



NEW YORK CITY LAW DEPARTMENT
OFFICE OF THE CORPORATION COUNSEL

Michael A. Cardozo, *Corporation Counsel*

Speeches

Web: nyc.gov/html/law/home.html

For Immediate Release

**THE EVOLVING STATUS, SOCIAL DYNAMIC AND EMPLOYMENT EXPECTATIONS OF
WOMEN IN THE LEGAL PROFESSION: EXAMINING THE PROGRESS OF THE PAST
TWO DECADES AND PLANNING FOR THE FUTURE**

***SPEECH GIVEN BY MICHAEL A. CARDOZO AT THE SECOND ANNUAL EDITH I SPIVACK PROGRAM
AND THE 20TH ANNIVERSARY PROGRAM OF THE NYSBA COMMITTEE ON WOMEN IN THE LAW
ON JANUARY 24, 2006***

Contact: Kate O'Brien Ahlers, Communications Director, (212) 788-0400, kahlers@law.nyc.gov

Edith Spivack. How fitting it is at this time for the New York State Bar Association Committee on Women in the Law to honor her memory, examine the progress of the past two decades, and plan for the future. Edith's remarkable professional life, spanned 70 years of the history of the New York City Law Department. Chronicling her career, which I plan to do for the next few minutes, demonstrates the extraordinary impact one individual – a woman – can have on the New York City bar, the legal profession more generally, and New York City itself. And it reflects an approach to the practice of law, and basic human values, that we should all seek to emulate every day of our lives.

When Edith joined the Corporation Counsel's Office in 1934, at the height of the depression, shortly after Fiorello LaGuardia became Mayor, the Office was composed of 87 men and three other women. (Today, incidentally, more than half of the 650 lawyers in the Office are women.) Edith had been fired from her first job in a private firm because, while the firm was forward thinking enough to hire a female attorney, having a married woman work for them was just too much. During the first few months of Edith's tenure in the Corporation Counsel's Office she had to work for free in order to prove her mettle.

While Edith later began to receive a salary, for many years it was substantially lower than that received by her male counterparts. Moreover, Edith's job as a member of what was then known as the Workmen's Compensation Division turned out to be particularly expensive because Edith, concerned that the compensation awards were insufficient to help the injured worker, would supplement those awards by making gifts to the injured claimants from her own modest salary.

Fortunately for Edith's family, as well as the New York City Bar, during World War II Edith joined the Real Estate Tax Division of the Law Department, where she rose to become one of the leading appellate tax lawyers in the State, arguing literally more than one hundred cases in the State's appellate courts. Between 1947 and 1992 she argued 59 appeals – 59 – in the New York Court of Appeals alone. Yet, during most of this time she continued to face gender discrimination. Despite her extraordinary expertise in the real estate tax area, for example, Edith never became head of the Office's tax division, because, Edith recalled being told, people believed the post should be held by a man. In addition, to conceal her appearance during her pregnancies Edith often hid in her office to avoid disparaging comments from her colleagues and judges. And during many of the years Edith argued in the Court of Appeals she had to ask the telephone operator for a key to the basement bathroom, since there were no other restrooms available for female attorneys.

If today's discrimination laws had been invoked by Edith she would quickly have been granted summary judgment had she filed a gender discrimination complaint. Think of it – an employer fired her because she was pregnant; a law department insisted she work for free to prove her abilities before being paid a salary; that same law department then paid her less than her male peer; she was denied promotion because, despite being the most qualified, she was female;

disparaging comments were made about her because she was pregnant; and secondary restroom facilities were available because she was a woman. But complaining wasn't Edith's way. Instead, she applied her extraordinary intellect, people skills and work ethic to the professional challenges she faced, believing that hard work and good lawyering, not gender, is what should and ultimately would make the difference. And her attitude, and her abilities, not only helped change the way the profession treated female lawyers, but inspired many lawyers – male and female – to want to do more.

