

U.S. LEGAL HISTORY

KEY DEVELOPMENTS, 1888-2013

At left, Daniel Patrick Moynihan U.S. Courthouse at 500 Pearl St., lower left, and Thurgood Marshall U.S. Courthouse, 40 Centre St., lower right.



Ohio Senator John Sherman, principal author of the Sherman Antitrust Act



Learned Hand

1890

Congress enacts **Sherman Antitrust Act** barring combinations and conspiracies in restraint of trade.

1891



Circuit Court of Appeals Act creates mid-level U.S. courts to help with backlogs at U.S. Supreme Court. June 16 marks inaugural session of **Second Circuit U.S. Court of Appeals**.

1900



The **U.S. District Court for the Western District of New York** is created on May 12, splitting off counties that had made up the Northern District.

1903

Progressive legislation vests federal courts with jurisdiction over railroad rebates, adulterated or fraudulently labeled foods and drugs, and transportation of women for immoral purposes.

1908

Responding to a question certified by the Second Circuit in **Danbury Hatters Litigation**, U.S. Supreme Court holds in **Loewe v. Lawlor** that a secondary boycott imposed by a union is illegal conspiracy in restraint of trade for which the remedy is treble damages. Fines levied on workers is so high that homes and savings accounts are attached.

1909

Learned Hand (1872-1961) is appointed to Southern District bench, serving 59 years at district and circuit courts.

1911

On remand from Supreme Court after it held **American Tobacco** trust illegal, Second Circuit dissolves trust's purchasing subsidiary, separates nine of its units and divides its assets among three successors in **United States v. American Tobacco**.

1913

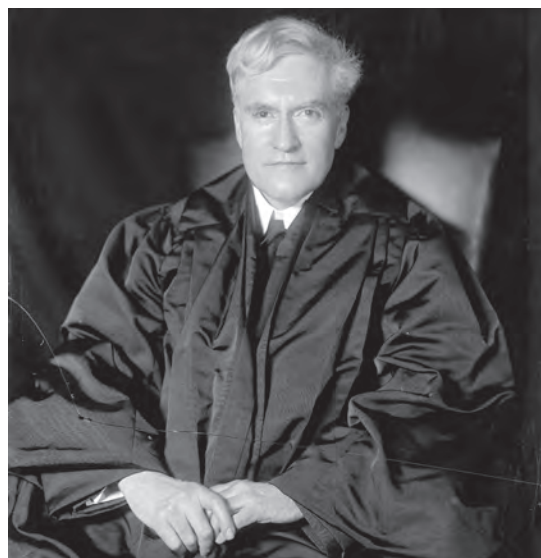
Responding to entreaties of circuit judges, Congress authorizes U.S. chief justice to dispatch district judges from anywhere in the nation upon certification of need.

1917

In *Masses Publishing v. Patten*, Hand holds the federal **Espionage Act** does not condemn mere agitation but only directs incitement to violence. Balancing free speech rights against state's interest in preserving unity in war time, Hand sides with free speech.

1919

Volstead Act creates enforcement apparatus to implement 18th Amendment banning production, sale and transport of liquor. In New York City, Prohibition causes enormous problems for law enforcement and staggering increase in business of federal courts.



Benjamin Cardozo

1925

Judiciary Act of 1925 relieves Supreme Court's docket burden by expanding its discretionary jurisdiction, thus making most circuit decisions final.

1932

Second Circuit Chief Judge **Benjamin Cardozo** (1870-1938) is elevated to the Supreme Court by President **Herbert Hoover**.

1933

Southern District Judge John Woolsey holds in *United States v. One Book Called Ulysses* that James Joyce's novel is not obscene and can be imported into the United States. The circuit later affirms 2-1.

1934-1936

New Deal legislation, including Securities and Exchange Act of 1934, National Labor Relations Act of 1935 and 1936 Robinson-Patman Act lead to influential decisions in administrative law and statutory interpretation. In most notable case, Supreme Court overturns Second Circuit and strikes down National Industrial Recovery Act on commerce clause and delegation grounds in *United States v. A.L.A. Poultry*.

1936



Second Circuit and Southern District move to new courthouse at **Foley Square** designed by **Cass Gilbert**.

1937

Supreme Court uses Second Circuit ruling in *Tompkins v. Erie R.R.* to overturn high court's almost century-old *Swift v. Tyson* holding that, when hearing state law claims under diversity jurisdiction, federal courts have power to create general federal common law.



Charles Clark

1938

Federal Rules of Civil Procedure go into effect, abandoning complex forms of actions of common law, unifying law and equity, and providing single set of nationwide procedures. **Charles Clark**, the most influential figure in drafting the rules, is appointed to the Second Circuit the following year.

1939

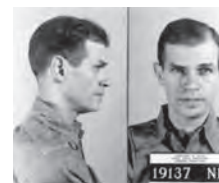
Second Circuit Judge **Martin Manton** is convicted for obstruction of justice and intent to defraud the United States. Manton, who took bribes and approached litigants for loans, is first federal judge convicted and sentenced to prison for corruption.



Martin Manton



With President Franklin Roosevelt witnessing the ceremony, **Robert H. Jackson**, center, is sworn in as associate justice of the Supreme Court at the White House in 1941.



Alger Hiss

1941

President **Franklin Roosevelt** nominates to the U.S. Supreme Court **Robert Jackson** (1892-1954), a western New York lawyer with a long history of government service who served as FDR's solicitor general and attorney general.

1949-1950

Alger Hiss and 11 **American Communist Party** leaders are convicted in cases reflecting heightened Cold War tensions.

