

Coping with Disaster

By Judith S. Kaye

Disaster planning often focuses on natural causes. Fortunately, Manhattan hasn't had many earthquakes, floods, or wildfires. We do have plans for dastardly intentional acts, but not of the order of magnitude of September 11, 2001. This was a savage attack on our people, our values, and our institutions, raising unprecedented fear and uncertainty in everyone's mind. Who are the perpetrators? Is there more to come? How will we respond as a nation?

For me, for each of us, the subject is an intensely personal one, whether or not we live in New York City. One of our courts was actually situated in the World Trade Center. Our other busy Manhattan courts, only blocks away, were in what was called the frozen zone—no telephone service and virtually inaccessible.

Recently, I received a list of members of our court family directly impacted by the disaster. I expected it to be a substantial list—I've seen so much sadness in the faces of our people as I've visited the New York City courts—but I was frankly astonished to see more than fifty names. The list includes judges, court personnel, even in other parts of the state, who have missing spouses, children, siblings, cousins, nieces, and nephews—firefighters, police officers, World Trade Center employees, investment bankers, and lawyers. A court clerk in Queens is missing her *two* firefighter sons.

We all grieve for the loss of three court officers who, along with many of our court officers, joined the selfless rescue workers who rushed to the site on September 11. Our court officers now wear black bands on their badges.

Our personal sadness is very deep. Our hearts are broken, because we are sensitive, caring human beings. That's the downside of what happened here on September 11. But there is also an upside, because our spirit is not, and cannot be, broken.

My own feeling—a feeling that was shared systemwide—was that we needed to resist the human inclination to postpone, to cancel, to adjourn our scheduled activities. Instantly, everything we were doing, all our “important” activities, seemed so trivial, so insignificant. On the morning of the 11th, the court system was starting a two-day national conference in Albany on access to justice. With heavy hearts, we all proceeded with the conference. Later that week in Albany, Presiding Justice Cardona and I attended the investiture of a good friend as a federal magistrate judge. Each event was hugely attended. To this day, events are packed. Everyone wants to gather, to touch flesh, to plan for the future, to celebrate life.

As events unfolded in Manhattan on September 11, the Appellate Division at 27th and Madison, like my own chambers in Midtown, was not in the danger zone. The following day, a few trial

court judges heard emergency applications there. That court also opened its doors to people in need—people searching for relatives who had been evacuated from the temporary holding cells in criminal court, others facing eviction, a woman concerned about delay in her insurance case and her life-saving chemotherapy.

On Saturday, September 15, Chief Administrative Judge Lippman and I toured our court facilities in lower Manhattan. We met city engineers working around the clock to change all the air filters in the courthouses, and inspectors testing for structural damage. We met court officers—red-eyed but on duty—and judges and court personnel planning for the following week. We determined right then and there that those courts would open Monday.

(continued on page 43)



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(continued from page 1)

The decision to open was of course only the beginning of the challenge—easier said than done.

The physical needs were obvious, and attention turned there first—air quality, stepped-up security, new quarters for courts that could not return, even a new telephone system—more than 600 phones installed over the following weekend. But difficult as it is to solve problems, knowing what the problems are is proving even harder. New issues reveal themselves daily.

More than 1,300 attorneys registered the World Trade Center as their business address. An estimated 14,000 lawyers with offices in lower Manhattan were displaced on September 11th—some are now without office space, some without access to files.

From creative, committed people came wonderful ideas, like the courts providing, free of charge, copies of lost records, computer runs of an attorney's cases, even assisting lawyers in reconstructing lost client lists. We set up readily reachable, effective hotlines in every court for lawyers and litigants; and where a victim's remains have not been recovered or identified—as is true for most of the missing persons—a swift system of establishing death was put in place, to ease the emotional and economic pain of grieving families.

Simply reopening on September 17 did not mean that everyone was back to normal. Not by any means. A Vigil of Hope was held that week in one of our courthouses; the lobby and surrounding area were filled to overflowing. "God Bless America" was sung like it has never before been sung. Again, people were immensely grateful for the opportunity simply to be together, to see and hug one another. As much as time permits, we have been visiting courts to offer comfort and convey appreciation, trying also to get the word out that counseling is

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available to anyone who would like it.