The first Court of Appeals case Edith argued, in 1947, was before a bench that included both Judge Fuld and Judge Thacher, who, as Corporation Counsel four years earlier, had been Edith's boss.¹ By the time Edith had returned to the City after arguing the case that day Judge Fuld had called Edith's supervisor in the Corporation Counsel's Office to say he had rarely heard a finer oral argument. Incidentally, Edith won the case in a unanimous decision, as was true of many of the cases she argued there including her last, 45 years later, which she argued before a bench that included Judge Kaye.²

Edith played a major role during the City's fiscal crisis in the 1970s. At one point, Edith had a significant appellate argument in the Third Circuit Court of Appeals in Philadelphia, involving the City's efforts to recover critically needed taxes from the then bankrupt Penn Central Railroad. As Edith, the night before the argument, sat in her hotel room, in her pajamas as she recalled, preparing her argument, fire broke out in the hotel, and she spent most of the night in a Red Cross shelter. When she returned to her hotel at 4 in the morning, Edith, true to form, continued to work on her argument rather than getting some much needed sleep.

The Penn Central case ultimately ended when, as a result of Edith's dogged negotiations, the railroad agreed to pay the City \$93 million. When the settlement check arrived on Edith's desk it was made payable not to the City of New York, but instead to Edith Spivack. But, as she told Mayor Michael R. Bloomberg when he honored her a year and a half ago, she was an honest woman and promptly endorsed the check over to the City.

Of the many appeals in which Edith participated she was particularly proud of a 1963 Appellate Division case featuring for the first time, according to the presiding judge in that case, Edith's classmate Charles Breitel, women as counsel on both sides of an Appellate Division argument.³

Edith's work as a tax lawyer extended far beyond appellate advocacy. In the 1970s, as the City fought desperately to avoid bankruptcy, she was one of the City's key negotiators. To prove Edith's importance as the City's key lawyer I rely on that noted authority former New York City Mayor Ed Koch. "When I was mayor," Mayor Koch said and I quote, "the toughest lawyer representing the City was Edith Spivack. She initiated the project to get foreign consulates to pay their water bills which they refused to pay. Edith called the Consul General of Columbia several times after dunning the consulate and warning the bills had to be paid. Finally, she made her last call, stating, 'If a check is not delivered this afternoon to the Corporation Counsel's office, I'm coming up personally to shut off the water.' The check was delivered on time. What a woman," Mayor Koch concluded, "what a lawyer!"

Let me pause here to note what a success Edith was as a practicing lawyer. Who among us wouldn't like to be described as "the toughest lawyer representing New York City?" How many of us have come even close to arguing hundreds of appeals, or being in charge of matters involving hundreds of millions of dollars, or being one of the key lawyers trying to prevent New York City from falling into bankruptcy? Edith's abilities, and her spark, enabled her to advance in the profession, and to serve as an exemplar to others.

In 1976, Edith was promoted to the Office's Executive Staff and, despite all her accomplishments to that point, it was there, I think, that she had the greatest impact, serving as the brains of the Office, the power behind the throne. Although a tax specialist, her wide-ranging legal knowledge in all areas of the law, the enormous respect in which she was held by her colleagues, along with her administrative abilities and extensive institutional memory, enabled her to be a leader in the New York City Law Department, the second largest public law office in the United States.

¹ Manufacturers Hanover Co. v Chambers, 297 N.Y.764 (1947).

² Consolidated Edison Company of New York v. City of New York, 80 [N.Y.2d](#) 794 (1992)

³ Brenner Employment Agency v O'Connell (Comr. Of Licenses), 19 AD2d 376, 244 NYS2d 75 (1st Dept. 1963), *affd* 15 NY2d 494 (1964).

For more than 25 years as a member of the Law Department Executive Staff, Edith advised her colleagues – men and increasingly women as well – on the law, and the positive powerful impact it can have, taught them how to be good lawyers, and how, at the same time, to balance their personal lives with the demands of law practice. Edith took a particular interest in junior attorneys, frequently trying to serve as matchmaker as well. The effect Edith had on lawyers in the Office was brought home to me a few years ago at our biannual alumni dinner, when scores of lawyers who had left the Corporation Counsel's Office years earlier stopped to say hello to Edith. She would unfailingly remember not only these lawyer's names, but also the names of their spouses and children.

