

## DAY 2 – OCTOBER 14, 2022

### LUNCHTIME SPEAKER: SPOTLIGHT ON JUSTICE INITIATIVES – JUDGE EDWINA MENDELSON<sup>1</sup>

JENNIFER FRIEDMAN:

Hi folks. Good afternoon. I hope you had a great lunch break. I'm just going to reintroduce Mylan Denerstein, a partner here at Gibson Dunn and our host for the day. So, Mylan, take it away.

MYLAN DENERSTEIN:

Thank you. Well, it is my honor to be back before you for a moment. This morning, Jennifer was talking about my background, which I think is rather dull, but what I have the pleasure of doing now is talking about Judge Edwina Richardson Mendelson, who is the Deputy Chief Administrative Judge for Justice Initiatives. So first, of course, because you know everything for me comes back to Sanctuary for Families, the judge was Sanctuary for Families' first lawyer. So that already tells you what a gem she is, and how smart she is, and what good judgment she has, because she chose to work at a place which we all believe is committed to justice and helping individuals be their best selves, which is wonderful. And now, what's even more amazing is she was appointed to head the newly-expanded New York State Unified Court Systems Office for Justice Initiatives, which is a mouthful. But the bottom line is: this is a pretty amazing position and very unique.

I was just asking the Judge if any other state had such an office, and she told me no, which makes me really happy that New York has committed to trying to make sure—from the inside of its institutions, from the courts which have so much power and so much influence—that people have meaningful access to justice and civil, criminal, and family courts regardless of their income, background, or disability. And that is a really important and wonderful thing to be working for, and I'm proud that my state has actually put some money and some resources and, even better, a great person to lead this endeavor.

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<sup>1</sup> Sanctuary for Families, *Spotlight on Justice Initiatives – Judge Edwina Mendelson*, YOUTUBE (Oct. 24, 2022), <https://www.youtube.com/watch?v=4PgeZnvTqA0> [<https://perma.cc/7X6L-36YK>].

The office administers a million different programs, which I'm sure the Judge will be happy to tell you all about. In particular, Judge Mendelson is leading the Equal Justice in Courts initiative which is a top priority of our state to implement the recommendations of Special Advisor on Equal Justice Jeh Johnson, and I know there was discussion on Jeh Johnson's report about the courts and their failings. And there were a series of recommendations in that report which Judge Mendelson is working to implement.

What I think is really great about the Judge is her willingness to take this on, because it's a big deal to take on this kind of work, and you are working within government which means you don't have unlimited resources. Not that anybody has unlimited resources, but there are rules and guidance about how to get everything done. And number two, it means you have to not be afraid to look at your weaknesses, and I think that's critical—that the courts be open to the fact that they aren't doing things well all the time. They may do many things wonderfully, and I think it's equally important that we not only celebrate our strengths, but look at our weaknesses and figure out how to fix it, especially when it comes to bias and fairness. And in an institution like the courts—which is, to me, critical to any kind of democracy—or where we have the rule of law, if people feel confident in the courts, that will speak volumes about the type of place it is to live. And if they don't, that also says something. The fact that the Judge is willing to deal with this, my hats off to her, and I would hope that we could all give her a really warm welcome and round of applause, and thank her for her service.

HON. EDWINA MENDELSON:

What a lovely introduction! Wasn't that lovely? From someone who I have been admiring for so very long. I'm sitting here thinking: okay, we've had a number of connections over the years, but we still have a current connection. We're both still members of the Chief Judge's Commission to Reimagine the Future of New York Courts. Talk about a major endeavor that one wants to tackle, perhaps with full energy and full heart. So, thank you for all you have done to make New York State and the world as wonderful as it is. I deeply appreciate that warm introduction. And I'm looking at my mentor, my friend, my colleague, Judy Kluger. There is no other. She means so much to me, and it was her phone call that has me here today because my schedule has been a little intense lately. But I could not *not* be here, and I'm really glad to be here in person. And to all of you in the virtual land: I see you, I hear you, I feel you, I care about you, but you don't know what you're missing by not being in “the room where it happens,” for the *Hamilton* fans.

What I said before was, you've had about two days of opportunity to reflect, to learn, to listen, to discuss. And you've heard from a variety of professionals

and, more importantly, you have learned and listened to a number of people who have what I call “lived expertise” in the special areas that we are trying to address as we try to make the world the best it can be. So, I'm just grateful to be one of the voices and to have been invited to be one of the many voices that you've been hearing.