Reopening also did not mean that the workload and litigation automatically resumed. There were missed court dates during the days the courts were closed. Other appearances had to be rescheduled. Criminal cases were delayed by absent police officers, who had more pressing assignments.

To help, the governor signed executive orders temporarily suspending appeal deadlines and statutes of limitations. Chief Administrative Judge Lippman and I, in a letter to the bar, urged attorneys to cooperate with and help one another. Our judiciary has that same objective: to be sensitive and flexible, yet to move forward as much as feasible with the business of the courts—a difficult, delicate balance. Those goals require constant reinforcement as new challenges emerge daily.

I've talked about the "people" impact of the disaster, and about scoping out and solving the problems. I'd like to conclude with a segment I think of as the very worst and the very best of humanity. In these recent weeks, we have surely seen both, beginning with the evil acts of September 11, the very worst of humanity.

When I think of the best of humanity I think of jurors and I think of lawyers. Jurors long ago earned a special place in my heart, but their dedi-

cation these recent weeks has been truly exemplary. With lower Manhattan in disorder—the courts inaccessible by phone and virtually unreachable by public transportation—jurors still showed up in the hundreds, despite our announcements over the airwaves and on the Internet. They wanted to contribute, to serve. Many even declined offers to be excused.

And talk of stories—we have loads of them here too. Like the retired firefighter who asked for a deferment of jury service—but only a short one—because of his commitment to working at Ground Zero. And the man who managed to get a message through to the courts from Philadelphia, where he was with family, mourning the loss of his firefighter son, to let us know why he was not responding to his summons. What an extraordinary display of dedication, of patriotism, of commitment to our system of justice.

Out of the disaster and disorder came a little reward for jurors, and for the chief judge. For years, I've been angling for a juror call-in system in New York City, like we have in other parts of the state. Indeed, two of the five counties of New York City already have it, but New York County, Kings County, and the Bronx have been resistant because of their heavy demand for jurors and the uncertainties of a call-in system. Over and over again, I have been told it just can't work. *Well now we're going to do it!* The sight of rooms filled with unneeded jurors in the relatively quiet weeks following September 11 was the final impetus for a reform that is terrific.

And on the subject of terrific, I end with a few comments about the New York bar. This is surely a shining hour for the New York bar. Lawyers elsewhere deserve kudos too—I just know best about the spectacular response of the New York bar.

One quick example. The court system worked closely with the mayor's office to streamline a system for obtaining death certificates, where there are no bodies and no remains. A call went out one afternoon for pro

bono lawyers to help families complete the necessary forms. A few hours later, I was at the city bar association for the regular meetings Judge Lippman and I have been holding with leaders of the organized bar and I was called out because of a “problem.” The 500-person city bar meeting room was filled to capacity with volunteers; the stairways and large lobby—all the way out to the street—were crammed with overflow. A very nice problem to have! That sort of response has continued every day since, as lawyers in large numbers show up at the Family Assistance Center and throughout the city and state to volunteer their services.

In addition to bar association volunteer services in local communities, the various bar groups have scoped out anticipated legal problems—again, it’s hard to anticipate all the problems—and sensibly divided up their tasks. The New York County Lawyers

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Association, for instance, will provide a trust and estates lawyer free to every family of a uniformed officer; the New York State Bar Association is focusing on reconstructing law practices for lawyers who have been lost, and for lawyers whose records are destroyed

or inaccessible; the New York City Bar Association has a program called Facilitator, training lawyers to offer pro bono services in ten areas, like Social Security, workers’ compensation, unemployment assistance, life and health insurance, family law and immigration; the trial lawyers will, also pro bono, handle claims under the new federal legislation.

Every single day, at some point I am reduced to tears, not only by the senseless grief that has been visited on wonderful people, but also by the incredible goodness and kindness of people around the world. Every day is definitely better than the last.

Editor’s Note: Judge Kaye’s remarks were made in the aftermath of the tragic events of September 11. They are reprinted here with permission.