A New Name for the Institute
The Dwight D. Opperman Institute of Judicial Administration

Dwight D. Opperman has long been a valued supporter of the Institute and its programs. In addition to being a reliable source of wise advice and moral support for the Executive Directors, Mr. Opperman took the lead in establishing an endowment and corporate funding for IJA. We are delighted to report that Mr. Opperman’s generosity and support of the Institute have taken another momentous leap forward, in the form of a substantial testamentary gift to the School of Law and to IJA. Says Executive Co-Director Oscar G. Chase, Russell D. Niles Professor of Law, “During Sam’s and my time as Directors of the Institute, we’ve personally benefited from Dwight’s leadership and friendship. While we look forward to working with him for many years to come, his legacy will inure to IJA’s benefit some day in the distant future.”

In recognition of all that Mr. Opperman has done for IJA, NYU, and the administration of justice throughout our nation, the Board of Directors has honored him by renaming the Institute as the Dwight D. Opperman Institute of Judicial Administration, effective November 11, 2005. Says Executive Co-Director Samuel Estreicher, Dwight D. Opperman Professor of Law (see p. 5 for a story about the Opperman Professorship), “Oscar, the IJA Board of Directors, and I are proud and pleased to recognize Dwight’s exceptional generosity. Because of Dwight, we can be assured that IJA will be able to continue its mission of non-partisan research and judicial outreach programs for at least another half century.”

Dwight D. Opperman, former chairman and CEO of West Publishing Company, is nationally recognized for his philanthropy and commitment to legal education, especially the continuing education of judges. The son of a railroad worker, Mr. Opperman attended Drake University after graduating high school in Perry, Iowa. During his time at Drake, Mr. Opperman majored in music, but left the university for military service during World War II.

After the war and upon returning to Iowa, Opperman used his G.I. benefits to enroll in law school at Drake. During his time in law school, he excelled academically and was elected to the Order of the Coif, the national honor soci-
ety for law school graduates. Upon completing his law studies, Mr. Opperman took a position as legal editor at West Publishing, writing synopses of legal opinions. He advanced quickly through the ranks at West Publishing and was assigned to work in court relations, traveling the country and meeting with state and federal judges to ensure their satisfaction with West Publishing products. Through this position, Mr. Opperman formed relationships with many of the nation’s judges and, most importantly, gained an enhanced respect for the judiciary that continues today.

In 1968, Mr. Opperman was appointed president of West Publishing. Later, he was also named chief executive officer. During his tenure, West Publishing’s revenues grew from $50 million to $822 million, as Mr. Opperman led his company into a variety of new markets, such as college textbook publishing and ultratrace. In the mid-1970s, the company launched Westlaw, the legal database that has become West Company’s flagship product.

Following the sale of West Publishing to the Thomson Corporation in 1996, Mr. Opperman founded and currently serves as chairman of Key Investments, a privately-held venture capital firm that focuses on high-tech ventures.

On July 10-15, 2005, more than fifty appellate judges attended the Appellate Judges Seminar: New Appellate Judges Series, a program sponsored by IJA, NYU School of Law, and the Federal Judicial Center. The six-day conference, co-chaired by Professors Oscar G. Chase and Samuel Estreicher, IJA Executive Co-Directors, provided state and federal judges with up to three years of experience on the appellate bench, in dialogue with a resident judicial and academic faculty, the opportunity to explore the challenges inherent in judicial decision-making and issues unique to appellate courts.

Keynote speaker Paul D. Clement, Solicitor General of the United States, delivered a welcoming address that reviewed the Supreme Court’s most recent term. Previous Solicitors General who have welcomed the new judges to the Seminar have included Kenneth W. Starr, Walter E. Dellinger, and Theodore B. Olson (all IJA Board members), and Seth Waxman.

Clement noted that with the public’s focus on Justice Sandra Day O’Connor’s retirement, and other possible Court vacancies, the term’s significant cases are in danger of being forgotten. Consider United States v. Booker, said Clement, in which the Court determined that mandatory federal sentencing guidelines conflict with the Sixth Amendment and must be regarded only as advisory. The judgment, he pointed out, affects the 1,200 cases heard each week in the federal courts.

