

# JOURNAL



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**PRACTICING LAW IN  
THE BIG APPLE**

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**PUNITIVE DAMAGES:  
THE REAL STORY**

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**1986 LAWYERS' CHOICE:  
HOTEL AND RESTAURANT GUIDE**



# Practicing Law in the Big Apple

BY MARK DIAMOND

**W**hat sets the practice of law in New York apart from the practice of law elsewhere is that in New York there is so damn much of it.

Law in this city is a major industry. Of the 51 largest law firms in America, 27 are headquartered in the Big Apple, and together they had gross revenues of \$2 billion in 1985. But New York also is a city of smaller businesses. More than 51,000 attorneys practice here, most of whom work for small or medium-sized firms.

Whether you are a Peter Mullen managing the law firm with the highest gross revenue in the country—Skadden, Arps, Slate, Meagher & Flom (\$129 million)—or a Bill Slutsky just

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starting out in a second floor walk-up in Queens, being an attorney in New York offers the same allure: you're in New York. And it presents the same drawback: you're in New York.

Taking a tour of the courts in the five boroughs on a hot, sweaty August day is a rare experience. Hop a subway (if you have the courage) or a cab (if you have the cash) to Brooklyn. Tulip-lined Civic Center runs for half a mile, with Borough Hall at one end, the marble-clad Federal District Court at the other and the State Supreme Court in between.

Or lace up your sneakers and trek to downtown Manhattan. Within a mile diameter you will find six courts and City Hall. You'll also find two buildings that are responsible for much of the money law firms in this town earn: the New York and American Stock Exchanges.

But it's the people, not the places that make the practice of law in New York special. Speak to 100 attorneys and judges and you'll get 100 different opinions about what's good and bad about working here.



Yet all would agree on one factor that weaves itself in and out of legal practice in New York: pressure. If they're blunt they'll point to another factor that motivates: money, and the chance to make lots of it. And if they're not too embarrassed, they'll admit to a third theme common to New York practice: pride at working like a dog to succeed in a place where the competition never lets up and the need for quality legal skills never ends.

"There's good law practiced by good attorneys all across the country," said Mullen as he stared out the windows of his 47th floor office in Manhattan. "But New York is where the more interesting problems first occur. We're on the cutting edge."

"Lawyers come to New York for the tremendous variety of practice,"





◀ Gail Koff stops for a hot dog in Times Square, where Jacoby & Meyers has its main offices. Jane Rose, upper left, pauses on the docks of the South Street Seaport, a few blocks from Wall Street. Elizabeth Holtzman, above, in front of the Brooklyn Supreme Court.



said Arthur Pinto, professor of law at Brooklyn Law School. "It's the city of the big deals. It is the international financial city; the city of money. That attracts interesting people, interesting deals, and interesting clients to large and small firms alike."

It's not all glamour and bright lights. Crowded courts, delays in processing, inequities in sentencing, a tangled court structure, an ever-rising volume of cases, and liability insurance costs, which increased by 400 to 700 percent over the last year, often make practicing law in New York an experience in aggravation.

"The issue of delays is a serious one," said Elizabeth Holtzman, Brooklyn district attorney. "We need more modern technology to process cases and apprehend criminals. We are operating in much the same way as they operated in the 17th century. We could do a much, much better job."

Criminal defense attorney Joyce David suggested that one way to speed the process is to replace grand juries with preliminary hearings.

"But DAs don't like preliminaries because it exposes their witnesses to cross-examination," claimed David.