And what I'm asking for—and I've been asking this every time I speak recently, because I think in this time, where we're not having as much civic discourse—I like to ask that it is my hope, it's my goal, it's my desire when I enter spaces, and this is something that I'm asking of myself, as well as asking of others I encounter, that we have truly open minds and open ears. Listen, we know how to talk. Every single person in this room knows how to talk, right? We don't know how to listen as well and then we leave these types of convenings, two deep days of learning, with some perspectives that are different than what we entered into the space with. Because if we continue to go to convenings just to reaffirm and solidify what we think we already know, we're wasting our time, right?

Someone said to me the other day, “You know, you're never too young and never too old to learn.” And we need to embrace that because I know—and I've had a nice chat with a new friend about the goals of this convening and how we got here—that this is not an overnight. Let's throw together a conference and do ten deep months of planning and family law roundtable and really challenge your beliefs and your ideas and your goals, and then now it's time to convene and really share with each other. That's deep, and that's really positive, and I'm grateful to you for doing that. So, the open minds, open hearts, open ears, and leaving the space with a different perspective—at least one perspective that is different from when you arrive.

So, I am daughter, I am a mother, I am Grandma Deedee for the third time—best job on the planet. Who cares about the Office for Justice Initiative when I am Grandma Deedee? No offense to my team. I love you, but sorry, I get to be Grandma Deedee for the third time. Auntie, niece, very cool friend, but I also get to be a judicial policy leader in this really special season. I list my labels and there are more. I'm a confidant, I'm a mentor.

You know, we are all a variety of things. We're never just one thing. And recognizing that when we try to promote equity and promote diversity—meaningful diversity—we're not just putting different people in the room to say we've accomplished diversity. Meaningful diversity makes every single space richer. And I like to remind by giving a few of my identities as I present, reminding you that whatever it is that you were doing in the space where you were promoting justice, you're bringing all of those identities with you, and that's what makes the space richer.

So, Sanctuary for Families. It was not my wisdom that got me to Sanctuary for Families. I begged Chris Michio, and she did the most ridiculous thing on the planet. I hadn't spent a minute in the family justice space. All I had was a heart and a desire to do this, and Sanctuary for Families took a chance on me. I am rooted in everything that I have done since and in what I learned during that critical, critical point of my development. That is, what people and organizations and institutions later learned—that when we represent a client, there's no case. There is a person. There is a human. It is the whole experience of that client that we are representing and must pay attention to. We can't fix everything, but we have to know as much as we can by listening. I learned that at Sanctuary for Families.

So, for them taking a chance on me, learning about intimate partner violence, the impact of violence on one's life—from that perspective, in my first family justice job, I couldn't leave family no matter what I do for a living ever, ever, ever again. Family justice is front and center and if it's not present, I bring it, which is what I did with this particular job that I've been privileged to have for the last five years. I began and rooted my legal practice in representing those who are harmed by intimate partner violence. And as part of my current portfolio, I can't let go of certain things.

One of the things that I do as the leader for the courts of the Office of Policy and Planning—that we now call the Division of Policy and Planning (a physical office that used to be occupied by my mentor where I got to sit in her seat in leading the Division of Policy and Planning, now which is part of my office), is oversee the 300-plus problem-solving and accountability courts in New York state, including the Integrated Domestic Violence Courts and Domestic Violence Court. So, that connection that I continue to keep within the family justice realm is very, very important to me, as is my leadership of the Child Welfare Court Improvement Project, which is federally operated or mandated state-operated. All fifty states and American territories must have a Court Improvement Project, and our chief judges allowed me to have that in my office instead of the Chief Judge's office (where it generally is) because of my desire to ensure that—in the foster care realm, child welfare realm, family justice realm—we are paying very, very close attention to that work.

I see Charlotte Watson here, so I will talk about the Family Violence Task Force and other domestic violence work. There are many ways those of us in the courts who are interested in improving ourselves and improving our system in the space of violence and intimate partner violence (domestic violence) can find a way to become educated, and to learn more, and to do more. And I have been taking advantage of those opportunities, as do many others. I—even with my roots in Sanctuary for Families and representing those who are harmed by

intimate partner violence, since beginning there—have represented, in the family courts and in the family justice system, every single perspective. And I, as a judge, presiding over every single perspective that we see in our family courts, learn, once again, in every space and in every position, that whole role.

In thinking about the role of the attorney—and I'm thinking a lot about the role of the attorney as we have failed to pay our assigned counsel attorneys the living wage that they deserve—I was an assigned counsel attorney for ten years and was not being paid at the living wage. We are regrettably back here again and we're hoping for a permanent solution to that. When I was that zealous advocate representing everyone with my roots in Sanctuary, where I learned so much, it was the role of attorney as counselor. People think it's that courtroom TV, Judge Judy. Nobody can say they went into premature labor weeks early while on trial before Judge Judy. I love her, but back then and today, the role of attorney as counselor, it's not that courtroom thing that our friends and family see on TV and think what justice is. It is the time spent in consultation and in counseling and listening to be able to counsel the whole human that we are called upon to represent.