Clement, who enjoys California wines, said that the issue of interstate wine sales was one of abiding interest to him, though it was not a case that he argued as the government’s top Supreme Court attorney. The Court struck down bans prohibiting out-of-state wineries from shipping directly to consumers, citing those laws as discriminatory. “I applaud the Court,” Clement said. “I think they got it exactly right.”

The Court also took on the Ten Commandments. In one case from Kentucky, county officials had posted the Commandments in courthouses, and a Texas suit challenged a 40-year-old state capitol monument.

“You might find it surprising,” quipped Clement, “that the two-ton monolith is constitutional and the 8 1/2-by-11 sheet of paper is not.”

Also reviewing rationales in medical marijuana, eminent domain and First Amendment cases, Clement pointed out that the justices consider every argument’s merits. “It really does matter what theory is presented to the Court.”

During the week, substantive judicial education topics included a popular three-session segment on Opinion Writing (led by Professor Timothy
On the evening of April 26, dozens of new lawyers gathered to hear a distinguished bench-bar panel discuss effective oral advocacy. Professor Oscar G. Chase moderated the panel discussion plus a lengthy round of questions from the audience. The speakers included Chief Judge John M. Walker Jr. of the U.S. Court of Appeals for the Second Circuit, Judge Kimba M. Wood of the U.S. District Court for the Southern District of New York, IJA President Evan R. Chesler of Cravath, Swaine & Moore LLP, and Daniel L. Berger of Bernstein, Litowitz, Berger & Grossmann LLP. Judge Walker, Judge Wood, and Mr. Chesler are all long-time members of the IJA Board of Directors.

This event was the first of an ongoing series that will use IJA’s unique resources of judicial experience to build better bench-bar relations. ■

The social highlights of the seminar included a dinner at the Water Club Restaurant and an outing to see The Light in the Piazza at Lincoln Center, including a talkback with cast members after the show. Attendees included judges from: the U.S. Courts of Appeals for the Ninth Circuit; state intermediate courts of California, Colorado, Connecticut, Florida, Illinois, Indiana, Kansas, Massachusetts, Minnesota, Nebraska, New York, Ohio, Oregon, Pennsylvania, South Carolina, Texas, and Wisconsin; the courts of last resort of Arkansas, Delaware, Guam, Idaho, Kansas, Kentucky, Nevada, Oklahoma, Puerto Rico, Rhode Island, and Wyoming; the U.S. Court of Appeals for Veterans Claims; the Navy-Marine Corps Court of Criminal Appeals; and the Court of Appeal of Ontario.

The seminar was presented in cooperation with the Federal Judicial Center’s training program for new circuit judges and supported in part by grants from West Group and Cravath, Swaine & Moore, LLP. ■

* Denotes IJA Member
On a Tuesday afternoon in July, judges visiting from the People’s Republic of China peppered Bronx County Judge and former prosecutor Martin Marcus with questions. Is it normal to move from being a prosecutor—considered equally prestigious to a judgeship in China—to the judiciary? Does he preside over cases tried by former colleagues? Is it embarrassing to be reversed on appeal?

“Never happens,” Marcus grinned in answer to that last question. “It’s a judge’s job to apply precedent or, if there isn’t any, to create new law. If an appeals court disagrees, well, that’s the nature of the job. I accept what they say, if it’s a close case,” he said. Marcus, a 15-year veteran of the bench, told the judges about criminal procedure in New York State. As for the judges’ other questions, Marcus explained that being a prosecutor isn’t all that prestigious in New York—unless you’re the chief prosecutor.

The 22 Chinese judges were at NYU School of Law for the Training and Education Program for the Chinese Judiciary, a three-week training program conducted by IJA and Temple University, with a grant from the U.S. Department of Justice, the third such program that IJA has conducted. This year the program was organized by Professor Mary Holland, a professor of lawyering and research scholar at the Law School.