1951

Julius and Ethel Rosenberg are found guilty of espionage for feeding secrets connected with the atomic bomb to the Soviet Union. They are executed in 1953.



Jerome Frank



Julius and Ethel Rosenberg



Henry Friendly

1959

Henry Friendly (1903-1986) is appointed to Second Circuit by President **Dwight Eisenhower**. Friendly's analytical power, energy, speed and work ethic make him a leading intellect on the federal bench during his 36 years of service.

1960

Eleven-year tenure of Second Circuit Chief Judge **J. Edward Lumbard** (1901-1999) features major reforms in judicial administration, including practice in multi-defendant appeals of bringing counsel in early and setting schedule for filing briefs and for oral arguments.

1964

Second Circuit rules in *In re Kinsman Transit*—standard reading in law school torts classes, on issue of **foreseeability**. The case involved extensive damage to waterfront and river transportation from melting ice and debris on the **Buffalo River** and **Lake Erie**.



Second Circuit Judge **Thurgood Marshall** is seen in a conversation with New York Senator **Robert Kennedy**, before a hearing by the Senate Judiciary Subcommittee on his nomination for solicitor general, on July 29, 1965 in Washington.

1961

President John Kennedy appoints **Thurgood Marshall** (1908-1993), a driving force for black equality, to Second Circuit. Six years later, he is named to Supreme Court as its first black justice.



Constance Baker Motley



One of the children endangered by the Love Canal Chemicals waves a banner in protest in 1978.



Vietnam veterans stand outside the Brooklyn Federal Courthouse on Aug. 9, 1984.

1965

Storm King Mountain Power Plant Litigation is a landmark case in judicial protection of the right to a habitable environment. The ruling in **Scenic Hudson Preservation Conference v. Federal Power Commission** recognizes the duty of federal agencies to give weight to ecological as well as economic factors in reaching decisions affecting the environment years before the **National Environmental Policy Act of 1970**.

1966

President Lyndon Johnson names **Constance Baker Motley** (1921-2005) to Southern District bench, becoming first black female U.S. judge in nation.

1970

Racketeer Influenced and Corrupt Organizations Act provides remedies to deal with organized crime, including right of anyone injured by RICO violations to sue for treble damages.

Southern District Judge **Walter Mansfield** holds that **McSorley's Ale House** violates equal protection clause with its ban of women patrons.

1971

New York Times publication of classified Vietnam War history triggers litigation in several circuits known as the **Pentagon Papers Case**. Southern District Judge **Murray Gurfein** holds the United States is not entitled to an injunction, a conclusion echoed one month later by the Supreme Court.

1974

Love Canal litigation links toxic waste to severe birth defects and miscarriages. **United States v. Hooker Chemicals and Plastics** is settled 20 years later for \$98 million. The horrors of Love Canal lead to passage in 1980 of the **Superfund Act**.

1980

Second Circuit holds in **Filartiga v. Pena-Irala** that **U.S. Alien Tort Statute** provides jurisdiction over tort actions by aliens for violations of international law such as war crimes and crimes against humanity.

1984

Bankruptcy and Federal Judgeship Act gives district courts exclusive jurisdiction of all bankruptcy cases.

Massive class action filed by Vietnam War vets who alleged injury by exposure to **Agent Orange** is settled by Eastern District Judge **Jack Weinstein** for \$180 million.

1988

In **Oneida Indian Nation v. New York**, the **Oneida Indians** challenge treaties made in 1785 and 1788 by which New York state bought more than 5 million acres of land. The suit is dismissed by Northern District court, a ruling affirmed by Second Circuit.

1996

Courthouse at **500 Pearl St.** opens. It is named for Senator Daniel Patrick Moynihan in 2000.



1999

After Mayor **Rudolph Giuliani** goes after the **Brooklyn Museum** for displaying Chris Ofili's "The Holy Virgin" decorated with elephant dung, Eastern District Judge **Nina Gershon** grants preliminary injunction against New York City preventing it from ending a subsidy and ejecting the museum from its building.

2000

Eastern District Judge **Edward Korman** approves **Swiss bank Holocaust settlement**, a class action predicated on the theory that Swiss banks collaborated with the Nazi regime by concealing assets of Holocaust victims and by laundering illegally obtained Nazi loot and profits from slave labor.

Eastern District Courthouse opens in Central Islip, the nation's third largest federal courthouse.



Edith Windsor and her lawyer Roberta Kaplan celebrate Supreme Court ruling on DOMA.



Burt Neuborne, at right, lead counsel in Holocaust asset litigation against Swiss banks, speaks at a news conference in New York, April 17, 2001.

2001

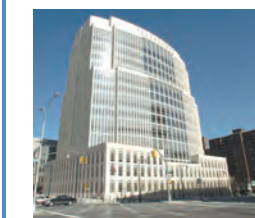
Sept. 11 terror attacks on World Trade Center, Pentagon and in Shanksville, Pa., produce actions for wrongful death, personal injury, and property damage or business loss against any airline and/or airline security company. Cases are consolidated by statute.

2003-2004

Spate of decisions by Southern District Judge **Shira Scheindlin** in **Zubulake v. UBS Warburg** shape e-discovery practices nationwide.

2006

An enlarged, renovated **Eastern District Courthouse** opens in Brooklyn.



Sonia Sotomayor

2009

Second Circuit Judge **Sonia Sotomayor** (b. 1954) is elevated to the Supreme Court as its first Hispanic justice.

2012

In **United States v. Windsor**, Second Circuit finds Defense of Marriage Act, which denies federal benefits to legally married same-sex couples, violates equal protection clause. Supreme Court affirms ruling in June 2013.

Timeline compiled by Jeffrey Morris of Touro Law School.

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