Equal justice in the courts. New York did what no other state did. We're talking about the season of George Floyd. We're all horrified, literally witnessing on our devices a life taken in a way that challenges every single notion of justice, the institutions of justice. Nationally, we have to reckon, right. And that's what's going on during George Floyd's time. That time of George Floyd and other names. Too many to name. Regrettably, at the same time internally within the courts, we had our own, and continue to have, some significant issues with our court employees, such as court family displaying on social media deeply racist and misogynistic depictions, and sharing it with each other.

This is at the same time as George Floyd. Only one incident made it to a newspaper. And Chief Judge DiFiore and chief judges all over the country being asked to respond—told to do something, comment, act, react. Judges don't do that. There's a question about whether, ethically, judges should do that. Judges did that, right? There were chief judges in some other countries, and in other states, and an entire panel of the highest court bench issuing a statement in support of equal justice. Chief Judge DiFiore was asked to make a statement immediately. She knew she would, but she also said that issuing a statement wasn't enough. She said, you know what? I'm going to do something else. So, she asked Secretary Johnson—and she is impossible to say no to—and he didn't say no to coming in and assessing our courts. That's what is unique. Secretary Johnson said, “I'm going to tell the truth about what I see and it may be painful.” And Judge DiFiore said, “Bring it on.” The report—a 100-page, painful report—that I commend you to read the entire report, not just the sound

bites that are good sound bites, but read the entire report, where Secretary Johnson said he was going to call it as he saw it—he and his wonderful team—and they did.<sup>2</sup>

The next step, though, is that it's one thing to issue a report. Reports are on shelves, I have many reports on my shelves. Secretary Johnson's report will never be there. It'll be on my phone, it will be printed in a million different places, and it will be alive because of what it has led to. Chief Judge DiFiore and Chief Administrative Judge Lawrence Marks immediately embraced it. We said, "Tell us everything you find, and we will respond." And the response was that we embrace it. We embrace criticism, we embrace constructive criticism, we embrace hearing what we can do better.

But Secretary Johnson strayed from his mandate in only one way. Chief Judge DiFiore said, "Only put in there what I can fix on my own, because I want to make things better." And he admits—and he says this, and we present it together because he is still active in the equal justice space—he said he had to put in the things that we couldn't do on our own but were necessary to say—the dehumanizing culture, the lack of resources, the fact that our courts that are falling apart where they are not owned by the courts. We cannot make the courtrooms and courthouses better, the resources that are necessary. So, it's everybody's obligation. It's the courts' obligation, and we own it, and we embrace it, and we take it on.

And they gave me the job of a lifetime. And I was responsible, with a lot of other wonderful people, for the Raise the Age. And I thought that was the job of a lifetime—and it still is because I still have Raise the Age troubleshooting every single day. So, I've got two jobs of a lifetime, but once again, they interrelate. Raise the Age, overrepresentation of Black men and young men and boys in our juvenile and adolescent justice system is an equal justice issue. So, it's okay for me to lead the Equal Justice in Courts endeavors along with Raise the Age and the Judicial Committee on Women and the Courts, their survey and recommendations that are court-based. That's all our equal justice work and our obligation to address. But we need your help, and that's my point, and that's my ask.

And as a judge, when there is an ask, even when I'm smiling, that's a court order, right? And my ask is that you walk with us. Tell us how we're doing. We've got equal justice committees all over the state, and specifically in New York City Family Court. Every supervising judge is leading that and embracing that, on top of all that they are doing to make the courts the best they can be.

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<sup>2</sup> See JEH JOHNSON, REPORT FROM THE SPECIAL ADVISER ON EQUAL JUSTICE IN THE NEW YORK STATE COURTS (Oct. 1, 2020).

Join us in this endeavor. Help us to make the courts the best they can be for the people who are serving in the courts, and toiling in the courts, and, more importantly, for the people we are privileged to serve. So, thank you.

JENNIFER FRIEDMAN:

It's a privilege and honor to have you here with us, thank you. All right, Judge Mendelson, the one, the only. Thank you so much for being here and for joining us, and we are going to have to heed your call. I do believe we have some folks in the room who are on those equal justice committees. I know Karla George is in the Bronx; am I right? I am right, yes. And I bet you there's a couple others here too. So, thank you for inspiring us and being here with us.