Says Professor Holland, “The Chinese judges particularly enjoyed visits with Chinese-American judges and lawyers during the program, including a reception at the Asian-American Bar Association and a meeting with U.S. District Court Judge Denny Chin of the Southern District of New York. They appreciated the opportunity to observe oral argument at the Second Circuit Court of Appeals as most of them are appellate judges at home. They also enjoyed two sessions with Professor Jerry Cohen, delivered in Chinese, on comparative criminal procedure and comparative judicial independence. These sessions gave them the chance to discuss some of the pressing legal and judicial issues in the Chinese legal system today.”

Professor Holland not only taught substantive sessions for the program, but also accompanied them on visits with...
NYU School of Law proudly inaugurated a new chair this year: the Dwight D. Opperman professorship. On April 4, 2005 the first Dwight D. Opperman Professor of Law, Samuel Estreicher, Executive Co-Director of IJA and Director of NYU School of Law’s Center for Labor and Employment Law, delivered the inaugural Opperman lecture, with an introduction by U.S. Supreme Court Justice Anthony Kennedy.

In his opening remarks Justice Kennedy praised Opperman, a nationally recognized philanthropist and chairman of Key Investments, a privately held high-tech venture capital firm, for his commitment to the judiciary and to legal education. “The federal judges,” Kennedy told the audience, “have no truer friend than Dwight Opperman.” (For more information on Opperman please see the front page article.)

Estreicher’s lecture explored the unmet legal needs of modestly paid workers. In “Beyond Cadillacs and Rickshaws: Towards a Culture of Citizen Service,” he said that the U.S. civil court system is like a Cadillac: It provides superior service, including extensive discovery and generous damage awards, but only to those who can afford to bring lawsuits. “Those who can’t would be lucky to have a rickshaw. People of modest means with grievances have become ‘orphans of the law.’ No one will come to their aid.” He added that the high costs of litigation make it impossible for workers in the lower-middle class to even contemplate bringing a lawsuit.

Estreicher proposed that law schools institute more clinical programs to handle typical claims of working-class people. He also urged law firms to take on more consumer-oriented matters as pro bono cases, arguing that providing legal services to working people is “more likely to result in substantial improvements,” than pro bono class-action lawsuits.

“The Inaugural Opperman Lecture: Professor Samuel Estreicher’s "Beyond Cadillacs and Rickshaws"” has been published in the NYU Journal of Law and Business Spring 2005 issue (Vol. 1, No. 2).
Every year since 1996, IJA has selected four top-notch first-year students for its Summer Fellows program. The fellowship, a full-time summer commitment, integrates an intensive note-writing experience with research responsibilities for IJA’s New Appellate Judges Seminar. Recent IJA Summer Fellows have obtained clerkships with judges on the United States Supreme Court, various U.S. Courts of Appeals, State Supreme Courts, and U.S. District Courts. We are proud to report on the latest news from our previous Fellows:

**Jason Burge** has been offered a clerkship with Judge Jerry E. Smith of the U.S. Court of Appeals for the Fifth Circuit in Houston. Judge Smith has been an attendee and faculty member of IJA’s Appellate Judges Seminars and Workshop on Employment Law.

**Shirley Park** is living in El Cerrito with her husband Chris. She recently left her law firm job in San Francisco, and is now working as a production editor at a nonprofit scientific publisher, Annual Reviews, in Palo Alto.

**Teddy Rave** will be clerking next year for Judge Leonard B. Sand of the U.S. District Court for the Southern District of New York (IJA Member), and the following year for Judge Robert A. Katzmann of the U.S. Court of Appeals for the Second Circuit (IJA Board Member).

**Jonathan Regenstein** has joined Friedman Kaplan Seiler & Adelman LLP as an associate in the Corporate Department.

**Ajay Salhotra** is working as an associate at Debevoise & Plimpton LLP.

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**IJA Summer Fellows 1996–2005**

