defense Division. After a few years, I was fortunate to become the first African American attorney in the Eastern District office of Legal Aid's elite Federal Defender Division. The fascinating cases and opportunity to protect individual's rights under the Constitution, gave me a chance to serve people in need and to grow as a lawyer. When, after ten years, I sought a different area of public service, I was interviewed for and appointed to the position of Judge of the New York City Housing Court. That same year, 1997, I was elected Judge of the New York City Civil Court and my docket expanded to a broader cross section of civil cases. In 2001, I was elected to the New York State Supreme Court, the highest trial court in the state. (There are two higher appellate courts in New York, the Appellate Division and the Court of Appeals, the highest court in the state.)

I did not get a dual degree, in law and psychology, but I am getting the unique opportunity to shape the law. These three positions in the judiciary have allowed me to fulfill my desire to improve the quality of peoples' lives, even if subtly.

What is the most challenging part of your job?

Sometime in the 1970's the Bronx became known for the high monetary verdicts its jurors would award. If one suffered a personal injury and her attorney could find any basis for establishing jurisdiction in the Bronx, she would. Although I believe that Bronx jurors are usually reasonable with their verdicts, the perception that has developed around this issue seems destined to live on. There are approximately seven thousand cases waiting to be tried in the Bronx and these cases generate many motions which judges must decide. That's where the challenge comes in. The most challenging part of the job for judges is the heavy volume of motions to decide in addition to the other responsibilities of presiding over trials and other court parts.

What do you enjoy the most?

I most enjoy the variety of the work and resolving intensely litigated issues

and questions which need an impartial arbiter. The variety of issues and assignments keeps things interesting. The fact that there is usually merit to each side's position makes me feel crucial in the role of decision maker.

Also, one of the most rewarding aspects of any job is knowing that you have done it well. That is certainly true for me as a judge. Among the more satisfying experiences is to have opposing counsel, at the end of a hotly contested case, thank you for giving them a fair trial.

What is a typical day like?

One thing I can say with certainty about my days is that they begin and end with my children. Before getting myself to work, the days often start with me taking my three boys, aged 9, 7, and 2, to school. After that, the only typical thing about a day is that it is non stop! My day could include presiding over a trial, writing decisions, and attending a board meeting.

Today, for example, the day began with a hearing to determine the fate of an individual, with a long psychiatric history, who had been convicted of a crime, served his time, and was about to be released. The individual performed admirably on medication and had obtained needed services on his own in the past. Should he, once released, be court ordered to abide by certain conditions such as, attending psychiatric group counseling, taking psychiatric medication, and seeing a social worker and psychiatrist? Or, should he be trusted to voluntarily obtain these services? If, down the road, the individual should violate a court ordered condition, he would be civilly committed for psychiatric treatment.

That was followed by my working on a motion involving a contract. The contract was entered into in Virginia, but carried out in New York. One party argued that a transfer clause in the contract directed that the case be transferred to Virginia to interpret the meaning of any clause in the contract. Alternatively, the opposing party argued that another of the contract's clauses rendered the contract void under New York law. The question was whether to enforce the transfer clause and send the case to Virginia for disposition or retain the case, in contradiction of the transfer clause, to determine whether the contract's other clause violated New York law, rendering the contract void.

After what often is a working lunch involving signing subpoenas and orders, I might preside over a trial, which would likely continue for a few days. In a recent trial, the jury had to determine whether a dentist, who extracted a wisdom tooth, failed to diagnose or treat an oral infection which landed the patient in the hospital for several days.

Occasionally, the day continues beyond the Courthouse to a conference room, where I might attend a board meeting for Chess in the Schools or The New York Botanical Garden, organizations about which I care deeply. Chess in the Schools introduces chess to inner city school children from grades 2 through 12 and provides them with training and the opportunity to compete. It also offers them educational support and mentoring. The New York Botanical Garden, located in the Bronx, is an extraordinary 250 acre garden and world class leader in botanical research. It also provides community youth with wonderful opportunities to explore science.

The day often ends as it began—with my children. This time, helping with homework and hopefully getting hugs. Those hugs put a busy day and life into proper perspective.

How does being a woman work to your advantage?

I am sure that there have been times when my being a woman and a mother has added a perspective to a case which would otherwise have been missing. The courts benefit, as well, from having a diverse group of decision makers. Also, being an advisor and role model to young women is a tangible contribution to continued diversity and advancement of women.

How did you move up the ranks?

Judges in New York can be either elected or appointed, but the positions are similarly attained. For each, one has to gain the approval of a number of committees, but in the end, one is selected either by the appointment of the mayor, governor or Chief Administrative Judge, and the other elected by the constituents

of a judicial district or county. I was appointed as a Housing Court Judge, but elected to the N.Y.C. Civil Court and the N.Y.S. Supreme Court. Supreme Court Justices are eligible to be appointed to administrative positions or to advance to the Appellate Division.