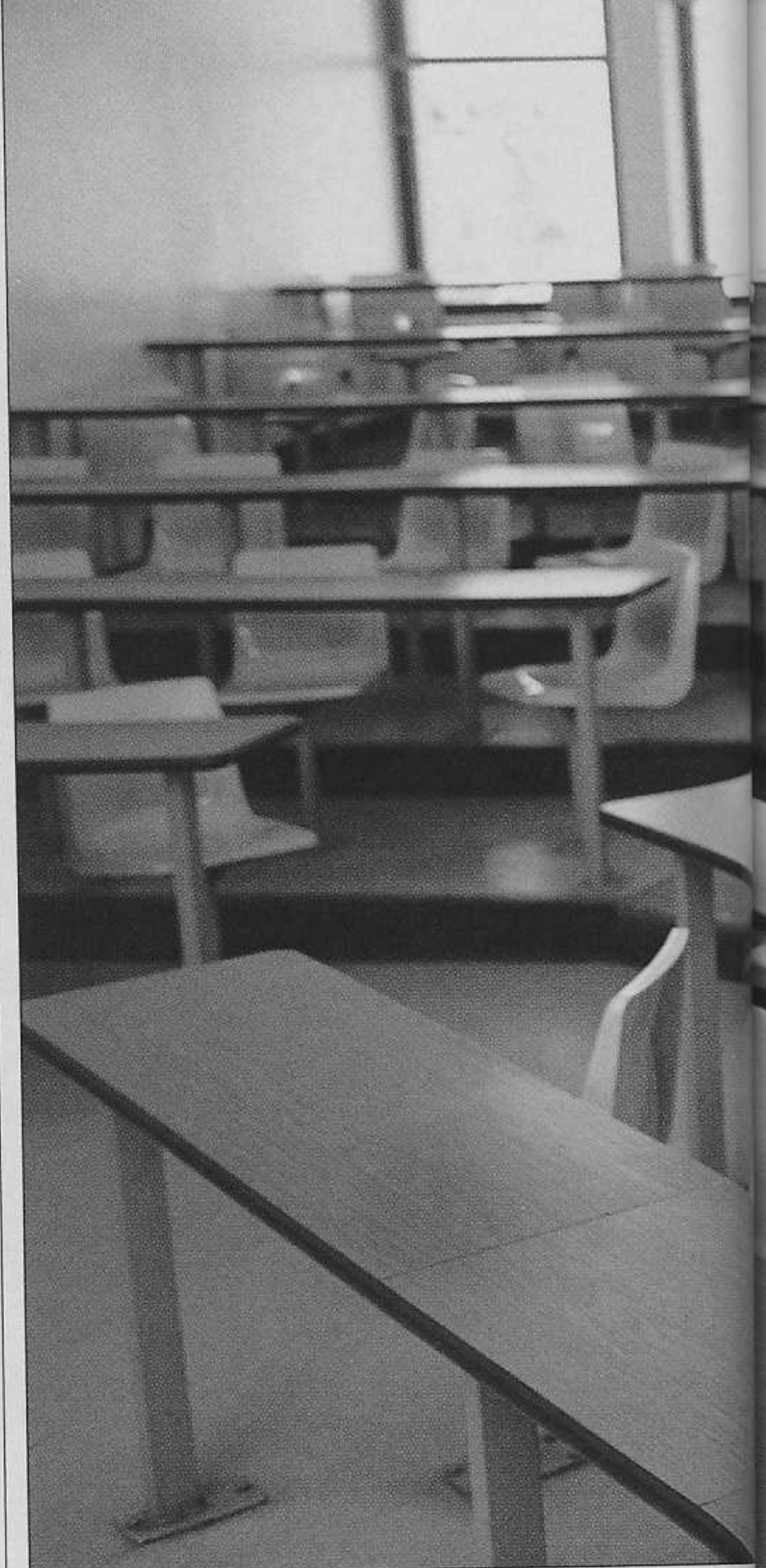
"They want to keep secret as much as they can and have trial by ambush."

It's little wonder that the progress of a case, whether civil or criminal, is often torturously slow. In this city, within the state judicial system alone, more than 460,000 criminal dispositions were made in 1985. The civil courts handled more than 565,000 dispositions. Throw in 114,000 dispositions in Family Court, 59,000 in Surrogate's Court, and 10,000 appeals and you begin to understand why justice grinds slowly.

"But the numbers don't tell the whole story," said Rudolph Giuliani, U.S. attorney for the Southern District of New York. "The complexity of cases in New York is mind-boggling. We can take a walk through the U.S. Courthouse right now and see a 22-defendant case involving organized crime that will go on for 10 months, litigation involving Ferdinand Marcos, Bhopal and much more. It's almost routine for a judge to handle complex litigation."

#### **DILAPIDATED COURTHOUSES**

Besides delays, New York lawyers often complain about difficult working



◀ Richard Crossin and Joyce David in their Brooklyn office, which affords a view of the Brooklyn Bridge and lower Manhattan. Above, Arthur Pinto takes a front row seat in his Brooklyn Law School classroom.





conditions. "Our courthouse facilities are in bad shape," said Charles Heming, president of the New York State Bar Association. "They have to be improved."

Roy Cohn is a bit more emphatic. "I can't think of a place where the practice of law is more degrading than in New York," said Cohn, who practiced law in New York for more than three decades before being disbarred in June. "The physical conditions of the courts are unworthy of an off-track betting parlor. Now they're selling plaques for \$5,000 memorializing the names of private law firms on the dome of the supreme court in Manhattan. Lawyers don't want plaques saying, 'Cleary Gottlieb or Davis Polk practiced in this rathole.' They want conditions under which they can practice with the self-respect and concentration they and their clients are entitled to."