1996  Sarah R. Cebik, Jeffrey M. Hirsch, Daniel J. Krause, Daniel H. R. Laguardia
1998  Christopher J. Garofalo, Lauryn Powers Gouldin, Ilizabeth Gonchar Hempstead, Derek Ludwin
1999  Abigail Phillips Caplovitz, Margaret Hayes Lemos, Joel Lance Thollander, David Albert Yocis
2000  Brian Hochleutner, William McGeveran, Parvin D. Moyne, Shirley S. Park
2001  Yohance C. Edwards, Jessica Kayle Fried, Jennifer G. Presto, Robert Alexander Schwartz
2002  Matthew B. Larsen, Ajay Salhotra, Kimberly C. Spiering, James A. Worth
2003  Kristina Daugirdas, Elliot Greenfield, Jonathan K. Regenstein, Lindsay (Traylor) Braunig
2005  Kara J. Ervin, David A. Herman, Joshua M. Kaplan, Kimberly Steefel
Remembering Friends of IJA

Pioneering a Purposeful Life: Florence Kerins Murray
By Frank J. Williams
Chief Justice, Supreme Court of Rhode Island

Eleanor Roosevelt said, “The purpose of life is to live it, to taste experience to the utmost, to reach out eagerly and without fear for newer and richer experiences.” In her 87 years, Florence K. Murray—jurist, scholar, pioneer—knew what it was to live a rich and purposeful life. She was a woman energized by challenge, fortified by intellectual quests and sustained by personal relationships.

Born in Newport, Rhode Island, on October 21, 1916, Justice Murray began her professional career as a teacher in a one-room schoolhouse on Prudence Island and went on to accomplish a long line of firsts leading eventually to her being the first woman Rhode Island Supreme Court Justice.

In 1948, Justice Murray ran for and was elected to the Rhode Island State Senate, becoming the first woman ever elected to the General Assembly. During that time, Justice Murray was a leader in establishing the Rhode Island Family Court in 1961.

In 1979, Justice Murray became the first woman to sit on the Rhode Island Supreme Court. On and off the bench, she was known as a scholar who possessed an even judicial temperament and a voice for progress, keenly aware that the courts needed to change with the times and always focused on what was truly important.

Justice Murray presided over some of Rhode Island’s most notorious cases, including the nationally publicized Claus Von Bulow case. It was the day-to-day work, however, that sustained her career. Justice Murray was a jurist untouched by publicity and notoriety. She knew her mission was to fairly consider the petitions of all the parties that came before her. She judged cases on their merits and was respected by all who practiced before her. New attorneys, and I was one, were fortunate to have her as their first judge, as she ushered them into the profession with patience, humor and a firm, guiding hand. It went well with her other traits: frugal, practical and pragmatic.

One of her more interesting quotes I read in the days following her passing, was her saying that she was a very good student in law school, and it annoyed her that it was overshadowed by the fact that she was the first woman to break down so many barriers in politics, the judiciary and the military.

She inspired close to four generations of Rhode Island’s most powerful women in public service, law and business.

Associate Justice Maureen McKenna Goldberg once noted, “Justice Murray is best known for having broken down so many barriers that were previously closed to women. I believe that her greatest contribution is that, before she boldly marched into uncharted territory, she paused, turned around and beckoned the rest of us to follow.”

The day Justice Murray retired from the Supreme Court, she invited every member of the judiciary for an ice cream party, complete with ice cream cart. She greeted each and every court employee that came to wish her well, reminding us that Florence Murray was the best the Rhode Island Judiciary had to offer.

From the undaunted courage of Amelia Earhart and unrelenting fortitude of Susan B. Anthony, to the quiet strength of Rosa Parks, our nation’s past holds a great wealth of women heroes who inspire us and provide us with examples of how to make a difference. Rhode Island’s history is equally laden with notable women—Anne Hutchinson, Nancy Elizabeth Prophet, Elizabeth Buffum Chace. Not the least among these distinguished women ranks Florence Kerins Murray.

Frank J. Williams has been Chief Justice of the Rhode Island Supreme Court since February 2001. As an attorney, he appeared many times before Justice Murray. As fellow veterans they became close colleagues when the Chief Justice was appointed to the Court.