Further evidence of Edith's influence can be seen by the outpouring of comments from people all over the country when they learned of her passing. Over and over again these lawyers – men as well as women – recalled Edith's practical insight into the law, her insatiable intellectual curiosity, and her constant reminders "that lawyers could make the world a better place." "She was my fairy godmother," wrote a prominent attorney who now works in another part of City government. Another woman wrote, "Edith always looked out for me, gave me great advice and otherwise encouraged and assisted me in doing my best for the City." A veteran member of the Law Department recalled, "She was always ready to offer advice on drafting an appellate brief, but first she would always make certain all was well with my children and husband."

While this morning's program focuses on women in the law I think it is important to emphasize that these comments came from men, as well as women. One long-time Assistant Corporation Counsel recalled that while in private practice he had a case in which Edith was his adversary. Many years later, when this lawyer decided he was interested in applying for a job with the Corporation Counsel's office, he called Edith for advice; beginning the phone call by saying he was sure Edith would not remember him. "Of course, I remember you," she said, and encouraged him to apply for a job. After he joined the Office, every time he passed Edith's door she would call him in and ask how he was doing. On a similar vein, numerous male lawyers in the Office recall fondly the job interviews they had with Edith, and her constant mentorship ever since. In short, Edith's impact on men, as well as women, was profound.

I saw this first hand myself. Her office was located just a few doors down from mine. And I was able to observe, as I walked down the halls, lawyers — men and women, judges, private practitioners, and assistant corporation counsels – visiting her on a regular basis and seeking her advice. And these visits from a cross-section of the legal profession illustrate another aspect of Edith's approach to the practice of law, the obligation to participate in, and to shape, the values of the greater legal community. Whether it was her tireless work on this Committee, her membership on numerous other bar association committees, or her devoted service to the First Department Character Committee, Edith Spivack understood that a lawyer should not only spend time representing her or his clients, but should work to better the profession as well.

Edith's pride in her professional family was extraordinary. As we all know, although she formally retired in 1996 she continued to come to the Office, and proudly bore the title Executive Assistant Emeritus. Among the many tasks she cheerfully agreed to perform was to make an annual presentation to our new lawyers, as well as those in our summer program. With her eyes shining, she would tell them of the great history of the Office and its tradition of excellence. She would hold these junior attorneys spellbound as she recited her experiences as a City lawyer working under ten mayors and 23 corporation counsels. The pride she felt in having represented the city was self-evident and infectious.

Early in my tenure Edith made clear to me her intense concern in the well being of her professional family. I arrived at the Office one morning and retrieved a voice mail from Edith, left at 6 p.m. the night before. Her message was that she was shocked to have called me at that hour to find I was not there. She reminded me of the importance of the job I held, that she had known my 22 immediate predecessors, most of whom had been hard workers, and who certainly worked past 6. She concluded, with a sparkle in her voice that the next time she called at 6 p.m. she certainly expected that I would pick up the phone.

Edith's quick wit was exhibited when she was honored as the longest serving City employee in history. Mayor Bloomberg, who presided over the ceremony, told Edith that his mother, like Edith, had graduated from college in 1929. "What college did your mother attend?" asked Edith. "NYU" replied the Mayor. "Oh," replied this Barnard graduate to the Mayor of the City of New York, "that's too bad. I guess she couldn't get into Columbia."

As the longest serving public employee – lawyer or non-lawyer – in the history of New York City, Edith was the exemplar extraordinaire of what Mayor Koch has called the most noble of professions – public service, when, like Edith, it is performed ably and honestly. Small in stature, Edith Spivack was a giant in everything she did. In her role as lawyer, pioneer for women's rights, mentor to men and women, role model and friend she made our profession, and our City, a better place.

What conclusions can we draw from the life of this extraordinary woman. At one level, of course, her accomplishments highlight that as a profession we have come a very long way in recognizing the role of female lawyers. But, in my view, as head of the City's third largest law firm, and as I am sure your discussions the rest of the morning will make clear, the legal profession still has an enormous way to travel before gender barriers in the profession can be said to have disappeared. But Edith Spivack should inspire all of us to work even harder to be sure these obstacles are in fact removed. At the same time her life also tells us that hard working, tough and smart lawyers – male and female – with committed family and professional values can make a difference in our society.

In memory of Edith Spivack, let each of us work to make our society a better one.

###