#### **CAMERAS IN COURT?**

Another court-related issue, now under legislative debate, is whether to allow news cameras in state courts.

Proponents include the state and city bar associations, who see it as a means of informing the public.

Charles Feldman, a television correspondent who has covered major trials for Cable Network News, believes permitting cameras in the courtroom would be a mistake.

"Cameras lead to lazy reporting. Reporters can go to lunch, come back, and their tape editor can say, 'This is a particularly good moment,' and that's the moment that becomes the story, even if it's a distortion of what happened during the day," explained Feldman.

"Only the bizarre, sensational cases will be televised, which will not give people an accurate portrait of the judicial process."

The courts are only one of the things New York lawyers haggle about. The method by which judges are selected is another sore spot. Judges are both appointed and elected, but most are chosen by popular election.

"State elective judges are not as good generally as state appointive judges," said Jack Weinstein, chief

judge for the U.S. District Court for the Eastern District. "The cost of running a campaign has gotten so high that we will be forced into a totally appointive system. It's simply too expensive to expect people to run without making commitments that they shouldn't make."

"A political system that puts its premium on politics is not necessarily designed to produce good judges," Holtzman said. "In this state you get put on a ballot because a political boss says that you belong there. That's election only in a very technical sense. It's a voter ratification of the decision of a political boss. It has very little to do with democracy."

But elected New York State Supreme Court Justice Edwin Torres disagrees. "The same political clout that gets people nominated for elections will affect appointments," he said. "The only difference is that appointments are done behind the scenes instead of in a more public forum, as with elections."

#### **COMPLEXITY**

While case delays and courthouse facilities are two factors trial lawyers complain about, another aspect of legal practice affects almost everyone. Complexity of the law is both the bane and blessing of New York attorneys. It is what makes practice in this town so interesting, so lucrative and so exciting. It is what makes it so stressful and potentially overpowering, too.

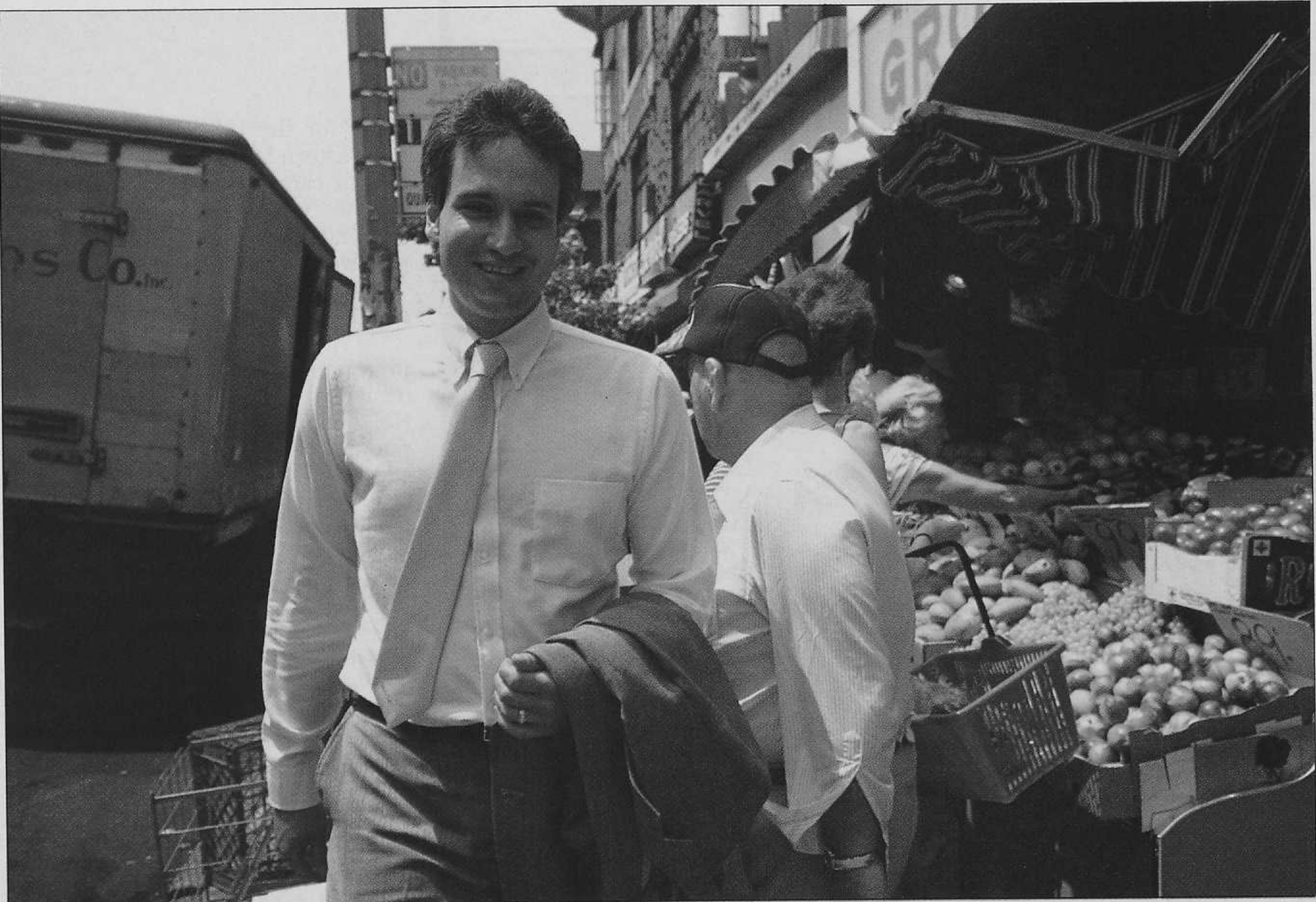
Weinstein has witnessed many changes in the law and its practice during his four decades as an attorney and judge.