Lawyer, Father, Churchman, Democrat: Richard S. Arnold
By Morris S. Arnold
Judge, U.S. Court of Appeals for the Eighth Circuit

I appreciate very much the chance to offer a few words in these pages about my brother. Since Richard passed away, my family and I have received more than a thousand letters of condolence, notes, cards, and notices of memorial gifts, a measure of a life extraordinary well lived, and we are thankful for every single one. Richard had a remarkable capacity for making and keeping friends. The range of his admirers was enviable. Justice Ruth Bader Ginsburg wrote that Richard “coped with his illness with unrelenting courage. Others, including me, gained strength from his example.” Mr. Justice Clarence Thomas remembered Richard as a “brilliant, brilliant man who was a model of humility and self-deprecation.”

Richard was what the old biographers used to call a man of wide influence. I’m not talking about political or personal influence. I mean that lawyers and judges, a highly independent lot, wanted to know what Richard thought and they gave his opinion great weight, because Richard was both learned and uncommonly sensible. He knew the difference between logic and reason. A measure of the respect that the judiciary had for him is that more than one hundred federal judges signed
Like all good teachers, he would often take what you said and give back an improved version…

Richard nevertheless wore his learning lightly. As my wife, Gail, recently put it, he made you feel smart when you were around him. He listened quietly and respectfully, taking in every word. You found it easy to learn from him, without entirely realizing it. Like all good teachers, he would often take what you said and give back an improved version that you could take away and make your own. Speaking with him was a little bit like playing in a large orchestra; one could just saw idly along and feel like an important contributor to the total effect, most of which actually was the product of Richard’s virtuosity.

Richard’s jurisprudence and judicial method were difficult to classify. He was, as they say, the liberal’s favorite conservative and the conservative’s favorite liberal. A newspaper editor in South Arkansas noticed this quality many years ago after hearing Richard make a campaign speech and respond to questions. The editor said that Richard was not the prisoner of any obvious or crudely fashioned ideology. One got the impression, he wrote, that Richard approached the questions one at a time and gave them properly individual consideration. He kept no one-size-fits-all template handy for deciding cases. He was at once unpredictable and consistent.

I suppose that the quality that people most admired in Richard, and the one most central to his personality, was his equanimity. Though he cared deeply about all that he did (and especially about the work of our court), he was not in the least bit excitable. Nor was he ever discouraged by technicality. He used to say that there was no such thing as a complicated case; there were only cases with lots of simple issues. Facts were what mattered, he often said; he knew what the law was. It was a pleasure to see him calmly pick through a jumble of facts and reorder them into a recognizable juridical shape. The answer was always obvious after you saw it. Our father would marvel at this quality when all of us Arnolds practiced law together thirty-five years ago: “It is so easy for him,” he would say. Richard did frequently seem like an oracle of the law. He just opened his mouth, and out it came.

This same kind of simplicity manifested itself in Richard’s political life as well. I remember when he ran for Congress forty years ago, he had some small cards printed with his name and picture on the front; the back contained four stately, one-word lines that read, “Lawyer, Father, Churchman, Democrat.” We had lots of laughs about this over the years, and it became a kind of chant with us. But it was revealing. Richard believed in the basic, simple rights and duties of citizenship, which helps explain his devotion to our Bill of Rights.

A little story may help illuminate what I am talking about. Not long ago, when I was performing the sad duty of going through Richard’s effects, I opened a small drawer like the one we all use when we need a place to put things that we can’t quite bring ourselves to throw away. It might be a note from a friend, or a birthday card—you know what I mean. In the drawer there was a badly rumpled picture of some family members, and beneath that there was a photograph of me when I was fourteen, and under that, on the bottom, sat three application cards that Richard had filled out in 1947 for merit badges from the Boy Scouts. Already at age eleven, he was developing basic civic virtues and learning the ways of the Republic. And he already had that characteristic handwriting, rather resembling a Carolingian minuscule, that had a clarity, and a simplicity, that perfectly matched his thought.

