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Foreword

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FOREWORD

*Honorable Judith S. Kaye**

A longstanding tradition on the Court of Appeals is that the writing of Opinions is assigned randomly. Typically, after a day's oral arguments at Court of Appeals Hall in Albany, the seven Judges retire to the Red Room (directly behind the courtroom) where, on a round table, there are index cards, each bearing the name of a case just argued, turned face down. In order of seniority, each Judge selects one card, which becomes that Judge's responsibility for reporting the next morning at the Court's Conference and later Opinion writing, assuming the Reporting Judge garners a majority. It has been the tradition for at least the 42 years Chief Judges Lippman, Wachtler and I have spanned service on the Court, and has proved itself an effective way to achieve fairness and efficiency in writing assignments.

Authorship of this Introduction is a variation on that theme. Which of the three of us—Judge Lippman (Chief Judge 2009—), Judge Kaye (Court of Appeals 1983-2008, Chief Judge 1993-2008) or Judge Wachtler (Court of Appeals 1973-1992, Chief Judge 1985-1992)—would have the privilege of writing the Introduction to this extraordinary issue of the *Touro Law Review*? A certain randomness again prevailed: Judge Wachtler emailed me that he had shuffled the deck and I “drew the card.” Happily so.

I am delighted to write “per curiam,” on behalf of the three of us, touching on another role of the Chief Judge. In New York, the Chief Judge of the Court of Appeals gets not only the center seat on the bench but also an additional box of stationery (and responsibility): Chief Judge of the State of New York—in other words, Chief

* Judith S. Kaye, former Chief Judge of the New York Court of Appeals, was born in Monticello, New York. She was appointed Chief Judge by Governor Mario M. Cuomo on February 22, 1993, confirmed by the State Senate on March 17, and sworn in on March 23, 1993. She is the first woman to occupy the State Judiciary's highest office. She became the first woman to serve on New York State's highest court after Governor Cuomo appointed her Associate Judge of the Court of Appeals on September 12, 1983.

Executive Officer of the entire state court system. Problem-solving courts are an example of the responsibility, and the opportunity, the Chief Judge of the State of New York has to improve the operation of the Third Branch of state government. Two points bear special emphasis.

First, of course, is the very existence of “problem-solving” courts. In fact, the range is breathtaking, as the articles exemplify: human trafficking courts, youth courts, mental health courts, veterans courts, and more. These are not necessarily separate courthouses but rather specialized parts within our giant state court system, where the assigned Judge and additional resources have been directed particularly to the problem underlying the case that has brought the parties into court.

With annual case filings in the millions in the New York State court system, it should be immediately evident that generally mixing, say, domestic violence prosecutions into the huge, varied daily docket of a Criminal Court Judge represents a singularly different picture from assigning such cases to a Judge with specialized training in the subject as well as resources and jurisdiction that can focus on the whole picture, including needs of victims and the families. It is a better approach than simply focusing on prosecuting the batterer.

The success of this problem-solving approach is evident not only in daily stories throughout New York, but also in the number of jurisdictions—federal as well as state courts—that have followed our example around the world. When you read on throughout the ensuing articles, you will see the good sense that underlies, and propels, the idea of problem-solving courts. Where courts are able not only to resolve the dispute before them but also to reroute the parties—including recidivist batterers and drug offenders—onto a positive, constructive life course, why not seize that opportunity?

My second point goes to why three Chiefs, in their CEO role, are appropriate introducers of a law review issue dedicated to problem-solving courts.

In part the answer relates to the progress of our society. It is amazing to think of the change that has taken place over the 42 years spanning our service on the Court of Appeals. In a system focused on human behavior, and misbehavior, shouldn't a Chief Executive Officer charged with oversight of the entire court system be attentive to profound societal change that might perhaps be better addressed by

systemic adjustments? Shouldn't a Chief Judge be attentive to suggestions from colleagues, court system users, advocacy groups, academics, and the public as to how the courts might better serve the objective of assuring justice in a changing world? I cannot begin to number the task forces, commissions and committees the three of us have established, or continued, to help us stay equal to, and ahead of, the challenges of a changing society.

Integral as well is how much each Chief Judge builds on the work of our predecessors. My own best example is the widely replicated Community Court, an idea Chief Judge Wachtler nurtured with the Midtown business community in Manhattan. I remember the controversy and the difficulty he encountered, but then I had the pleasure, as his successor, of opening our first Community Court on West 54th Street, which continues to reroute repeat low-level offenders from lives of increasingly violent crime, and contributes as well to improvement of the community. And it was Chief Judge Wachtler who insisted that I take over as Chair of his Permanent Judicial Commission on Justice for Children—a supporter of our fabulous Youth Courts—a role I continue to hold, with pride and passion, a full 25 years later. An inviting buy-in from a wide community assures that our initiatives have good, solid foundations.

Chief Judge Lippman, Chief Judge Wachtler and I end this welcome with thanks to all those who conceived and produced this very special law review issue, and to all those who contribute to the success of New York State's problem-solving courts.