"Laws have become much more complex in New York and all over," said Weinstein. "In 1953 I did a synopsis of all the drug laws in about 20 pages. Now it would take two volumes. And as the law gets more sophisticated it starts to feed on itself and become even more complicated."

"There's been a major change in the whole legal institution," said Weinstein. "The biggest firms when I started out were small compared to today. When I was on the faculty of Columbia University after World War II, we all sat around a table during lunch and talked. Now the full-time



**"FIRMS MUST ADVERTISE, WHETHER BY TELEVISION, AS WE DO, OR AT COCKTAIL PARTIES, LIKE THE BIG FIRMS DO."**



▲ Bill Slutsky: "It's very hard to build a practice from nothing in today's market. But you also take more pride in your accomplishments."

faculty is over 60 people, with all kinds of committees and subcommittees. It isn't, it can't be, as personal. The same thing has happened to law firms and courts. We have to be more efficient, more commercial. But size, competition and success has its cost."

### **LAW AS BIG BUSINESS**

Perhaps nowhere is the competition so acute as in the large New York law firms. In the past decade or so, these firms have learned what already had been learned by the major accounting firms, the medical profession and industry: In order to make more money it is necessary to run a business as a business.

This means specialization and diversification simultaneously. It means moving away from general practice and into technical specialties such as securities law, financing, and merger and acquisitions. It means branching out into new areas traditionally overlooked by the larger firms, such as

bankruptcy law. It means promotion and advertising and efficiency.

"Law has to be looked at as a business. The game has changed," said Gail Koff, founding partner at Jacoby & Meyers. "There are so many laws, which means firms must specialize or hire specialists in broad areas. There is a lot of competition. Firms must advertise, whether by television, as we do, or at cocktail parties, like the big firms do, or by hiring a public relations firm. Everybody is doing some kind of marketing these days." Jacoby & Meyers now has 150 offices in six states.

Arthur Pinto noted that many New York partnerships are merging with and acquiring firms, as well as opening offices outside New York. The opposite is also true; firms in other parts of the country are expanding to New York. The city is still seen as the growth area for legal services, according to Pinto.

"There are going to be mergers in the industry because a lot of firms

have to play catch-up ball," said Mullen. "Competition has increased drastically in New York. When I graduated from law school 35 years ago, there were relationships between major corporations and law firms that had existed for generations. If the firm didn't have the expertise in a certain area it would decide which expert to refer its clients to.

"In the last 15 years, in-house general counsels to corporations have become the managers of legal services," Mullen said. "It is the counsel's job to find the best firm for each particular problem. That creates a need for firms to market themselves."

### **HIGH FINANCE**

Marketing and competition are at their height in the corporate, securities and financing arenas. Due to recent bull markets, eased federal anti-trust rulings, and an otherwise favorable climate for such things as mergers and acquisitions (M & A), this area of business has skyrocketed



# IF LAW IS A HIGH-PRESSURE PROFESSION, THEN PRACTICING IN NEW YORK WOULD GIVE MANY PEOPLE THE BENDS.

and with it, these special brands of law.