I don’t want to leave the impression that Richard was some kind of guileless ingenue. Of course, we all know that he wasn’t. Another story will help here. Many years ago, he was asked to write a letter of recommendation to Harvard Law School for the son of an Arkansas grandee. So Richard wrote to Dean Erwin Griswold (who, incidentally, had offered Richard a teaching job in 1962) and told the dean that the young man in question had “considerable intellect.” Now this was an exaggeration of gargantuan proportions: The applicant had scored a 260 on the LSAT; in those days you got 200 points just for putting your name on the paper! So I said to...
Richard, “How can you possibly say that this fellow had considerable intellect?” “Well,” he said, “he has an intellect, and you can consider it.” On one reading this is a very simple construction of the words, in another it is surprising and complex. The truth is that Richard could hardly bring himself to say anything bad about anyone. That is why he declined to write a memoir of his life, though I constantly urged him to. He was careful about what he said. He frequently exercised his right not to speak. Words were not toys. It was as simple as that.

Another way in which the equanimity that I am trying to describe showed itself was in Richard’s total lack of affection. I remember once talking to him about William Faulkner. He said, “I don’t like Faulkner. I don’t understand it.” Of course, he was right: I didn’t understand it either, it was unintelligible; but it was a relief to hear Richard say so. He was not given to abstraction, never mistook the obscure for the profound.

My mother gave me a Bible fifty years ago, and on the inside cover she recorded the scriptural admonition that much is expected from those to whom much is given. Richard understood this and cheerfully shouldered the burden. He soldiered on in his state out of the limelight when he could have taught at Harvard or Columbia, or become a partner in a big city law firm. But he said people should stay at home when they were needed there. I was amused one night just a few days before he died when he was muttering good-naturedly about how little money he had made practicing law in Texarkana, because I knew that he could have gotten rich elsewhere if he had really wanted to. During that same conversation, we talked about Southern writers. He looked a little impatient, befuddled, perplexed. “They go on all the time about a ‘sense of place,’” he said. “What do you think they mean by that?” “I don’t know,” I lied, and let it go. He knew the answer. All he had to do was look inside himself.

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Calendar of Events

For more information on upcoming IJA events, visit our Web site at www.law.nyu.edu/institutes/judicial

February 28, 2006
Twelfth Annual Justice William J. Brennan Jr. Lecture on State Courts and Social Justice
The Honorable Randall T. Shepard, Chief Justice of the Supreme Court of Indiana
This lecture series honors the state judiciary as well as the bedrock of justice under law in the United States. All alumni and members are invited to attend.

March 16–17, 2006
Workshop on Employment Law for Federal Judges
Co-sponsored by the Federal Judicial Center and the NYU School of Law Center for Labor and Employment Law
The ninth in a series of workshops for federal trial and appellate judges. Interested applicants should contact the FJC to register.

Summer 2006
Training and Education Program for the Chinese Judiciary
The third in a series of programs; for more information on the 2005 program, see the article on p. 4. This event is co-sponsored by Temple University.

April 2006 (TBD)
Bench-Bar Dialogue
More information will be posted on our Web site as we develop the program. Check back for updates.

July 9–14, 2006
New Appellate Judges Seminar
Co-sponsored by the Federal Judicial Center
Judges with up to four years of experience on the appellate bench can apply to the seminar.

SAVE THE DATE!
August 4, 2006—Honolulu, HI
“A Review of the U.S. Supreme Court’s Term”
Sponsored by the Supreme Court of Hawaii and IJA, in conjunction with the ABA Annual Meeting
A panel discussion and reception at the IJA Alumni Meeting and Meeting of the Members.
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Fulbright & Jaworski L.L.P.

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Meyer, Suozzi, English & Klein, P.C.

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U.S. Court of Appeals for the Fourth Circuit

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Supreme Court of Hawaii

Hon. Richard M. Mosk  
Court of Appeal of California for the Second District

Eugene J. Murret  
Supreme Court of the Republic of Palau

Hon. Dorothy W. Nelson  
U.S. Court of Appeals for the Ninth Circuit

Hon. Arthur Ngiraklsong  
Supreme Court of the Republic of Palau

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U.S. Court of Appeals for the Second Circuit

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Court of Appeals of Oregon

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U.S. Court of Appeals for the Ninth Circuit

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South Texas College of Law

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Court of Appeals of Colorado

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Wilmer, Cutler & Pickering

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Hon. Loretta A. Preska  
U.S. District Court for the Southern District of New York

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