The top M & A firms in the country are in New York. More than 200 transactions valued at \$300 million or more were handled by the top nine New York M & A firms. This includes the \$6.3 billion acquisition of RCA by General Electric; the \$6.1 billion leveraged buyout of Beatrice by Kohlberg, Kraus, Roberts; and the \$5.6 billion acquisition of General Foods by Philip Morris.

"Whoever said the law is a jealous mistress is right," said Jane Rose, associate general counsel for Prudential-Bache. "We put in 60 hours a week on average and still have to take work home."

Private law firms and general counsels are not the only ones facing pressure in a booming securities market. Ira Sorkin is director of the New York office of the Securities Exchange Commission.

"No one sees cases as complex and intricate as we do," Sorkin said. "Five years ago we had 10 million-share days. Today we have 100 million-share days. We have 189 people in this office monitoring 2,000 registered broker-dealers, the two largest exchanges, over 800 investment companies that manage about \$100 billion in assets, financial planners—the list goes on.

"Our staff size has not increased, so we have to be more selective in the types of cases we bring," he said. "We have to bring cases that will have an impact. We're in the deterrent business."

## **\$65,000 TO START**

The boom in the securities business has gone far toward hiking the compensation of young associates. This past April, Cravath, Swaine & Moore announced that it was raising the salaries of starting associates to \$65,000 a year. Other firms have since upped the ante even further.

Major New York law firms face stiff competition for legal talent from investment bankers. "Partners at a lot of law firms lament the fact that they are losing their young associates to investment banking firms," Pinto said. "The associates working on deals look at the investment bankers and say,

how long is this phenomenon going to last?"

Another ostensible reason for the high salaries of associates is that the supply of good, young lawyers has not kept pace with demand.

"The pool of students we go after—the top part of the classes at the better-known law schools—probably hasn't increased more than 25 percent over the past 10 years," explained Mullen. "But our demand for attorneys has gone up fivefold, maybe tenfold."

To meet the demand, large firms have had to lure attorneys away from competitors and, on occasion, dig deeper into the classes at the top law schools. Lateral hiring of partners at high remuneration has been especially prevalent in real estate due to the boom in the New York market, said Joel Lerner of Paul, Weiss, Rifkind, Wharton & Garrison. Despite these difficulties, major firms have been reluctant to hire from the non-Ivy League law schools that are not traditionally sources of associates.

## **PUBLIC INTEREST LAW**

To talk about \$65,000-a-year starting salaries and billion-dollar deals, you would think there is no place for the public interest or small-practice attorney in New York. Not true.

Jeffrey Abrandt runs the Legal Aid Society's Office for the Aging. "Our attorneys work Wall Street hours but get legal service salaries," said Abrandt. Legal services attorneys are paid \$20,000 to start. "But we still get excellent people to work here because New York is the origination point of so much quality public interest law and landmark cases," he said.

Despite this, Abrandt noted a higher frustration level today. "The demand on us expands while the money to service it diminishes," Abrandt said. "We spend a lot of time trying to undo errors made as a result of overzealous, massive governmental cuts in such things as Social Security. For example, we're representing a 78-year-old to recoup \$30 in food stamps the government mistakenly withheld. It's foolish, but it goes on hundreds of

times a day."

Bill Slutsky is a general practitioner in solo practice. "I felt that sitting around doing research at a law firm was not the best way to learn the law or live my life," said Slutsky. "But it's very hard to build a practice from nothing in today's market. The pressure of New York means you have to be very careful with your time. Like every job in this city, you have to accomplish more and deal with more stress. This is especially true when you're working for yourself. But you also take more pride in your accomplishments because they're all yours."

## **ENTERTAINMENT INDUSTRY**

Like securities work, the entertainment industry offers practitioners, especially smaller ones, a particularly New York brand of law.

"The financing possibilities for entertainment projects have never been as diverse as in New York today," said Richard Crossin of Crossin & David. "Besides the nouveau riche, who accumulate capital from God knows where, there are lots of families in this area with six-figure incomes. Investing in oil wells and diamond mines in South Africa may seem gauche to them, but the entertainment business is glamorous."

If practicing law is a high-pressure profession, then practicing law in New York would give many people the bends. As Howard Squadron of Squadron, Ellenoff, Plesent & Lehrer points out, "New York is just a harder place to live than anywhere else and so a harder place to work. Of course, attorneys are always in the center of conflict and business affairs. People also feel that New York is the place in which to make it. This makes the competition more intense and adds to the pressure."

The money is there to be made. The types of cases one gets to handle are often state of the art. But the hours are long and the pace fierce.

It's not that attorneys everywhere don't work hard, have the same problems and feel the same joys. It's just that in New York both the work and the problems seem greater. And that makes the joys so much more wonderful. ■